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131st General Assembly

Regular Session

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Representatives Dever, Howse

Cosponsors: Representatives Amstutz, Anielski, Antonio, Bishoff, Boyd, Brown, Butler, Conditt, Derickson, DeVitis, Dovilla, Ginter, Hambley, Hayes, Huffman, Lepore-Hagan, Maag, McClain, Patmon, Patterson, Phillips, Ramos, Reineke, Retherford, Romanchuk, Ryan, Schuring, Sears, Slesnick, Sweeney, Sykes, Zeltwanger, Gonzales, Barnes, Johnson, T., Kuhns, LaTourette, Antani, Ashford, Baker, Blessing, Boyce, Brenner, Burkley, Celebrezze, Cera, Clyde, Craig, Cupp, Driehaus, Grossman, Hackett, Hagan, Hall, Henne, Hill, Johnson, G., Koehler, Kunze, Landis, Leland, Manning, McColley, O'Brien, M., O'Brien, S., Pelanda, Perales, Reece, Rezabek, Rogers, Ruhl, Schaffer, Sheehy, Slaby, Smith, K., Smith, R., Sprague, Strahorn, Terhar

A BILL

To amend sections 1.02, 121.22, 121.37, 135.801,	1
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5709.73, 5709.78, 5711.07, 5747.03, 5815.28, and 54
5815.35 of the Revised Code to replace 55
provisions containing the term "mental 56
retardation" and its derivatives with 57
corresponding provisions containing the term 58
"intellectual disability" and its derivatives and 59
to specify that an intellectual disability is a 60
form of developmental disability. 61

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

Section 1. That sections 1.02, 121.22, 121.37, 135.801, 62
145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 173.25, 63
173.27, 173.38, 173.381, 305.07, 307.02, 313.12, 325.07, 711.23, 64
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5705.091, 5705.19, 5705.222, 5709.40, 5709.73, 5709.78, 5711.07, 101
5747.03, 5815.28, and 5815.35 of the Revised Code be amended to 102
read as follows: 103

Sec. 1.02. As used in the Revised Code, unless the context 104
otherwise requires: 105

(A) "Whoever" includes all persons, natural and 106
artificial; partners; principals, agents, and employees; and all 107

officials, public or private.	108
(B) "Another," when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.	109 110 111
(C) "Of unsound mind" includes all forms of mental-retardation or derangement <u>or intellectual disability</u> .	112 113
(D) "Bond" includes an undertaking.	114
(E) "Undertaking" includes a bond.	115
(F) "And" may be read "or," and "or" may be read "and" if the sense requires it.	116 117
(G) "Registered mail" includes certified mail and "certified mail" includes registered mail.	118 119
Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.	120 121 122 123 124
(B) As used in this section:	125
(1) "Public body" means any of the following:	126
(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;	127 128 129 130 131 132 133
(b) Any committee or subcommittee of a body described in	134

division (B) (1) (a) of this section;	135
(c) A court of jurisdiction of a sanitary district	136
organized wholly for the purpose of providing a water supply for	137
domestic, municipal, and public use when meeting for the purpose	138
of the appointment, removal, or reappointment of a member of the	139
board of directors of such a district pursuant to section	140
6115.10 of the Revised Code, if applicable, or for any other	141
matter related to such a district other than litigation	142
involving the district. As used in division (B) (1) (c) of this	143
section, "court of jurisdiction" has the same meaning as "court"	144
in section 6115.01 of the Revised Code.	145
(2) "Meeting" means any prearranged discussion of the	146
public business of the public body by a majority of its members.	147
(3) "Regulated individual" means either of the following:	148
(a) A student in a state or local public educational	149
institution;	150
(b) A person who is, voluntarily or involuntarily, an	151
inmate, patient, or resident of a state or local institution	152
because of criminal behavior, mental illness or retardation , <u>an</u>	153
<u>intellectual disability</u> , disease, disability, age, or other	154
condition requiring custodial care.	155
(4) "Public office" has the same meaning as in section	156
149.011 of the Revised Code.	157
(C) All meetings of any public body are declared to be	158
public meetings open to the public at all times. A member of a	159
public body shall be present in person at a meeting open to the	160
public to be considered present or to vote at the meeting and	161
for purposes of determining whether a quorum is present at the	162
meeting.	163

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.	164 165 166 167 168
(D) This section does not apply to any of the following:	169
(1) A grand jury;	170
(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;	171 172 173
(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;	174 175 176
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	177 178
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code, meetings related to a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	179 180 181 182 183 184
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	185 186 187 188
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised	189 190 191

Code;	192
(8) The state board of pharmacy when determining whether	193
to suspend a license without a prior hearing pursuant to	194
division (D) of section 4729.16 of the Revised Code;	195
(9) The state chiropractic board when determining whether	196
to suspend a license without a hearing pursuant to section	197
4734.37 of the Revised Code;	198
(10) The executive committee of the emergency response	199
commission when determining whether to issue an enforcement	200
order or request that a civil action, civil penalty action, or	201
criminal action be brought to enforce Chapter 3750. of the	202
Revised Code;	203
(11) The board of directors of the nonprofit corporation	204
formed under section 187.01 of the Revised Code or any committee	205
thereof, and the board of directors of any subsidiary of that	206
corporation or a committee thereof;	207
(12) An audit conference conducted by the audit staff of	208
the department of job and family services with officials of the	209
public office that is the subject of that audit under section	210
5101.37 of the Revised Code;	211
(13) The occupational therapy section of the occupational	212
therapy, physical therapy, and athletic trainers board when	213
determining whether to suspend a license or limited permit	214
without a hearing pursuant to division (D) of section 4755.11 of	215
the Revised Code;	216
(14) The physical therapy section of the occupational	217
therapy, physical therapy, and athletic trainers board when	218
determining whether to suspend a license without a hearing	219
pursuant to division (E) of section 4755.47 of the Revised Code;	220

(15) The athletic trainers section of the occupational 221
therapy, physical therapy, and athletic trainers board when 222
determining whether to suspend a license without a hearing 223
pursuant to division (D) of section 4755.64 of the Revised Code. 224

(E) The controlling board, the tax credit authority, or 225
the minority development financing advisory board, when meeting 226
to consider granting assistance pursuant to Chapter 122. or 166. 227
of the Revised Code, in order to protect the interest of the 228
applicant or the possible investment of public funds, by 229
unanimous vote of all board or authority members present, may 230
close the meeting during consideration of the following 231
information confidentially received by the authority or board 232
from the applicant: 233

(1) Marketing plans; 234

(2) Specific business strategy; 235

(3) Production techniques and trade secrets; 236

(4) Financial projections; 237

(5) Personal financial statements of the applicant or 238
members of the applicant's immediate family, including, but not 239
limited to, tax records or other similar information not open to 240
public inspection. 241

The vote by the authority or board to accept or reject the 242
application, as well as all proceedings of the authority or 243
board not subject to this division, shall be open to the public 244
and governed by this section. 245

(F) Every public body, by rule, shall establish a 246
reasonable method whereby any person may determine the time and 247
place of all regularly scheduled meetings and the time, place, 248

and purpose of all special meetings. A public body shall not 249
hold a special meeting unless it gives at least twenty-four 250
hours' advance notice to the news media that have requested 251
notification, except in the event of an emergency requiring 252
immediate official action. In the event of an emergency, the 253
member or members calling the meeting shall notify the news 254
media that have requested notification immediately of the time, 255
place, and purpose of the meeting. 256

The rule shall provide that any person, upon request and 257
payment of a reasonable fee, may obtain reasonable advance 258
notification of all meetings at which any specific type of 259
public business is to be discussed. Provisions for advance 260
notification may include, but are not limited to, mailing the 261
agenda of meetings to all subscribers on a mailing list or 262
mailing notices in self-addressed, stamped envelopes provided by 263
the person. 264

(G) Except as provided in divisions (G)(8) and (J) of this 265
section, the members of a public body may hold an executive 266
session only after a majority of a quorum of the public body 267
determines, by a roll call vote, to hold an executive session 268
and only at a regular or special meeting for the sole purpose of 269
the consideration of any of the following matters: 270

(1) To consider the appointment, employment, dismissal, 271
discipline, promotion, demotion, or compensation of a public 272
employee or official, or the investigation of charges or 273
complaints against a public employee, official, licensee, or 274
regulated individual, unless the public employee, official, 275
licensee, or regulated individual requests a public hearing. 276
Except as otherwise provided by law, no public body shall hold 277
an executive session for the discipline of an elected official 278

for conduct related to the performance of the elected official's 279
official duties or for the elected official's removal from 280
office. If a public body holds an executive session pursuant to 281
division (G) (1) of this section, the motion and vote to hold 282
that executive session shall state which one or more of the 283
approved purposes listed in division (G) (1) of this section are 284
the purposes for which the executive session is to be held, but 285
need not include the name of any person to be considered at the 286
meeting. 287

(2) To consider the purchase of property for public 288
purposes, or for the sale of property at competitive bidding, if 289
premature disclosure of information would give an unfair 290
competitive or bargaining advantage to a person whose personal, 291
private interest is adverse to the general public interest. No 292
member of a public body shall use division (G) (2) of this 293
section as a subterfuge for providing covert information to 294
prospective buyers or sellers. A purchase or sale of public 295
property is void if the seller or buyer of the public property 296
has received covert information from a member of a public body 297
that has not been disclosed to the general public in sufficient 298
time for other prospective buyers and sellers to prepare and 299
submit offers. 300

If the minutes of the public body show that all meetings 301
and deliberations of the public body have been conducted in 302
compliance with this section, any instrument executed by the 303
public body purporting to convey, lease, or otherwise dispose of 304
any right, title, or interest in any public property shall be 305
conclusively presumed to have been executed in compliance with 306
this section insofar as title or other interest of any bona fide 307
purchasers, lessees, or transferees of the property is 308
concerned. 309

(3) Conferences with an attorney for the public body	310
concerning disputes involving the public body that are the	311
subject of pending or imminent court action;	312
(4) Preparing for, conducting, or reviewing negotiations	313
or bargaining sessions with public employees concerning their	314
compensation or other terms and conditions of their employment;	315
(5) Matters required to be kept confidential by federal	316
law or regulations or state statutes;	317
(6) Details relative to the security arrangements and	318
emergency response protocols for a public body or a public	319
office, if disclosure of the matters discussed could reasonably	320
be expected to jeopardize the security of the public body or	321
public office;	322
(7) In the case of a county hospital operated pursuant to	323
Chapter 339. of the Revised Code, a joint township hospital	324
operated pursuant to Chapter 513. of the Revised Code, or a	325
municipal hospital operated pursuant to Chapter 749. of the	326
Revised Code, to consider trade secrets, as defined in section	327
1333.61 of the Revised Code;	328
(8) To consider confidential information related to the	329
marketing plans, specific business strategy, production	330
techniques, trade secrets, or personal financial statements of	331
an applicant for economic development assistance, or to	332
negotiations with other political subdivisions respecting	333
requests for economic development assistance, provided that both	334
of the following conditions apply:	335
(a) The information is directly related to a request for	336
economic development assistance that is to be provided or	337
administered under any provision of Chapter 715., 725., 1724.,	338

or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 339
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 340
5709.81 of the Revised Code, or that involves public 341
infrastructure improvements or the extension of utility services 342
that are directly related to an economic development project. 343

(b) A unanimous quorum of the public body determines, by a 344
roll call vote, that the executive session is necessary to 345
protect the interests of the applicant or the possible 346
investment or expenditure of public funds to be made in 347
connection with the economic development project. 348

If a public body holds an executive session to consider 349
any of the matters listed in divisions (G) (2) to (8) of this 350
section, the motion and vote to hold that executive session 351
shall state which one or more of the approved matters listed in 352
those divisions are to be considered at the executive session. 353

A public body specified in division (B) (1) (c) of this 354
section shall not hold an executive session when meeting for the 355
purposes specified in that division. 356

(H) A resolution, rule, or formal action of any kind is 357
invalid unless adopted in an open meeting of the public body. A 358
resolution, rule, or formal action adopted in an open meeting 359
that results from deliberations in a meeting not open to the 360
public is invalid unless the deliberations were for a purpose 361
specifically authorized in division (G) or (J) of this section 362
and conducted at an executive session held in compliance with 363
this section. A resolution, rule, or formal action adopted in an 364
open meeting is invalid if the public body that adopted the 365
resolution, rule, or formal action violated division (F) of this 366
section. 367

(I) (1) Any person may bring an action to enforce this 368
section. An action under division (I) (1) of this section shall 369
be brought within two years after the date of the alleged 370
violation or threatened violation. Upon proof of a violation or 371
threatened violation of this section in an action brought by any 372
person, the court of common pleas shall issue an injunction to 373
compel the members of the public body to comply with its 374
provisions. 375

(2) (a) If the court of common pleas issues an injunction 376
pursuant to division (I) (1) of this section, the court shall 377
order the public body that it enjoins to pay a civil forfeiture 378
of five hundred dollars to the party that sought the injunction 379
and shall award to that party all court costs and, subject to 380
reduction as described in division (I) (2) of this section, 381
reasonable attorney's fees. The court, in its discretion, may 382
reduce an award of attorney's fees to the party that sought the 383
injunction or not award attorney's fees to that party if the 384
court determines both of the following: 385

(i) That, based on the ordinary application of statutory 386
law and case law as it existed at the time of violation or 387
threatened violation that was the basis of the injunction, a 388
well-informed public body reasonably would believe that the 389
public body was not violating or threatening to violate this 390
section; 391

(ii) That a well-informed public body reasonably would 392
believe that the conduct or threatened conduct that was the 393
basis of the injunction would serve the public policy that 394
underlies the authority that is asserted as permitting that 395
conduct or threatened conduct. 396

(b) If the court of common pleas does not issue an 397

injunction pursuant to division (I)(1) of this section and the 398
court determines at that time that the bringing of the action 399
was frivolous conduct, as defined in division (A) of section 400
2323.51 of the Revised Code, the court shall award to the public 401
body all court costs and reasonable attorney's fees, as 402
determined by the court. 403

(3) Irreparable harm and prejudice to the party that 404
sought the injunction shall be conclusively and irrebuttably 405
presumed upon proof of a violation or threatened violation of 406
this section. 407

(4) A member of a public body who knowingly violates an 408
injunction issued pursuant to division (I)(1) of this section 409
may be removed from office by an action brought in the court of 410
common pleas for that purpose by the prosecuting attorney or the 411
attorney general. 412

(J)(1) Pursuant to division (C) of section 5901.09 of the 413
Revised Code, a veterans service commission shall hold an 414
executive session for one or more of the following purposes 415
unless an applicant requests a public hearing: 416

(a) Interviewing an applicant for financial assistance 417
under sections 5901.01 to 5901.15 of the Revised Code; 418

(b) Discussing applications, statements, and other 419
documents described in division (B) of section 5901.09 of the 420
Revised Code; 421

(c) Reviewing matters relating to an applicant's request 422
for financial assistance under sections 5901.01 to 5901.15 of 423
the Revised Code. 424

(2) A veterans service commission shall not exclude an 425
applicant for, recipient of, or former recipient of financial 426

assistance under sections 5901.01 to 5901.15 of the Revised 427
Code, and shall not exclude representatives selected by the 428
applicant, recipient, or former recipient, from a meeting that 429
the commission conducts as an executive session that pertains to 430
the applicant's, recipient's, or former recipient's application 431
for financial assistance. 432

(3) A veterans service commission shall vote on the grant 433
or denial of financial assistance under sections 5901.01 to 434
5901.15 of the Revised Code only in an open meeting of the 435
commission. The minutes of the meeting shall indicate the name, 436
address, and occupation of the applicant, whether the assistance 437
was granted or denied, the amount of the assistance if 438
assistance is granted, and the votes for and against the 439
granting of assistance. 440

Sec. 121.37. (A) (1) There is hereby created the Ohio 441
family and children first cabinet council. The council shall be 442
composed of the superintendent of public instruction, the 443
executive director of the opportunities for Ohioans with 444
disabilities agency, the medicaid director, and the directors of 445
youth services, job and family services, mental health and 446
addiction services, health, developmental disabilities, aging, 447
rehabilitation and correction, and budget and management. The 448
chairperson of the council shall be the governor or the 449
governor's designee and shall establish procedures for the 450
council's internal control and management. 451

The purpose of the cabinet council is to help families 452
seeking government services. This section shall not be 453
interpreted or applied to usurp the role of parents, but solely 454
to streamline and coordinate existing government services for 455
families seeking assistance for their children. 456

(2) In seeking to fulfill its purpose, the council may do	457
any of the following:	458
(a) Advise and make recommendations to the governor and	459
general assembly regarding the provision of services to	460
children;	461
(b) Advise and assess local governments on the	462
coordination of service delivery to children;	463
(c) Hold meetings at such times and places as may be	464
prescribed by the council's procedures and maintain records of	465
the meetings, except that records identifying individual	466
children are confidential and shall be disclosed only as	467
provided by law;	468
(d) Develop programs and projects, including pilot	469
projects, to encourage coordinated efforts at the state and	470
local level to improve the state's social service delivery	471
system;	472
(e) Enter into contracts with and administer grants to	473
county family and children first councils, as well as other	474
county or multicounty organizations to plan and coordinate	475
service delivery between state agencies and local service	476
providers for families and children;	477
(f) Enter into contracts with and apply for grants from	478
federal agencies or private organizations;	479
(g) Enter into interagency agreements to encourage	480
coordinated efforts at the state and local level to improve the	481
state's social service delivery system. The agreements may	482
include provisions regarding the receipt, transfer, and	483
expenditure of funds;	484

(h) Identify public and private funding sources for	485
services provided to alleged or adjudicated unruly children and	486
children who are at risk of being alleged or adjudicated unruly	487
children, including regulations governing access to and use of	488
the services;	489
(i) Collect information provided by local communities	490
regarding successful programs for prevention, intervention, and	491
treatment of unruly behavior, including evaluations of the	492
programs;	493
(j) Identify and disseminate publications regarding	494
alleged or adjudicated unruly children and children who are at	495
risk of being alleged or adjudicated unruly children and	496
regarding programs serving those types of children;	497
(k) Maintain an inventory of strategic planning	498
facilitators for use by government or nonprofit entities that	499
serve alleged or adjudicated unruly children or children who are	500
at risk of being alleged or adjudicated unruly children.	501
(3) The cabinet council shall provide for the following:	502
(a) Reviews of service and treatment plans for children	503
for which such reviews are requested;	504
(b) Assistance as the council determines to be necessary	505
to meet the needs of children referred by county family and	506
children first councils;	507
(c) Monitoring and supervision of a statewide,	508
comprehensive, coordinated, multi-disciplinary, interagency	509
system for infants and toddlers with developmental disabilities	510
or delays and their families, as established pursuant to federal	511
grants received and administered by the department of health for	512
early intervention services under the "Individuals with	513

Disabilities Education Act of 2004," 118 Stat. 2744, 20 U.S.C.A. 514
1400, as amended. 515

(4) The cabinet council shall develop and implement the 516
following: 517

(a) An interagency process to select the indicators that 518
will be used to measure progress toward increasing child well- 519
being in the state and to update the indicators on an annual 520
basis. The indicators shall focus on expectant parents and 521
newborns thriving; infants and toddlers thriving; children being 522
ready for school; children and youth succeeding in school; youth 523
choosing healthy behaviors; and youth successfully transitioning 524
into adulthood. 525

(b) An interagency system to offer guidance and monitor 526
progress toward increasing child well-being in the state and in 527
each county; 528

(c) An annual plan that identifies state-level agency 529
efforts taken to ensure progress towards increasing child well- 530
being in the state. 531

On an annual basis, the cabinet council shall submit to 532
the governor and the general assembly a report on the status of 533
efforts to increase child well-being in the state. This report 534
shall be made available to any other person on request. 535

(B) (1) Each board of county commissioners shall establish 536
a county family and children first council. The board may invite 537
any local public or private agency or group that funds, 538
advocates, or provides services to children and families to have 539
a representative become a permanent or temporary member of its 540
county council. Each county council must include the following 541
individuals: 542

(a) At least three individuals who are not employed by an agency represented on the council and whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.

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

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

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

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

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

(g) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing

in the county, as determined by the department of education, 572
which shall notify each board of county commissioners of its 573
determination at least biennially; 574

(h) A school superintendent representing all other school 575
districts with territory in the county, as designated at a 576
biennial meeting of the superintendents of those districts; 577

(i) A representative of the municipal corporation with the 578
largest population in the county; 579

(j) The president of the board of county commissioners or 580
an individual designated by the board; 581

(k) A representative of the regional office of the 582
department of youth services; 583

(l) A representative of the county's head start agencies, 584
as defined in section 3301.32 of the Revised Code; 585

(m) A representative of the county's early intervention 586
collaborative established pursuant to the federal early 587
intervention program operated under the "Individuals with 588
Disabilities Education Act of 2004"; 589

(n) A representative of a local nonprofit entity that 590
funds, advocates, or provides services to children and families. 591

Notwithstanding any other provision of law, the public 592
members of a county council are not prohibited from serving on 593
the council and making decisions regarding the duties of the 594
council, including those involving the funding of joint projects 595
and those outlined in the county's service coordination 596
mechanism implemented pursuant to division (C) of this section. 597

The cabinet council shall establish a state appeals 598
process to resolve disputes among the members of a county 599

council concerning whether reasonable responsibilities as 600
members are being shared. The appeals process may be accessed 601
only by a majority vote of the council members who are required 602
to serve on the council. Upon appeal, the cabinet council may 603
order that state funds for services to children and families be 604
redirected to a county's board of county commissioners. 605

The county's juvenile court judge senior in service or 606
another judge of the juvenile court designated by the 607
administrative judge or, where there is no administrative judge, 608
by the judge senior in service shall serve as the judicial 609
advisor to the county family and children first council. The 610
judge may advise the county council on the court's utilization 611
of resources, services, or programs provided by the entities 612
represented by the members of the county council and how those 613
resources, services, or programs assist the court in its 614
administration of justice. Service of a judge as a judicial 615
advisor pursuant to this section is a judicial function. 616

(2) The purpose of the county council is to streamline and 617
coordinate existing government services for families seeking 618
services for their children. In seeking to fulfill its purpose, 619
a county council shall provide for the following: 620

(a) Referrals to the cabinet council of those children for 621
whom the county council cannot provide adequate services; 622

(b) Development and implementation of a process that 623
annually evaluates and prioritizes services, fills service gaps 624
where possible, and invents new approaches to achieve better 625
results for families and children; 626

(c) Participation in the development of a countywide, 627
comprehensive, coordinated, multi-disciplinary, interagency 628

system for infants and toddlers with developmental disabilities 629
or delays and their families, as established pursuant to federal 630
grants received and administered by the department of health for 631
early intervention services under the "Individuals with 632
Disabilities Education Act of 2004"; 633

(d) Maintenance of an accountability system to monitor the 634
county council's progress in achieving results for families and 635
children; 636

(e) Establishment of a mechanism to ensure ongoing input 637
from a broad representation of families who are receiving 638
services within the county system. 639

(3) A county council shall develop and implement the 640
following: 641

(a) An interagency process to establish local indicators 642
and monitor the county's progress toward increasing child well- 643
being in the county; 644

(b) An interagency process to identify local priorities to 645
increase child well-being. The local priorities shall focus on 646
expectant parents and newborns thriving; infants and toddlers 647
thriving; children being ready for school; children and youth 648
succeeding in school; youth choosing healthy behaviors; and 649
youth successfully transitioning into adulthood and take into 650
account the indicators established by the cabinet council under 651
division (A) (4) (a) of this section. 652

(c) An annual plan that identifies the county's 653
interagency efforts to increase child well-being in the county. 654

On an annual basis, the county council shall submit a 655
report on the status of efforts by the county to increase child 656
well-being in the county to the county's board of county 657

commissioners and the cabinet council. This report shall be made 658
available to any other person on request. 659

(4) (a) Except as provided in division (B) (4) (b) of this 660
section, a county council shall comply with the policies, 661
procedures, and activities prescribed by the rules or 662
interagency agreements of a state department participating on 663
the cabinet council whenever the county council performs a 664
function subject to those rules or agreements. 665

(b) On application of a county council, the cabinet 666
council may grant an exemption from any rules or interagency 667
agreements of a state department participating on the council if 668
an exemption is necessary for the council to implement an 669
alternative program or approach for service delivery to families 670
and children. The application shall describe the proposed 671
program or approach and specify the rules or interagency 672
agreements from which an exemption is necessary. The cabinet 673
council shall approve or disapprove the application in 674
accordance with standards and procedures it shall adopt. If an 675
application is approved, the exemption is effective only while 676
the program or approach is being implemented, including a 677
reasonable period during which the program or approach is being 678
evaluated for effectiveness. 679

(5) (a) Each county council shall designate an 680
administrative agent for the council from among the following 681
public entities: the board of alcohol, drug addiction, and 682
mental health services, including a board of alcohol and drug 683
addiction or a community mental health board if the county is 684
served by separate boards; the board of county commissioners; 685
any board of health of the county's city and general health 686
districts; the county department of job and family services; the 687

county agency responsible for the administration of children 688
services pursuant to section 5153.15 of the Revised Code; the 689
county board of developmental disabilities; any of the county's 690
boards of education or governing boards of educational service 691
centers; or the county's juvenile court. Any of the foregoing 692
public entities, other than the board of county commissioners, 693
may decline to serve as the council's administrative agent. 694

A county council's administrative agent shall serve as the 695
council's appointing authority for any employees of the council. 696
The council shall file an annual budget with its administrative 697
agent, with copies filed with the county auditor and with the 698
board of county commissioners, unless the board is serving as 699
the council's administrative agent. The council's administrative 700
agent shall ensure that all expenditures are handled in 701
accordance with policies, procedures, and activities prescribed 702
by state departments in rules or interagency agreements that are 703
applicable to the council's functions. 704

The administrative agent of a county council shall send 705
notice of a member's absence if a member listed in division (B) 706
(1) of this section has been absent from either three 707
consecutive meetings of the county council or a county council 708
subcommittee, or from one-quarter of such meetings in a calendar 709
year, whichever is less. The notice shall be sent to the board 710
of county commissioners that establishes the county council and, 711
for the members listed in divisions (B) (1) (b), (c), (e), and (l) 712
of this section, to the governing board overseeing the 713
respective entity; for the member listed in division (B) (1) (f) 714
of this section, to the county board of developmental 715
disabilities that employs the superintendent; for a member 716
listed in division (B) (1) (g) or (h) of this section, to the 717
school board that employs the superintendent; for the member 718

listed in division (B) (1) (i) of this section, to the mayor of 719
the municipal corporation; for the member listed in division (B) 720
(1) (k) of this section, to the director of youth services; and 721
for the member listed in division (B) (1) (n) of this section, to 722
that member's board of trustees. 723

The administrative agent for a county council may do any 724
of the following on behalf of the council: 725

(i) Enter into agreements or administer contracts with 726
public or private entities to fulfill specific council business. 727
Such agreements and contracts are exempt from the competitive 728
bidding requirements of section 307.86 of the Revised Code if 729
they have been approved by the county council and they are for 730
the purchase of family and child welfare or child protection 731
services or other social or job and family services for families 732
and children. The approval of the county council is not required 733
to exempt agreements or contracts entered into under section 734
5139.34, 5139.41, or 5139.43 of the Revised Code from the 735
competitive bidding requirements of section 307.86 of the 736
Revised Code. 737

(ii) As determined by the council, provide financial 738
stipends, reimbursements, or both, to family representatives for 739
expenses related to council activity; 740

(iii) Receive by gift, grant, devise, or bequest any 741
moneys, lands, or other property for the purposes for which the 742
council is established. The agent shall hold, apply, and dispose 743
of the moneys, lands, or other property according to the terms 744
of the gift, grant, devise, or bequest. Any interest or earnings 745
shall be treated in the same manner and are subject to the same 746
terms as the gift, grant, devise, or bequest from which it 747
accrues. 748

(b) (i) If the county council designates the board of 749
county commissioners as its administrative agent, the board may, 750
by resolution, delegate any of its powers and duties as 751
administrative agent to an executive committee the board 752
establishes from the membership of the county council. The board 753
shall name to the executive committee at least the individuals 754
described in divisions (B) (1) (b) to (h) of this section and may 755
appoint the president of the board or another individual as the 756
chair of the executive committee. The executive committee must 757
include at least one family county council representative who 758
does not have a family member employed by an agency represented 759
on the council. 760

(ii) The executive committee may, with the approval of the 761
board, hire an executive director to assist the county council 762
in administering its powers and duties. The executive director 763
shall serve in the unclassified civil service at the pleasure of 764
the executive committee. The executive director may, with the 765
approval of the executive committee, hire other employees as 766
necessary to properly conduct the county council's business. 767

(iii) The board may require the executive committee to 768
submit an annual budget to the board for approval and may amend 769
or repeal the resolution that delegated to the executive 770
committee its authority as the county council's administrative 771
agent. 772

(6) Two or more county councils may enter into an 773
agreement to administer their county councils jointly by 774
creating a regional family and children first council. A 775
regional council possesses the same duties and authority 776
possessed by a county council, except that the duties and 777
authority apply regionally rather than to individual counties. 778

Prior to entering into an agreement to create a regional 779
council, the members of each county council to be part of the 780
regional council shall meet to determine whether all or part of 781
the members of each county council will serve as members of the 782
regional council. 783

(7) A board of county commissioners may approve a 784
resolution by a majority vote of the board's members that 785
requires the county council to submit a statement to the board 786
each time the council proposes to enter into an agreement, adopt 787
a plan, or make a decision, other than a decision pursuant to 788
section 121.38 of the Revised Code, that requires the 789
expenditure of funds for two or more families. The statement 790
shall describe the proposed agreement, plan, or decision. 791

Not later than fifteen days after the board receives the 792
statement, it shall, by resolution approved by a majority of its 793
members, approve or disapprove the agreement, plan, or decision. 794
Failure of the board to pass a resolution during that time 795
period shall be considered approval of the agreement, plan, or 796
decision. 797

An agreement, plan, or decision for which a statement is 798
required to be submitted to the board shall be implemented only 799
if it is approved by the board. 800

(C) Each county shall develop a county service 801
coordination mechanism. The county service coordination 802
mechanism shall serve as the guiding document for coordination 803
of services in the county. For children who also receive 804
services under the help me grow program, the service 805
coordination mechanism shall be consistent with rules adopted by 806
the department of health under section 3701.61 of the Revised 807
Code. All family service coordination plans shall be developed 808

in accordance with the county service coordination mechanism. 809
The mechanism shall be developed and approved with the 810
participation of the county entities representing child welfare; 811
~~mental retardation and~~ developmental disabilities; alcohol, drug 812
addiction, and mental health services; health; juvenile judges; 813
education; the county family and children first council; and the 814
county early intervention collaborative established pursuant to 815
the federal early intervention program operated under the 816
"Individuals with Disabilities Education Act of 2004." The 817
county shall establish an implementation schedule for the 818
mechanism. The cabinet council may monitor the implementation 819
and administration of each county's service coordination 820
mechanism. 821

Each mechanism shall include all of the following: 822

(1) A procedure for an agency, including a juvenile court, 823
or a family voluntarily seeking service coordination, to refer 824
the child and family to the county council for service 825
coordination in accordance with the mechanism; 826

(2) A procedure ensuring that a family and all appropriate 827
staff from involved agencies, including a representative from 828
the appropriate school district, are notified of and invited to 829
participate in all family service coordination plan meetings; 830

(3) A procedure that permits a family to initiate a 831
meeting to develop or review the family's service coordination 832
plan and allows the family to invite a family advocate, mentor, 833
or support person of the family's choice to participate in any 834
such meeting; 835

(4) A procedure for ensuring that a family service 836
coordination plan meeting is conducted for each child who 837

receives service coordination under the mechanism and for whom 838
an emergency out-of-home placement has been made or for whom a 839
nonemergency out-of-home placement is being considered. The 840
meeting shall be conducted within ten days of an emergency out- 841
of-home placement. The meeting shall be conducted before a 842
nonemergency out-of-home placement. The family service 843
coordination plan shall outline how the county council members 844
will jointly pay for services, where applicable, and provide 845
services in the least restrictive environment. 846

(5) A procedure for monitoring the progress and tracking 847
the outcomes of each service coordination plan requested in the 848
county including monitoring and tracking children in out-of-home 849
placements to assure continued progress, appropriateness of 850
placement, and continuity of care after discharge from placement 851
with appropriate arrangements for housing, treatment, and 852
education; 853

(6) A procedure for protecting the confidentiality of all 854
personal family information disclosed during service 855
coordination meetings or contained in the comprehensive family 856
service coordination plan; 857

(7) A procedure for assessing the needs and strengths of 858
any child or family that has been referred to the council for 859
service coordination, including a child whose parent or 860
custodian is voluntarily seeking services, and for ensuring that 861
parents and custodians are afforded the opportunity to 862
participate; 863

(8) A procedure for development of a family service 864
coordination plan described in division (D) of this section; 865

(9) A local dispute resolution process to serve as the 866

process that must be used first to resolve disputes among the 867
agencies represented on the county council concerning the 868
provision of services to children, including children who are 869
abused, neglected, dependent, unruly, alleged unruly, or 870
delinquent children and under the jurisdiction of the juvenile 871
court and children whose parents or custodians are voluntarily 872
seeking services. The local dispute resolution process shall 873
comply with sections 121.38, 121.381, and 121.382 of the Revised 874
Code. The local dispute resolution process shall be used to 875
resolve disputes between a child's parents or custodians and the 876
county council regarding service coordination. The county 877
council shall inform the parents or custodians of their right to 878
use the dispute resolution process. Parents or custodians shall 879
use existing local agency grievance procedures to address 880
disputes not involving service coordination. The dispute 881
resolution process is in addition to and does not replace other 882
rights or procedures that parents or custodians may have under 883
other sections of the Revised Code. 884

The cabinet council shall adopt rules in accordance with 885
Chapter 119. of the Revised Code establishing an administrative 886
review process to address problems that arise concerning the 887
operation of a local dispute resolution process. 888

Nothing in division (C) (4) of this section shall be 889
interpreted as overriding or affecting decisions of a juvenile 890
court regarding an out-of-home placement, long-term placement, 891
or emergency out-of-home placement. 892

(D) Each county shall develop a family service 893
coordination plan that does all of the following: 894

(1) Designates service responsibilities among the various 895
state and local agencies that provide services to children and 896

their families, including children who are abused, neglected, 897
dependent, unruly, or delinquent children and under the 898
jurisdiction of the juvenile court and children whose parents or 899
custodians are voluntarily seeking services; 900

(2) Designates an individual, approved by the family, to 901
track the progress of the family service coordination plan, 902
schedule reviews as necessary, and facilitate the family service 903
coordination plan meeting process; 904

(3) Ensures that assistance and services to be provided 905
are responsive to the strengths and needs of the family, as well 906
as the family's culture, race, and ethnic group, by allowing the 907
family to offer information and suggestions and participate in 908
decisions. Identified assistance and services shall be provided 909
in the least restrictive environment possible. 910

(4) Includes a process for dealing with a child who is 911
alleged to be an unruly child. The process shall include methods 912
to divert the child from the juvenile court system; 913

(5) Includes timelines for completion of goals specified 914
in the plan with regular reviews scheduled to monitor progress 915
toward those goals; 916

(6) Includes a plan for dealing with short-term crisis 917
situations and safety concerns. 918

(E) (1) The process provided for under division (D) (4) of 919
this section may include, but is not limited to, the following: 920

(a) Designation of the person or agency to conduct the 921
assessment of the child and the child's family as described in 922
division (C) (7) of this section and designation of the 923
instrument or instruments to be used to conduct the assessment; 924

(b) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child;	925 926 927
(c) Involvement of local law enforcement agencies and officials.	928 929
(2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following:	930 931 932
(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system;	933 934 935 936 937 938
(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;	939 940 941 942
(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;	943 944 945 946
(d) A program to provide a mentor to the child or the parents, guardian, or custodian;	947 948
(e) A program to provide parenting education to the parents, guardian, or custodian;	949 950
(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or	951 952

suspended or expelled from school; 953

(g) Other appropriate measures, including, but not limited 954
to, any alternative methods to divert a child from the juvenile 955
court system that are identified by the Ohio family and children 956
first cabinet council. 957

(F) Each county may review and revise the service 958
coordination process described in division (D) of this section 959
based on the availability of funds under Title IV-A of the 960
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, 961
as amended, or to the extent resources are available from any 962
other federal, state, or local funds. 963

Sec. 135.801. (A) As used in sections 135.801 to 135.803 964
of the Revised Code, "eligible lending institution," "eligible 965
organization," "investing authority," "residential facility," 966
and "residential facility linked deposit program" have the same 967
meanings as in section 5126.51 of the Revised Code. 968

(B) The board of county commissioners may adopt a 969
resolution implementing a residential facility linked deposit 970
program under sections 5126.51 to 5126.62 of the Revised Code if 971
it finds each of the following: 972

(1) The county board of developmental disabilities has 973
adopted a resolution under section 5126.49 of the Revised Code. 974

(2) There is a shortage of residential facilities in the 975
county for individuals with ~~mental retardation or~~ developmental 976
disabilities. 977

(3) Eligible organizations, otherwise willing and able to 978
develop residential facilities in the county, have been unable 979
to do so because of high interest rates. 980

(4) Placement of residential facility linked deposits will 981
assist in financing the development of residential facilities in 982
the county that otherwise would not be developed because of high 983
interest rates. 984

(5) Public moneys of the county are available for purposes 985
of the residential facility linked deposit program. 986

(6) At least one eligible lending institution has an 987
office located within the territorial limits of the county into 988
which the board may deposit the public moneys of the county. 989

Sec. 145.01. As used in this chapter: 990

(A) "Public employee" means: 991

(1) Any person holding an office, not elective, under the 992
state or any county, township, municipal corporation, park 993
district, conservancy district, sanitary district, health 994
district, metropolitan housing authority, state retirement 995
board, Ohio history connection, public library, county law 996
library, union cemetery, joint hospital, institutional 997
commissary, state university, or board, bureau, commission, 998
council, committee, authority, or administrative body as the 999
same are, or have been, created by action of the general 1000
assembly or by the legislative authority of any of the units of 1001
local government named in division (A) (1) of this section, or 1002
employed and paid in whole or in part by the state or any of the 1003
authorities named in division (A) (1) of this section in any 1004
capacity not covered by section 742.01, 3307.01, 3309.01, or 1005
5505.01 of the Revised Code. 1006

(2) A person who is a member of the public employees 1007
retirement system and who continues to perform the same or 1008
similar duties under the direction of a contractor who has 1009

contracted to take over what before the date of the contract was 1010
a publicly operated function. The governmental unit with which 1011
the contract has been made shall be deemed the employer for the 1012
purposes of administering this chapter. 1013

(3) Any person who is an employee of a public employer, 1014
notwithstanding that the person's compensation for that 1015
employment is derived from funds of a person or entity other 1016
than the employer. Credit for such service shall be included as 1017
total service credit, provided that the employee makes the 1018
payments required by this chapter, and the employer makes the 1019
payments required by sections 145.48 and 145.51 of the Revised 1020
Code. 1021

(4) A person who elects in accordance with section 145.015 1022
of the Revised Code to remain a contributing member of the 1023
public employees retirement system. 1024

(5) A person who is an employee of the legal rights 1025
service on September 30, 2012, and continues to be employed by 1026
the nonprofit entity established under Section 319.20 of Am. 1027
Sub. H.B. 153 of the 129th general assembly. The nonprofit 1028
entity is the employer for the purpose of this chapter. 1029

In all cases of doubt, the public employees retirement 1030
board shall determine under section 145.036, 145.037, or 145.038 1031
of the Revised Code whether any person is a public employee, and 1032
its decision is final. 1033

(B) "Member" means any public employee, other than a 1034
public employee excluded or exempted from membership in the 1035
retirement system by section 145.03, 145.031, 145.032, 145.033, 1036
145.034, 145.035, or 145.38 of the Revised Code. "Member" 1037
includes a PERS retirant who becomes a member under division (C) 1038

of section 145.38 of the Revised Code. "Member" also includes a 1039
disability benefit recipient. 1040

(C) "Head of the department" means the elective or 1041
appointive head of the several executive, judicial, and 1042
administrative departments, institutions, boards, and 1043
commissions of the state and local government as the same are 1044
created and defined by the laws of this state or, in case of a 1045
charter government, by that charter. 1046

(D) "Employer" or "public employer" means the state or any 1047
county, township, municipal corporation, park district, 1048
conservancy district, sanitary district, health district, 1049
metropolitan housing authority, state retirement board, Ohio 1050
history connection, public library, county law library, union 1051
cemetery, joint hospital, institutional commissary, state 1052
medical university, state university, or board, bureau, 1053
commission, council, committee, authority, or administrative 1054
body as the same are, or have been, created by action of the 1055
general assembly or by the legislative authority of any of the 1056
units of local government named in this division not covered by 1057
section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised 1058
Code. In addition, "employer" means the employer of any public 1059
employee. 1060

(E) "Prior military service" also means all service 1061
credited for active duty with the armed forces of the United 1062
States as provided in section 145.30 of the Revised Code. 1063

(F) "Contributor" means any person who has an account in 1064
the employees' savings fund created by section 145.23 of the 1065
Revised Code. When used in the sections listed in division (B) 1066
of section 145.82 of the Revised Code, "contributor" includes 1067
any person participating in a PERS defined contribution plan. 1068

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retirant, qualify for or are receiving some right or benefit under this chapter.

(H) (1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such

employee members, a corresponding payment shall be paid into the 1100
employers' accumulation fund by that municipal corporation as 1101
the employer of the employees. 1102

(3) Where a member also is a member of the state teachers 1103
retirement system or the school employees retirement system, or 1104
both, except in cases of retirement on a combined basis pursuant 1105
to section 145.37 of the Revised Code or as provided in section 1106
145.383 of the Revised Code, service credit for any period shall 1107
be credited on the basis of the ratio that contributions to the 1108
public employees retirement system bear to total contributions 1109
in all state retirement systems. 1110

(4) Not more than one year of credit may be given for any 1111
period of twelve months. 1112

(5) "Ohio service credit" means credit for service that 1113
was rendered to the state or any of its political subdivisions 1114
or any employer. 1115

(I) "Regular interest" means interest at any rates for the 1116
respective funds and accounts as the public employees retirement 1117
board may determine from time to time. 1118

(J) "Accumulated contributions" means the sum of all 1119
amounts credited to a contributor's individual account in the 1120
employees' savings fund together with any interest credited to 1121
the contributor's account under section 145.471 or 145.472 of 1122
the Revised Code. 1123

(K) (1) "Final average salary" means the greater of the 1124
following: 1125

(a) The sum of the member's earnable salaries for the 1126
appropriate number of calendar years of contributing service, 1127
determined under section 145.017 of the Revised Code, in which 1128

the member's earnable salary was highest, divided by the same 1129
number of calendar years or, if the member has fewer than the 1130
appropriate number of calendar years of contributing service, 1131
the total of the member's earnable salary for all years of 1132
contributing service divided by the number of calendar years of 1133
the member's contributing service; 1134

(b) The sum of a member's earnable salaries for the 1135
appropriate number of consecutive months, determined under 1136
section 145.017 of the Revised Code, that were the member's last 1137
months of service, up to and including the last month, divided 1138
by the appropriate number of years or, if the time between the 1139
first and final months of service is less than the appropriate 1140
number of consecutive months, the total of the member's earnable 1141
salary for all months of contributing service divided by the 1142
number of years between the first and final months of 1143
contributing service, including any fraction of a year, except 1144
that the member's final average salary shall not exceed the 1145
member's highest earnable salary for any twelve consecutive 1146
months. 1147

(2) If contributions were made in only one calendar year, 1148
"final average salary" means the member's total earnable salary. 1149

(L) "Annuity" means payments for life derived from 1150
contributions made by a contributor and paid from the annuity 1151
and pension reserve fund as provided in this chapter. All 1152
annuities shall be paid in twelve equal monthly installments. 1153

(M) "Annuity reserve" means the present value, computed 1154
upon the basis of the mortality and other tables adopted by the 1155
board, of all payments to be made on account of any annuity, or 1156
benefit in lieu of any annuity, granted to a retirant as 1157
provided in this chapter. 1158

- (N) (1) "Disability retirement" means retirement as 1159
provided in section 145.36 of the Revised Code. 1160
- (2) "Disability allowance" means an allowance paid on 1161
account of disability under section 145.361 of the Revised Code. 1162
- (3) "Disability benefit" means a benefit paid as 1163
disability retirement under section 145.36 of the Revised Code, 1164
as a disability allowance under section 145.361 of the Revised 1165
Code, or as a disability benefit under section 145.37 of the 1166
Revised Code. 1167
- (4) "Disability benefit recipient" means a member who is 1168
receiving a disability benefit. 1169
- (O) "Age and service retirement" means retirement as 1170
provided in sections 145.32, 145.33, 145.331, 145.332, 145.37, 1171
and 145.46 and former section 145.34 of the Revised Code. 1172
- (P) "Pensions" means annual payments for life derived from 1173
contributions made by the employer that at the time of 1174
retirement are credited into the annuity and pension reserve 1175
fund from the employers' accumulation fund and paid from the 1176
annuity and pension reserve fund as provided in this chapter. 1177
All pensions shall be paid in twelve equal monthly installments. 1178
- (Q) "Retirement allowance" means the pension plus that 1179
portion of the benefit derived from contributions made by the 1180
member. 1181
- (R) (1) Except as otherwise provided in division (R) of 1182
this section, "earnable salary" means all salary, wages, and 1183
other earnings paid to a contributor by reason of employment in 1184
a position covered by the retirement system. The salary, wages, 1185
and other earnings shall be determined prior to determination of 1186
the amount required to be contributed to the employees' savings 1187

fund under section 145.47 of the Revised Code and without regard	1188
to whether any of the salary, wages, or other earnings are	1189
treated as deferred income for federal income tax purposes.	1190
"Earnable salary" includes the following:	1191
(a) Payments made by the employer in lieu of salary,	1192
wages, or other earnings for sick leave, personal leave, or	1193
vacation used by the contributor;	1194
(b) Payments made by the employer for the conversion of	1195
sick leave, personal leave, and vacation leave accrued, but not	1196
used if the payment is made during the year in which the leave	1197
is accrued, except that payments made pursuant to section	1198
124.383 or 124.386 of the Revised Code are not earnable salary;	1199
(c) Allowances paid by the employer for maintenance,	1200
consisting of housing, laundry, and meals, as certified to the	1201
retirement board by the employer or the head of the department	1202
that employs the contributor;	1203
(d) Fees and commissions paid under section 507.09 of the	1204
Revised Code;	1205
(e) Payments that are made under a disability leave	1206
program sponsored by the employer and for which the employer is	1207
required by section 145.296 of the Revised Code to make periodic	1208
employer and employee contributions;	1209
(f) Amounts included pursuant to former division (K) (3)	1210
and former division (Y) of this section and section 145.2916 of	1211
the Revised Code.	1212
(2) "Earnable salary" does not include any of the	1213
following:	1214
(a) Fees and commissions, other than those paid under	1215

section 507.09 of the Revised Code, paid as sole compensation 1216
for personal services and fees and commissions for special 1217
services over and above services for which the contributor 1218
receives a salary; 1219

(b) Amounts paid by the employer to provide life 1220
insurance, sickness, accident, endowment, health, medical, 1221
hospital, dental, or surgical coverage, or other insurance for 1222
the contributor or the contributor's family, or amounts paid by 1223
the employer to the contributor in lieu of providing the 1224
insurance; 1225

(c) Incidental benefits, including lodging, food, laundry, 1226
parking, or services furnished by the employer, or use of the 1227
employer's property or equipment, or amounts paid by the 1228
employer to the contributor in lieu of providing the incidental 1229
benefits; 1230

(d) Reimbursement for job-related expenses authorized by 1231
the employer, including moving and travel expenses and expenses 1232
related to professional development; 1233

(e) Payments for accrued but unused sick leave, personal 1234
leave, or vacation that are made at any time other than in the 1235
year in which the sick leave, personal leave, or vacation was 1236
accrued; 1237

(f) Payments made to or on behalf of a contributor that 1238
are in excess of the annual compensation that may be taken into 1239
account by the retirement system under division (a)(17) of 1240
section 401 of the "Internal Revenue Code of 1986," 100 Stat. 1241
2085, 26 U.S.C.A. 401(a)(17), as amended; 1242

(g) Payments made under division (B), (C), or (E) of 1243
section 5923.05 of the Revised Code, Section 4 of Substitute 1244

Senate Bill No. 3 of the 119th general assembly, Section 3 of 1245
Amended Substitute Senate Bill No. 164 of the 124th general 1246
assembly, or Amended Substitute House Bill No. 405 of the 124th 1247
general assembly; 1248

(h) Anything of value received by the contributor that is 1249
based on or attributable to retirement or an agreement to 1250
retire, except that payments made on or before January 1, 1989, 1251
that are based on or attributable to an agreement to retire 1252
shall be included in earnable salary if both of the following 1253
apply: 1254

(i) The payments are made in accordance with contract 1255
provisions that were in effect prior to January 1, 1986; 1256

(ii) The employer pays the retirement system an amount 1257
specified by the retirement board equal to the additional 1258
liability resulting from the payments. 1259

(i) The portion of any amount included in section 145.2916 1260
of the Revised Code that represents employer contributions. 1261

(3) The retirement board shall determine by rule whether 1262
any compensation not enumerated in division (R) of this section 1263
is earnable salary, and its decision shall be final. 1264

(S) "Pension reserve" means the present value, computed 1265
upon the basis of the mortality and other tables adopted by the 1266
board, of all payments to be made on account of any retirement 1267
allowance or benefit in lieu of any retirement allowance, 1268
granted to a member or beneficiary under this chapter. 1269

(T) "Contributing service" means both of the following: 1270

(1) All service credited to a member of the system since 1271
January 1, 1935, for which contributions are made as required by 1272

sections 145.47, 145.48, and 145.483 of the Revised Code. In any 1273
year subsequent to 1934, credit for any service shall be allowed 1274
in accordance with section 145.016 of the Revised Code. 1275

(2) Service credit received by election of the member 1276
under section 145.814 of the Revised Code. 1277

(U) "State retirement board" means the public employees 1278
retirement board, the school employees retirement board, or the 1279
state teachers retirement board. 1280

(V) "Retirant" means any former member who retires and is 1281
receiving a monthly allowance as provided in sections 145.32, 1282
145.33, 145.331, 145.332, and 145.46 and former section 145.34 1283
of the Revised Code. 1284

(W) "Employer contribution" means the amount paid by an 1285
employer as determined under section 145.48 of the Revised Code. 1286

(X) "Public service terminates" means the last day for 1287
which a public employee is compensated for services performed 1288
for an employer or the date of the employee's death, whichever 1289
occurs first. 1290

(Y) "Five years of service credit," for the exclusive 1291
purpose of satisfying the service credit requirements and of 1292
determining eligibility under section 145.33 or 145.332 of the 1293
Revised Code, means employment covered under this chapter or 1294
under a former retirement plan operated, recognized, or endorsed 1295
by the employer prior to coverage under this chapter or under a 1296
combination of the coverage. 1297

(Z) "Deputy sheriff" means any person who is commissioned 1298
and employed as a full-time peace officer by the sheriff of any 1299
county, and has been so employed since on or before December 31, 1300
1965; any person who is or has been commissioned and employed as 1301

a peace officer by the sheriff of any county since January 1, 1302
1966, and who has received a certificate attesting to the 1303
person's satisfactory completion of the peace officer training 1304
school as required by section 109.77 of the Revised Code; or any 1305
person deputized by the sheriff of any county and employed 1306
pursuant to section 2301.12 of the Revised Code as a criminal 1307
bailiff or court constable who has received a certificate 1308
attesting to the person's satisfactory completion of the peace 1309
officer training school as required by section 109.77 of the 1310
Revised Code. 1311

(AA) "Township constable or police officer in a township 1312
police department or district" means any person who is 1313
commissioned and employed as a full-time peace officer pursuant 1314
to Chapter 505. or 509. of the Revised Code, who has received a 1315
certificate attesting to the person's satisfactory completion of 1316
the peace officer training school as required by section 109.77 1317
of the Revised Code. 1318

(BB) "Drug agent" means any person who is either of the 1319
following: 1320

(1) Employed full time as a narcotics agent by a county 1321
narcotics agency created pursuant to section 307.15 of the 1322
Revised Code and has received a certificate attesting to the 1323
satisfactory completion of the peace officer training school as 1324
required by section 109.77 of the Revised Code; 1325

(2) Employed full time as an undercover drug agent as 1326
defined in section 109.79 of the Revised Code and is in 1327
compliance with section 109.77 of the Revised Code. 1328

(CC) "Department of public safety enforcement agent" means 1329
a full-time employee of the department of public safety who is 1330

designated under section 5502.14 of the Revised Code as an 1331
enforcement agent and who is in compliance with section 109.77 1332
of the Revised Code. 1333

(DD) "Natural resources law enforcement staff officer" 1334
means a full-time employee of the department of natural 1335
resources who is designated a natural resources law enforcement 1336
staff officer under section 1501.013 of the Revised Code and is 1337
in compliance with section 109.77 of the Revised Code. 1338

(EE) "Park officer" means a full-time employee of the 1339
department of natural resources who is designated a park officer 1340
under section 1541.10 of the Revised Code and is in compliance 1341
with section 109.77 of the Revised Code. 1342

(FF) "Forest officer" means a full-time employee of the 1343
department of natural resources who is designated a forest 1344
officer under section 1503.29 of the Revised Code and is in 1345
compliance with section 109.77 of the Revised Code. 1346

(GG) "Preserve officer" means a full-time employee of the 1347
department of natural resources who is designated a preserve 1348
officer under section 1517.10 of the Revised Code and is in 1349
compliance with section 109.77 of the Revised Code. 1350

(HH) "Wildlife officer" means a full-time employee of the 1351
department of natural resources who is designated a wildlife 1352
officer under section 1531.13 of the Revised Code and is in 1353
compliance with section 109.77 of the Revised Code. 1354

(II) "State watercraft officer" means a full-time employee 1355
of the department of natural resources who is designated a state 1356
watercraft officer under section 1547.521 of the Revised Code 1357
and is in compliance with section 109.77 of the Revised Code. 1358

(JJ) "Park district police officer" means a full-time 1359

employee of a park district who is designated pursuant to 1360
section 511.232 or 1545.13 of the Revised Code and is in 1361
compliance with section 109.77 of the Revised Code. 1362

(KK) "Conservancy district officer" means a full-time 1363
employee of a conservancy district who is designated pursuant to 1364
section 6101.75 of the Revised Code and is in compliance with 1365
section 109.77 of the Revised Code. 1366

(LL) "Municipal police officer" means a member of the 1367
organized police department of a municipal corporation who is 1368
employed full time, is in compliance with section 109.77 of the 1369
Revised Code, and is not a member of the Ohio police and fire 1370
pension fund. 1371

(MM) "Veterans' home police officer" means any person who 1372
is employed at a veterans' home as a police officer pursuant to 1373
section 5907.02 of the Revised Code and is in compliance with 1374
section 109.77 of the Revised Code. 1375

(NN) "Special police officer for a mental health 1376
institution" means any person who is designated as such pursuant 1377
to section 5119.08 of the Revised Code and is in compliance with 1378
section 109.77 of the Revised Code. 1379

(OO) "Special police officer for an institution for ~~the~~ 1380
~~developmentally disabled persons with developmental~~ 1381
disabilities" means any person who is designated as such 1382
pursuant to section 5123.13 of the Revised Code and is in 1383
compliance with section 109.77 of the Revised Code. 1384

(PP) "State university law enforcement officer" means any 1385
person who is employed full time as a state university law 1386
enforcement officer pursuant to section 3345.04 of the Revised 1387
Code and who is in compliance with section 109.77 of the Revised 1388

Code. 1389

(QQ) "House sergeant at arms" means any person appointed 1390
by the speaker of the house of representatives under division 1391
(B) (1) of section 101.311 of the Revised Code who has arrest 1392
authority under division (E) (1) of that section. 1393

(RR) "Assistant house sergeant at arms" means any person 1394
appointed by the house sergeant at arms under division (C) (1) of 1395
section 101.311 of the Revised Code. 1396

(SS) "Regional transit authority police officer" means a 1397
person who is employed full time as a regional transit authority 1398
police officer under division (Y) of section 306.35 of the 1399
Revised Code and is in compliance with section 109.77 of the 1400
Revised Code. 1401

(TT) "State highway patrol police officer" means a special 1402
police officer employed full time and designated by the 1403
superintendent of the state highway patrol pursuant to section 1404
5503.09 of the Revised Code or a person serving full time as a 1405
special police officer pursuant to that section on a permanent 1406
basis on October 21, 1997, who is in compliance with section 1407
109.77 of the Revised Code. 1408

(UU) "Municipal public safety director" means a person who 1409
serves full time as the public safety director of a municipal 1410
corporation with the duty of directing the activities of the 1411
municipal corporation's police department and fire department. 1412

(VV) Notwithstanding section 2901.01 of the Revised Code, 1413
"PERS law enforcement officer" means a sheriff or any of the 1414
following whose primary duties are to preserve the peace, 1415
protect life and property, and enforce the laws of this state: a 1416
deputy sheriff, township constable or police officer in a 1417

township police department or district, drug agent, department 1418
of public safety enforcement agent, natural resources law 1419
enforcement staff officer, park officer, forest officer, 1420
preserve officer, wildlife officer, state watercraft officer, 1421
park district police officer, conservancy district officer, 1422
veterans' home police officer, special police officer for a 1423
mental health institution, special police officer for an 1424
institution for ~~the developmentally disabled persons with~~ 1425
developmental disabilities, state university law enforcement 1426
officer, municipal police officer, house sergeant at arms, 1427
assistant house sergeant at arms, regional transit authority 1428
police officer, or state highway patrol police officer. "PERS 1429
law enforcement officer" also includes a person serving as a 1430
municipal public safety director at any time during the period 1431
from September 29, 2005, to March 24, 2009, if the duties of 1432
that service were to preserve the peace, protect life and 1433
property, and enforce the laws of this state. 1434

(WW) "Hamilton county municipal court bailiff" means a 1435
person appointed by the clerk of courts of the Hamilton county 1436
municipal court under division (A) (3) of section 1901.32 of the 1437
Revised Code who is employed full time as a bailiff or deputy 1438
bailiff, who has received a certificate attesting to the 1439
person's satisfactory completion of the peace officer basic 1440
training described in division (D) (1) of section 109.77 of the 1441
Revised Code. 1442

(XX) "PERS public safety officer" means a Hamilton county 1443
municipal court bailiff, or any of the following whose primary 1444
duties are other than to preserve the peace, protect life and 1445
property, and enforce the laws of this state: a deputy sheriff, 1446
township constable or police officer in a township police 1447
department or district, drug agent, department of public safety 1448

enforcement agent, natural resources law enforcement staff 1449
officer, park officer, forest officer, preserve officer, 1450
wildlife officer, state watercraft officer, park district police 1451
officer, conservancy district officer, veterans' home police 1452
officer, special police officer for a mental health institution, 1453
special police officer for an institution for ~~the~~ 1454
~~developmentally disabled~~ persons with developmental disabilities, 1455
state university law enforcement officer, municipal police 1456
officer, house sergeant at arms, assistant house sergeant at 1457
arms, regional transit authority police officer, or state 1458
highway patrol police officer. "PERS public safety officer" also 1459
includes a person serving as a municipal public safety director 1460
at any time during the period from September 29, 2005, to March 1461
24, 2009, if the duties of that service were other than to 1462
preserve the peace, protect life and property, and enforce the 1463
laws of this state. 1464

(YY) "Fiduciary" means a person who does any of the 1465
following: 1466

(1) Exercises any discretionary authority or control with 1467
respect to the management of the system or with respect to the 1468
management or disposition of its assets; 1469

(2) Renders investment advice for a fee, direct or 1470
indirect, with respect to money or property of the system; 1471

(3) Has any discretionary authority or responsibility in 1472
the administration of the system. 1473

(ZZ) "Actuary" means an individual who satisfies all of 1474
the following requirements: 1475

(1) Is a member of the American academy of actuaries; 1476

(2) Is an associate or fellow of the society of actuaries; 1477

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.	1478 1479
(AAA) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.	1480 1481
(BBB) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code.	1482 1483
Sec. 145.012. (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:	1484 1485 1486
(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;	1487 1488 1489 1490 1491
(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;	1492 1493 1494
(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;	1495 1496 1497
(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;	1498 1499 1500 1501
(5) Who is employed as an election worker and paid less than six hundred dollars per calendar year for that service;	1502 1503
(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training	1504 1505

course approved under former section 3303.07 or section 4765.55 1506
of the Revised Code or conducted under section 3737.33 of the 1507
Revised Code except for the following: 1508

(a) Any firefighter who has elected under section 145.013 1509
of the Revised Code to remain a contributing member of the 1510
public employees retirement system; 1511

(b) Any firefighter who was eligible to transfer from the 1512
public employees retirement system to the Ohio police and fire 1513
pension fund under section 742.51 or 742.515 of the Revised Code 1514
and did not elect to transfer; 1515

(c) Any firefighter who has elected under section 742.516 1516
of the Revised Code to transfer from the Ohio police and fire 1517
pension fund to the public employees retirement system. 1518

(7) Who is a member of the board of health of a city or 1519
general health district, which pursuant to sections 3709.051 and 1520
3709.07 of the Revised Code includes a combined health district, 1521
and whose compensation for attendance at meetings of the board 1522
is set forth in division (B) of section 3709.02 or division (B) 1523
of section 3709.05 of the Revised Code, as appropriate; 1524

(8) Who participates in an alternative retirement plan 1525
established under Chapter 3305. of the Revised Code; 1526

(9) Who is a member of the board of directors of a 1527
sanitary district established under Chapter 6115. of the Revised 1528
Code; 1529

(10) Who is a member of the unemployment compensation 1530
advisory council; 1531

(11) Who is an employee, officer, or governor-appointed 1532
member of the board of directors of the nonprofit corporation 1533

formed under section 187.01 of the Revised Code; 1534

(12) Who is employed by the nonprofit entity established 1535
to provide advocacy services and a client assistance program for 1536
people with disabilities under Section 319.20 of Am. Sub. H.B. 1537
153 of the 129th general assembly and whose employment begins on 1538
or after October 1, 2012. 1539

(B) No inmate of a correctional institution operated by 1540
the department of rehabilitation and correction, no patient in a 1541
hospital for the mentally ill or criminally insane operated by 1542
the department of mental health and addiction services, no 1543
resident in an institution for ~~the mentally retarded persons~~ 1544
with intellectual disabilities operated by the department of 1545
developmental disabilities, no resident admitted as a patient of 1546
a veterans' home operated under Chapter 5907. of the Revised 1547
Code, and no resident of a county home shall be considered as a 1548
public employee for the purpose of establishing membership or 1549
calculating service credit or benefits under this chapter. 1550
Nothing in this division shall be construed to affect any 1551
service credit attained by any person who was a public employee 1552
before becoming an inmate, patient, or resident at any 1553
institution listed in this division, or the payment of any 1554
benefit for which such a person or such a person's beneficiaries 1555
otherwise would be eligible. 1556

Sec. 145.298. (A) As used in this section: 1557

(1) "State employing unit" means an employing unit 1558
described in division (A) (2) of section 145.297 of the Revised 1559
Code, except that it does not mean an employing unit with fifty 1560
or fewer employees. 1561

(2) "State institution" means a state correctional 1562

facility, a state institution for the mentally ill, or a state 1563
institution for the care, treatment, and training of ~~the~~ 1564
~~mentally retarded~~ persons with intellectual disabilities. 1565

(B) (1) Prior to July 17, 2009, in the event of a proposal 1566
to close a state institution or lay off, within a six-month 1567
period, a number of persons employed at an institution that 1568
equals or exceeds the lesser of fifty or ten per cent of the 1569
persons employed at the institution, the employing unit 1570
responsible for the institution's operation shall establish a 1571
retirement incentive plan for persons employed at the 1572
institution. 1573

(2) On and after July 17, 2009, in the event of a proposal 1574
to close a state institution or lay off, within a six-month 1575
period, a number of persons employed at an institution that 1576
equals or exceeds the lesser of three hundred fifty or forty per 1577
cent of the persons employed at the institution, the employing 1578
unit responsible for the institution's operation shall establish 1579
a retirement incentive plan for persons employed at the 1580
institution. 1581

(C) (1) Prior to July 17, 2009, in the event of a proposal, 1582
other than the proposals described in division (B) of this 1583
section, to lay off, within a six-month period, a number of 1584
employees of a state employing unit that equals or exceeds the 1585
lesser of fifty or ten per cent of the employing unit's 1586
employees, the employing unit shall establish a retirement 1587
incentive plan for employees of the employing unit. 1588

(2) On and after July 17, 2009, in the event of a 1589
proposal, other than the proposals described in division (B) of 1590
this section, to lay off, within a six-month period, a number of 1591
employees of a state employing unit that equals or exceeds the 1592

lesser of three hundred fifty or forty per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

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

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

Sec. 145.332. Eligibility of members of the public employees retirement system, other than those subject to section 145.32 of the Revised Code, for age and service retirement shall be determined under this section.

(A) A member of the public employees retirement system is eligible for age and service retirement under this division if, not later than five years after ~~the effective date of this section~~ January 7, 2013, the member meets one of the following requirements:

(1) Has attained age forty-eight and has at least twenty-

five years of total service credit as a PERS law enforcement officer; 1622
1623

(2) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit; 1624
1625
1626
1627
1628

(3) Has attained age sixty-two and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer. 1629
1630
1631

(B) (1) A member who would be eligible to retire not later than ten years after ~~the effective date of this amendment~~ January 7, 2013, if the requirements of section 145.33 of the Revised Code as they existed immediately prior to ~~the effective date of this amendment~~ January 7, 2013, were still in effect is eligible to retire under this division if the member meets one of the following requirements: 1632
1633
1634
1635
1636
1637
1638

(a) Has attained age fifty and has at least twenty-five years of total service credit as a PERS law enforcement officer; 1639
1640

(b) Has attained age fifty-four and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit; 1641
1642
1643
1644
1645

(c) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer. 1646
1647
1648

(2) A member who on ~~the effective date of this amendment~~ January 7, 2013, has twenty or more years of total service 1649
1650

credit is eligible for age and service retirement under this 1651
division on meeting one of the requirements of division (B) (1) 1652
of this section, regardless of when the member meets the 1653
requirement unless, ~~between the effective date of this section~~ 1654
January 7, 2013, and the date the member meets the requirement, 1655
the member receives a refund of accumulated contributions under 1656
section 145.40 of the Revised Code. 1657

(C) A member who is not eligible for age and service 1658
retirement under division (A) or (B) of this section is eligible 1659
under this division if the member meets one of the following 1660
requirements: 1661

(1) Has attained age fifty-two and has at least twenty- 1662
five years of total service credit as a PERS law enforcement 1663
officer; 1664

(2) Has attained age fifty-six and has at least twenty- 1665
five years of total service credit as a PERS public safety 1666
officer or has service as a PERS public safety officer and 1667
service as a PERS law enforcement officer that when combined 1668
equal at least twenty-five years of total service credit; 1669

(3) Has attained age sixty-four and has at least fifteen 1670
years of total service credit as a PERS law enforcement officer 1671
or PERS public safety officer. 1672

(D) Service credit purchased or obtained under this 1673
chapter shall be used in determining whether a member has the 1674
number of years of total service credit required under division 1675
(A) or (B) of this section only if the member was a member on 1676
~~the effective date of this section~~ January 7, 2013, or obtains 1677
credit under section 145.483 of the Revised Code that would have 1678
made the member a member on that date and one of the following 1679

applies: 1680

(1) Except in the case of service credit that has been or 1681
will be purchased or obtained under section 145.295 or 145.37 of 1682
the Revised Code or is for service covered by the Cincinnati 1683
retirement system: 1684

(a) For division (A) of this section, the service credit 1685
purchase is completed or the service credit is obtained not 1686
later than five years after ~~the effective date of this section~~ 1687
January 7, 2013; 1688

(b) For division (B) of this section, the service credit 1689
purchase is completed or the service credit is obtained not 1690
later than ten years after ~~the effective date of this section~~ 1691
January 7, 2013. 1692

(2) In the case of service credit that has been or will be 1693
purchased or obtained under section 145.295 or 145.37 of the 1694
Revised Code or is for service covered by the Cincinnati 1695
retirement system: 1696

(a) For division (A) of this section, the service for 1697
which the credit has been or will be purchased or obtained 1698
occurs not later than five years after ~~the effective date of~~ 1699
~~this section~~ January 7, 2013; 1700

(b) For division (B) of this section, the service for 1701
which the credit has been or will be purchased or obtained 1702
occurs not later than ten years after ~~the effective date of this~~ 1703
~~section~~ January 7, 2013. 1704

(E)(1) A member with at least twenty-five years of total 1705
service credit who would be eligible to retire under division 1706
(B)(1)(a) of this section had the member attained age fifty and 1707
who voluntarily resigns or is discharged for any reason except 1708

death, dishonesty, cowardice, intemperate habits, or conviction 1709
of a felony, on or after attaining age forty-eight, but before 1710
attaining age fifty, may elect to receive a reduced benefit. The 1711
benefit shall be the actuarial equivalent of the allowance 1712
calculated under division (F) of this section adjusted for age. 1713

(2) A member with at least twenty-five years of total 1714
service credit who would be eligible to retire under division 1715
(C) (1) of this section had the member attained age fifty-two and 1716
who voluntarily resigns or is discharged for any reason except 1717
death, dishonesty, cowardice, intemperate habits, or conviction 1718
of a felony, on or after attaining age forty-eight, but before 1719
attaining age fifty-two, may elect to receive a reduced benefit. 1720
The benefit shall be the actuarial equivalent of the allowance 1721
calculated under division (F) of this section adjusted for age. 1722

(3) A member with at least twenty-five years of total 1723
service credit who would be eligible to retire under division 1724
(A) (2) of this section had the member attained age fifty-two and 1725
who voluntarily resigns or is discharged for any reason except 1726
death, dishonesty, cowardice, intemperate habits, or conviction 1727
of a felony, on or after attaining age forty-eight, but before 1728
attaining age fifty-two, may elect to receive a reduced benefit. 1729

(a) If eligibility to make the election under division (E) 1730
(3) of this section occurs not later than five years after ~~the~~ 1731
~~effective date of this section~~ January 7, 2013, the benefit 1732
shall be calculated in accordance with the following schedule: 1733

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	1735
	division (F) of this section	1736
49	80% of the benefit payable under	1737

	division (F) of this section	1738
50	86% of the benefit payable under division (F) of this section	1739 1740
51	93% of the benefit payable under division (F) of this section	1741 1742
	(b) If eligibility to make the election occurs after the date determined under division (E) (3) (a) of this section, the benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.	1743 1744 1745 1746
	(4) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B) (1) (b) of this section had the member attained age fifty-four and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-four, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.	1747 1748 1749 1750 1751 1752 1753 1754 1755 1756
	(5) A member with at least twenty-five years of total service credit who would be eligible to retire under division (C) (2) of this section had the member attained age fifty-six and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age fifty-two, but before attaining age fifty-six, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.	1757 1758 1759 1760 1761 1762 1763 1764 1765
	(6) If a member elects to receive a reduced benefit under	1766

division (E) (1), (2), (3), (4), or (5) of this section, the 1767
reduced benefit shall be based on the member's age on the 1768
member's most recent birthday. Once a member elects to receive a 1769
reduced benefit and has received a payment, the member may not 1770
change that election. 1771

(F) A benefit paid under division (A), (B), or (C) of this 1772
section shall consist of an annual single lifetime allowance 1773
equal to the sum of two and one-half per cent of the member's 1774
final average salary multiplied by the first twenty-five years 1775
of the member's total service credit plus two and one-tenth per 1776
cent of the member's final average salary multiplied by the 1777
number of years of the member's total service credit in excess 1778
of twenty-five years. 1779

(G) A member with at least fifteen years of total service 1780
credit as a PERS law enforcement officer or PERS public safety 1781
officer who voluntarily resigns or is discharged for any reason 1782
except death, dishonesty, cowardice, intemperate habits, or 1783
conviction of a felony may apply for an age and service 1784
retirement benefit, which shall consist of an annual single 1785
lifetime allowance equal to one and one-half per cent of the 1786
member's final average salary multiplied by the number of years 1787
of the member's total service credit. 1788

(1) If the member will attain age fifty-two not later than 1789
ten years after ~~the effective date of this section~~ January 7, 1790
2013, the retirement allowance shall commence on the first day 1791
of the calendar month following the month in which application 1792
is filed with the board on or after the member's attainment of 1793
age fifty-two. 1794

(2) If the member will not attain age fifty-two on or 1795
before the date determined under division (G) (1) of this 1796

section, the retirement allowance shall commence on the first 1797
day of the calendar month following the month in which 1798
application is filed with the board on or after the member's 1799
attainment of age fifty-six. 1800

(H) A benefit paid under this section shall not exceed the 1801
lesser of ninety per cent of the member's final average salary 1802
or the limit established by section 415 of the "Internal Revenue 1803
Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended. 1804

(I) A member with service credit as a PERS law enforcement 1805
officer or PERS public safety officer and other service credit 1806
under this chapter may elect one of the following: 1807

(1) To have all the member's service credit under this 1808
chapter, including credit for service as a PERS law enforcement 1809
officer or PERS public safety officer, used in calculating a 1810
retirement allowance under section 145.33 of the Revised Code if 1811
the member qualifies for an allowance under that section; 1812

(2) If the member qualifies for an allowance under 1813
division (A) (1), (B) (1), (C) (1), or (E) (1) or (2) of this 1814
section, to receive all of the following: 1815

(a) A benefit under division (A) (1), (B) (1), (C) (1), or 1816
(E) (1) or (2) of this section for the member's service credit as 1817
a PERS law enforcement officer; 1818

(b) A single life annuity having a reserve equal to the 1819
amount of the member's accumulated contributions for all service 1820
other than PERS law enforcement service; 1821

(c) A pension equal to the annuity provided under division 1822
(I) (2) (b) of this section, excluding amounts of the member's 1823
accumulated contributions deposited under former division (Y) of 1824
section 145.01 or former sections 145.02, 145.29, 145.292, and 1825

145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 1826
145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the 1827
Revised Code for the purchase of service credit. 1828

(3) If the member qualifies for an allowance under 1829
division (A) (2), (B) (2), (C) (2), or (E) (3), (4), or (5) of this 1830
section, to receive all of the following: 1831

(a) A benefit under division (A) (2), (B) (2), (C) (2), or 1832
(E) (3), (4), or (5) of this section for the member's service 1833
credit as a PERS law enforcement officer or PERS public safety 1834
officer; 1835

(b) A single life annuity having a reserve equal to the 1836
amount of the member's accumulated contributions for all service 1837
other than PERS law enforcement service or PERS public safety 1838
officer service; 1839

(c) A pension equal to the annuity provided under division 1840
(I) (3) (b) of this section, excluding amounts of the member's 1841
accumulated contributions deposited under former division (Y) of 1842
section 145.01 or former sections 145.02, 145.29, 145.292, and 1843
145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 1844
145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the 1845
Revised Code for the purchase of service credit. 1846

(J) For the purposes of this section, "total service 1847
credit" includes credit for military service to the extent 1848
permitted by division (K) of this section and credit for service 1849
as a police officer or state highway patrol trooper to the 1850
extent permitted by division (L) of this section. 1851

(K) Notwithstanding sections 145.01 and 145.30 of the 1852
Revised Code, not more than four years of military service 1853
credit granted or purchased under section 145.30 of the Revised 1854

Code and five years of military service credit purchased under 1855
section 145.301 or 145.302 of the Revised Code shall be used in 1856
calculating service as a PERS law enforcement officer or PERS 1857
public safety officer or the total service credit of that 1858
person. 1859

(L) (1) Only credit for the member's service as a PERS law 1860
enforcement officer, PERS public safety officer, or service 1861
credit obtained as a police officer or state highway patrol 1862
trooper shall be used in computing the benefit of a member who 1863
qualifies for a benefit under this section for the following: 1864

(a) Any person who originally is commissioned and employed 1865
as a deputy sheriff by the sheriff of any county, or who 1866
originally is elected sheriff, on or after January 1, 1975; 1867

(b) Any deputy sheriff who originally is employed as a 1868
criminal bailiff or court constable on or after April 16, 1993; 1869

(c) Any person who originally is appointed as a township 1870
constable or police officer in a township police department or 1871
district on or after January 1, 1981; 1872

(d) Any person who originally is employed as a county 1873
narcotics agent on or after September 26, 1984; 1874

(e) Any person who originally is employed as an undercover 1875
drug agent as defined in section 109.79 of the Revised Code, 1876
department of public safety enforcement agent who prior to June 1877
30, 1999, was a liquor control investigator, park officer, 1878
forest officer, wildlife officer, state watercraft officer, park 1879
district police officer, conservancy district officer, veterans' 1880
home police officer, special police officer for a mental health 1881
institution, special police officer for an institution for ~~the~~ 1882
~~developmentally disabled~~ persons with developmental disabilities, 1883

or municipal police officer on or after December 15, 1988; 1884

(f) Any person who originally is employed as a state 1885
university law enforcement officer on or after November 6, 1996; 1886

(g) Any person who is originally employed as a state 1887
university law enforcement officer by the university of Akron on 1888
or after September 16, 1998; 1889

(h) Any person who originally is employed as a preserve 1890
officer on or after March 18, 1999; 1891

(i) Any person who originally is employed as a natural 1892
resources law enforcement staff officer on or after March 18, 1893
1999; 1894

(j) Any person who is originally employed as a department 1895
of public safety enforcement agent on or after June 30, 1999; 1896

(k) Any person who is originally employed as a house 1897
sergeant at arms or assistant house sergeant at arms on or after 1898
September 5, 2001; 1899

(l) Any person who is originally appointed as a regional 1900
transit authority police officer or state highway patrol police 1901
officer on or after February 1, 2002; 1902

(m) Any person who is originally employed as a municipal 1903
public safety director on or after September 29, 2005, but not 1904
later than March 24, 2009. 1905

(2) Only credit for a member's service as a PERS public 1906
safety officer or service credit obtained as a PERS law 1907
enforcement officer, police officer, or state highway patrol 1908
trooper shall be used in computing the benefit of a member who 1909
qualifies for a benefit under division (B) (1) (b) or (c), (B) (2), 1910
(C) (1) (b) or (c), or (C) (2) of this section for any person who 1911

originally is employed as a Hamilton county municipal court 1912
bailiff on or after November 6, 1996. 1913

(M) For purposes of this section, service prior to June 1914
30, 1999, as a food stamp trafficking agent under former section 1915
5502.14 of the Revised Code shall be considered service as a law 1916
enforcement officer. 1917

(N) Retirement allowances determined under this section 1918
shall be paid as provided in section 145.46 of the Revised Code. 1919

(O) A member seeking to retire under this section shall 1920
file an application with the public employees retirement board. 1921

Service retirement shall be effective as provided in 1922
division (E) of section 145.32 of the Revised Code. 1923

(P) If fewer than one per cent of the retirement system's 1924
members are contributing as public safety officers, the board, 1925
pursuant to a rule it adopts, may treat service as a public 1926
safety officer as service as a law enforcement officer. 1927

Sec. 149.431. (A) Except as provided in sections 9.833 and 1928
2744.081 of the Revised Code, any governmental entity or agency 1929
and any nonprofit corporation or association, except a 1930
corporation organized pursuant to Chapter 1719. of the Revised 1931
Code prior to January 1, 1980 or organized pursuant to Chapter 1932
3941. of the Revised Code, that enters into a contract or other 1933
agreement with the federal government, a unit of state 1934
government, or a political subdivision or taxing unit of this 1935
state for the provision of services shall keep accurate and 1936
complete financial records of any moneys expended in relation to 1937
the performance of the services pursuant to such contract or 1938
agreement according to generally accepted accounting principles. 1939
Such contract or agreement and such financial records shall be 1940

deemed to be public records as defined in division (A) (1) of 1941
section 149.43 of the Revised Code and are subject to the 1942
requirements of division (B) of that section, except that: 1943

(1) Any information directly or indirectly identifying a 1944
present or former individual patient or client or such an 1945
individual patient's or client's diagnosis, prognosis, or 1946
medical treatment, treatment for a mental or emotional disorder, 1947
treatment for ~~mental retardation or~~ a developmental disability, 1948
treatment for drug abuse or alcoholism, or counseling for 1949
personal or social problems is not a public record; 1950

(2) If disclosure of the contract or agreement or 1951
financial records is requested at a time when confidential 1952
professional services are being provided to a patient or client 1953
whose confidentiality might be violated if disclosure were made 1954
at that time, disclosure may be deferred if reasonable times are 1955
established when the contract or agreement or financial records 1956
will be disclosed. 1957

(3) Any nonprofit corporation or association that receives 1958
both public and private funds in fulfillment of any such 1959
contract or other agreement is not required to keep as public 1960
records the financial records of any private funds expended in 1961
relation to the performance of services pursuant to the contract 1962
or agreement. 1963

(B) Any nonprofit corporation or association that receives 1964
more than fifty per cent of its gross receipts excluding moneys 1965
received pursuant to Title XVIII of the "Social Security Act," 1966
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in a calendar 1967
year in fulfillment of a contract or other agreement for 1968
services with a governmental entity shall maintain information 1969
setting forth the compensation of any individual serving the 1970

nonprofit corporation or association in an executive or 1971
administrative capacity. Such information shall be deemed to be 1972
public records as defined in division (A) (1) of section 149.43 1973
of the Revised Code and is subject to the requirements of 1974
division (B) of that section. 1975

Nothing in this section shall be construed to otherwise 1976
limit the provisions of section 149.43 of the Revised Code. 1977

Sec. 152.04. The Ohio building authority may purchase, 1978
construct, reconstruct, equip, furnish, improve, alter, enlarge, 1979
maintain, repair, and operate buildings, facilities, and other 1980
properties on one or more sites within the state for use and 1981
occupancy by persons who meet all the following conditions: 1982

(A) Are eligible to receive old age, survivors', or 1983
disability insurance payments under Title II of the "Social 1984
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 401, or under any 1985
laws which may hereafter amend or supersede such chapters or 1986
title; 1987

(B) Have been, after September 27, 1963, discharged by the 1988
head of a hospital pursuant to section 5122.21 of the Revised 1989
Code or by the head of an institution pursuant to section 1990
5123.79 of the Revised Code; 1991

(C) Are determined by the authority not to need the care 1992
and treatment provided in a hospital or other institution; 1993

(D) Are determined by the authority to be unable, as a 1994
result of mental illness, ~~mental retardation~~, or developmental 1995
disability, to provide complete care for themselves or obtain 1996
and hold employment sufficient to provide the costs of living. 1997

The authority may also provide living facilities for 1998
administrative, professional, and other personnel and their 1999

families necessary to maintain or operate the facilities and to 2000
carry out the purposes of the authority. 2001

Sec. 173.25. The office of the state long-term care 2002
ombudsman program shall, in carrying out the provisions and 2003
purposes of sections 173.14 to 173.26 of the Revised Code, 2004
advise, consult, and cooperate with any agency, program, or 2005
other entity related to the purposes of the office. Any agency, 2006
program, or other entity related to the purposes of the office 2007
shall advise, consult, and cooperate with the office. 2008

The office shall attempt to establish effective 2009
coordination with government-sponsored programs that provide 2010
legal services to the elderly and with protective and advocacy 2011
programs for individuals with developmental disabilities, ~~mental~~ 2012
~~retardation,~~ or mental illness. 2013

Sec. 173.27. (A) As used in this section: 2014

(1) "Applicant" means a person who is under final 2015
consideration for employment by a responsible party in a full- 2016
time, part-time, or temporary position that involves providing 2017
ombudsman services to residents and recipients. "Applicant" 2018
includes a person who is under final consideration for 2019
employment as the state long-term care ombudsman or the head of 2020
a regional long-term care ombudsman program. "Applicant" does 2021
not include a person seeking to provide ombudsman services to 2022
residents and recipients as a volunteer without receiving or 2023
expecting to receive any form of remuneration other than 2024
reimbursement for actual expenses. 2025

(2) "Criminal records check" has the same meaning as in 2026
section 109.572 of the Revised Code. 2027

(3) "Disqualifying offense" means any of the offenses 2028

listed or described in divisions (A) (3) (a) to (e) of section 2029
109.572 of the Revised Code. 2030

(4) "Employee" means a person employed by a responsible 2031
party in a full-time, part-time, or temporary position that 2032
involves providing ombudsman services to residents and 2033
recipients. "Employee" includes the person employed as the state 2034
long-term care ombudsman and a person employed as the head of a 2035
regional long-term care ombudsman program. "Employee" does not 2036
include a person who provides ombudsman services to residents 2037
and recipients as a volunteer without receiving or expecting to 2038
receive any form of remuneration other than reimbursement for 2039
actual expenses. 2040

(5) "Responsible party" means the following: 2041

(a) In the case of an applicant who is under final 2042
consideration for employment as the state long-term care 2043
ombudsman or the person employed as the state long-term care 2044
ombudsman, the director of aging; 2045

(b) In the case of any other applicant who is under final 2046
consideration for employment with the state long-term care 2047
ombudsman program or any other employee of the state long-term 2048
care ombudsman program, the state long-term care ombudsman; 2049

(c) In the case of an applicant who is under final 2050
consideration for employment with a regional long-term care 2051
ombudsman program (including as the head of the regional 2052
program) or an employee of a regional long-term care ombudsman 2053
program (including the head of a regional program), the regional 2054
long-term care ombudsman program. 2055

(B) A responsible party may not employ an applicant or 2056
continue to employ an employee in a position that involves 2057

providing ombudsman services to residents and recipients if any 2058
of the following apply: 2059

(1) A review of the databases listed in division (D) of 2060
this section reveals any of the following: 2061

(a) That the applicant or employee is included in one or 2062
more of the databases listed in divisions (D) (1) to (5) of this 2063
section; 2064

(b) That there is in the state nurse aide registry 2065
established under section 3721.32 of the Revised Code a 2066
statement detailing findings by the director of health that the 2067
applicant or employee neglected or abused a long-term care 2068
facility or residential care facility resident or 2069
misappropriated property of such a resident; 2070

(c) That the applicant or employee is included in one or 2071
more of the databases, if any, specified in rules adopted under 2072
this section and the rules prohibit the responsible party from 2073
employing an applicant or continuing to employ an employee 2074
included in such a database in a position that involves 2075
providing ombudsman services to residents and recipients. 2076

(2) After the applicant or employee is provided, pursuant 2077
to division (E) (2) (a) of this section, a copy of the form 2078
prescribed pursuant to division (C) (1) of section 109.572 of the 2079
Revised Code and the standard impression sheet prescribed 2080
pursuant to division (C) (2) of that section, the applicant or 2081
employee fails to complete the form or provide the applicant's 2082
or employee's fingerprint impressions on the standard impression 2083
sheet. 2084

(3) Unless the applicant or employee meets standards 2085
specified in rules adopted under this section, the applicant or 2086

employee is found by a criminal records check required by this 2087
section to have been convicted of, pleaded guilty to, or been 2088
found eligible for intervention in lieu of conviction for a 2089
disqualifying offense. 2090

(C) A responsible party or a responsible party's designee 2091
shall inform each applicant of both of the following at the time 2092
of the applicant's initial application for employment in a 2093
position that involves providing ombudsman services to residents 2094
and recipients: 2095

(1) That a review of the databases listed in division (D) 2096
of this section will be conducted to determine whether the 2097
responsible party is prohibited by division (B) (1) of this 2098
section from employing the applicant in the position; 2099

(2) That, unless the database review reveals that the 2100
applicant may not be employed in the position, a criminal 2101
records check of the applicant will be conducted and the 2102
applicant is required to provide a set of the applicant's 2103
fingerprint impressions as part of the criminal records check. 2104

(D) As a condition of any applicant's being employed by a 2105
responsible party in a position that involves providing 2106
ombudsman services to residents and recipients, the responsible 2107
party or designee shall conduct a database review of the 2108
applicant in accordance with rules adopted under this section. 2109
If rules adopted under this section so require, the responsible 2110
party or designee shall conduct a database review of an employee 2111
in accordance with the rules as a condition of the responsible 2112
party continuing to employ the employee in a position that 2113
involves providing ombudsman services to residents and 2114
recipients. A database review shall determine whether the 2115
applicant or employee is included in any of the following: 2116

- (1) The excluded parties list system that is maintained by 2117
the United States general services administration pursuant to 2118
subpart 9.4 of the federal acquisition regulation and available 2119
at the federal web site known as the system for award 2120
management; 2121
- (2) The list of excluded individuals and entities 2122
maintained by the office of inspector general in the United 2123
States department of health and human services pursuant to 2124
section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 2125
42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social 2126
Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as 2127
amended; 2128
- (3) The registry of ~~MR/DD~~ developmental disabilities 2129
employees established under section 5123.52 of the Revised Code; 2130
- (4) The internet-based sex offender and child-victim 2131
offender database established under division (A)(11) of section 2132
2950.13 of the Revised Code; 2133
- (5) The internet-based database of inmates established 2134
under section 5120.66 of the Revised Code; 2135
- (6) The state nurse aide registry established under 2136
section 3721.32 of the Revised Code; 2137
- (7) Any other database, if any, specified in rules adopted 2138
under this section. 2139
- (E)(1) As a condition of any applicant's being employed by 2140
a responsible party in a position that involves providing 2141
ombudsman services to residents and recipients, the responsible 2142
party or designee shall request that the superintendent of the 2143
bureau of criminal identification and investigation conduct a 2144
criminal records check of the applicant. If rules adopted under 2145

this section so require, the responsible party or designee shall 2146
request that the superintendent conduct a criminal records check 2147
of an employee at times specified in the rules as a condition of 2148
the responsible party continuing to employ the employee in a 2149
position that involves providing ombudsman services to residents 2150
and recipients. However, the responsible party or designee is 2151
not required to request the criminal records check of the 2152
applicant or employee if the responsible party is prohibited by 2153
division (B) (1) of this section from employing the applicant or 2154
continuing to employ the employee in a position that involves 2155
providing ombudsman services to residents and recipients. If an 2156
applicant or employee for whom a criminal records check request 2157
is required by this section does not present proof of having 2158
been a resident of this state for the five-year period 2159
immediately prior to the date the criminal records check is 2160
requested or provide evidence that within that five-year period 2161
the superintendent has requested information about the applicant 2162
or employee from the federal bureau of investigation in a 2163
criminal records check, the responsible party or designee shall 2164
request that the superintendent obtain information from the 2165
federal bureau of investigation as part of the criminal records 2166
check. Even if an applicant or employee for whom a criminal 2167
records check request is required by this section presents proof 2168
of having been a resident of this state for the five-year 2169
period, the responsible party or designee may request that the 2170
superintendent include information from the federal bureau of 2171
investigation in the criminal records check. 2172

(2) A responsible party or designee shall do all of the 2173
following: 2174

(a) Provide to each applicant and employee for whom a 2175
criminal records check request is required by this section a 2176

copy of the form prescribed pursuant to division (C) (1) of 2177
section 109.572 of the Revised Code and a standard impression 2178
sheet prescribed pursuant to division (C) (2) of that section; 2179

(b) Obtain the completed form and standard impression 2180
sheet from the applicant or employee; 2181

(c) Forward the completed form and standard impression 2182
sheet to the superintendent. 2183

(3) A responsible party shall pay to the bureau of 2184
criminal identification and investigation the fee prescribed 2185
pursuant to division (C) (3) of section 109.572 of the Revised 2186
Code for each criminal records check the responsible party or 2187
the responsible party's designee requests under this section. 2188
The responsible party may charge an applicant a fee not 2189
exceeding the amount the responsible party pays to the bureau 2190
under this section if the responsible party or designee notifies 2191
the applicant at the time of initial application for employment 2192
of the amount of the fee. 2193

(F) (1) A responsible party may employ conditionally an 2194
applicant for whom a criminal records check is required by this 2195
section prior to obtaining the results of the criminal records 2196
check if both of the following apply: 2197

(a) The responsible party is not prohibited by division 2198
(B) (1) of this section from employing the applicant in a 2199
position that involves providing ombudsman services to residents 2200
and recipients; 2201

(b) The responsible party or designee requests the 2202
criminal records check in accordance with division (E) of this 2203
section not later than five business days after the applicant 2204
begins conditional employment. 2205

(2) A responsible party shall terminate the employment of 2206
an applicant employed conditionally under division (F) (1) of 2207
this section if the results of the criminal records check, other 2208
than the results of any request for information from the federal 2209
bureau of investigation, are not obtained within the period 2210
ending sixty days after the date the request for the criminal 2211
records check is made. Regardless of when the results of the 2212
criminal records check are obtained, if the results indicate 2213
that the applicant has been convicted of, pleaded guilty to, or 2214
been found eligible for intervention in lieu of conviction for a 2215
disqualifying offense, the responsible party shall terminate the 2216
applicant's employment unless the applicant meets standards 2217
specified in rules adopted under this section that permit the 2218
responsible party to employ the applicant and the responsible 2219
party chooses to employ the applicant. Termination of employment 2220
under this division shall be considered just cause for discharge 2221
for purposes of division (D) (2) of section 4141.29 of the 2222
Revised Code if the applicant makes any attempt to deceive the 2223
responsible party or designee about the applicant's criminal 2224
record. 2225

(G) The report of any criminal records check conducted 2226
pursuant to a request made under this section is not a public 2227
record for the purposes of section 149.43 of the Revised Code 2228
and shall not be made available to any person other than the 2229
following: 2230

(1) The applicant or employee who is the subject of the 2231
criminal records check or the applicant's or employee's 2232
representative; 2233

(2) The responsible party or designee; 2234

(3) In the case of a criminal records check conducted for 2235

an applicant who is under final consideration for employment 2236
with a regional long-term care ombudsman program (including as 2237
the head of the regional program) or an employee of a regional 2238
long-term care ombudsman program (including the head of a 2239
regional program), the state long-term care ombudsman or a 2240
representative of the office of the state long-term care 2241
ombudsman program who is responsible for monitoring the regional 2242
program's compliance with this section; 2243

(4) A court, hearing officer, or other necessary 2244
individual involved in a case dealing with any of the following: 2245

(a) A denial of employment of the applicant or employee; 2246

(b) Employment or unemployment benefits of the applicant 2247
or employee; 2248

(c) A civil or criminal action regarding the medicaid 2249
program or a program the department of aging administers. 2250

(H) In a tort or other civil action for damages that is 2251
brought as the result of an injury, death, or loss to person or 2252
property caused by an applicant or employee who a responsible 2253
party employs in a position that involves providing ombudsman 2254
services to residents and recipients, all of the following shall 2255
apply: 2256

(1) If the responsible party employed the applicant or 2257
employee in good faith and reasonable reliance on the report of 2258
a criminal records check requested under this section, the 2259
responsible party shall not be found negligent solely because of 2260
its reliance on the report, even if the information in the 2261
report is determined later to have been incomplete or 2262
inaccurate. 2263

(2) If the responsible party employed the applicant in 2264

good faith on a conditional basis pursuant to division (F) of 2265
this section, the responsible party shall not be found negligent 2266
solely because it employed the applicant prior to receiving the 2267
report of a criminal records check requested under this section. 2268

(3) If the responsible party in good faith employed the 2269
applicant or employee because the applicant or employee meets 2270
standards specified in rules adopted under this section, the 2271
responsible party shall not be found negligent solely because 2272
the applicant or employee has been convicted of, pleaded guilty 2273
to, or been found eligible for intervention in lieu of 2274
conviction for a disqualifying offense. 2275

(I) The state long-term care ombudsman may not act as the 2276
director of aging's designee for the purpose of this section. 2277
The head of a regional long-term care ombudsman program may not 2278
act as the regional program's designee for the purpose of this 2279
section if the head is the employee for whom a database review 2280
or criminal records check is being conducted. 2281

(J) The director of aging shall adopt rules in accordance 2282
with Chapter 119. of the Revised Code to implement this section. 2283

(1) The rules may do the following: 2284

(a) Require employees to undergo database reviews and 2285
criminal records checks under this section; 2286

(b) If the rules require employees to undergo database 2287
reviews and criminal records checks under this section, exempt 2288
one or more classes of employees from the requirements; 2289

(c) For the purpose of division (D) (7) of this section, 2290
specify other databases that are to be checked as part of a 2291
database review conducted under this section. 2292

(2) The rules shall specify all of the following:	2293
(a) The procedures for conducting database reviews under this section;	2294 2295
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	2296 2297 2298 2299
(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;	2300 2301 2302 2303 2304
(d) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a position that involves providing ombudsman services to residents and recipients if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	2305 2306 2307 2308 2309 2310 2311 2312
Sec. 173.38. (A) As used in this section:	2313
(1) "Applicant" means a person who is under final consideration for employment with a responsible party in a full-time, part-time, or temporary direct-care position or is referred to a responsible party by an employment service for such a position. "Applicant" does not include a person being considered for a direct-care position as a volunteer.	2314 2315 2316 2317 2318 2319
(2) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.	2320 2321

- (3) "Chief administrator of a responsible party" includes 2322
a consumer when the consumer is a responsible party. 2323
- (4) "Community-based long-term care services" means 2324
community-based long-term care services, as defined in section 2325
173.14 of the Revised Code, that are provided under a program 2326
the department of aging administers. 2327
- (5) "Consumer" means an individual who receives community- 2328
based long-term care services. 2329
- (6) "Criminal records check" has the same meaning as in 2330
section 109.572 of the Revised Code. 2331
- (7) (a) "Direct-care position" means an employment position 2332
in which an employee has either or both of the following: 2333
- (i) In-person contact with one or more consumers; 2334
- (ii) Access to one or more consumers' personal property or 2335
records. 2336
- (b) "Direct-care position" does not include a person whose 2337
sole duties are transporting individuals under Chapter 306. of 2338
the Revised Code. 2339
- (8) "Disqualifying offense" means any of the offenses 2340
listed or described in divisions (A) (3) (a) to (e) of section 2341
109.572 of the Revised Code. 2342
- (9) "Employee" means a person employed by a responsible 2343
party in a full-time, part-time, or temporary direct-care 2344
position and a person who works in such a position due to being 2345
referred to a responsible party by an employment service. 2346
"Employee" does not include a person who works in a direct-care 2347
position as a volunteer. 2348

(10) "PASSPORT administrative agency" has the same meaning	2349
as in section 173.42 of the Revised Code.	2350
(11) "Provider" has the same meaning as in section 173.39	2351
of the Revised Code.	2352
(12) "Responsible party" means the following:	2353
(a) An area agency on aging in the case of either of the	2354
following:	2355
(i) A person who is an applicant because the person is	2356
under final consideration for employment with the agency in a	2357
full-time, part-time, or temporary direct-care position or is	2358
referred to the agency by an employment service for such a	2359
position;	2360
(ii) A person who is an employee because the person is	2361
employed by the agency in a full-time, part-time, or temporary	2362
direct-care position or works in such a position due to being	2363
referred to the agency by an employment service.	2364
(b) A PASSPORT administrative agency in the case of either	2365
of the following:	2366
(i) A person who is an applicant because the person is	2367
under final consideration for employment with the agency in a	2368
full-time, part-time, or temporary direct-care position or is	2369
referred to the agency by an employment service for such a	2370
position;	2371
(ii) A person who is an employee because the person is	2372
employed by the agency in a full-time, part-time, or temporary	2373
direct-care position or works in such a position due to being	2374
referred to the agency by an employment service.	2375
(c) A provider in the case of either of the following:	2376

(i) A person who is an applicant because the person is 2377
under final consideration for employment with the provider in a 2378
full-time, part-time, or temporary direct-care position or is 2379
referred to the provider by an employment service for such a 2380
position; 2381

(ii) A person who is an employee because the person is 2382
employed by the provider in a full-time, part-time, or temporary 2383
direct-care position or works in such a position due to being 2384
referred to the provider by an employment service. 2385

(d) A subcontractor in the case of either of the 2386
following: 2387

(i) A person who is an applicant because the person is 2388
under final consideration for employment with the subcontractor 2389
in a full-time, part-time, or temporary direct-care position or 2390
is referred to the subcontractor by an employment service for 2391
such a position; 2392

(ii) A person who is an employee because the person is 2393
employed by the subcontractor in a full-time, part-time, or 2394
temporary direct-care position or works in such a position due 2395
to being referred to the subcontractor by an employment service. 2396

(e) A consumer in the case of either of the following: 2397

(i) A person who is an applicant because the person is 2398
under final consideration for employment with the consumer in a 2399
full-time, part-time, or temporary direct-care position for 2400
which the consumer, as the employer of record, is to direct the 2401
person in the provision of community-based long-term care 2402
services the person is to provide the consumer or is referred to 2403
the consumer by an employment service for such a position; 2404

(ii) A person who is an employee because the person is 2405

employed by the consumer in a full-time, part-time, or temporary 2406
direct-care position for which the consumer, as the employer of 2407
record, directs the person in the provision of community-based 2408
long-term care services the person provides to the consumer or 2409
who works in such a position due to being referred to the 2410
consumer by an employment service. 2411

(13) "Subcontractor" has the meaning specified in rules 2412
adopted under this section. 2413

(14) "Volunteer" means a person who serves in a direct- 2414
care position without receiving or expecting to receive any form 2415
of remuneration other than reimbursement for actual expenses. 2416

(15) "Waiver agency" has the same meaning as in section 2417
5164.342 of the Revised Code. 2418

(B) This section does not apply to any individual who is 2419
subject to a database review or criminal records check under 2420
section 173.381 or 3701.881 of the Revised Code or to any 2421
individual who is subject to a criminal records check under 2422
section 3721.121 of the Revised Code. If a provider or 2423
subcontractor also is a waiver agency, the provider or 2424
subcontractor may provide for applicants and employees to 2425
undergo database reviews and criminal records checks in 2426
accordance with section 5164.342 of the Revised Code rather than 2427
this section. 2428

(C) No responsible party shall employ an applicant or 2429
continue to employ an employee in a direct-care position if any 2430
of the following apply: 2431

(1) A review of the databases listed in division (E) of 2432
this section reveals any of the following: 2433

(a) That the applicant or employee is included in one or 2434

more of the databases listed in divisions (E) (1) to (5) of this section; 2435
2436

(b) That there is in the state nurse aide registry 2437
established under section 3721.32 of the Revised Code a 2438
statement detailing findings by the director of health that the 2439
applicant or employee neglected or abused a long-term care 2440
facility or residential care facility resident or 2441
misappropriated property of such a resident; 2442

(c) That the applicant or employee is included in one or 2443
more of the databases, if any, specified in rules adopted under 2444
this section and the rules prohibit the responsible party from 2445
employing an applicant or continuing to employ an employee 2446
included in such a database in a direct-care position. 2447

(2) After the applicant or employee is provided, pursuant 2448
to division (F) (2) (a) of this section, a copy of the form 2449
prescribed pursuant to division (C) (1) of section 109.572 of the 2450
Revised Code and the standard impression sheet prescribed 2451
pursuant to division (C) (2) of that section, the applicant or 2452
employee fails to complete the form or provide the applicant's 2453
or employee's fingerprint impressions on the standard impression 2454
sheet. 2455

(3) Unless the applicant or employee meets standards 2456
specified in rules adopted under this section, the applicant or 2457
employee is found by a criminal records check required by this 2458
section to have been convicted of, pleaded guilty to, or been 2459
found eligible for intervention in lieu of conviction for a 2460
disqualifying offense. 2461

(D) Except as provided by division (G) of this section, 2462
the chief administrator of a responsible party shall inform each 2463

applicant of both of the following at the time of the 2464
applicant's initial application for employment or referral to 2465
the responsible party by an employment service for a direct-care 2466
position: 2467

(1) That a review of the databases listed in division (E) 2468
of this section will be conducted to determine whether the 2469
responsible party is prohibited by division (C) (1) of this 2470
section from employing the applicant in the direct-care 2471
position; 2472

(2) That, unless the database review reveals that the 2473
applicant may not be employed in the direct-care position, a 2474
criminal records check of the applicant will be conducted and 2475
the applicant is required to provide a set of the applicant's 2476
fingerprint impressions as part of the criminal records check. 2477

(E) As a condition of employing any applicant in a direct- 2478
care position, the chief administrator of a responsible party 2479
shall conduct a database review of the applicant in accordance 2480
with rules adopted under this section. If rules adopted under 2481
this section so require, the chief administrator of a 2482
responsible party shall conduct a database review of an employee 2483
in accordance with the rules as a condition of continuing to 2484
employ the employee in a direct-care position. However, a chief 2485
administrator is not required to conduct a database review of an 2486
applicant or employee if division (G) of this section applies. A 2487
database review shall determine whether the applicant or 2488
employee is included in any of the following: 2489

(1) The excluded parties list system that is maintained by 2490
the United States general services administration pursuant to 2491
subpart 9.4 of the federal acquisition regulation and available 2492
at the federal web site known as the system for award 2493

management;	2494
(2) The list of excluded individuals and entities	2495
maintained by the office of inspector general in the United	2496
States department of health and human services pursuant to the	2497
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7	2498
and 1320c-5;	2499
(3) The registry of MR/DD <u>developmental disabilities</u>	2500
employees established under section 5123.52 of the Revised Code;	2501
(4) The internet-based sex offender and child-victim	2502
offender database established under division (A) (11) of section	2503
2950.13 of the Revised Code;	2504
(5) The internet-based database of inmates established	2505
under section 5120.66 of the Revised Code;	2506
(6) The state nurse aide registry established under	2507
section 3721.32 of the Revised Code;	2508
(7) Any other database, if any, specified in rules adopted	2509
under this section.	2510
(F) (1) As a condition of employing any applicant in a	2511
direct-care position, the chief administrator of a responsible	2512
party shall request that the superintendent of the bureau of	2513
criminal identification and investigation conduct a criminal	2514
records check of the applicant. If rules adopted under this	2515
section so require, the chief administrator of a responsible	2516
party shall request that the superintendent conduct a criminal	2517
records check of an employee at times specified in the rules as	2518
a condition of continuing to employ the employee in a direct-	2519
care position. However, the chief administrator is not required	2520
to request the criminal records check of the applicant or	2521
employee if division (G) of this section applies or the	2522

responsible party is prohibited by division (C) (1) of this 2523
section from employing the applicant or continuing to employ the 2524
employee in a direct-care position. If an applicant or employee 2525
for whom a criminal records check request is required by this 2526
section does not present proof of having been a resident of this 2527
state for the five-year period immediately prior to the date the 2528
criminal records check is requested or provide evidence that 2529
within that five-year period the superintendent has requested 2530
information about the applicant or employee from the federal 2531
bureau of investigation in a criminal records check, the chief 2532
administrator shall request that the superintendent obtain 2533
information from the federal bureau of investigation as part of 2534
the criminal records check. Even if an applicant or employee for 2535
whom a criminal records check request is required by this 2536
section presents proof of having been a resident of this state 2537
for the five-year period, the chief administrator may request 2538
that the superintendent include information from the federal 2539
bureau of investigation in the criminal records check. 2540

(2) The chief administrator shall do all of the following: 2541

(a) Provide to each applicant and employee for whom a 2542
criminal records check request is required by this section a 2543
copy of the form prescribed pursuant to division (C) (1) of 2544
section 109.572 of the Revised Code and a standard impression 2545
sheet prescribed pursuant to division (C) (2) of that section; 2546

(b) Obtain the completed form and standard impression 2547
sheet from the applicant or employee; 2548

(c) Forward the completed form and standard impression 2549
sheet to the superintendent. 2550

(3) A responsible party shall pay to the bureau of 2551

criminal identification and investigation the fee prescribed 2552
pursuant to division (C) (3) of section 109.572 of the Revised 2553
Code for each criminal records check the responsible party 2554
requests under this section. A responsible party may charge an 2555
applicant a fee not exceeding the amount the responsible party 2556
pays to the bureau under this section if both of the following 2557
apply: 2558

(a) The responsible party notifies the applicant at the 2559
time of initial application for employment of the amount of the 2560
fee and that, unless the fee is paid, the applicant will not be 2561
considered for employment. 2562

(b) The medicaid program does not pay the responsible 2563
party for the fee it pays to the bureau under this section. 2564

(G) Divisions (D) to (F) of this section do not apply with 2565
regard to an applicant or employee if the applicant or employee 2566
is referred to a responsible party by an employment service that 2567
supplies full-time, part-time, or temporary staff for direct- 2568
care positions and both of the following apply: 2569

(1) The chief administrator of the responsible party 2570
receives from the employment service confirmation that a review 2571
of the databases listed in division (E) of this section was 2572
conducted of the applicant or employee. 2573

(2) The chief administrator of the responsible party 2574
receives from the employment service, applicant, or employee a 2575
report of the results of a criminal records check of the 2576
applicant or employee that has been conducted by the 2577
superintendent within the one-year period immediately preceding 2578
the following: 2579

(a) In the case of an applicant, the date of the 2580

applicant's referral by the employment service to the 2581
responsible party; 2582

(b) In the case of an employee, the date by which the 2583
responsible party would otherwise have to request a criminal 2584
records check of the employee under division (F) of this 2585
section. 2586

(H) (1) A responsible party may employ conditionally an 2587
applicant for whom a criminal records check request is required 2588
by this section prior to obtaining the results of the criminal 2589
records check if the responsible party is not prohibited by 2590
division (C) (1) of this section from employing the applicant in 2591
a direct-care position and either of the following applies: 2592

(a) The chief administrator of the responsible party 2593
requests the criminal records check in accordance with division 2594
(F) of this section not later than five business days after the 2595
applicant begins conditional employment. 2596

(b) The applicant is referred to the responsible party by 2597
an employment service, the employment service or the applicant 2598
provides the chief administrator of the responsible party a 2599
letter that is on the letterhead of the employment service, the 2600
letter is dated and signed by a supervisor or another designated 2601
official of the employment service, and the letter states all of 2602
the following: 2603

(i) That the employment service has requested the 2604
superintendent to conduct a criminal records check regarding the 2605
applicant; 2606

(ii) That the requested criminal records check is to 2607
include a determination of whether the applicant has been 2608
convicted of, pleaded guilty to, or been found eligible for 2609

intervention in lieu of conviction for a disqualifying offense; 2610

(iii) That the employment service has not received the 2611
results of the criminal records check as of the date set forth 2612
on the letter; 2613

(iv) That the employment service promptly will send a copy 2614
of the results of the criminal records check to the chief 2615
administrator of the responsible party when the employment 2616
service receives the results. 2617

(2) If a responsible party employs an applicant 2618
conditionally pursuant to division (H) (1) (b) of this section, 2619
the employment service, on its receipt of the results of the 2620
criminal records check, promptly shall send a copy of the 2621
results to the chief administrator of the responsible party. 2622

(3) A responsible party that employs an applicant 2623
conditionally pursuant to division (H) (1) (a) or (b) of this 2624
section shall terminate the applicant's employment if the 2625
results of the criminal records check, other than the results of 2626
any request for information from the federal bureau of 2627
investigation, are not obtained within the period ending sixty 2628
days after the date the request for the criminal records check 2629
is made. Regardless of when the results of the criminal records 2630
check are obtained, if the results indicate that the applicant 2631
has been convicted of, pleaded guilty to, or been found eligible 2632
for intervention in lieu of conviction for a disqualifying 2633
offense, the responsible party shall terminate the applicant's 2634
employment unless the applicant meets standards specified in 2635
rules adopted under this section that permit the responsible 2636
party to employ the applicant and the responsible party chooses 2637
to employ the applicant. Termination of employment under this 2638
division shall be considered just cause for discharge for 2639

purposes of division (D) (2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the responsible party about the applicant's criminal record.

(I) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The chief administrator of the responsible party requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides community-based long-term care services that is owned or operated by the same entity that owns or operates the responsible party that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of aging or a person authorized by the director to monitor a responsible party's compliance with this section;

(6) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if any of the following apply:

(a) In the case of a criminal records check requested by a

provider or subcontractor, the provider or subcontractor also is 2668
a waiver agency; 2669

(b) In the case of a criminal records check requested by 2670
an employment service, the employment service makes the request 2671
for an applicant or employee the employment service refers to a 2672
provider or subcontractor that also is a waiver agency; 2673

(c) The criminal records check is requested by a consumer 2674
who is acting as a responsible party. 2675

(7) A court, hearing officer, or other necessary 2676
individual involved in a case dealing with any of the following: 2677

(a) A denial of employment of the applicant or employee; 2678

(b) Employment or unemployment benefits of the applicant 2679
or employee; 2680

(c) A civil or criminal action regarding the medicaid 2681
program or a program the department of aging administers. 2682

(J) In a tort or other civil action for damages that is 2683
brought as the result of an injury, death, or loss to person or 2684
property caused by an applicant or employee who a responsible 2685
party employs in a direct-care position, all of the following 2686
shall apply: 2687

(1) If the responsible party employed the applicant or 2688
employee in good faith and reasonable reliance on the report of 2689
a criminal records check requested under this section, the 2690
responsible party shall not be found negligent solely because of 2691
its reliance on the report, even if the information in the 2692
report is determined later to have been incomplete or 2693
inaccurate. 2694

(2) If the responsible party employed the applicant in 2695

good faith on a conditional basis pursuant to division (H) of 2696
this section, the responsible party shall not be found negligent 2697
solely because it employed the applicant prior to receiving the 2698
report of a criminal records check requested under this section. 2699

(3) If the responsible party in good faith employed the 2700
applicant or employee because the applicant or employee meets 2701
standards specified in rules adopted under this section, the 2702
responsible party shall not be found negligent solely because 2703
the applicant or employee has been convicted of, pleaded guilty 2704
to, or been found eligible for intervention in lieu of 2705
conviction for a disqualifying offense. 2706

(K) The director of aging shall adopt rules in accordance 2707
with Chapter 119. of the Revised Code to implement this section. 2708

(1) The rules may do the following: 2709

(a) Require employees to undergo database reviews and 2710
criminal records checks under this section; 2711

(b) If the rules require employees to undergo database 2712
reviews and criminal records checks under this section, exempt 2713
one or more classes of employees from the requirements; 2714

(c) For the purpose of division (E) (7) of this section, 2715
specify other databases that are to be checked as part of a 2716
database review conducted under this section. 2717

(2) The rules shall specify all of the following: 2718

(a) The meaning of the term "subcontractor"; 2719

(b) The procedures for conducting database reviews under 2720
this section; 2721

(c) If the rules require employees to undergo database 2722

reviews and criminal records checks under this section, the 2723
times at which the database reviews and criminal records checks 2724
are to be conducted; 2725

(d) If the rules specify other databases to be checked as 2726
part of the database reviews, the circumstances under which a 2727
responsible party is prohibited from employing an applicant or 2728
continuing to employ an employee who is found by a database 2729
review to be included in one or more of those databases; 2730

(e) Standards that an applicant or employee must meet for 2731
a responsible party to be permitted to employ the applicant or 2732
continue to employ the employee in a direct-care position if the 2733
applicant or employee is found by a criminal records check 2734
required by this section to have been convicted of, pleaded 2735
guilty to, or been found eligible for intervention in lieu of 2736
conviction for a disqualifying offense. 2737

Sec. 173.381. (A) As used in this section: 2738

(1) "Community-based long-term care services" means 2739
community-based long-term care services, as defined in section 2740
173.14 of the Revised Code, that are provided under a program 2741
the department of aging administers. 2742

(2) "Community-based long-term care services certificate" 2743
means a certificate issued under section 173.391 of the Revised 2744
Code. 2745

(3) "Community-based long-term care services contract or 2746
grant" means a contract or grant awarded under section 173.392 2747
of the Revised Code. 2748

(4) "Criminal records check" has the same meaning as in 2749
section 109.572 of the Revised Code. 2750

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(6) "Provider" has the same meaning as in section 173.39 of the Revised Code.

(7) "Self-employed provider" means a provider who works for the provider's self and has no employees.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code.

(C) (1) The department of aging or its designee shall take the following actions when the circumstances specified in division (C) (2) of this section apply:

(a) Refuse to issue a community-based long-term care services certificate to a self-employed provider;

(b) Revoke a self-employed provider's community-based long-term care services certificate;

(c) Refuse to award a community-based long-term care services contract or grant to a self-employed provider;

(d) Terminate a self-employed provider's community-based long-term care services contract or grant awarded on or after ~~the effective date of this section~~ September 15, 2014.

(2) The following are the circumstances that require the department of aging or its designee to take action under division (C) (1) of this section:

(a) A review of the databases listed in division (E) of this section reveals any of the following:

(i) That the self-employed provider is included in one or more of the databases listed in divisions (E) (1) to (5) of this section;	2778 2779 2780
(ii) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the self-employed provider neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;	2781 2782 2783 2784 2785 2786
(iii) That the self-employed provider is included in one or more of the databases, if any, specified in rules adopted under this section and the rules require the department or its designee to take action under division (C) (1) of this section if a self-employed provider is included in such a database.	2787 2788 2789 2790 2791
(b) After the self-employed provider is provided, pursuant to division (F) (2) (a) of this section, a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C) (2) of that section, the self-employed provider fails to complete the form or provide the self-employed provider's fingerprint impressions on the standard impression sheet.	2792 2793 2794 2795 2796 2797 2798 2799
(c) Unless the self-employed provider meets standards specified in rules adopted under this section, the self-employed provider is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	2800 2801 2802 2803 2804 2805
(D) The department of aging or its designee shall inform	2806

each self-employed provider of both of the following at the time 2807
of the self-employed provider's initial application for a 2808
community-based long-term care services certificate or initial 2809
bid for a community-based long-term care services contract or 2810
grant: 2811

(1) That a review of the databases listed in division (E) 2812
of this section will be conducted to determine whether the 2813
department or its designee is required by division (C) of this 2814
section to refuse to issue or award a community-based long-term 2815
care services certificate or community-based long-term care 2816
services contract or grant to the self-employed provider; 2817

(2) That, unless the database review reveals that the 2818
department or its designee is required to refuse to issue or 2819
award a community-based long-term care services certificate or 2820
community-based long-term care services contract or grant to the 2821
self-employed provider, a criminal records check of the self- 2822
employed provider will be conducted and the self-employed 2823
provider is required to provide a set of the self-employed 2824
provider's fingerprint impressions as part of the criminal 2825
records check. 2826

(E) As a condition of issuing or awarding a community- 2827
based long-term care services certificate or community-based 2828
long-term care services contract or grant to a self-employed 2829
provider, the department of aging or its designee shall conduct 2830
a database review of the self-employed provider in accordance 2831
with rules adopted under this section. If rules adopted under 2832
this section so require, the department or its designee shall 2833
conduct a database review of a self-employed provider in 2834
accordance with the rules as a condition of not revoking or 2835
terminating the self-employed provider's community-based long- 2836

term care services certificate or community-based long-term care 2837
services contract or grant. A database review shall determine 2838
whether the self-employed provider is included in any of the 2839
following: 2840

(1) The excluded parties list system that is maintained by 2841
the United States general services administration pursuant to 2842
subpart 9.4 of the federal acquisition regulation and available 2843
at the federal web site known as the system for award 2844
management; 2845

(2) The list of excluded individuals and entities 2846
maintained by the office of inspector general in the United 2847
States department of health and human services pursuant to the 2848
"Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; 2849

(3) The registry of ~~MR/DD~~ developmental disabilities 2850
employees established under section 5123.52 of the Revised Code; 2851

(4) The internet-based sex offender and child-victim 2852
offender database established under division (A)(11) of section 2853
2950.13 of the Revised Code; 2854

(5) The internet-based database of inmates established 2855
under section 5120.66 of the Revised Code; 2856

(6) The state nurse aide registry established under 2857
section 3721.32 of the Revised Code; 2858

(7) Any other database, if any, specified in rules adopted 2859
under this section. 2860

(F)(1) As a condition of issuing or awarding a community- 2861
based long-term care services certificate or community-based 2862
long-term care services contract or grant to a self-employed 2863
provider, the department of aging or its designee shall request 2864

that the superintendent of the bureau of criminal identification 2865
and investigation conduct a criminal records check of the self- 2866
employed provider. If rules adopted under this section so 2867
require, the department or its designee shall request that the 2868
superintendent conduct a criminal records check of a self- 2869
employed provider at times specified in the rules as a condition 2870
of not revoking or terminating the self-employed provider's 2871
community-based long-term care services certificate or 2872
community-based long-term care services contract or grant. 2873
However, the department or its designee is not required to 2874
request the criminal records check of the self-employed provider 2875
if the department or its designee, because of circumstances 2876
specified in division (C)(2)(a) of this section, is required to 2877
refuse to issue or award a community-based long-term care 2878
services certificate or community-based long-term care services 2879
contract or grant to the self-employed provider or to revoke or 2880
terminate the self-employed provider's certificate or contract 2881
or grant. 2882

If a self-employed provider for whom a criminal records 2883
check request is required by this section does not present proof 2884
of having been a resident of this state for the five-year period 2885
immediately prior to the date the criminal records check is 2886
requested or provide evidence that within that five-year period 2887
the superintendent has requested information about the self- 2888
employed provider from the federal bureau of investigation in a 2889
criminal records check, the department or its designee shall 2890
request that the superintendent obtain information from the 2891
federal bureau of investigation as part of the criminal records 2892
check. Even if a self-employed provider for whom a criminal 2893
records check request is required by this section presents proof 2894
of having been a resident of this state for the five-year 2895

period, the department or its designee may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The department or its designee shall do all of the following:

(a) Provide to each self-employed provider for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the self-employed provider;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) The department or its designee shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check of a self-employed provider the department or its designee requests under this section. The department or its designee may charge the self-employed provider a fee that does not exceed the amount the department or its designee pays to the bureau.

(G) The report of any criminal records check of a self-employed provider conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The self-employed provider or the self-employed provider's representative;

(2) The department of aging, the department's designee, or	2925
a representative of the department or its designee;	2926
(3) The medicaid director and the staff of the department	2927
of medicaid who are involved in the administration of the	2928
medicaid program if the self-employed provider is to provide, or	2929
provides, community-based long-term care services under a	2930
component of the medicaid program that the department of aging	2931
administers;	2932
(4) A court, hearing officer, or other necessary	2933
individual involved in a case dealing with any of the following:	2934
(a) A refusal to issue or award a community-based long-	2935
term services certificate or community-based long-term care	2936
services contract or grant to the self-employed provider;	2937
(b) A revocation or termination of the self-employed	2938
provider's community-based long-term care services certificate	2939
or community-based long-term care services contract or grant;	2940
(c) A civil or criminal action regarding a program the	2941
department of aging administers.	2942
(H) In a tort or other civil action for damages that is	2943
brought as the result of an injury, death, or loss to person or	2944
property caused by a self-employed provider, both of the	2945
following shall apply:	2946
(1) If the department of aging or its designee, in good	2947
faith and reasonable reliance on the report of a criminal	2948
records check requested under this section, issued or awarded a	2949
community-based long-term care services certificate or	2950
community-based long-term care services contract or grant to the	2951
self-employed provider or did not revoke or terminate the self-	2952
employed provider's certificate or contract or grant, the	2953

department and its designee shall not be found negligent solely 2954
because of its reliance on the report, even if the information 2955
in the report is determined later to have been incomplete or 2956
inaccurate. 2957

(2) If the department or its designee in good faith issued 2958
or awarded a community-based long-term care services certificate 2959
or community-based long-term care services contract or grant to 2960
the self-employed provider or did not revoke or terminate the 2961
self-employed provider's certificate or contract or grant 2962
because the self-employed provider meets standards specified in 2963
rules adopted under this section, the department and its 2964
designee shall not be found negligent solely because the self- 2965
employed provider has been convicted of, pleaded guilty to, or 2966
been found eligible for intervention in lieu of conviction for a 2967
disqualifying offense. 2968

(I) The director of aging shall adopt rules in accordance 2969
with Chapter 119. of the Revised Code to implement this section. 2970

(1) The rules may do the following: 2971

(a) Require self-employed providers who have been issued 2972
or awarded community-based long-term care services certificates 2973
or community-based long-term care services contracts or grants 2974
to undergo database reviews and criminal records checks under 2975
this section; 2976

(b) If the rules require self-employed providers who have 2977
been issued or awarded community-based long-term care services 2978
certificates or community-based long-term care services 2979
contracts or grants to undergo database reviews and criminal 2980
records checks under this section, exempt one or more classes of 2981
such self-employed providers from the requirements; 2982

(c) For the purpose of division (E) (7) of this section, 2983
specify other databases that are to be checked as part of a 2984
database review conducted under this section. 2985

(2) The rules shall specify all of the following: 2986

(a) The procedures for conducting database reviews under 2987
this section; 2988

(b) If the rules require self-employed providers who have 2989
been issued or awarded community-based long-term care services 2990
certificates or community-based long-term care services 2991
contracts or grants to undergo database reviews and criminal 2992
records checks under this section, the times at which the 2993
database reviews and criminal records checks are to be 2994
conducted; 2995

(c) If the rules specify other databases to be checked as 2996
part of the database reviews, the circumstances under which the 2997
department of aging or its designee is required to refuse to 2998
issue or award a community-based long-term care services 2999
certificate or community-based long-term care services contract 3000
or grant to a self-employed provider or to revoke or terminate a 3001
self-employed provider's certificate or contract or grant when 3002
the self-employed provider is found by a database review to be 3003
included in one or more of those databases; 3004

(d) Standards that a self-employed provider must meet for 3005
the department or its designee to be permitted to issue or award 3006
a community-based long-term care services certificate or 3007
community-based long-term care services contract or grant to the 3008
self-employed provider or not to revoke or terminate the self- 3009
employed provider's certificate or contract or grant if the 3010
self-employed provider is found by a criminal records check 3011

required by this section to have been convicted of, pleaded 3012
guilty to, or been found eligible for intervention in lieu of 3013
conviction for a disqualifying offense. 3014

Sec. 305.07. (A) Special sessions of the board of county 3015
commissioners may be held as often as the commissioners deem it 3016
necessary. At a regular or special session, the board may make 3017
any necessary order or contract in relation to the building, 3018
furnishing, repairing, or insuring of public buildings or 3019
bridges; the employment of janitors; the improvements or 3020
enclosure of public grounds; the maintenance or support of 3021
~~mentally retarded or developmentally disabled persons~~ with 3022
developmental disabilities or of the mentally ill; the 3023
expenditure of any fund; or the board may provide for the 3024
reconstruction or repair of any bridge destroyed by fire, flood, 3025
or otherwise. The board shall comply with division (F) of 3026
section 121.22 of the Revised Code. The board may do any other 3027
official act not, by law, restricted to a particular regular 3028
session. 3029

(B) The board of county commissioners may provide by 3030
resolution for the holding of special sessions of the board at a 3031
location in the county other than the usual office of the board 3032
at the county seat. The adoption of the resolution and the 3033
location where the sessions will be held shall be entered on the 3034
journal of the board. The board shall give reasonable public 3035
notice of its action taken pursuant to this division, in 3036
accordance with division (F) of section 121.22 of the Revised 3037
Code. 3038

Sec. 307.02. The board of county commissioners of any 3039
county, in addition to its other powers, may purchase, for cash 3040
or by installment payments, enter into lease-purchase 3041

agreements, lease with option to purchase, lease, appropriate, 3042
construct, enlarge, improve, rebuild, equip, and furnish a 3043
courthouse, county offices, jail, county home, juvenile court 3044
building, detention facility, public market houses, retail store 3045
rooms and offices, if located in a building acquired to house 3046
county offices, for which store rooms or offices the board of 3047
county commissioners may establish and collect rents or enter 3048
into leases as provided in section 307.09 of the Revised Code, 3049
county children's home, community mental health facility, 3050
community ~~mental retardation or developmental disability~~ 3051
disabilities facility, facilities for senior citizens, alcohol 3052
treatment and control center, other necessary buildings, public 3053
stadiums, public auditorium, exhibition hall, zoological park, 3054
public library buildings, golf courses, and off-street parking 3055
facilities determined by the board of county commissioners to be 3056
so situated as to be useful for any of such purposes or any 3057
combination of such purposes, for the use of which parking 3058
facilities the board of county commissioners may establish and 3059
collect rates, charges, or rents, and sites therefor, such real 3060
estate adjoining an existing site as is necessary for any of 3061
such purposes, including real estate necessary to afford light, 3062
air, protection from fire, suitable surroundings, ingress, and 3063
egress; such copies of any public records of such county, made 3064
or reproduced by miniature photography or microfilm, as are 3065
necessary for the protection and preservation of public records 3066
of such county. 3067

The board of county commissioners of any county may lease 3068
for a period not to exceed forty years, pursuant to a contract 3069
providing for the construction thereof under a lease-purchase 3070
plan, those buildings, structures, and other improvements 3071
enumerated in the first paragraph of this section, and in 3072

conjunction therewith, may grant leases, easements, or licenses 3073
for lands under the control of the county for a period not to 3074
exceed forty years. Such lease-purchase plan shall provide that 3075
at the end of the lease period such buildings, structures, and 3076
related improvements, together with the land on which they are 3077
situated, shall become the property of the county without cost. 3078

Whenever any building, structure or other improvement is 3079
to be so leased by a county, the board of county commissioners 3080
shall file in the office of the board, if the board has a full- 3081
time clerk, or in the office of the county auditor such basic 3082
plans, specifications, bills of materials, and estimates of cost 3083
with sufficient detail to afford bidders all needed information, 3084
or alternatively, shall file the following plans, details, bills 3085
of materials, and specifications: 3086

(A) Full and accurate plans, suitable for the use of 3087
mechanics and other builders in such construction, improvement, 3088
addition, alteration, or installation; 3089

(B) Details to scale and full sized, so drawn and 3090
represented as to be easily understood; 3091

(C) Accurate bills showing the exact quantity of different 3092
kinds of material necessary to the construction; 3093

(D) Definite and complete specifications of the work to be 3094
performed, together with such directions as will enable a 3095
competent mechanic or other builder to carry them out and afford 3096
bidders all needed information; 3097

(E) A full and accurate estimate of each item of expense 3098
and of the aggregate cost thereof. 3099

The board of county commissioners shall invite bids in the 3100
manner prescribed in sections 307.86 to 307.92 of the Revised 3101

Code. Such bids shall contain the terms upon which the builder 3102
would propose to lease the building, structure, or other 3103
improvement to the county. The form of the bid approved by the 3104
board of county commissioners shall be used and a bid shall be 3105
invalid and not considered unless such form is used without 3106
change, alteration, or addition. 3107

Before submitting bids pursuant to this section, any 3108
builder shall have complied with sections 153.50 to 153.52 of 3109
the Revised Code. 3110

On the day and at the place named for receiving bids for 3111
entering into lease agreements with the county, the board of 3112
county commissioners shall open the bids, and shall publicly 3113
proceed immediately to tabulate the bids. No such lease 3114
agreement shall be entered into until the bureau of workers' 3115
compensation has certified that the corporation, partnership, or 3116
person to be awarded the lease agreement has complied with 3117
Chapter 4123. of the Revised Code, and until, if the builder 3118
submitting the lowest and best bid is a foreign corporation, the 3119
secretary of state has certified that such corporation is 3120
authorized to do business in this state, and until, if the 3121
builder submitting the lowest and best bid is a person or 3122
partnership nonresident of this state, such person or 3123
partnership has filed with the secretary of state a power of 3124
attorney designating the secretary of state as its agent for the 3125
purpose of accepting service of summons in any action brought 3126
under Chapter 4123. of the Revised Code, and until the agreement 3127
is submitted to the county prosecutor and the county 3128
prosecutor's approval certified thereon. Within thirty days 3129
after the day on which the bids are received, the board of 3130
county commissioners shall investigate the bids received and 3131
shall determine that the bureau and the secretary of state have 3132

made the certifications required by this section of the builder 3133
who has submitted the lowest and best bid. Within ten days of 3134
the completion of the investigation of the bids the board of 3135
county commissioners may award the lease agreement to the 3136
builder who has submitted the lowest and best bid and who has 3137
been certified by the bureau and secretary of state as required 3138
by this section. If bidding for the lease agreement has been 3139
conducted upon the basis of basic plans, specifications, bills 3140
of materials, and estimates of costs, upon the award to the 3141
builder, the board of county commissioners, or the builder with 3142
the approval of the board of county commissioners, shall appoint 3143
an architect or engineer licensed in Ohio to prepare such 3144
further detailed plans, specifications, and bills of materials 3145
as are required to construct the buildings, structures, and 3146
other improvements enumerated in the first paragraph of this 3147
section. The board of county commissioners may reject any bid. 3148
Where there is reason to believe there is collusion or 3149
combination among the bidders, the bids of those concerned 3150
therein shall be rejected. 3151

Sec. 313.12. (A) When any person dies as a result of 3152
criminal or other violent means, by casualty, by suicide, or in 3153
any suspicious or unusual manner, when any person, including a 3154
child under two years of age, dies suddenly when in apparent 3155
good health, or when any ~~mentally retarded person or~~ 3156
~~developmentally disabled person~~ with a developmental disability 3157
dies regardless of the circumstances, the physician called in 3158
attendance, or any member of an ambulance service, emergency 3159
squad, or law enforcement agency who obtains knowledge thereof 3160
arising from the person's duties, shall immediately notify the 3161
office of the coroner of the known facts concerning the time, 3162
place, manner, and circumstances of the death, and any other 3163

information that is required pursuant to sections 313.01 to 3164
313.22 of the Revised Code. In such cases, if a request is made 3165
for cremation, the funeral director called in attendance shall 3166
immediately notify the coroner. 3167

(B) As used in this section, "~~mentally retarded person~~" 3168
~~and "developmentally disabled person"~~ developmental disability" 3169
~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the 3170
Revised Code. 3171

Sec. 325.07. In addition to the compensation and salary 3172
provided by section 325.06 of the Revised Code, the board of 3173
county commissioners shall make allowances monthly to each 3174
sheriff for ~~his~~ the actual and necessary expenses incurred and 3175
expended by the sheriff in pursuing within or without the state 3176
or transporting persons accused or convicted of crimes and 3177
offenses, for any expenses incurred in conveying and 3178
transferring persons to or from any state hospital for the 3179
mentally ill, any institution for ~~the mentally retarded~~ persons 3180
with developmental disabilities that are intellectual 3181
disabilities, any institution operated by the youth commission, 3182
children's homes, county homes, and all similar institutions, 3183
and for all expenses of maintaining transportation facilities 3184
necessary to the proper administration of the duties of ~~his~~ the 3185
sheriff's office. 3186

The board shall allow the sheriff ~~his~~ the actual 3187
transportation expense and telephone tolls expended by the 3188
sheriff in serving civil processes and subpoenaing witnesses in 3189
civil and criminal cases and before the grand jury, and it may 3190
allow any other necessary transportation expense for the proper 3191
administration of the duties of ~~his~~ the sheriff's office. Each 3192
sheriff shall file under oath a monthly report containing a 3193

full, accurate, and itemized account of all ~~his~~ the sheriff's 3194
actual and necessary expenses, including telephone tolls and any 3195
other transportation expense mentioned in this section, before 3196
the expense is allowed by the board. The statement shall show 3197
the number of the case, the court in which the service was 3198
rendered, and the point from which a transportation vehicle was 3199
used. 3200

For the purpose of making available to the sheriff funds 3201
necessary in the performance of the duties required ~~of him~~ under 3202
this section, the board may authorize, as an advancement to the 3203
sheriff, a sum not exceeding fifty per cent of ~~his~~ the sheriff's 3204
annual salary, from appropriations made to ~~him~~ the sheriff by 3205
the board for pursuing prisoners within or without the state or 3206
for transporting the prisoners to correctional institutions, or 3207
both, and for transporting persons to the institutions 3208
enumerated in this section, from which sum of money so advanced 3209
the necessary expenses for the transportation or pursuance may 3210
be paid by the sheriff. The county auditor shall draw ~~his~~ a 3211
warrant upon the county treasurer, in favor of the sheriff, as 3212
authorized by the board. 3213

After the itemized monthly report provided for in this 3214
section has been filed by the sheriff and approved and allowed 3215
by the board, the board shall restore to the fund the amount 3216
expended and disbursed by the sheriff, as approved and allowed 3217
by the board. 3218

Any unexpended balance of such fund remaining in the hands 3219
of the sheriff, at the end of each succeeding fiscal year, shall 3220
be returned and paid into the county treasury by the sheriff. 3221

Sec. 711.23. As used in this section, "incompetent person" 3222
means a person who is so mentally impaired, as a result of a 3223

mental or physical illness or disability, ~~or mental retardation~~ 3224
as a result of intellectual disability, or as a result of 3225
chronic substance abuse, that the person is incapable of taking 3226
proper care of the person's self or property or fails to provide 3227
for the person's family or other persons for whom the person is 3228
charged by law to provide. 3229

If the court of common pleas is of the opinion that any 3230
person owning a lot in a plat, addition, or part thereof 3231
proposed to be vacated or altered, and not assenting to such 3232
vacation or alteration, will sustain damage thereby, it may 3233
proceed to hear proof in reference thereto, and may render 3234
judgment against the petitioners for such damages as it thinks 3235
proper and just, to be assessed ratably against the petitioners 3236
by the court, according to the value of the property owned by 3237
the petitioners as it stands taxed on the tax list of the 3238
county. When necessary, the court shall appoint a guardian ad 3239
litem for all minors or incompetent persons interested in the 3240
premises. The judgment of the court vacating such plat, 3241
addition, or parts thereof, shall be conditioned upon the 3242
payment of the damages thus assessed. 3243

Sec. 1751.01. As used in this chapter: 3244

(A) (1) "Basic health care services" means the following 3245
services when medically necessary: 3246

(a) Physician's services, except when such services are 3247
supplemental under division (B) of this section; 3248

(b) Inpatient hospital services; 3249

(c) Outpatient medical services; 3250

(d) Emergency health services; 3251

(e) Urgent care services;	3252
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	3253 3254
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	3255 3256 3257
(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;	3258 3259 3260 3261
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	3262 3263 3264
"Basic health care services" does not include experimental procedures.	3265 3266
Except as provided by divisions (A) (2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any	3267 3268 3269 3270 3271 3272 3273 3274 3275 3276 3277 3278 3279 3280

contract covering officers or employees of the state that has 3281
been entered into by the department of administrative services. 3282

(2) A health insuring corporation may offer coverage for 3283
diagnostic and treatment services for biologically based mental 3284
illnesses without offering coverage for all other basic health 3285
care services. A health insuring corporation may offer coverage 3286
for diagnostic and treatment services for biologically based 3287
mental illnesses alone or in combination with one or more 3288
supplemental health care services. However, a health insuring 3289
corporation that offers coverage for any other basic health care 3290
service shall offer coverage for diagnostic and treatment 3291
services for biologically based mental illnesses in combination 3292
with the offer of coverage for all other listed basic health 3293
care services. 3294

(3) A health insuring corporation that offers coverage for 3295
basic health care services is not required to offer coverage for 3296
diagnostic and treatment services for biologically based mental 3297
illnesses in combination with the offer of coverage for all 3298
other listed basic health care services if all of the following 3299
apply: 3300

(a) The health insuring corporation submits documentation 3301
certified by an independent member of the American academy of 3302
actuaries to the superintendent of insurance showing that 3303
incurred claims for diagnostic and treatment services for 3304
biologically based mental illnesses for a period of at least six 3305
months independently caused the health insuring corporation's 3306
costs for claims and administrative expenses for the coverage of 3307
basic health care services to increase by more than one per cent 3308
per year. 3309

(b) The health insuring corporation submits a signed 3310

letter from an independent member of the American academy of 3311
actuaries to the superintendent of insurance opining that the 3312
increase in costs described in division (A) (3) (a) of this 3313
section could reasonably justify an increase of more than one 3314
per cent in the annual premiums or rates charged by the health 3315
insuring corporation for the coverage of basic health care 3316
services. 3317

(c) The superintendent of insurance makes the following 3318
determinations from the documentation and opinion submitted 3319
pursuant to divisions (A) (3) (a) and (b) of this section: 3320

(i) Incurred claims for diagnostic and treatment services 3321
for biologically based mental illnesses for a period of at least 3322
six months independently caused the health insuring 3323
corporation's costs for claims and administrative expenses for 3324
the coverage of basic health care services to increase by more 3325
than one per cent per year. 3326

(ii) The increase in costs reasonably justifies an 3327
increase of more than one per cent in the annual premiums or 3328
rates charged by the health insuring corporation for the 3329
coverage of basic health care services. 3330

Any determination made by the superintendent under this 3331
division is subject to Chapter 119. of the Revised Code. 3332

(B) (1) "Supplemental health care services" means any 3333
health care services other than basic health care services that 3334
a health insuring corporation may offer, alone or in combination 3335
with either basic health care services or other supplemental 3336
health care services, and includes: 3337

(a) Services of facilities for intermediate or long-term 3338
care, or both; 3339

(b) Dental care services;	3340
(c) Vision care and optometric services including lenses and frames;	3341 3342
(d) Podiatric care or foot care services;	3343
(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	3344 3345
(f) Short-term outpatient evaluative and crisis- intervention mental health services;	3346 3347
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	3348 3349
(h) Home health services;	3350
(i) Prescription drug services;	3351
(j) Nursing services;	3352
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	3353 3354
(l) Physical therapy services;	3355
(m) Chiropractic services;	3356
(n) Any other category of services approved by the superintendent of insurance.	3357 3358
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	3359 3360 3361 3362 3363
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this	3364 3365

section, when provided by a health insuring corporation on an 3366
outpatient-only basis and not in combination with other 3367
supplemental health care services. 3368

(D) "Biologically based mental illnesses" means 3369
schizophrenia, schizoaffective disorder, major depressive 3370
disorder, bipolar disorder, paranoia and other psychotic 3371
disorders, obsessive-compulsive disorder, and panic disorder, as 3372
these terms are defined in the most recent edition of the 3373
diagnostic and statistical manual of mental disorders published 3374
by the American psychiatric association. 3375

(E) "Closed panel plan" means a health care plan that 3376
requires enrollees to use participating providers. 3377

(F) "Compensation" means remuneration for the provision of 3378
health care services, determined on other than a fee-for-service 3379
or discounted-fee-for-service basis. 3380

(G) "Contractual periodic prepayment" means the formula 3381
for determining the premium rate for all subscribers of a health 3382
insuring corporation. 3383

(H) "Corporation" means a corporation formed under Chapter 3384
1701. or 1702. of the Revised Code or the similar laws of 3385
another state. 3386

(I) "Emergency health services" means those health care 3387
services that must be available on a seven-days-per-week, 3388
twenty-four-hours-per-day basis in order to prevent jeopardy to 3389
an enrollee's health status that would occur if such services 3390
were not received as soon as possible, and includes, where 3391
appropriate, provisions for transportation and indemnity 3392
payments or service agreements for out-of-area coverage. 3393

(J) "Enrollee" means any natural person who is entitled to 3394

receive health care benefits provided by a health insuring corporation. 3395
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(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan. 3397
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(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, ~~mental retardation~~ intellectual disability, intermediate care, or skilled nursing services. 3401
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(M) "Health care services" means basic, supplemental, and specialty health care services. 3406
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(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis. 3408
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(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan. 3412
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"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the 3422
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Revised Code, an insurer licensed under Title XXXIX of the 3424
Revised Code if that insurer offers only open panel plans under 3425
which all providers and health care facilities participating 3426
receive their compensation directly from the insurer, a 3427
corporation formed by or on behalf of a political subdivision or 3428
a department, office, or institution of the state, or a public 3429
entity formed by or on behalf of a board of county 3430
commissioners, a county board of developmental disabilities, an 3431
alcohol and drug addiction services board, a board of alcohol, 3432
drug addiction, and mental health services, or a community 3433
mental health board, as those terms are used in Chapters 340. 3434
and 5126. of the Revised Code. Except as provided by division 3435
(D) of section 1751.02 of the Revised Code, or as otherwise 3436
provided by law, no board, commission, agency, or other entity 3437
under the control of a political subdivision may accept 3438
insurance risk in providing for health care services. However, 3439
nothing in this division shall be construed as prohibiting such 3440
entities from purchasing the services of a health insuring 3441
corporation or a third-party administrator licensed under 3442
Chapter 3959. of the Revised Code. 3443

(P) "Intermediary organization" means a health delivery 3444
network or other entity that contracts with licensed health 3445
insuring corporations or self-insured employers, or both, to 3446
provide health care services, and that enters into contractual 3447
arrangements with other entities for the provision of health 3448
care services for the purpose of fulfilling the terms of its 3449
contracts with the health insuring corporations and self-insured 3450
employers. 3451

(Q) "Intermediate care" means residential care above the 3452
level of room and board for patients who require personal 3453
assistance and health-related services, but who do not require 3454

skilled nursing care. 3455

(R) "Medical record" means the personal information that 3456
relates to an individual's physical or mental condition, medical 3457
history, or medical treatment. 3458

(S) (1) "Open panel plan" means a health care plan that 3459
provides incentives for enrollees to use participating providers 3460
and that also allows enrollees to use providers that are not 3461
participating providers. 3462

(2) No health insuring corporation may offer an open panel 3463
plan, unless the health insuring corporation is also licensed as 3464
an insurer under Title XXXIX of the Revised Code, the health 3465
insuring corporation, on June 4, 1997, holds a certificate of 3466
authority or license to operate under Chapter 1736. or 1740. of 3467
the Revised Code, or an insurer licensed under Title XXXIX of 3468
the Revised Code is responsible for the out-of-network risk as 3469
evidenced by both an evidence of coverage filing under section 3470
1751.11 of the Revised Code and a policy and certificate filing 3471
under section 3923.02 of the Revised Code. 3472

(T) "Osteopathic hospital" means a hospital registered 3473
under section 3701.07 of the Revised Code that advocates 3474
osteopathic principles and the practice and perpetuation of 3475
osteopathic medicine by doing any of the following: 3476

(1) Maintaining a department or service of osteopathic 3477
medicine or a committee on the utilization of osteopathic 3478
principles and methods, under the supervision of an osteopathic 3479
physician; 3480

(2) Maintaining an active medical staff, the majority of 3481
which is comprised of osteopathic physicians; 3482

(3) Maintaining a medical staff executive committee that 3483

has osteopathic physicians as a majority of its members. 3484

(U) "Panel" means a group of providers or health care 3485
facilities that have joined together to deliver health care 3486
services through a contractual arrangement with a health 3487
insuring corporation, employer group, or other payor. 3488

(V) "Person" has the same meaning as in section 1.59 of 3489
the Revised Code, and, unless the context otherwise requires, 3490
includes any insurance company holding a certificate of 3491
authority under Title XXXIX of the Revised Code, any subsidiary 3492
and affiliate of an insurance company, and any government 3493
agency. 3494

(W) "Premium rate" means any set fee regularly paid by a 3495
subscriber to a health insuring corporation. A "premium rate" 3496
does not include a one-time membership fee, an annual 3497
administrative fee, or a nominal access fee, paid to a managed 3498
health care system under which the recipient of health care 3499
services remains solely responsible for any charges accessed for 3500
those services by the provider or health care facility. 3501

(X) "Primary care provider" means a provider that is 3502
designated by a health insuring corporation to supervise, 3503
coordinate, or provide initial care or continuing care to an 3504
enrollee, and that may be required by the health insuring 3505
corporation to initiate a referral for specialty care and to 3506
maintain supervision of the health care services rendered to the 3507
enrollee. 3508

(Y) "Provider" means any natural person or partnership of 3509
natural persons who are licensed, certified, accredited, or 3510
otherwise authorized in this state to furnish health care 3511
services, or any professional association organized under 3512

Chapter 1785. of the Revised Code, provided that nothing in this 3513
chapter or other provisions of law shall be construed to 3514
preclude a health insuring corporation, health care 3515
practitioner, or organized health care group associated with a 3516
health insuring corporation from employing certified nurse 3517
practitioners, certified nurse anesthetists, clinical nurse 3518
specialists, certified nurse-midwives, dietitians, physician 3519
assistants, dental assistants, dental hygienists, optometric 3520
technicians, or other allied health personnel who are licensed, 3521
certified, accredited, or otherwise authorized in this state to 3522
furnish health care services. 3523

(Z) "Provider sponsored organization" means a corporation, 3524
as defined in division (H) of this section, that is at least 3525
eighty per cent owned or controlled by one or more hospitals, as 3526
defined in section 3727.01 of the Revised Code, or one or more 3527
physicians licensed to practice medicine or surgery or 3528
osteopathic medicine and surgery under Chapter 4731. of the 3529
Revised Code, or any combination of such physicians and 3530
hospitals. Such control is presumed to exist if at least eighty 3531
per cent of the voting rights or governance rights of a provider 3532
sponsored organization are directly or indirectly owned, 3533
controlled, or otherwise held by any combination of the 3534
physicians and hospitals described in this division. 3535

(AA) "Solicitation document" means the written materials 3536
provided to prospective subscribers or enrollees, or both, and 3537
used for advertising and marketing to induce enrollment in the 3538
health care plans of a health insuring corporation. 3539

(BB) "Subscriber" means a person who is responsible for 3540
making payments to a health insuring corporation for 3541
participation in a health care plan, or an enrollee whose 3542

employment or other status is the basis of eligibility for 3543
enrollment in a health insuring corporation. 3544

(CC) "Urgent care services" means those health care 3545
services that are appropriately provided for an unforeseen 3546
condition of a kind that usually requires medical attention 3547
without delay but that does not pose a threat to the life, limb, 3548
or permanent health of the injured or ill person, and may 3549
include such health care services provided out of the health 3550
insuring corporation's approved service area pursuant to 3551
indemnity payments or service agreements. 3552

Sec. 1751.14. (A) Notwithstanding section 3901.71 of the 3553
Revised Code, any policy, contract, or agreement for health care 3554
services authorized by this chapter that is issued, delivered, 3555
or renewed in this state and that provides that coverage of an 3556
unmarried dependent child will terminate upon attainment of the 3557
limiting age for dependent children specified in the policy, 3558
contract, or agreement, shall also provide in substance both of 3559
the following: 3560

(1) Once an unmarried child has attained the limiting age 3561
for dependent children, as provided in the policy, contract, or 3562
agreement, upon the request of the subscriber, the health 3563
insuring corporation shall offer to cover the unmarried child 3564
until the child attains twenty-six years of age if all of the 3565
following are true: 3566

(a) The child is the natural child, stepchild, or adopted 3567
child of the subscriber. 3568

(b) The child is a resident of this state or a full-time 3569
student at an accredited public or private institution of higher 3570
education. 3571

(c) The child is not employed by an employer that offers 3572
any health benefit plan under which the child is eligible for 3573
coverage. 3574

(d) The child is not eligible for coverage under the 3575
medicaid program or the medicare program. 3576

(2) That attainment of the limiting age for dependent 3577
children shall not operate to terminate the coverage of a 3578
dependent child if the child is and continues to be both of the 3579
following: 3580

(a) Incapable of self-sustaining employment by reason of 3581
~~mental retardation or physical handicap or intellectual~~ 3582
disability; 3583

(b) Primarily dependent upon the subscriber for support 3584
and maintenance. 3585

(B) Proof of incapacity and dependence for purposes of 3586
division (A) (2) of this section shall be furnished to the health 3587
insuring corporation within thirty-one days of the child's 3588
attainment of the limiting age. Upon request, but not more 3589
frequently than annually, the health insuring corporation may 3590
require proof satisfactory to it of the continuance of such 3591
incapacity and dependency. 3592

(C) Nothing in this section shall do any of the following: 3593

(1) Require that any policy, contract, or agreement offer 3594
coverage for dependent children or provide coverage for an 3595
unmarried dependent child's children as dependents on the 3596
policy, contract, or agreement; 3597

(2) Require an employer to pay for any part of the premium 3598
for an unmarried dependent child that has attained the limiting 3599

age for dependents, as provided in the policy, contract, or 3600
agreement; 3601

(3) Require an employer to offer health insurance coverage 3602
to the dependents of any employee. 3603

(D) This section does not apply to any health insuring 3604
corporation policy, contract, or agreement offering only 3605
supplemental health care services or specialty health care 3606
services. 3607

(E) As used in this section, "health benefit plan" has the 3608
same meaning as in section 3924.01 of the Revised Code and also 3609
includes both of the following: 3610

(1) A public employee benefit plan; 3611

(2) A health benefit plan as regulated under the "Employee 3612
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 3613

Sec. 2101.17. The fees enumerated in this section shall be 3614
paid to the probate court from the county treasury upon the 3615
warrant of the county auditor which shall issue upon the 3616
certificate of the probate judge and shall be in full for all 3617
services rendered in the respective proceedings as follows: 3618

(A) For each hearing to determine if a person 3619
is a mentally ill individual subject to 3620
hospitalization when the person is committed 3621
to a state hospital or to relatives 3622
..... \$ 12.00; 3623

(B) When the person is discharged 3624
..... 7.00; 3625

(C) For order of return of a mentally ill person 3626
to a state hospital or removal therefrom 3627
..... 2.00; 3628

(D) For proceedings for committing a person to an institution for the mentally retarded		3629
<u>persons with developmental disabilities</u>		3630
.....	10.00;	3631
(E) For habeas corpus proceedings when a person is confined under color of proceedings in a criminal case and is discharged		3632
.....	10.00;	3633
(F) When acting as a juvenile judge, for each case filed against a delinquency <u>delinquent</u> , dependent, unruly, or neglected child, or a juvenile traffic offender		3634
.....	5.00;	3635
(G) For proceedings to take a child from parents or other persons having control thereof		3636
.....	5.00.	3637
Sec. 2101.24. (A) (1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:		3638
(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.		3639
(b) To grant and revoke letters testamentary and of administration;		3640
(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;		3641

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired, as a result of a mental or physical illness or disability, ~~or mental retardation~~ as a result of intellectual disability, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;

(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;

(j) To authorize the completion of real property contracts on petition of executors and administrators;

(k) To construe wills;

(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;

(m) To direct and control the conduct of fiduciaries and settle their accounts;

(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	3687 3688 3689
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	3690 3691
(p) To hear and determine actions to contest the validity of wills;	3692 3693
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	3694 3695 3696
(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;	3697 3698 3699 3700 3701
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	3702 3703
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	3704 3705
(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	3706 3707 3708
(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	3709 3710 3711
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	3712 3713 3714

(x) To hear and determine complaints that pertain to the 3715
use or continuation, or the withholding or withdrawal, of life- 3716
sustaining treatment in connection with certain patients 3717
allegedly in a terminal condition or in a permanently 3718
unconscious state pursuant to division (E) of section 2133.08 of 3719
the Revised Code, in accordance with that division; 3720

(y) To hear and determine applications that pertain to the 3721
withholding or withdrawal of nutrition and hydration from 3722
certain patients allegedly in a permanently unconscious state 3723
pursuant to section 2133.09 of the Revised Code, in accordance 3724
with that section; 3725

(z) To hear and determine applications of attending 3726
physicians in accordance with division (B) of section 2133.15 of 3727
the Revised Code; 3728

(aa) To hear and determine actions relative to the use or 3729
continuation of comfort care in connection with certain 3730
principals under durable powers of attorney for health care, 3731
declarants under declarations, or patients in accordance with 3732
division (E) of either section 1337.16 or 2133.12 of the Revised 3733
Code; 3734

(bb) To hear and determine applications for an order 3735
relieving an estate from administration under section 2113.03 of 3736
the Revised Code; 3737

(cc) To hear and determine applications for an order 3738
granting a summary release from administration under section 3739
2113.031 of the Revised Code; 3740

(dd) To hear and determine actions relating to the 3741
exercise of the right of disposition, in accordance with section 3742
2108.90 of the Revised Code; 3743

(ee) To hear and determine actions relating to the 3744
disinterment and reinterment of human remains under section 3745
517.23 of the Revised Code; 3746

(ff) To hear and determine petitions for an order for 3747
treatment of a person suffering from alcohol and other drug 3748
abuse filed under section 5119.93 of the Revised Code and to 3749
order treatment of that nature in accordance with, and take 3750
other actions afforded to the court under, sections 5119.90 to 3751
5119.98 of the Revised Code. 3752

(2) In addition to the exclusive jurisdiction conferred 3753
upon the probate court by division (A) (1) of this section, the 3754
probate court shall have exclusive jurisdiction over a 3755
particular subject matter if both of the following apply: 3756

(a) Another section of the Revised Code expressly confers 3757
jurisdiction over that subject matter upon the probate court. 3758

(b) No section of the Revised Code expressly confers 3759
jurisdiction over that subject matter upon any other court or 3760
agency. 3761

(B) (1) The probate court has concurrent jurisdiction with, 3762
and the same powers at law and in equity as, the general 3763
division of the court of common pleas to issue writs and orders, 3764
and to hear and determine actions as follows: 3765

(a) If jurisdiction relative to a particular subject 3766
matter is stated to be concurrent in a section of the Revised 3767
Code or has been construed by judicial decision to be 3768
concurrent, any action that involves that subject matter; 3769

(b) Any action that involves an inter vivos trust; a trust 3770
created pursuant to section 5815.28 of the Revised Code; a 3771
charitable trust or foundation; subject to divisions (A) (1) (u) 3772

and (z) of this section, a power of attorney, including, but not 3773
limited to, a durable power of attorney; the medical treatment 3774
of a competent adult; or a writ of habeas corpus; 3775

(c) Subject to section 2101.31 of the Revised Code, any 3776
action with respect to a probate estate, guardianship, trust, or 3777
post-death dispute that involves any of the following: 3778

(i) A designation or removal of a beneficiary of a life 3779
insurance policy, annuity contract, retirement plan, brokerage 3780
account, security account, bank account, real property, or 3781
tangible personal property; 3782

(ii) A designation or removal of a payable-on-death 3783
beneficiary or transfer-on-death beneficiary; 3784

(iii) A change in the title to any asset involving a joint 3785
and survivorship interest; 3786

(iv) An alleged gift; 3787

(v) The passing of assets upon the death of an individual 3788
otherwise than by will, intestate succession, or trust. 3789

(2) Any action that involves a concurrent jurisdiction 3790
subject matter and that is before the probate court may be 3791
transferred by the probate court, on its order, to the general 3792
division of the court of common pleas. 3793

(C) The probate court has plenary power at law and in 3794
equity to dispose fully of any matter that is properly before 3795
the court, unless the power is expressly otherwise limited or 3796
denied by a section of the Revised Code. 3797

(D) The jurisdiction acquired by a probate court over a 3798
matter or proceeding is exclusive of that of any other probate 3799
court, except when otherwise provided by law. 3800

Sec. 2108.521. (A) If a ~~mentally retarded person or a~~ 3801
~~developmentally disabled person~~ with a developmental disability 3802
dies, if the department of developmental disabilities or a 3803
county board of developmental disabilities has a good faith 3804
reason to believe that the deceased person's death occurred 3805
under suspicious circumstances, if the coroner was apprised of 3806
the circumstances of the death, and if the coroner after being 3807
so apprised of the circumstances declines to conduct an autopsy, 3808
the department or the board may file a petition in a court of 3809
common pleas seeking an order authorizing an autopsy or post- 3810
mortem examination under this section. 3811

(B) Upon the filing of a petition under division (A) of 3812
this section, the court may conduct, but is not required to 3813
conduct, a hearing on the petition. The court may determine 3814
whether to grant the petition without a hearing. The department 3815
or board, and all other interested parties, may submit 3816
information and statements to the court that are relevant to the 3817
petition, and, if the court conducts a hearing, may present 3818
evidence and testimony at the hearing. The court shall order the 3819
requested autopsy or post-mortem examination if it finds that, 3820
under the circumstances, the department or board has 3821
demonstrated a need for the autopsy or post-mortem examination. 3822
The court shall order an autopsy or post-mortem examination in 3823
the circumstances specified in this division regardless of 3824
whether any consent has been given, or has been given and 3825
withdrawn, under section 2108.50 of the Revised Code, and 3826
regardless of whether any information was presented to the 3827
coroner pursuant to section 313.131 of the Revised Code or to 3828
the court under this section regarding an autopsy being contrary 3829
to the deceased person's religious beliefs. 3830

(C) An autopsy or post-mortem examination ordered under 3831

this section may be performed upon the body of the deceased 3832
person by a licensed physician or surgeon. The court may 3833
identify in the order the person who is to perform the autopsy 3834
or post-mortem examination. If an autopsy or post-mortem 3835
examination is ordered under this section, the department or 3836
board that requested the autopsy or examination shall pay the 3837
physician or surgeon who performs the autopsy or examination for 3838
costs and expenses incurred in performing the autopsy or 3839
examination. 3840

Sec. 2109.01. "Fiduciary," as used in Chapters 2101. to 3841
2131. of the Revised Code, means any person, other than an 3842
assignee or trustee for an insolvent debtor or a guardian under 3843
sections 5905.01 to 5905.19 of the Revised Code, appointed by 3844
and accountable to the probate court and acting in a fiduciary 3845
capacity for any person, or charged with duties in relation to 3846
any property, interest, trust, or estate for the benefit of 3847
another; and includes an agency under contract with the 3848
department of developmental disabilities for the provision of 3849
protective service under sections 5123.55 to 5123.59 of the 3850
Revised Code, appointed by and accountable to the probate court 3851
as guardian or trustee with respect to ~~mentally retarded or~~ 3852
~~developmentally disabled persons~~ with developmental 3853
disabilities. 3854

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 3855
Revised Code: 3856

(A) "Guardian," other than a guardian under sections 3857
5905.01 to 5905.19 of the Revised Code, means any person, 3858
association, or corporation appointed by the probate court to 3859
have the care and management of the person, the estate, or both 3860
of an incompetent or minor. When applicable, "guardian" 3861

includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent.

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

(C) "Resident guardian" means a guardian appointed by a probate court to have the care and management of property in this state that belongs to a nonresident ward.

(D) "Incompetent" means ~~any~~ either of the following:

(1) Any person who is so mentally impaired, as a result of a mental or physical illness or disability, ~~or mental retardation as a result of intellectual disability,~~ or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, ~~or any;~~

(2) Any person confined to a correctional institution within this state.

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

(F) "Conservator" means a conservator appointed by the probate court in an order of conservatorship issued pursuant to

section 2111.021 of the Revised Code. 3891

(G) "Parent" means a natural parent or adoptive parent of 3892
a minor child whose parental rights and responsibilities have 3893
not been terminated by a juvenile court or another court. 3894

(H) "Financial harm" means impairment of an individual's 3895
financial assets by unlawfully obtaining or exerting control 3896
over the individual's real or personal property in any of the 3897
following ways: 3898

(1) Without the consent of the individual or the person 3899
authorized to give consent on the individual's behalf; 3900

(2) Beyond the scope of the express or implied consent of 3901
the individual or the person authorized to give consent on the 3902
individual's behalf; 3903

(3) By deception; 3904

(4) By threat; 3905

(5) By intimidation; 3906

(6) By fraud; 3907

(7) By undue influence. 3908

Sec. 2111.10. As used in this section, "~~mentally retarded-~~ 3909
~~person~~" and "~~developmentally disabled person~~developmental 3910
disability" ~~have~~has the same ~~meanings~~meaning as in section 3911
5123.01 of the Revised Code. 3912

Any appointment of a corporation as guardian shall apply 3913
to the estate only and not to the person, except that a 3914
nonprofit corporation organized under the laws of this state and 3915
entitled to tax exempt status under section 501(a) of the 3916
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 3917

501, as amended, that has a contract with the department of 3918
developmental disabilities to provide protective services may be 3919
appointed as a guardian of ~~the person of a mentally retarded or~~ 3920
~~developmentally disabled~~ a person with a developmental 3921
disability and may serve as guardian pursuant to sections 3922
5123.55 to 5123.59 of the Revised Code. 3923

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 3924
section, the guardian of an incompetent person shall file a 3925
guardian's report with the court two years after the date of the 3926
issuance of the guardian's letters of appointment and biennially 3927
after that time, or at any other time upon the motion or a rule 3928
of the probate court. The report shall be in a form prescribed 3929
by the court and shall include all of the following. 3930

(a) The present address of the place of residence of the 3931
ward; 3932

(b) The present address of the guardian; 3933

(c) If the place of residence of the ward is not the 3934
ward's personal home, the name of the facility at which the ward 3935
resides and the name of the person responsible for the ward's 3936
care; 3937

(d) The approximate number of times during the period 3938
covered by the report that the guardian has had contact with the 3939
ward, the nature of those contacts, and the date that the ward 3940
was last seen by the guardian; 3941

(e) Any major changes in the physical or mental condition 3942
of the ward observed by the guardian; 3943

(f) The opinion of the guardian as to the necessity for 3944
the continuation of the guardianship; 3945

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

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

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

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

(3) Division (A)(1) of this section applies to guardians appointed prior to, as well as on or after, the effective date of this section. A guardian appointed prior to that date shall file the first report in accordance with any applicable court rule or motion, or, in the absence of such a rule or motion, upon the next occurring date on which a report would have been due if division (A)(1) of this section had been in effect on the date of appointment as guardian, and shall file all subsequently due reports biennially after that time.

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

(C) Except as provided in this division, for any

guardianship, upon written request by the ward, the ward's 3975
attorney, or any other interested party made at any time after 3976
the expiration of one hundred twenty days from the date of the 3977
original appointment of the guardian, a hearing shall be held in 3978
accordance with section 2111.02 of the Revised Code to evaluate 3979
the continued necessity of the guardianship. Upon written 3980
request, the court shall conduct a minimum of one hearing under 3981
this division in the calendar year in which the guardian was 3982
appointed, and upon written request, shall conduct a minimum of 3983
one hearing in each of the following calendar years. Upon its 3984
own motion or upon written request, the court may, in its 3985
discretion, conduct a hearing within the first one hundred 3986
twenty days after appointment of the guardian or conduct more 3987
than one hearing in a calendar year. If the ward alleges 3988
competence, the burden of proving incompetence shall be upon the 3989
applicant for guardianship or the guardian, by clear and 3990
convincing evidence. 3991

Sec. 2151.011. (A) As used in the Revised Code: 3992

(1) "Juvenile court" means whichever of the following is 3993
applicable that has jurisdiction under this chapter and Chapter 3994
2152. of the Revised Code: 3995

(a) The division of the court of common pleas specified in 3996
section 2101.022 or 2301.03 of the Revised Code as having 3997
jurisdiction under this chapter and Chapter 2152. of the Revised 3998
Code or as being the juvenile division or the juvenile division 3999
combined with one or more other divisions; 4000

(b) The juvenile court of Cuyahoga county or Hamilton 4001
county that is separately and independently created by section 4002
2151.08 or Chapter 2153. of the Revised Code and that has 4003
jurisdiction under this chapter and Chapter 2152. of the Revised 4004

Code; 4005

(c) If division (A) (1) (a) or (b) of this section does not 4006
apply, the probate division of the court of common pleas. 4007

(2) "Juvenile judge" means a judge of a court having 4008
jurisdiction under this chapter. 4009

(3) "Private child placing agency" means any association, 4010
as defined in section 5103.02 of the Revised Code, that is 4011
certified under section 5103.03 of the Revised Code to accept 4012
temporary, permanent, or legal custody of children and place the 4013
children for either foster care or adoption. 4014

(4) "Private noncustodial agency" means any person, 4015
organization, association, or society certified by the 4016
department of job and family services that does not accept 4017
temporary or permanent legal custody of children, that is 4018
privately operated in this state, and that does one or more of 4019
the following: 4020

(a) Receives and cares for children for two or more 4021
consecutive weeks; 4022

(b) Participates in the placement of children in certified 4023
foster homes; 4024

(c) Provides adoption services in conjunction with a 4025
public children services agency or private child placing agency. 4026

(B) As used in this chapter: 4027

(1) "Adequate parental care" means the provision by a 4028
child's parent or parents, guardian, or custodian of adequate 4029
food, clothing, and shelter to ensure the child's health and 4030
physical safety and the provision by a child's parent or parents 4031
of specialized services warranted by the child's physical or 4032

mental needs. 4033

(2) "Adult" means an individual who is eighteen years of 4034
age or older. 4035

(3) "Agreement for temporary custody" means a voluntary 4036
agreement authorized by section 5103.15 of the Revised Code that 4037
transfers the temporary custody of a child to a public children 4038
services agency or a private child placing agency. 4039

(4) "Alternative response" means the public children 4040
services agency's response to a report of child abuse or neglect 4041
that engages the family in a comprehensive evaluation of child 4042
safety, risk of subsequent harm, and family strengths and needs 4043
and that does not include a determination as to whether child 4044
abuse or neglect occurred. 4045

(5) "Certified foster home" means a foster home, as 4046
defined in section 5103.02 of the Revised Code, certified under 4047
section 5103.03 of the Revised Code. 4048

(6) "Child" means a person who is under eighteen years of 4049
age, except that the juvenile court has jurisdiction over any 4050
person who is adjudicated an unruly child prior to attaining 4051
eighteen years of age until the person attains twenty-one years 4052
of age, and, for purposes of that jurisdiction related to that 4053
adjudication, a person who is so adjudicated an unruly child 4054
shall be deemed a "child" until the person attains twenty-one 4055
years of age. 4056

(7) "Child day camp," "child care," "child day-care 4057
center," "part-time child day-care center," "type A family day- 4058
care home," "licensed type B family day-care home," "type B 4059
family day-care home," "administrator of a child day-care 4060
center," "administrator of a type A family day-care home," and 4061

"in-home aide" have the same meanings as in section 5104.01 of 4062
the Revised Code. 4063

(8) "Child care provider" means an individual who is a 4064
child-care staff member or administrator of a child day-care 4065
center, a type A family day-care home, or a type B family day- 4066
care home, or an in-home aide or an individual who is licensed, 4067
is regulated, is approved, operates under the direction of, or 4068
otherwise is certified by the department of job and family 4069
services, department of developmental disabilities, or the early 4070
childhood programs of the department of education. 4071

(9) "Chronic truant" has the same meaning as in section 4072
2152.02 of the Revised Code. 4073

(10) "Commit" means to vest custody as ordered by the 4074
court. 4075

(11) "Counseling" includes both of the following: 4076

(a) General counseling services performed by a public 4077
children services agency or shelter for victims of domestic 4078
violence to assist a child, a child's parents, and a child's 4079
siblings in alleviating identified problems that may cause or 4080
have caused the child to be an abused, neglected, or dependent 4081
child. 4082

(b) Psychiatric or psychological therapeutic counseling 4083
services provided to correct or alleviate any mental or 4084
emotional illness or disorder and performed by a licensed 4085
psychiatrist, licensed psychologist, or a person licensed under 4086
Chapter 4757. of the Revised Code to engage in social work or 4087
professional counseling. 4088

(12) "Custodian" means a person who has legal custody of a 4089
child or a public children services agency or private child 4090

placing agency that has permanent, temporary, or legal custody 4091
of a child. 4092

(13) "Delinquent child" has the same meaning as in section 4093
2152.02 of the Revised Code. 4094

(14) "Detention" means the temporary care of children 4095
pending court adjudication or disposition, or execution of a 4096
court order, in a public or private facility designed to 4097
physically restrict the movement and activities of children. 4098

(15) "Developmental disability" has the same meaning as in 4099
section 5123.01 of the Revised Code. 4100

(16) "Differential response approach" means an approach 4101
that a public children services agency may use to respond to 4102
accepted reports of child abuse or neglect with either an 4103
alternative response or a traditional response. 4104

(17) "Foster caregiver" has the same meaning as in section 4105
5103.02 of the Revised Code. 4106

(18) "Guardian" means a person, association, or 4107
corporation that is granted authority by a probate court 4108
pursuant to Chapter 2111. of the Revised Code to exercise 4109
parental rights over a child to the extent provided in the 4110
court's order and subject to the residual parental rights of the 4111
child's parents. 4112

(19) "Habitual truant" means any child of compulsory 4113
school age who is absent without legitimate excuse for absence 4114
from the public school the child is supposed to attend for five 4115
or more consecutive school days, seven or more school days in 4116
one school month, or twelve or more school days in a school 4117
year. 4118

(20) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code. 4119
4120

(21) "Juvenile traffic offender" has the same meaning as 4121
in section 2152.02 of the Revised Code. 4122

~~(21)~~(22) "Legal custody" means a legal status that vests 4123
in the custodian the right to have physical care and control of 4124
the child and to determine where and with whom the child shall 4125
live, and the right and duty to protect, train, and discipline 4126
the child and to provide the child with food, shelter, 4127
education, and medical care, all subject to any residual 4128
parental rights, privileges, and responsibilities. An individual 4129
granted legal custody shall exercise the rights and 4130
responsibilities personally unless otherwise authorized by any 4131
section of the Revised Code or by the court. 4132

~~(22)~~(23) A "legitimate excuse for absence from the public 4133
school the child is supposed to attend" includes, but is not 4134
limited to, any of the following: 4135

(a) The fact that the child in question has enrolled in 4136
and is attending another public or nonpublic school in this or 4137
another state; 4138

(b) The fact that the child in question is excused from 4139
attendance at school for any of the reasons specified in section 4140
3321.04 of the Revised Code; 4141

(c) The fact that the child in question has received an 4142
age and schooling certificate in accordance with section 3331.01 4143
of the Revised Code. 4144

~~(23)~~(24) "Mental illness" and ~~"mentally ill person~~ 4145
~~subject to court order" have has~~ the same meanings meaning as in 4146
section 5122.01 of the Revised Code. 4147

~~(24)~~ (25) "Mental injury" means any behavioral, cognitive, 4148
emotional, or mental disorder in a child caused by an act or 4149
omission that is described in section 2919.22 of the Revised 4150
Code and is committed by the parent or other person responsible 4151
for the child's care. 4152

~~(25) "Mentally retarded person" has the same meaning as in 4153
section 5123.01 of the Revised Code. 4154~~

(26) "Nonsecure care, supervision, or training" means 4155
care, supervision, or training of a child in a facility that 4156
does not confine or prevent movement of the child within the 4157
facility or from the facility. 4158

(27) "Of compulsory school age" has the same meaning as in 4159
section 3321.01 of the Revised Code. 4160

(28) "Organization" means any institution, public, 4161
semipublic, or private, and any private association, society, or 4162
agency located or operating in the state, incorporated or 4163
unincorporated, having among its functions the furnishing of 4164
protective services or care for children, or the placement of 4165
children in certified foster homes or elsewhere. 4166

(29) "Out-of-home care" means detention facilities, 4167
shelter facilities, certified children's crisis care facilities, 4168
certified foster homes, placement in a prospective adoptive home 4169
prior to the issuance of a final decree of adoption, 4170
organizations, certified organizations, child day-care centers, 4171
type A family day-care homes, type B family day-care homes, 4172
child care provided by in-home aides, group home providers, 4173
group homes, institutions, state institutions, residential 4174
facilities, residential care facilities, residential camps, day 4175
camps, private, nonprofit therapeutic wilderness camps, public 4176

schools, chartered nonpublic schools, educational service 4177
centers, hospitals, and medical clinics that are responsible for 4178
the care, physical custody, or control of children. 4179

(30) "Out-of-home care child abuse" means any of the 4180
following when committed by a person responsible for the care of 4181
a child in out-of-home care: 4182

(a) Engaging in sexual activity with a child in the 4183
person's care; 4184

(b) Denial to a child, as a means of punishment, of proper 4185
or necessary subsistence, education, medical care, or other care 4186
necessary for a child's health; 4187

(c) Use of restraint procedures on a child that cause 4188
injury or pain; 4189

(d) Administration of prescription drugs or psychotropic 4190
medication to the child without the written approval and ongoing 4191
supervision of a licensed physician; 4192

(e) Commission of any act, other than by accidental means, 4193
that results in any injury to or death of the child in out-of- 4194
home care or commission of any act by accidental means that 4195
results in an injury to or death of a child in out-of-home care 4196
and that is at variance with the history given of the injury or 4197
death. 4198

(31) "Out-of-home care child neglect" means any of the 4199
following when committed by a person responsible for the care of 4200
a child in out-of-home care: 4201

(a) Failure to provide reasonable supervision according to 4202
the standards of care appropriate to the age, mental and 4203
physical condition, or other special needs of the child; 4204

(b) Failure to provide reasonable supervision according to 4205
the standards of care appropriate to the age, mental and 4206
physical condition, or other special needs of the child, that 4207
results in sexual or physical abuse of the child by any person; 4208

(c) Failure to develop a process for all of the following: 4209

(i) Administration of prescription drugs or psychotropic 4210
drugs for the child; 4211

(ii) Assuring that the instructions of the licensed 4212
physician who prescribed a drug for the child are followed; 4213

(iii) Reporting to the licensed physician who prescribed 4214
the drug all unfavorable or dangerous side effects from the use 4215
of the drug. 4216

(d) Failure to provide proper or necessary subsistence, 4217
education, medical care, or other individualized care necessary 4218
for the health or well-being of the child; 4219

(e) Confinement of the child to a locked room without 4220
monitoring by staff; 4221

(f) Failure to provide ongoing security for all 4222
prescription and nonprescription medication; 4223

(g) Isolation of a child for a period of time when there 4224
is substantial risk that the isolation, if continued, will 4225
impair or retard the mental health or physical well-being of the 4226
child. 4227

(32) "Permanent custody" means a legal status that vests 4228
in a public children services agency or a private child placing 4229
agency, all parental rights, duties, and obligations, including 4230
the right to consent to adoption, and divests the natural 4231
parents or adoptive parents of all parental rights, privileges, 4232

and obligations, including all residual rights and obligations. 4233

(33) "Permanent surrender" means the act of the parents 4234
or, if a child has only one parent, of the parent of a child, by 4235
a voluntary agreement authorized by section 5103.15 of the 4236
Revised Code, to transfer the permanent custody of the child to 4237
a public children services agency or a private child placing 4238
agency. 4239

(34) "Person" means an individual, association, 4240
corporation, or partnership and the state or any of its 4241
political subdivisions, departments, or agencies. 4242

(35) "Person responsible for a child's care in out-of-home 4243
care" means any of the following: 4244

(a) Any foster caregiver, in-home aide, or provider; 4245

(b) Any administrator, employee, or agent of any of the 4246
following: a public or private detention facility; shelter 4247
facility; certified children's crisis care facility; 4248
organization; certified organization; child day-care center; 4249
type A family day-care home; licensed type B family day-care 4250
home; group home; institution; state institution; residential 4251
facility; residential care facility; residential camp; day camp; 4252
school district; community school; chartered nonpublic school; 4253
educational service center; hospital; or medical clinic; 4254

(c) Any person who supervises or coaches children as part 4255
of an extracurricular activity sponsored by a school district, 4256
public school, or chartered nonpublic school; 4257

(d) Any other person who performs a similar function with 4258
respect to, or has a similar relationship to, children. 4259

(36) "~~Physically impaired~~Physical impairment" means having 4260

one or more of the following conditions that substantially limit 4261
one or more of an individual's major life activities, including 4262
self-care, receptive and expressive language, learning, 4263
mobility, and self-direction: 4264

(a) A substantial impairment of vision, speech, or 4265
hearing; 4266

(b) A congenital orthopedic impairment; 4267

(c) An orthopedic impairment caused by disease, rheumatic 4268
fever or any other similar chronic or acute health problem, or 4269
amputation or another similar cause. 4270

(37) "Placement for adoption" means the arrangement by a 4271
public children services agency or a private child placing 4272
agency with a person for the care and adoption by that person of 4273
a child of whom the agency has permanent custody. 4274

(38) "Placement in foster care" means the arrangement by a 4275
public children services agency or a private child placing 4276
agency for the out-of-home care of a child of whom the agency 4277
has temporary custody or permanent custody. 4278

(39) "Planned permanent living arrangement" means an order 4279
of a juvenile court pursuant to which both of the following 4280
apply: 4281

(a) The court gives legal custody of a child to a public 4282
children services agency or a private child placing agency 4283
without the termination of parental rights. 4284

(b) The order permits the agency to make an appropriate 4285
placement of the child and to enter into a written agreement 4286
with a foster care provider or with another person or agency 4287
with whom the child is placed. 4288

(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code. 4289
4290
4291

(41) "Private, nonprofit therapeutic wilderness camp" has the same meaning as in section 5103.02 of the Revised Code. 4292
4293

(42) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A) (4) of section 2152.19 of the Revised Code. 4294
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(43) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child. 4298
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(44) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code. 4306
4307

(45) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code. 4308
4309

(46) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes. 4310
4311
4312

(47) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code and that provides care for a child. 4313
4314
4315
4316

(48) "Residential facility" means a home or facility that 4317
is licensed by the department of developmental disabilities 4318
under section 5123.19 of the Revised Code and in which a child 4319
with a developmental disability resides. 4320

(49) "Residual parental rights, privileges, and 4321
responsibilities" means those rights, privileges, and 4322
responsibilities remaining with the natural parent after the 4323
transfer of legal custody of the child, including, but not 4324
necessarily limited to, the privilege of reasonable visitation, 4325
consent to adoption, the privilege to determine the child's 4326
religious affiliation, and the responsibility for support. 4327

(50) "School day" means the school day established by the 4328
board of education of the applicable school district pursuant to 4329
section 3313.481 of the Revised Code. 4330

(51) "School year" has the same meaning as in section 4331
3313.62 of the Revised Code. 4332

(52) "Secure correctional facility" means a facility under 4333
the direction of the department of youth services that is 4334
designed to physically restrict the movement and activities of 4335
children and used for the placement of children after 4336
adjudication and disposition. 4337

(53) "Sexual activity" has the same meaning as in section 4338
2907.01 of the Revised Code. 4339

(54) "Shelter" means the temporary care of children in 4340
physically unrestricted facilities pending court adjudication or 4341
disposition. 4342

(55) "Shelter for victims of domestic violence" has the 4343
same meaning as in section 3113.33 of the Revised Code. 4344

(56) "Temporary custody" means legal custody of a child 4345
who is removed from the child's home, which custody may be 4346
terminated at any time at the discretion of the court or, if the 4347
legal custody is granted in an agreement for temporary custody, 4348
by the person who executed the agreement. 4349

(57) "Traditional response" means a public children 4350
services agency's response to a report of child abuse or neglect 4351
that encourages engagement of the family in a comprehensive 4352
evaluation of the child's current and future safety needs and a 4353
fact-finding process to determine whether child abuse or neglect 4354
occurred and the circumstances surrounding the alleged harm or 4355
risk of harm. 4356

(C) For the purposes of this chapter, a child shall be 4357
presumed abandoned when the parents of the child have failed to 4358
visit or maintain contact with the child for more than ninety 4359
days, regardless of whether the parents resume contact with the 4360
child after that period of ninety days. 4361

Sec. 2151.281. (A) The court shall appoint a guardian ad 4362
litem, subject to rules adopted by the supreme court, to protect 4363
the interest of a child in any proceeding concerning an alleged 4364
or adjudicated delinquent child or unruly child when either of 4365
the following applies: 4366

(1) The child has no parent, guardian, or legal custodian. 4367

(2) The court finds that there is a conflict of interest 4368
between the child and the child's parent, guardian, or legal 4369
custodian. 4370

(B) (1) Except as provided in division (K) of this section, 4371
the court shall appoint a guardian ad litem, subject to rules 4372
adopted by the supreme court, to protect the interest of a child 4373

in any proceeding concerning an alleged abused or neglected 4374
child and in any proceeding held pursuant to section 2151.414 of 4375
the Revised Code. The guardian ad litem so appointed shall not 4376
be the attorney responsible for presenting the evidence alleging 4377
that the child is an abused or neglected child and shall not be 4378
an employee of any party in the proceeding. 4379

(2) Except in any proceeding concerning a dependent child 4380
involving the permanent custody of an infant under the age of 4381
six months for the sole purpose of placement for adoption by a 4382
private child placing agency, the court shall appoint a guardian 4383
ad litem, subject to rules adopted by the supreme court, to 4384
protect the interest of a child in any proceeding concerning an 4385
alleged dependent child if any of the following applies: 4386

(a) The parent of the child appears to be mentally 4387
incompetent or is under eighteen years of age. 4388

(b) There is a conflict of interest between the child and 4389
the child's parents, guardian, or custodian. 4390

(c) The court believes that the parent of the child is not 4391
capable of representing the best interest of the child. 4392

(3) Except in any proceeding concerning a dependent child 4393
involving the permanent custody of an infant under the age of 4394
six months for the sole purpose of placement for adoption by a 4395
private child placing agency, the court may appoint a guardian 4396
ad litem, subject to rules adopted by the supreme court, to 4397
protect the interest of the child in any other proceeding 4398
concerning an alleged dependent child. 4399

(4) The guardian ad litem appointed for an alleged or 4400
adjudicated abused or neglected child may bring a civil action 4401
against any person who is required by division (A) (1) or (4) of 4402

section 2151.421 of the Revised Code to file a report of child 4403
abuse or child neglect that is known or reasonably suspected or 4404
believed to have occurred if that person knows, or has 4405
reasonable cause to suspect or believe based on facts that would 4406
cause a reasonable person in a similar position to suspect or 4407
believe, as applicable, that the child for whom the guardian ad 4408
litem is appointed is the subject of child abuse or child 4409
neglect and does not file the required report and if the child 4410
suffers any injury or harm as a result of the child abuse or 4411
child neglect that is known or reasonably suspected or believed 4412
to have occurred or suffers additional injury or harm after the 4413
failure to file the report. 4414

(C) In any proceeding concerning an alleged or adjudicated 4415
delinquent, unruly, abused, neglected, or dependent child in 4416
which the parent appears to be mentally incompetent or is under 4417
eighteen years of age, the court shall appoint a guardian ad 4418
litem to protect the interest of that parent. 4419

(D) The court shall require the guardian ad litem to 4420
faithfully discharge the guardian ad litem's duties and, upon 4421
the guardian ad litem's failure to faithfully discharge the 4422
guardian ad litem's duties, shall discharge the guardian ad 4423
litem and appoint another guardian ad litem. The court may fix 4424
the compensation for the service of the guardian ad litem, which 4425
compensation shall be paid from the treasury of the county, 4426
subject to rules adopted by the supreme court. 4427

(E) A parent who is eighteen years of age or older and not 4428
mentally incompetent shall be deemed sui juris for the purpose 4429
of any proceeding relative to a child of the parent who is 4430
alleged or adjudicated to be an abused, neglected, or dependent 4431
child. 4432

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

(G) Except as provided in division (K) of this section, in any case in which a guardian ad litem is to be appointed for an alleged or adjudicated abused, neglected, or dependent child or in any case involving an agreement for the voluntary surrender of temporary or permanent custody of a child that is made in accordance with section 5103.15 of the Revised Code, the court shall appoint the guardian ad litem in each case as soon as possible after the complaint is filed, the request for an extension of the temporary custody agreement is filed with the court, or the request for court approval of the permanent custody agreement is filed. The guardian ad litem or the guardian ad litem's replacement shall continue to serve until any of the following occur:

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

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

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

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

(5) The child reaches the age of eighteen if the child ~~is~~ 4462
~~does not mentally retarded, developmentally disabled,~~ have a 4463
developmental disability or physically impaired physical 4464
impairment or the child reaches the age of twenty-one if the 4465
child ~~is mentally retarded, developmentally disabled,~~ has a 4466
developmental disability or physically impaired physical 4467
impairment; 4468

(6) The guardian ad litem resigns or is removed by the 4469
court and a replacement is appointed by the court. 4470

If a guardian ad litem ceases to serve a child pursuant to 4471
division (G) (4) of this section and the petition for adoption 4472
with respect to the child is denied or withdrawn prior to the 4473
issuance of a final decree of adoption or prior to the date an 4474
interlocutory order of adoption becomes final, the juvenile 4475
court shall reappoint a guardian ad litem for that child. The 4476
public children services agency or private child placing agency 4477
with permanent custody of the child shall notify the juvenile 4478
court if the petition for adoption is denied or withdrawn. 4479

(H) If the guardian ad litem for an alleged or adjudicated 4480
abused, neglected, or dependent child is an attorney admitted to 4481
the practice of law in this state, the guardian ad litem also 4482
may serve as counsel to the ward. Until the supreme court adopts 4483
rules regarding service as a guardian ad litem that regulate 4484
conflicts between a person's role as guardian ad litem and as 4485
counsel, if a person is serving as guardian ad litem and counsel 4486
for a child and either that person or the court finds that a 4487
conflict may exist between the person's roles as guardian ad 4488
litem and as counsel, the court shall relieve the person of 4489
duties as guardian ad litem and appoint someone else as guardian 4490
ad litem for the child. If the court appoints a person who is 4491

not an attorney admitted to the practice of law in this state to 4492
be a guardian ad litem, the court also may appoint an attorney 4493
admitted to the practice of law in this state to serve as 4494
counsel for the guardian ad litem. 4495

(I) The guardian ad litem for an alleged or adjudicated 4496
abused, neglected, or dependent child shall perform whatever 4497
functions are necessary to protect the best interest of the 4498
child, including, but not limited to, investigation, mediation, 4499
monitoring court proceedings, and monitoring the services 4500
provided the child by the public children services agency or 4501
private child placing agency that has temporary or permanent 4502
custody of the child, and shall file any motions and other court 4503
papers that are in the best interest of the child in accordance 4504
with rules adopted by the supreme court. 4505

The guardian ad litem shall be given notice of all 4506
hearings, administrative reviews, and other proceedings in the 4507
same manner as notice is given to parties to the action. 4508

(J) (1) When the court appoints a guardian ad litem 4509
pursuant to this section, it shall appoint a qualified volunteer 4510
or court appointed special advocate whenever one is available 4511
and the appointment is appropriate. 4512

(2) Upon request, the department of job and family 4513
services shall provide for the training of volunteer guardians 4514
ad litem. 4515

(K) A guardian ad litem shall not be appointed for a child 4516
who is under six months of age in any proceeding in which a 4517
private child placing agency is seeking permanent custody of the 4518
child or seeking approval of a voluntary permanent custody 4519
surrender agreement for the sole purpose of the adoption of the 4520

child. 4521

Sec. 2151.353. (A) If a child is adjudicated an abused, 4522
neglected, or dependent child, the court may make any of the 4523
following orders of disposition: 4524

(1) Place the child in protective supervision; 4525

(2) Commit the child to the temporary custody of a public 4526
children services agency, a private child placing agency, either 4527
parent, a relative residing within or outside the state, or a 4528
probation officer for placement in a certified foster home, or 4529
in any other home approved by the court; 4530

(3) Award legal custody of the child to either parent or 4531
to any other person who, prior to the dispositional hearing, 4532
files a motion requesting legal custody of the child or is 4533
identified as a proposed legal custodian in a complaint or 4534
motion filed prior to the dispositional hearing by any party to 4535
the proceedings. A person identified in a complaint or motion 4536
filed by a party to the proceedings as a proposed legal 4537
custodian shall be awarded legal custody of the child only if 4538
the person identified signs a statement of understanding for 4539
legal custody that contains at least the following provisions: 4540

(a) That it is the intent of the person to become the 4541
legal custodian of the child and the person is able to assume 4542
legal responsibility for the care and supervision of the child; 4543

(b) That the person understands that legal custody of the 4544
child in question is intended to be permanent in nature and that 4545
the person will be responsible as the custodian for the child 4546
until the child reaches the age of majority. Responsibility as 4547
custodian for the child shall continue beyond the age of 4548
majority if, at the time the child reaches the age of majority, 4549

the child is pursuing a diploma granted by the board of 4550
education or other governing authority, successful completion of 4551
the curriculum of any high school, successful completion of an 4552
individualized education program developed for the student by 4553
any high school, or an age and schooling certificate. 4554
Responsibility beyond the age of majority shall terminate when 4555
the child ceases to continuously pursue such an education, 4556
completes such an education, or is excused from such an 4557
education under standards adopted by the state board of 4558
education, whichever occurs first. 4559

(c) That the parents of the child have residual parental 4560
rights, privileges, and responsibilities, including, but not 4561
limited to, the privilege of reasonable visitation, consent to 4562
adoption, the privilege to determine the child's religious 4563
affiliation, and the responsibility for support; 4564

(d) That the person understands that the person must be 4565
present in court for the dispositional hearing in order to 4566
affirm the person's intention to become legal custodian, to 4567
affirm that the person understands the effect of the 4568
custodianship before the court, and to answer any questions that 4569
the court or any parties to the case may have. 4570

(4) Commit the child to the permanent custody of a public 4571
children services agency or private child placing agency, if the 4572
court determines in accordance with division (E) of section 4573
2151.414 of the Revised Code that the child cannot be placed 4574
with one of the child's parents within a reasonable time or 4575
should not be placed with either parent and determines in 4576
accordance with division (D) (1) of section 2151.414 of the 4577
Revised Code that the permanent commitment is in the best 4578
interest of the child. If the court grants permanent custody 4579

under this division, the court, upon the request of any party, 4580
shall file a written opinion setting forth its findings of fact 4581
and conclusions of law in relation to the proceeding. 4582

(5) Place the child in a planned permanent living 4583
arrangement with a public children services agency or private 4584
child placing agency, if a public children services agency or 4585
private child placing agency requests the court to place the 4586
child in a planned permanent living arrangement and if the court 4587
finds, by clear and convincing evidence, that a planned 4588
permanent living arrangement is in the best interest of the 4589
child and that one of the following exists: 4590

(a) The child, because of physical, mental, or 4591
psychological problems or needs, is unable to function in a 4592
family-like setting and must remain in residential or 4593
institutional care now and for the foreseeable future beyond the 4594
date of the dispositional hearing held pursuant to section 4595
2151.35 of the Revised Code. 4596

(b) The child is sixteen years of age or older, the 4597
parents of the child have significant physical, mental, or 4598
psychological problems and are unable to care for the child 4599
because of those problems, adoption is not in the best interest 4600
of the child, as determined in accordance with division (D) (1) 4601
of section 2151.414 of the Revised Code, and the child retains a 4602
significant and positive relationship with a parent or relative. 4603

(c) The child is sixteen years of age or older, has been 4604
counseled on the permanent placement options available to the 4605
child, and is unwilling to accept or unable to adapt to a 4606
permanent placement. 4607

(6) Order the removal from the child's home until further 4608

order of the court of the person who committed abuse as 4609
described in section 2151.031 of the Revised Code against the 4610
child, who caused or allowed the child to suffer neglect as 4611
described in section 2151.03 of the Revised Code, or who is the 4612
parent, guardian, or custodian of a child who is adjudicated a 4613
dependent child and order any person not to have contact with 4614
the child or the child's siblings. 4615

(B) (1) When making a determination on whether to place a 4616
child in a planned permanent living arrangement pursuant to 4617
division (A) (5) (b) or (c) of this section, the court shall 4618
consider all relevant information that has been presented to the 4619
court, including information gathered from the child, the 4620
child's guardian ad litem, and the public children services 4621
agency or private child placing agency. 4622

(2) A child who is placed in a planned permanent living 4623
arrangement pursuant to division (A) (5) (b) or (c) of this 4624
section shall be placed in an independent living setting or in a 4625
family setting in which the caregiver has been provided by the 4626
agency that has custody of the child with a notice that 4627
addresses the following: 4628

(a) The caregiver understands that the planned permanent 4629
living arrangement is intended to be permanent in nature and 4630
that the caregiver will provide a stable placement for the child 4631
through the child's emancipation or until the court releases the 4632
child from the custody of the agency, whichever occurs first. 4633

(b) The caregiver is expected to actively participate in 4634
the youth's independent living case plan, attend agency team 4635
meetings and court hearings as appropriate, complete training, 4636
as provided in division (B) of section 5103.035 of the Revised 4637
Code, related to providing the child independent living 4638

services, and assist in the child's transition into adulthood. 4639

(3) The department of job and family services shall 4640
develop a model notice to be provided by an agency that has 4641
custody of a child to a caregiver under division (B) (2) of this 4642
section. The agency may modify the model notice to apply to the 4643
needs of the agency. 4644

(C) No order for permanent custody or temporary custody of 4645
a child or the placement of a child in a planned permanent 4646
living arrangement shall be made pursuant to this section unless 4647
the complaint alleging the abuse, neglect, or dependency 4648
contains a prayer requesting permanent custody, temporary 4649
custody, or the placement of the child in a planned permanent 4650
living arrangement as desired, the summons served on the parents 4651
of the child contains as is appropriate a full explanation that 4652
the granting of an order for permanent custody permanently 4653
divests them of their parental rights, a full explanation that 4654
an adjudication that the child is an abused, neglected, or 4655
dependent child may result in an order of temporary custody that 4656
will cause the removal of the child from their legal custody 4657
until the court terminates the order of temporary custody or 4658
permanently divests the parents of their parental rights, or a 4659
full explanation that the granting of an order for a planned 4660
permanent living arrangement will result in the removal of the 4661
child from their legal custody if any of the conditions listed 4662
in divisions (A) (5) (a) to (c) of this section are found to 4663
exist, and the summons served on the parents contains a full 4664
explanation of their right to be represented by counsel and to 4665
have counsel appointed pursuant to Chapter 120. of the Revised 4666
Code if they are indigent. 4667

If after making disposition as authorized by division (A) 4668

(2) of this section, a motion is filed that requests permanent custody of the child, the court may grant permanent custody of the child to the movant in accordance with section 2151.414 of the Revised Code.

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

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

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

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

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

(F)(1) The court shall retain jurisdiction over any child for whom the court issues an order of disposition pursuant to division (A) of this section or pursuant to section 2151.414 or 2151.415 of the Revised Code until the child attains the age of eighteen years if the child ~~is does not mentally retarded,~~ developmentally disabled, have a developmental disability or physically impaired physical impairment, the child attains the

age of twenty-one years if the child ~~is mentally retarded,~~ 4698
~~developmentally disabled,~~ has a developmental disability or 4699
~~physically impaired,~~ physical impairment, or the child is adopted 4700
and a final decree of adoption is issued, except that the court 4701
may retain jurisdiction over the child and continue any order of 4702
disposition under division (A) of this section or under section 4703
2151.414 or 2151.415 of the Revised Code for a specified period 4704
of time to enable the child to graduate from high school or 4705
vocational school. The court shall make an entry continuing its 4706
jurisdiction under this division in the journal. 4707

(2) Any public children services agency, any private child 4708
placing agency, the department of job and family services, or 4709
any party, other than any parent whose parental rights with 4710
respect to the child have been terminated pursuant to an order 4711
issued under division (A) (4) of this section, by filing a motion 4712
with the court, may at any time request the court to modify or 4713
terminate any order of disposition issued pursuant to division 4714
(A) of this section or section 2151.414 or 2151.415 of the 4715
Revised Code. The court shall hold a hearing upon the motion as 4716
if the hearing were the original dispositional hearing and shall 4717
give all parties to the action and the guardian ad litem notice 4718
of the hearing pursuant to the Juvenile Rules. If applicable, 4719
the court shall comply with section 2151.42 of the Revised Code. 4720

(G) Any temporary custody order issued pursuant to 4721
division (A) of this section shall terminate one year after the 4722
earlier of the date on which the complaint in the case was filed 4723
or the child was first placed into shelter care, except that, 4724
upon the filing of a motion pursuant to section 2151.415 of the 4725
Revised Code, the temporary custody order shall continue and not 4726
terminate until the court issues a dispositional order under 4727
that section. In resolving the motion, the court shall not order 4728

an existing temporary custody order to continue beyond two years 4729
after the date on which the complaint was filed or the child was 4730
first placed into shelter care, whichever date is earlier, 4731
regardless of whether any extensions have been previously 4732
ordered pursuant to division (D) of section 2151.415 of the 4733
Revised Code. 4734

(H) (1) No later than one year after the earlier of the 4735
date the complaint in the case was filed or the child was first 4736
placed in shelter care, a party may ask the court to extend an 4737
order for protective supervision for six months or to terminate 4738
the order. A party requesting extension or termination of the 4739
order shall file a written request for the extension or 4740
termination with the court and give notice of the proposed 4741
extension or termination in writing before the end of the day 4742
after the day of filing it to all parties and the child's 4743
guardian ad litem. If a public children services agency or 4744
private child placing agency requests termination of the order, 4745
the agency shall file a written status report setting out the 4746
facts supporting termination of the order at the time it files 4747
the request with the court. If no party requests extension or 4748
termination of the order, the court shall notify the parties 4749
that the court will extend the order for six months or terminate 4750
it and that it may do so without a hearing unless one of the 4751
parties requests a hearing. All parties and the guardian ad 4752
litem shall have seven days from the date a notice is sent 4753
pursuant to this division to object to and request a hearing on 4754
the proposed extension or termination. 4755

(a) If it receives a timely request for a hearing, the 4756
court shall schedule a hearing to be held no later than thirty 4757
days after the request is received by the court. The court shall 4758
give notice of the date, time, and location of the hearing to 4759

all parties and the guardian ad litem. At the hearing, the court shall determine whether extension or termination of the order is in the child's best interest. If termination is in the child's best interest, the court shall terminate the order. If extension is in the child's best interest, the court shall extend the order for six months.

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

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

(3) If a court grants an extension pursuant to division 4790
(H) (2) of this section, the court shall terminate the order for 4791
protective supervision at the end of the extension. 4792

(I) The court shall not issue a dispositional order 4793
pursuant to division (A) of this section that removes a child 4794
from the child's home unless the court complies with section 4795
2151.419 of the Revised Code and includes in the dispositional 4796
order the findings of fact required by that section. 4797

(J) If a motion or application for an order described in 4798
division (A) (6) of this section is made, the court shall not 4799
issue the order unless, prior to the issuance of the order, it 4800
provides to the person all of the following: 4801

(1) Notice and a copy of the motion or application; 4802

(2) The grounds for the motion or application; 4803

(3) An opportunity to present evidence and witnesses at a 4804
hearing regarding the motion or application; 4805

(4) An opportunity to be represented by counsel at the 4806
hearing. 4807

(K) The jurisdiction of the court shall terminate one year 4808
after the date of the award or, if the court takes any further 4809
action in the matter subsequent to the award, the date of the 4810
latest further action subsequent to the award, if the court 4811
awards legal custody of a child to either of the following: 4812

(1) A legal custodian who, at the time of the award of 4813
legal custody, resides in a county of this state other than the 4814
county in which the court is located; 4815

(2) A legal custodian who resides in the county in which 4816
the court is located at the time of the award of legal custody, 4817

but moves to a different county of this state prior to one year 4818
after the date of the award or, if the court takes any further 4819
action in the matter subsequent to the award, one year after the 4820
date of the latest further action subsequent to the award. 4821

The court in the county in which the legal custodian 4822
resides then shall have jurisdiction in the matter. 4823

Sec. 2151.414. (A) (1) Upon the filing of a motion pursuant 4824
to section 2151.413 of the Revised Code for permanent custody of 4825
a child, the court shall schedule a hearing and give notice of 4826
the filing of the motion and of the hearing, in accordance with 4827
section 2151.29 of the Revised Code, to all parties to the 4828
action and to the child's guardian ad litem. The notice also 4829
shall contain a full explanation that the granting of permanent 4830
custody permanently divests the parents of their parental 4831
rights, a full explanation of their right to be represented by 4832
counsel and to have counsel appointed pursuant to Chapter 120. 4833
of the Revised Code if they are indigent, and the name and 4834
telephone number of the court employee designated by the court 4835
pursuant to section 2151.314 of the Revised Code to arrange for 4836
the prompt appointment of counsel for indigent persons. 4837

The court shall conduct a hearing in accordance with 4838
section 2151.35 of the Revised Code to determine if it is in the 4839
best interest of the child to permanently terminate parental 4840
rights and grant permanent custody to the agency that filed the 4841
motion. The adjudication that the child is an abused, neglected, 4842
or dependent child and any dispositional order that has been 4843
issued in the case under section 2151.353 of the Revised Code 4844
pursuant to the adjudication shall not be readjudicated at the 4845
hearing and shall not be affected by a denial of the motion for 4846
permanent custody. 4847

(2) The court shall hold the hearing scheduled pursuant to 4848
division (A)(1) of this section not later than one hundred 4849
twenty days after the agency files the motion for permanent 4850
custody, except that, for good cause shown, the court may 4851
continue the hearing for a reasonable period of time beyond the 4852
one-hundred-twenty-day deadline. The court shall issue an order 4853
that grants, denies, or otherwise disposes of the motion for 4854
permanent custody, and journalize the order, not later than two 4855
hundred days after the agency files the motion. 4856

If a motion is made under division (D)(2) of section 4857
2151.413 of the Revised Code and no dispositional hearing has 4858
been held in the case, the court may hear the motion in the 4859
dispositional hearing required by division (B) of section 4860
2151.35 of the Revised Code. If the court issues an order 4861
pursuant to section 2151.353 of the Revised Code granting 4862
permanent custody of the child to the agency, the court shall 4863
immediately dismiss the motion made under division (D)(2) of 4864
section 2151.413 of the Revised Code. 4865

The failure of the court to comply with the time periods 4866
set forth in division (A)(2) of this section does not affect the 4867
authority of the court to issue any order under this chapter and 4868
does not provide any basis for attacking the jurisdiction of the 4869
court or the validity of any order of the court. 4870

(B)(1) Except as provided in division (B)(2) of this 4871
section, the court may grant permanent custody of a child to a 4872
movant if the court determines at the hearing held pursuant to 4873
division (A) of this section, by clear and convincing evidence, 4874
that it is in the best interest of the child to grant permanent 4875
custody of the child to the agency that filed the motion for 4876
permanent custody and that any of the following apply: 4877

(a) The child is not abandoned or orphaned, has not been 4878
in the temporary custody of one or more public children services 4879
agencies or private child placing agencies for twelve or more 4880
months of a consecutive twenty-two-month period, or has not been 4881
in the temporary custody of one or more public children services 4882
agencies or private child placing agencies for twelve or more 4883
months of a consecutive twenty-two-month period if, as described 4884
in division (D)(1) of section 2151.413 of the Revised Code, the 4885
child was previously in the temporary custody of an equivalent 4886
agency in another state, and the child cannot be placed with 4887
either of the child's parents within a reasonable time or should 4888
not be placed with the child's parents. 4889

(b) The child is abandoned. 4890

(c) The child is orphaned, and there are no relatives of 4891
the child who are able to take permanent custody. 4892

(d) The child has been in the temporary custody of one or 4893
more public children services agencies or private child placing 4894
agencies for twelve or more months of a consecutive twenty-two- 4895
month period, or the child has been in the temporary custody of 4896
one or more public children services agencies or private child 4897
placing agencies for twelve or more months of a consecutive 4898
twenty-two-month period and, as described in division (D)(1) of 4899
section 2151.413 of the Revised Code, the child was previously 4900
in the temporary custody of an equivalent agency in another 4901
state. 4902

(e) The child or another child in the custody of the 4903
parent or parents from whose custody the child has been removed 4904
has been adjudicated an abused, neglected, or dependent child on 4905
three separate occasions by any court in this state or another 4906
state. 4907

For the purposes of division (B) (1) of this section, a 4908
child shall be considered to have entered the temporary custody 4909
of an agency on the earlier of the date the child is adjudicated 4910
pursuant to section 2151.28 of the Revised Code or the date that 4911
is sixty days after the removal of the child from home. 4912

(2) With respect to a motion made pursuant to division (D) 4913
(2) of section 2151.413 of the Revised Code, the court shall 4914
grant permanent custody of the child to the movant if the court 4915
determines in accordance with division (E) of this section that 4916
the child cannot be placed with one of the child's parents 4917
within a reasonable time or should not be placed with either 4918
parent and determines in accordance with division (D) of this 4919
section that permanent custody is in the child's best interest. 4920

(C) In making the determinations required by this section 4921
or division (A) (4) of section 2151.353 of the Revised Code, a 4922
court shall not consider the effect the granting of permanent 4923
custody to the agency would have upon any parent of the child. A 4924
written report of the guardian ad litem of the child shall be 4925
submitted to the court prior to or at the time of the hearing 4926
held pursuant to division (A) of this section or section 2151.35 4927
of the Revised Code but shall not be submitted under oath. 4928

If the court grants permanent custody of a child to a 4929
movant under this division, the court, upon the request of any 4930
party, shall file a written opinion setting forth its findings 4931
of fact and conclusions of law in relation to the proceeding. 4932
The court shall not deny an agency's motion for permanent 4933
custody solely because the agency failed to implement any 4934
particular aspect of the child's case plan. 4935

(D) (1) In determining the best interest of a child at a 4936
hearing held pursuant to division (A) of this section or for the 4937

purposes of division (A) (4) or (5) of section 2151.353 or 4938
division (C) of section 2151.415 of the Revised Code, the court 4939
shall consider all relevant factors, including, but not limited 4940
to, the following: 4941

(a) The interaction and interrelationship of the child 4942
with the child's parents, siblings, relatives, foster caregivers 4943
and out-of-home providers, and any other person who may 4944
significantly affect the child; 4945

(b) The wishes of the child, as expressed directly by the 4946
child or through the child's guardian ad litem, with due regard 4947
for the maturity of the child; 4948

(c) The custodial history of the child, including whether 4949
the child has been in the temporary custody of one or more 4950
public children services agencies or private child placing 4951
agencies for twelve or more months of a consecutive twenty-two- 4952
month period, or the child has been in the temporary custody of 4953
one or more public children services agencies or private child 4954
placing agencies for twelve or more months of a consecutive 4955
twenty-two-month period and, as described in division (D) (1) of 4956
section 2151.413 of the Revised Code, the child was previously 4957
in the temporary custody of an equivalent agency in another 4958
state; 4959

(d) The child's need for a legally secure permanent 4960
placement and whether that type of placement can be achieved 4961
without a grant of permanent custody to the agency; 4962

(e) Whether any of the factors in divisions (E) (7) to (11) 4963
of this section apply in relation to the parents and child. 4964

For the purposes of division (D) (1) of this section, a 4965
child shall be considered to have entered the temporary custody 4966

of an agency on the earlier of the date the child is adjudicated 4967
pursuant to section 2151.28 of the Revised Code or the date that 4968
is sixty days after the removal of the child from home. 4969

(2) If all of the following apply, permanent custody is in 4970
the best interest of the child, and the court shall commit the 4971
child to the permanent custody of a public children services 4972
agency or private child placing agency: 4973

(a) The court determines by clear and convincing evidence 4974
that one or more of the factors in division (E) of this section 4975
exist and the child cannot be placed with one of the child's 4976
parents within a reasonable time or should not be placed with 4977
either parent. 4978

(b) The child has been in an agency's custody for two 4979
years or longer, and no longer qualifies for temporary custody 4980
pursuant to division (D) of section 2151.415 of the Revised 4981
Code. 4982

(c) The child does not meet the requirements for a planned 4983
permanent living arrangement pursuant to division (A) (5) of 4984
section 2151.353 of the Revised Code. 4985

(d) Prior to the dispositional hearing, no relative or 4986
other interested person has filed, or has been identified in, a 4987
motion for legal custody of the child. 4988

(E) In determining at a hearing held pursuant to division 4989
(A) of this section or for the purposes of division (A) (4) of 4990
section 2151.353 of the Revised Code whether a child cannot be 4991
placed with either parent within a reasonable period of time or 4992
should not be placed with the parents, the court shall consider 4993
all relevant evidence. If the court determines, by clear and 4994
convincing evidence, at a hearing held pursuant to division (A) 4995

of this section or for the purposes of division (A) (4) of 4996
section 2151.353 of the Revised Code that one or more of the 4997
following exist as to each of the child's parents, the court 4998
shall enter a finding that the child cannot be placed with 4999
either parent within a reasonable time or should not be placed 5000
with either parent: 5001

(1) Following the placement of the child outside the 5002
child's home and notwithstanding reasonable case planning and 5003
diligent efforts by the agency to assist the parents to remedy 5004
the problems that initially caused the child to be placed 5005
outside the home, the parent has failed continuously and 5006
repeatedly to substantially remedy the conditions causing the 5007
child to be placed outside the child's home. In determining 5008
whether the parents have substantially remedied those 5009
conditions, the court shall consider parental utilization of 5010
medical, psychiatric, psychological, and other social and 5011
rehabilitative services and material resources that were made 5012
available to the parents for the purpose of changing parental 5013
conduct to allow them to resume and maintain parental duties. 5014

(2) Chronic mental illness, chronic emotional illness, 5015
~~mental retardation~~ intellectual disability, physical disability, 5016
or chemical dependency of the parent that is so severe that it 5017
makes the parent unable to provide an adequate permanent home 5018
for the child at the present time and, as anticipated, within 5019
one year after the court holds the hearing pursuant to division 5020
(A) of this section or for the purposes of division (A) (4) of 5021
section 2151.353 of the Revised Code; 5022

(3) The parent committed any abuse as described in section 5023
2151.031 of the Revised Code against the child, caused the child 5024
to suffer any neglect as described in section 2151.03 of the 5025

Revised Code, or allowed the child to suffer any neglect as 5026
described in section 2151.03 of the Revised Code between the 5027
date that the original complaint alleging abuse or neglect was 5028
filed and the date of the filing of the motion for permanent 5029
custody; 5030

(4) The parent has demonstrated a lack of commitment 5031
toward the child by failing to regularly support, visit, or 5032
communicate with the child when able to do so, or by other 5033
actions showing an unwillingness to provide an adequate 5034
permanent home for the child; 5035

(5) The parent is incarcerated for an offense committed 5036
against the child or a sibling of the child; 5037

(6) The parent has been convicted of or pleaded guilty to 5038
an offense under division (A) or (C) of section 2919.22 or under 5039
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 5040
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.23, 5041
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 5042
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 5043
2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised 5044
Code, and the child or a sibling of the child was a victim of 5045
the offense, or the parent has been convicted of or pleaded 5046
guilty to an offense under section 2903.04 of the Revised Code, 5047
a sibling of the child was the victim of the offense, and the 5048
parent who committed the offense poses an ongoing danger to the 5049
child or a sibling of the child. 5050

(7) The parent has been convicted of or pleaded guilty to 5051
one of the following: 5052

(a) An offense under section 2903.01, 2903.02, or 2903.03 5053
of the Revised Code or under an existing or former law of this 5054

state, any other state, or the United States that is 5055
substantially equivalent to an offense described in those 5056
sections and the victim of the offense was a sibling of the 5057
child or the victim was another child who lived in the parent's 5058
household at the time of the offense; 5059

(b) An offense under section 2903.11, 2903.12, or 2903.13 5060
of the Revised Code or under an existing or former law of this 5061
state, any other state, or the United States that is 5062
substantially equivalent to an offense described in those 5063
sections and the victim of the offense is the child, a sibling 5064
of the child, or another child who lived in the parent's 5065
household at the time of the offense; 5066

(c) An offense under division (B) (2) of section 2919.22 of 5067
the Revised Code or under an existing or former law of this 5068
state, any other state, or the United States that is 5069
substantially equivalent to the offense described in that 5070
section and the child, a sibling of the child, or another child 5071
who lived in the parent's household at the time of the offense 5072
is the victim of the offense; 5073

(d) An offense under section 2907.02, 2907.03, 2907.04, 5074
2907.05, or 2907.06 of the Revised Code or under an existing or 5075
former law of this state, any other state, or the United States 5076
that is substantially equivalent to an offense described in 5077
those sections and the victim of the offense is the child, a 5078
sibling of the child, or another child who lived in the parent's 5079
household at the time of the offense; 5080

(e) An offense under section 2905.32, 2907.21, or 2907.22 5081
of the Revised Code or under an existing or former law of this 5082
state, any other state, or the United States that is 5083
substantially equivalent to the offense described in that 5084

section and the victim of the offense is the child, a sibling of 5085
the child, or another child who lived in the parent's household 5086
at the time of the offense; 5087

(f) A conspiracy or attempt to commit, or complicity in 5088
committing, an offense described in division (E) (7) (a), (d), or 5089
(e) of this section. 5090

(8) The parent has repeatedly withheld medical treatment 5091
or food from the child when the parent has the means to provide 5092
the treatment or food, and, in the case of withheld medical 5093
treatment, the parent withheld it for a purpose other than to 5094
treat the physical or mental illness or defect of the child by 5095
spiritual means through prayer alone in accordance with the 5096
tenets of a recognized religious body. 5097

(9) The parent has placed the child at substantial risk of 5098
harm two or more times due to alcohol or drug abuse and has 5099
rejected treatment two or more times or refused to participate 5100
in further treatment two or more times after a case plan issued 5101
pursuant to section 2151.412 of the Revised Code requiring 5102
treatment of the parent was journalized as part of a 5103
dispositional order issued with respect to the child or an order 5104
was issued by any other court requiring treatment of the parent. 5105

(10) The parent has abandoned the child. 5106

(11) The parent has had parental rights involuntarily 5107
terminated with respect to a sibling of the child pursuant to 5108
this section or section 2151.353 or 2151.415 of the Revised 5109
Code, or under an existing or former law of this state, any 5110
other state, or the United States that is substantially 5111
equivalent to those sections, and the parent has failed to 5112
provide clear and convincing evidence to prove that, 5113

notwithstanding the prior termination, the parent can provide a 5114
legally secure permanent placement and adequate care for the 5115
health, welfare, and safety of the child. 5116

(12) The parent is incarcerated at the time of the filing 5117
of the motion for permanent custody or the dispositional hearing 5118
of the child and will not be available to care for the child for 5119
at least eighteen months after the filing of the motion for 5120
permanent custody or the dispositional hearing. 5121

(13) The parent is repeatedly incarcerated, and the 5122
repeated incarceration prevents the parent from providing care 5123
for the child. 5124

(14) The parent for any reason is unwilling to provide 5125
food, clothing, shelter, and other basic necessities for the 5126
child or to prevent the child from suffering physical, 5127
emotional, or sexual abuse or physical, emotional, or mental 5128
neglect. 5129

(15) The parent has committed abuse as described in 5130
section 2151.031 of the Revised Code against the child or caused 5131
or allowed the child to suffer neglect as described in section 5132
2151.03 of the Revised Code, and the court determines that the 5133
seriousness, nature, or likelihood of recurrence of the abuse or 5134
neglect makes the child's placement with the child's parent a 5135
threat to the child's safety. 5136

(16) Any other factor the court considers relevant. 5137

(F) The parents of a child for whom the court has issued 5138
an order granting permanent custody pursuant to this section, 5139
upon the issuance of the order, cease to be parties to the 5140
action. This division is not intended to eliminate or restrict 5141
any right of the parents to appeal the granting of permanent 5142

custody of their child to a movant pursuant to this section. 5143

Sec. 2151.415. (A) Except for cases in which a motion for 5144
permanent custody described in division (D)(1) of section 5145
2151.413 of the Revised Code is required to be made, a public 5146
children services agency or private child placing agency that 5147
has been given temporary custody of a child pursuant to section 5148
2151.353 of the Revised Code, not later than thirty days prior 5149
to the earlier of the date for the termination of the custody 5150
order pursuant to division (H) of section 2151.353 of the 5151
Revised Code or the date set at the dispositional hearing for 5152
the hearing to be held pursuant to this section, shall file a 5153
motion with the court that issued the order of disposition 5154
requesting that any of the following orders of disposition of 5155
the child be issued by the court: 5156

(1) An order that the child be returned home and the 5157
custody of the child's parents, guardian, or custodian without 5158
any restrictions; 5159

(2) An order for protective supervision; 5160

(3) An order that the child be placed in the legal custody 5161
of a relative or other interested individual; 5162

(4) An order permanently terminating the parental rights 5163
of the child's parents; 5164

(5) An order that the child be placed in a planned 5165
permanent living arrangement; 5166

(6) In accordance with division (D) of this section, an 5167
order for the extension of temporary custody. 5168

(B) Upon the filing of a motion pursuant to division (A) 5169
of this section, the court shall hold a dispositional hearing on 5170

the date set at the dispositional hearing held pursuant to 5171
section 2151.35 of the Revised Code, with notice to all parties 5172
to the action in accordance with the Juvenile Rules. After the 5173
dispositional hearing or at a date after the dispositional 5174
hearing that is not later than one year after the earlier of the 5175
date on which the complaint in the case was filed or the child 5176
was first placed into shelter care, the court, in accordance 5177
with the best interest of the child as supported by the evidence 5178
presented at the dispositional hearing, shall issue an order of 5179
disposition as set forth in division (A) of this section, except 5180
that all orders for permanent custody shall be made in 5181
accordance with sections 2151.413 and 2151.414 of the Revised 5182
Code. In issuing an order of disposition under this section, the 5183
court shall comply with section 2151.42 of the Revised Code. 5184

(C) (1) If an agency pursuant to division (A) of this 5185
section requests the court to place a child into a planned 5186
permanent living arrangement, the agency shall present evidence 5187
to indicate why a planned permanent living arrangement is 5188
appropriate for the child, including, but not limited to, 5189
evidence that the agency has tried or considered all other 5190
possible dispositions for the child. A court shall not place a 5191
child in a planned permanent living arrangement, unless it 5192
finds, by clear and convincing evidence, that a planned 5193
permanent living arrangement is in the best interest of the 5194
child and that one of the following exists: 5195

(a) The child, because of physical, mental, or 5196
psychological problems or needs, is unable to function in a 5197
family-like setting and must remain in residential or 5198
institutional care. 5199

(b) The parents of the child have significant physical, 5200

mental, or psychological problems and are unable to care for the 5201
child because of those problems, adoption is not in the best 5202
interest of the child, as determined in accordance with division 5203
(D) (1) of section 2151.414 of the Revised Code, and the child 5204
retains a significant and positive relationship with a parent or 5205
relative; 5206

(c) The child is sixteen years of age or older, has been 5207
counseled on the permanent placement options available, is 5208
unwilling to accept or unable to adapt to a permanent placement, 5209
and is in an agency program preparing for independent living. 5210

(2) If the court issues an order placing a child in a 5211
planned permanent living arrangement, both of the following 5212
apply: 5213

(a) The court shall issue a finding of fact setting forth 5214
the reasons for its finding; 5215

(b) The agency may make any appropriate placement for the 5216
child and shall develop a case plan for the child that is 5217
designed to assist the child in finding a permanent home outside 5218
of the home of the parents. 5219

(D) (1) If an agency pursuant to division (A) of this 5220
section requests the court to grant an extension of temporary 5221
custody for a period of up to six months, the agency shall 5222
include in the motion an explanation of the progress on the case 5223
plan of the child and of its expectations of reunifying the 5224
child with the child's family, or placing the child in a 5225
permanent placement, within the extension period. The court 5226
shall schedule a hearing on the motion, give notice of its date, 5227
time, and location to all parties and the guardian ad litem of 5228
the child, and at the hearing consider the evidence presented by 5229

the parties and the guardian ad litem. The court may extend the 5230
temporary custody order of the child for a period of up to six 5231
months, if it determines at the hearing, by clear and convincing 5232
evidence, that the extension is in the best interest of the 5233
child, there has been significant progress on the case plan of 5234
the child, and there is reasonable cause to believe that the 5235
child will be reunified with one of the parents or otherwise 5236
permanently placed within the period of extension. In 5237
determining whether to extend the temporary custody of the child 5238
pursuant to this division, the court shall comply with section 5239
2151.42 of the Revised Code. If the court extends the temporary 5240
custody of the child pursuant to this division, upon request it 5241
shall issue findings of fact. 5242

(2) Prior to the end of the extension granted pursuant to 5243
division (D)(1) of this section, the agency that received the 5244
extension shall file a motion with the court requesting the 5245
issuance of one of the orders of disposition set forth in 5246
divisions (A)(1) to (5) of this section or requesting the court 5247
to extend the temporary custody order of the child for an 5248
additional period of up to six months. If the agency requests 5249
the issuance of an order of disposition under divisions (A)(1) 5250
to (5) of this section or does not file any motion prior to the 5251
expiration of the extension period, the court shall conduct a 5252
hearing in accordance with division (B) of this section and 5253
issue an appropriate order of disposition. In issuing an order 5254
of disposition, the court shall comply with section 2151.42 of 5255
the Revised Code. 5256

If the agency requests an additional extension of up to 5257
six months of the temporary custody order of the child, the 5258
court shall schedule and conduct a hearing in the manner set 5259
forth in division (D)(1) of this section. The court may extend 5260

the temporary custody order of the child for an additional 5261
period of up to six months if it determines at the hearing, by 5262
clear and convincing evidence, that the additional extension is 5263
in the best interest of the child, there has been substantial 5264
additional progress since the original extension of temporary 5265
custody in the case plan of the child, there has been 5266
substantial additional progress since the original extension of 5267
temporary custody toward reunifying the child with one of the 5268
parents or otherwise permanently placing the child, and there is 5269
reasonable cause to believe that the child will be reunified 5270
with one of the parents or otherwise placed in a permanent 5271
setting before the expiration of the additional extension 5272
period. In determining whether to grant an additional extension, 5273
the court shall comply with section 2151.42 of the Revised Code. 5274
If the court extends the temporary custody of the child for an 5275
additional period pursuant to this division, upon request it 5276
shall issue findings of fact. 5277

(3) Prior to the end of the extension of a temporary 5278
custody order granted pursuant to division (D)(2) of this 5279
section, the agency that received the extension shall file a 5280
motion with the court requesting the issuance of one of the 5281
orders of disposition set forth in divisions (A)(1) to (5) of 5282
this section. Upon the filing of the motion by the agency or, if 5283
the agency does not file the motion prior to the expiration of 5284
the extension period, upon its own motion, the court, prior to 5285
the expiration of the extension period, shall conduct a hearing 5286
in accordance with division (B) of this section and issue an 5287
appropriate order of disposition. In issuing an order of 5288
disposition, the court shall comply with section 2151.42 of the 5289
Revised Code. 5290

(4) No court shall grant an agency more than two 5291

extensions of temporary custody pursuant to division (D) of this 5292
section and the court shall not order an existing temporary 5293
custody order to continue beyond two years after the date on 5294
which the complaint was filed or the child was first placed into 5295
shelter care, whichever date is earlier, regardless of whether 5296
any extensions have been previously ordered pursuant to division 5297
(D) of this section. 5298

(E) After the issuance of an order pursuant to division 5299
(B) of this section, the court shall retain jurisdiction over 5300
the child until the child attains the age of eighteen if the 5301
child ~~is does not mentally retarded, developmentally disabled,~~ 5302
have a developmental disability or physically impaired physical 5303
impairment, the child attains the age of twenty-one if the child 5304
~~is mentally retarded, developmentally disabled, has a~~ 5305
developmental disability or physically impaired physical 5306
impairment, or the child is adopted and a final decree of 5307
adoption is issued, unless the court's jurisdiction over the 5308
child is extended pursuant to division (F) of section 2151.353 5309
of the Revised Code. 5310

(F) The court, on its own motion or the motion of the 5311
agency or person with legal custody of the child, the child's 5312
guardian ad litem, or any other party to the action, may conduct 5313
a hearing with notice to all parties to determine whether any 5314
order issued pursuant to this section should be modified or 5315
terminated or whether any other dispositional order set forth in 5316
divisions (A) (1) to (5) of this section should be issued. After 5317
the hearing and consideration of all the evidence presented, the 5318
court, in accordance with the best interest of the child, may 5319
modify or terminate any order issued pursuant to this section or 5320
issue any dispositional order set forth in divisions (A) (1) to 5321
(5) of this section. In rendering a decision under this 5322

division, the court shall comply with section 2151.42 of the Revised Code. 5323
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(G) If the court places a child in a planned permanent living arrangement with a public children services agency or a private child placing agency pursuant to this section, the agency with which the child is placed in a planned permanent living arrangement shall not remove the child from the residential placement in which the child is originally placed pursuant to the case plan for the child or in which the child is placed with court approval pursuant to this division, unless the court and the guardian ad litem are given notice of the intended removal and the court issues an order approving the removal or unless the removal is necessary to protect the child from physical or emotional harm and the agency gives the court notice of the removal and of the reasons why the removal is necessary to protect the child from physical or emotional harm immediately after the removal of the child from the prior setting. 5325
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(H) If the hearing held under this section takes the place of an administrative review that otherwise would have been held under section 2151.416 of the Revised Code, the court at the hearing held under this section shall do all of the following in addition to any other requirements of this section: 5340
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(1) Determine the continued necessity for and the appropriateness of the child's placement; 5345
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(2) Determine the extent of compliance with the child's case plan; 5347
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(3) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating the child's placement in foster care; 5349
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(4) Project a likely date by which the child may be returned to the child's home or placed for adoption or legal guardianship;

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

Sec. 2151.421. (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 person~~ with a developmental disability or physical impairment, under twenty-one years of age with a developmental disability or physical impairment, 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	5382
psychologist; licensed school psychologist; independent marriage	5383
and family therapist or marriage and family therapist; speech	5384
pathologist or audiologist; coroner; administrator or employee	5385
of a child day-care center; administrator or employee of a	5386
residential camp, child day camp, or private, nonprofit	5387
therapeutic wilderness camp; administrator or employee of a	5388
certified child care agency or other public or private children	5389
services agency; school teacher; school employee; school	5390
authority; person engaged in social work or the practice of	5391
professional counseling; agent of a county humane society;	5392
person, other than a cleric, rendering spiritual treatment	5393
through prayer in accordance with the tenets of a well-	5394
recognized religion; employee of a county department of job and	5395
family services who is a professional and who works with	5396
children and families; superintendent or regional administrator	5397
employed by the department of youth services; superintendent,	5398
board member, or employee of a county board of developmental	5399
disabilities; investigative agent contracted with by a county	5400
board of developmental disabilities; employee of the department	5401
of developmental disabilities; employee of a facility or home	5402
that provides respite care in accordance with section 5123.171	5403
of the Revised Code; employee of a home health agency; employee	5404
of an entity that provides homemaker services; a person	5405
performing the duties of an assessor pursuant to Chapter 3107.	5406
or 5103. of the Revised Code; third party employed by a public	5407
children services agency to assist in providing child or family	5408
related services; court appointed special advocate; or guardian	5409
ad litem.	5410
(2) Except as provided in division (A)(3) of this section,	5411
an attorney or a physician is not required to make a report	5412

pursuant to division (A) (1) of this section concerning any 5413
communication the attorney or physician receives from a client 5414
or patient in an attorney-client or physician-patient 5415
relationship, if, in accordance with division (A) or (B) of 5416
section 2317.02 of the Revised Code, the attorney or physician 5417
could not testify with respect to that communication in a civil 5418
or criminal proceeding. 5419

(3) The client or patient in an attorney-client or 5420
physician-patient relationship described in division (A) (2) of 5421
this section is deemed to have waived any testimonial privilege 5422
under division (A) or (B) of section 2317.02 of the Revised Code 5423
with respect to any communication the attorney or physician 5424
receives from the client or patient in that attorney-client or 5425
physician-patient relationship, and the attorney or physician 5426
shall make a report pursuant to division (A) (1) of this section 5427
with respect to that communication, if all of the following 5428
apply: 5429

(a) The client or patient, at the time of the 5430
communication, is ~~either~~ a child under eighteen years of age or 5431
~~is a mentally retarded, developmentally disabled, or physically-~~ 5432
~~impaired~~ person under twenty-one years of age with a 5433
developmental disability or physical impairment. 5434

(b) The attorney or physician knows, or has reasonable 5435
cause to suspect based on facts that would cause a reasonable 5436
person in similar position to suspect, as a result of the 5437
communication or any observations made during that 5438
communication, that the client or patient has suffered or faces 5439
a threat of suffering any physical or mental wound, injury, 5440
disability, or condition of a nature that reasonably indicates 5441
abuse or neglect of the client or patient. 5442

(c) The abuse or neglect does not arise out of the 5443
client's or patient's attempt to have an abortion without the 5444
notification of her parents, guardian, or custodian in 5445
accordance with section 2151.85 of the Revised Code. 5446

(4) (a) No cleric and no person, other than a volunteer, 5447
designated by any church, religious society, or faith acting as 5448
a leader, official, or delegate on behalf of the church, 5449
religious society, or faith who is acting in an official or 5450
professional capacity, who knows, or has reasonable cause to 5451
believe based on facts that would cause a reasonable person in a 5452
similar position to believe, that a child under eighteen years 5453
of age, ~~or a mentally retarded, developmentally disabled, or~~ 5454
~~physically impaired child person~~ under twenty-one years of age 5455
with a developmental disability or physical impairment, has 5456
suffered or faces a threat of suffering any physical or mental 5457
wound, injury, disability, or condition of a nature that 5458
reasonably indicates abuse or neglect of the child, and who 5459
knows, or has reasonable cause to believe based on facts that 5460
would cause a reasonable person in a similar position to 5461
believe, that another cleric or another person, other than a 5462
volunteer, designated by a church, religious society, or faith 5463
acting as a leader, official, or delegate on behalf of the 5464
church, religious society, or faith caused, or poses the threat 5465
of causing, the wound, injury, disability, or condition that 5466
reasonably indicates abuse or neglect shall fail to immediately 5467
report that knowledge or reasonable cause to believe to the 5468
entity or persons specified in this division. Except as provided 5469
in section 5120.173 of the Revised Code, the person making the 5470
report shall make it to the public children services agency or a 5471
municipal or county peace officer in the county in which the 5472
child resides or in which the abuse or neglect is occurring or 5473

has occurred. In the circumstances described in section 5120.173 5474
of the Revised Code, the person making the report shall make it 5475
to the entity specified in that section. 5476

(b) Except as provided in division (A)(4)(c) of this 5477
section, a cleric is not required to make a report pursuant to 5478
division (A)(4)(a) of this section concerning any communication 5479
the cleric receives from a penitent in a cleric-penitent 5480
relationship, if, in accordance with division (C) of section 5481
2317.02 of the Revised Code, the cleric could not testify with 5482
respect to that communication in a civil or criminal proceeding. 5483

(c) The penitent in a cleric-penitent relationship 5484
described in division (A)(4)(b) of this section is deemed to 5485
have waived any testimonial privilege under division (C) of 5486
section 2317.02 of the Revised Code with respect to any 5487
communication the cleric receives from the penitent in that 5488
cleric-penitent relationship, and the cleric shall make a report 5489
pursuant to division (A)(4)(a) of this section with respect to 5490
that communication, if all of the following apply: 5491

(i) The penitent, at the time of the communication, is 5492
~~either a child under eighteen years of age or is a mentally~~ 5493
~~retarded, developmentally disabled, or physically impaired~~ 5494
person under twenty-one years of age with a developmental 5495
disability or physical impairment. 5496

(ii) The cleric knows, or has reasonable cause to believe 5497
based on facts that would cause a reasonable person in a similar 5498
position to believe, as a result of the communication or any 5499
observations made during that communication, the penitent has 5500
suffered or faces a threat of suffering any physical or mental 5501
wound, injury, disability, or condition of a nature that 5502
reasonably indicates abuse or neglect of the penitent. 5503

(iii) The abuse or neglect does not arise out of the 5504
penitent's attempt to have an abortion performed upon a child 5505
under eighteen years of age or upon a ~~mentally retarded,~~ 5506
~~developmentally disabled, or physically impaired~~ person under 5507
twenty-one years of age with a developmental disability or 5508
physical impairment without the notification of her parents, 5509
guardian, or custodian in accordance with section 2151.85 of the 5510
Revised Code. 5511

(d) Divisions (A) (4) (a) and (c) of this section do not 5512
apply in a cleric-penitent relationship when the disclosure of 5513
any communication the cleric receives from the penitent is in 5514
violation of the sacred trust. 5515

(e) As used in divisions (A) (1) and (4) of this section, 5516
"cleric" and "sacred trust" have the same meanings as in section 5517
2317.02 of the Revised Code. 5518

(B) Anyone who knows, or has reasonable cause to suspect 5519
based on facts that would cause a reasonable person in similar 5520
circumstances to suspect, that a child under eighteen years of 5521
age, ~~or a mentally retarded, developmentally disabled, or~~ 5522
~~physically impaired~~ person under twenty-one years of age with a 5523
developmental disability or physical impairment, has suffered or 5524
faces a threat of suffering any physical or mental wound, 5525
injury, disability, or other condition of a nature that 5526
reasonably indicates abuse or neglect of the child may report or 5527
cause reports to be made of that knowledge or reasonable cause 5528
to suspect to the entity or persons specified in this division. 5529
Except as provided in section 5120.173 of the Revised Code, a 5530
person making a report or causing a report to be made under this 5531
division shall make it or cause it to be made to the public 5532
children services agency or to a municipal or county peace 5533

officer. In the circumstances described in section 5120.173 of 5534
the Revised Code, a person making a report or causing a report 5535
to be made under this division shall make it or cause it to be 5536
made to the entity specified in that section. 5537

(C) Any report made pursuant to division (A) or (B) of 5538
this section shall be made forthwith either by telephone or in 5539
person and shall be followed by a written report, if requested 5540
by the receiving agency or officer. The written report shall 5541
contain: 5542

(1) The names and addresses of the child and the child's 5543
parents or the person or persons having custody of the child, if 5544
known; 5545

(2) The child's age and the nature and extent of the 5546
child's injuries, abuse, or neglect that is known or reasonably 5547
suspected or believed, as applicable, to have occurred or of the 5548
threat of injury, abuse, or neglect that is known or reasonably 5549
suspected or believed, as applicable, to exist, including any 5550
evidence of previous injuries, abuse, or neglect; 5551

(3) Any other information that might be helpful in 5552
establishing the cause of the injury, abuse, or neglect that is 5553
known or reasonably suspected or believed, as applicable, to 5554
have occurred or of the threat of injury, abuse, or neglect that 5555
is known or reasonably suspected or believed, as applicable, to 5556
exist. 5557

Any person, who is required by division (A) of this 5558
section to report child abuse or child neglect that is known or 5559
reasonably suspected or believed to have occurred, may take or 5560
cause to be taken color photographs of areas of trauma visible 5561
on a child and, if medically indicated, cause to be performed 5562

radiological examinations of the child. 5563

(D) As used in this division, "children's advocacy center" 5564
and "sexual abuse of a child" have the same meanings as in 5565
section 2151.425 of the Revised Code. 5566

(1) When a municipal or county peace officer receives a 5567
report concerning the possible abuse or neglect of a child or 5568
the possible threat of abuse or neglect of a child, upon receipt 5569
of the report, the municipal or county peace officer who 5570
receives the report shall refer the report to the appropriate 5571
public children services agency. 5572

(2) When a public children services agency receives a 5573
report pursuant to this division or division (A) or (B) of this 5574
section, upon receipt of the report, the public children 5575
services agency shall do both of the following: 5576

(a) Comply with section 2151.422 of the Revised Code; 5577

(b) If the county served by the agency is also served by a 5578
children's advocacy center and the report alleges sexual abuse 5579
of a child or another type of abuse of a child that is specified 5580
in the memorandum of understanding that creates the center as 5581
being within the center's jurisdiction, comply regarding the 5582
report with the protocol and procedures for referrals and 5583
investigations, with the coordinating activities, and with the 5584
authority or responsibility for performing or providing 5585
functions, activities, and services stipulated in the 5586
interagency agreement entered into under section 2151.428 of the 5587
Revised Code relative to that center. 5588

(E) No township, municipal, or county peace officer shall 5589
remove a child about whom a report is made pursuant to this 5590
section from the child's parents, stepparents, or guardian or 5591

any other persons having custody of the child without 5592
consultation with the public children services agency, unless, 5593
in the judgment of the officer, and, if the report was made by 5594
physician, the physician, immediate removal is considered 5595
essential to protect the child from further abuse or neglect. 5596
The agency that must be consulted shall be the agency conducting 5597
the investigation of the report as determined pursuant to 5598
section 2151.422 of the Revised Code. 5599

(F) (1) Except as provided in section 2151.422 of the 5600
Revised Code or in an interagency agreement entered into under 5601
section 2151.428 of the Revised Code that applies to the 5602
particular report, the public children services agency shall 5603
investigate, within twenty-four hours, each report of child 5604
abuse or child neglect that is known or reasonably suspected or 5605
believed to have occurred and of a threat of child abuse or 5606
child neglect that is known or reasonably suspected or believed 5607
to exist that is referred to it under this section to determine 5608
the circumstances surrounding the injuries, abuse, or neglect or 5609
the threat of injury, abuse, or neglect, the cause of the 5610
injuries, abuse, neglect, or threat, and the person or persons 5611
responsible. The investigation shall be made in cooperation with 5612
the law enforcement agency and in accordance with the memorandum 5613
of understanding prepared under division (J) of this section. A 5614
representative of the public children services agency shall, at 5615
the time of initial contact with the person subject to the 5616
investigation, inform the person of the specific complaints or 5617
allegations made against the person. The information shall be 5618
given in a manner that is consistent with division (H) (1) of 5619
this section and protects the rights of the person making the 5620
report under this section. 5621

A failure to make the investigation in accordance with the 5622

memorandum is not grounds for, and shall not result in, the 5623
dismissal of any charges or complaint arising from the report or 5624
the suppression of any evidence obtained as a result of the 5625
report and does not give, and shall not be construed as giving, 5626
any rights or any grounds for appeal or post-conviction relief 5627
to any person. The public children services agency shall report 5628
each case to the uniform statewide automated child welfare 5629
information system that the department of job and family 5630
services shall maintain in accordance with section 5101.13 of 5631
the Revised Code. The public children services agency shall 5632
submit a report of its investigation, in writing, to the law 5633
enforcement agency. 5634

(2) The public children services agency shall make any 5635
recommendations to the county prosecuting attorney or city 5636
director of law that it considers necessary to protect any 5637
children that are brought to its attention. 5638

(G) (1) (a) Except as provided in division (H) (3) of this 5639
section, anyone or any hospital, institution, school, health 5640
department, or agency participating in the making of reports 5641
under division (A) of this section, anyone or any hospital, 5642
institution, school, health department, or agency participating 5643
in good faith in the making of reports under division (B) of 5644
this section, and anyone participating in good faith in a 5645
judicial proceeding resulting from the reports, shall be immune 5646
from any civil or criminal liability for injury, death, or loss 5647
to person or property that otherwise might be incurred or 5648
imposed as a result of the making of the reports or the 5649
participation in the judicial proceeding. 5650

(b) Notwithstanding section 4731.22 of the Revised Code, 5651
the physician-patient privilege shall not be a ground for 5652

excluding evidence regarding a child's injuries, abuse, or 5653
neglect, or the cause of the injuries, abuse, or neglect in any 5654
judicial proceeding resulting from a report submitted pursuant 5655
to this section. 5656

(2) In any civil or criminal action or proceeding in which 5657
it is alleged and proved that participation in the making of a 5658
report under this section was not in good faith or participation 5659
in a judicial proceeding resulting from a report made under this 5660
section was not in good faith, the court shall award the 5661
prevailing party reasonable attorney's fees and costs and, if a 5662
civil action or proceeding is voluntarily dismissed, may award 5663
reasonable attorney's fees and costs to the party against whom 5664
the civil action or proceeding is brought. 5665

(H) (1) Except as provided in divisions (H) (4) and (N) of 5666
this section, a report made under this section is confidential. 5667
The information provided in a report made pursuant to this 5668
section and the name of the person who made the report shall not 5669
be released for use, and shall not be used, as evidence in any 5670
civil action or proceeding brought against the person who made 5671
the report. Nothing in this division shall preclude the use of 5672
reports of other incidents of known or suspected abuse or 5673
neglect in a civil action or proceeding brought pursuant to 5674
division (M) of this section against a person who is alleged to 5675
have violated division (A) (1) of this section, provided that any 5676
information in a report that would identify the child who is the 5677
subject of the report or the maker of the report, if the maker 5678
of the report is not the defendant or an agent or employee of 5679
the defendant, has been redacted. In a criminal proceeding, the 5680
report is admissible in evidence in accordance with the Rules of 5681
Evidence and is subject to discovery in accordance with the 5682
Rules of Criminal Procedure. 5683

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section. 5684
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(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. 5687
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(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 or the director of health pursuant to guidelines established under section 3701.70 of the Revised Code, 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 or to the director. On the request of the review board or director, the agency or peace officer may, at its discretion, make the report available to the review board or director. 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. 5692
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(5) A public children services agency shall advise a 5715
person alleged to have inflicted abuse or neglect on a child who 5716
is the subject of a report made pursuant to this section, 5717
including a report alleging sexual abuse of a child or another 5718
type of abuse of a child referred to a children's advocacy 5719
center pursuant to an interagency agreement entered into under 5720
section 2151.428 of the Revised Code, in writing of the 5721
disposition of the investigation. The agency shall not provide 5722
to the person any information that identifies the person who 5723
made the report, statements of witnesses, or police or other 5724
investigative reports. 5725

(I) Any report that is required by this section, other 5726
than a report that is made to the state highway patrol as 5727
described in section 5120.173 of the Revised Code, shall result 5728
in protective services and emergency supportive services being 5729
made available by the public children services agency on behalf 5730
of the children about whom the report is made, in an effort to 5731
prevent further neglect or abuse, to enhance their welfare, and, 5732
whenever possible, to preserve the family unit intact. The 5733
agency required to provide the services shall be the agency 5734
conducting the investigation of the report pursuant to section 5735
2151.422 of the Revised Code. 5736

(J) (1) Each public children services agency shall prepare 5737
a memorandum of understanding that is signed by all of the 5738
following: 5739

(a) If there is only one juvenile judge in the county, the 5740
juvenile judge of the county or the juvenile judge's 5741
representative; 5742

(b) If there is more than one juvenile judge in the 5743
county, a juvenile judge or the juvenile judges' representative 5744

selected by the juvenile judges or, if they are unable to do so 5745
for any reason, the juvenile judge who is senior in point of 5746
service or the senior juvenile judge's representative; 5747

(c) The county peace officer; 5748

(d) All chief municipal peace officers within the county; 5749

(e) Other law enforcement officers handling child abuse 5750
and neglect cases in the county; 5751

(f) The prosecuting attorney of the county; 5752

(g) If the public children services agency is not the 5753
county department of job and family services, the county 5754
department of job and family services; 5755

(h) The county humane society; 5756

(i) If the public children services agency participated in 5757
the execution of a memorandum of understanding under section 5758
2151.426 of the Revised Code establishing a children's advocacy 5759
center, each participating member of the children's advocacy 5760
center established by the memorandum. 5761

(2) A memorandum of understanding shall set forth the 5762
normal operating procedure to be employed by all concerned 5763
officials in the execution of their respective responsibilities 5764
under this section and division (C) of section 2919.21, division 5765
(B) (1) of section 2919.22, division (B) of section 2919.23, and 5766
section 2919.24 of the Revised Code and shall have as two of its 5767
primary goals the elimination of all unnecessary interviews of 5768
children who are the subject of reports made pursuant to 5769
division (A) or (B) of this section and, when feasible, 5770
providing for only one interview of a child who is the subject 5771
of any report made pursuant to division (A) or (B) of this 5772

section. A failure to follow the procedure set forth in the 5773
memorandum by the concerned officials is not grounds for, and 5774
shall not result in, the dismissal of any charges or complaint 5775
arising from any reported case of abuse or neglect or the 5776
suppression of any evidence obtained as a result of any reported 5777
child abuse or child neglect and does not give, and shall not be 5778
construed as giving, any rights or any grounds for appeal or 5779
post-conviction relief to any person. 5780

(3) A memorandum of understanding shall include all of the 5781
following: 5782

(a) The roles and responsibilities for handling emergency 5783
and nonemergency cases of abuse and neglect; 5784

(b) Standards and procedures to be used in handling and 5785
coordinating investigations of reported cases of child abuse and 5786
reported cases of child neglect, methods to be used in 5787
interviewing the child who is the subject of the report and who 5788
allegedly was abused or neglected, and standards and procedures 5789
addressing the categories of persons who may interview the child 5790
who is the subject of the report and who allegedly was abused or 5791
neglected. 5792

(4) If a public children services agency participated in 5793
the execution of a memorandum of understanding under section 5794
2151.426 of the Revised Code establishing a children's advocacy 5795
center, the agency shall incorporate the contents of that 5796
memorandum in the memorandum prepared pursuant to this section. 5797

(5) The clerk of the court of common pleas in the county 5798
may sign the memorandum of understanding prepared under division 5799
(J) (1) of this section. If the clerk signs the memorandum of 5800
understanding, the clerk shall execute all relevant 5801

responsibilities as required of officials specified in the 5802
memorandum. 5803

(K) (1) Except as provided in division (K) (4) of this 5804
section, a person who is required to make a report pursuant to 5805
division (A) of this section may make a reasonable number of 5806
requests of the public children services agency that receives or 5807
is referred the report, or of the children's advocacy center 5808
that is referred the report if the report is referred to a 5809
children's advocacy center pursuant to an interagency agreement 5810
entered into under section 2151.428 of the Revised Code, to be 5811
provided with the following information: 5812

(a) Whether the agency or center has initiated an 5813
investigation of the report; 5814

(b) Whether the agency or center is continuing to 5815
investigate the report; 5816

(c) Whether the agency or center is otherwise involved 5817
with the child who is the subject of the report; 5818

(d) The general status of the health and safety of the 5819
child who is the subject of the report; 5820

(e) Whether the report has resulted in the filing of a 5821
complaint in juvenile court or of criminal charges in another 5822
court. 5823

(2) A person may request the information specified in 5824
division (K) (1) of this section only if, at the time the report 5825
is made, the person's name, address, and telephone number are 5826
provided to the person who receives the report. 5827

When a municipal or county peace officer or employee of a 5828
public children services agency receives a report pursuant to 5829

division (A) or (B) of this section the recipient of the report 5830
shall inform the person of the right to request the information 5831
described in division (K) (1) of this section. The recipient of 5832
the report shall include in the initial child abuse or child 5833
neglect report that the person making the report was so informed 5834
and, if provided at the time of the making of the report, shall 5835
include the person's name, address, and telephone number in the 5836
report. 5837

Each request is subject to verification of the identity of 5838
the person making the report. If that person's identity is 5839
verified, the agency shall provide the person with the 5840
information described in division (K) (1) of this section a 5841
reasonable number of times, except that the agency shall not 5842
disclose any confidential information regarding the child who is 5843
the subject of the report other than the information described 5844
in those divisions. 5845

(3) A request made pursuant to division (K) (1) of this 5846
section is not a substitute for any report required to be made 5847
pursuant to division (A) of this section. 5848

(4) If an agency other than the agency that received or 5849
was referred the report is conducting the investigation of the 5850
report pursuant to section 2151.422 of the Revised Code, the 5851
agency conducting the investigation shall comply with the 5852
requirements of division (K) of this section. 5853

(L) The director of job and family services shall adopt 5854
rules in accordance with Chapter 119. of the Revised Code to 5855
implement this section. The department of job and family 5856
services may enter into a plan of cooperation with any other 5857
governmental entity to aid in ensuring that children are 5858
protected from abuse and neglect. The department shall make 5859

recommendations to the attorney general that the department 5860
determines are necessary to protect children from child abuse 5861
and child neglect. 5862

(M) Whoever violates division (A) of this section is 5863
liable for compensatory and exemplary damages to the child who 5864
would have been the subject of the report that was not made. A 5865
person who brings a civil action or proceeding pursuant to this 5866
division against a person who is alleged to have violated 5867
division (A) (1) of this section may use in the action or 5868
proceeding reports of other incidents of known or suspected 5869
abuse or neglect, provided that any information in a report that 5870
would identify the child who is the subject of the report or the 5871
maker of the report, if the maker is not the defendant or an 5872
agent or employee of the defendant, has been redacted. 5873

(N) (1) As used in this division: 5874

(a) "Out-of-home care" includes a nonchartered nonpublic 5875
school if the alleged child abuse or child neglect, or alleged 5876
threat of child abuse or child neglect, described in a report 5877
received by a public children services agency allegedly occurred 5878
in or involved the nonchartered nonpublic school and the alleged 5879
perpetrator named in the report holds a certificate, permit, or 5880
license issued by the state board of education under section 5881
3301.071 or Chapter 3319. of the Revised Code. 5882

(b) "Administrator, director, or other chief 5883
administrative officer" means the superintendent of the school 5884
district if the out-of-home care entity subject to a report made 5885
pursuant to this section is a school operated by the district. 5886

(2) No later than the end of the day following the day on 5887
which a public children services agency receives a report of 5888

alleged child abuse or child neglect, or a report of an alleged 5889
threat of child abuse or child neglect, that allegedly occurred 5890
in or involved an out-of-home care entity, the agency shall 5891
provide written notice of the allegations contained in and the 5892
person named as the alleged perpetrator in the report to the 5893
administrator, director, or other chief administrative officer 5894
of the out-of-home care entity that is the subject of the report 5895
unless the administrator, director, or other chief 5896
administrative officer is named as an alleged perpetrator in the 5897
report. If the administrator, director, or other chief 5898
administrative officer of an out-of-home care entity is named as 5899
an alleged perpetrator in a report of alleged child abuse or 5900
child neglect, or a report of an alleged threat of child abuse 5901
or child neglect, that allegedly occurred in or involved the 5902
out-of-home care entity, the agency shall provide the written 5903
notice to the owner or governing board of the out-of-home care 5904
entity that is the subject of the report. The agency shall not 5905
provide witness statements or police or other investigative 5906
reports. 5907

(3) No later than three days after the day on which a 5908
public children services agency that conducted the investigation 5909
as determined pursuant to section 2151.422 of the Revised Code 5910
makes a disposition of an investigation involving a report of 5911
alleged child abuse or child neglect, or a report of an alleged 5912
threat of child abuse or child neglect, that allegedly occurred 5913
in or involved an out-of-home care entity, the agency shall send 5914
written notice of the disposition of the investigation to the 5915
administrator, director, or other chief administrative officer 5916
and the owner or governing board of the out-of-home care entity. 5917
The agency shall not provide witness statements or police or 5918
other investigative reports. 5919

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

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

(A) "Children's advocacy center" means a center operated by participating entities within a county or two or more contiguous counties to perform functions and activities and provide services, in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code, regarding reports received under section 2151.421 of the Revised Code of alleged 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 and regarding the children who are the subjects of the report.

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

Sec. 2151.651. The board of county commissioners of a county which, either separately or as part of a district, is planning to establish a school, forestry camp, or other facility under section 2151.65 of the Revised Code, to be used exclusively for the rehabilitation of children between the ages of twelve to eighteen years, other than psychotic children or mentally retarded children with intellectual disabilities, who

are designated delinquent children, as defined in section 5950
2152.02 of the Revised Code, or unruly children, as defined in 5951
section 2151.022 of the Revised Code, by order of a juvenile 5952
court, may make application to the department of youth services, 5953
created under section 5139.01 of the Revised Code, for financial 5954
assistance in defraying the county's share of the cost of 5955
acquisition or construction of such school, camp, or other 5956
facility, as provided in section 5139.27 of the Revised Code. 5957
Such application shall be made on forms prescribed and furnished 5958
by the department. 5959

Sec. 2152.02. As used in this chapter: 5960

(A) "Act charged" means the act that is identified in a 5961
complaint, indictment, or information alleging that a child is a 5962
delinquent child. 5963

(B) "Admitted to a department of youth services facility" 5964
includes admission to a facility operated, or contracted for, by 5965
the department and admission to a comparable facility outside 5966
this state by another state or the United States. 5967

(C) (1) "Child" means a person who is under eighteen years 5968
of age, except as otherwise provided in divisions (C) (2) to (8) 5969
of this section. 5970

(2) Subject to division (C) (3) of this section, any person 5971
who violates a federal or state law or a municipal ordinance 5972
prior to attaining eighteen years of age shall be deemed a 5973
"child" irrespective of that person's age at the time the 5974
complaint with respect to that violation is filed or the hearing 5975
on the complaint is held. 5976

(3) Any person who, while under eighteen years of age, 5977
commits an act that would be a felony if committed by an adult 5978

and who is not taken into custody or apprehended for that act 5979
until after the person attains twenty-one years of age is not a 5980
child in relation to that act. 5981

(4) Except as otherwise provided in divisions (C) (5) and 5982
(7) of this section, any person whose case is transferred for 5983
criminal prosecution pursuant to section 2152.12 of the Revised 5984
Code shall be deemed after the transfer not to be a child in the 5985
transferred case. 5986

(5) Any person whose case is transferred for criminal 5987
prosecution pursuant to section 2152.12 of the Revised Code and 5988
who subsequently is convicted of or pleads guilty to a felony in 5989
that case, unless a serious youthful offender dispositional 5990
sentence is imposed on the child for that offense under division 5991
(B) (2) or (3) of section 2152.121 of the Revised Code and the 5992
adult portion of that sentence is not invoked pursuant to 5993
section 2152.14 of the Revised Code, and any person who is 5994
adjudicated a delinquent child for the commission of an act, who 5995
has a serious youthful offender dispositional sentence imposed 5996
for the act pursuant to section 2152.13 of the Revised Code, and 5997
whose adult portion of the dispositional sentence is invoked 5998
pursuant to section 2152.14 of the Revised Code, shall be deemed 5999
after the conviction, plea, or invocation not to be a child in 6000
any case in which a complaint is filed against the person. 6001

(6) The juvenile court has jurisdiction over a person who 6002
is adjudicated a delinquent child or juvenile traffic offender 6003
prior to attaining eighteen years of age until the person 6004
attains twenty-one years of age, and, for purposes of that 6005
jurisdiction related to that adjudication, except as otherwise 6006
provided in this division, a person who is so adjudicated a 6007
delinquent child or juvenile traffic offender shall be deemed a 6008

"child" until the person attains twenty-one years of age. If a person is so adjudicated a delinquent child or juvenile traffic offender and the court makes a disposition of the person under this chapter, at any time after the person attains twenty-one years of age, the places at which the person may be held under that disposition are not limited to places authorized under this chapter solely for confinement of children, and the person may be confined under that disposition, in accordance with division (F) (2) of section 2152.26 of the Revised Code, in places other than those authorized under this chapter solely for confinement of children.

(7) The juvenile court has jurisdiction over any person whose case is transferred for criminal prosecution solely for the purpose of detaining the person as authorized in division (F) (1) or (4) of section 2152.26 of the Revised Code unless the person is convicted of or pleads guilty to a felony in the adult court.

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

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

(E) "Community corrections facility," "public safety beds," "release authority," and "supervised release" have the

same meanings as in section 5139.01 of the Revised Code. 6039

(F) "Delinquent child" includes any of the following: 6040

(1) Any child, except a juvenile traffic offender, who 6041
violates any law of this state or the United States, or any 6042
ordinance of a political subdivision of the state, that would be 6043
an offense if committed by an adult; 6044

(2) Any child who violates any lawful order of the court 6045
made under this chapter or under Chapter 2151. of the Revised 6046
Code other than an order issued under section 2151.87 of the 6047
Revised Code; 6048

(3) Any child who violates division (C) of section 6049
2907.39, division (A) of section 2923.211, or division (C) (1) or 6050
(D) of section 2925.55 of the Revised Code; 6051

(4) Any child who is a habitual truant and who previously 6052
has been adjudicated an unruly child for being a habitual 6053
truant; 6054

(5) Any child who is a chronic truant. 6055

(G) "Discretionary serious youthful offender" means a 6056
person who is eligible for a discretionary SYO and who is not 6057
transferred to adult court under a mandatory or discretionary 6058
transfer. 6059

(H) "Discretionary SYO" means a case in which the juvenile 6060
court, in the juvenile court's discretion, may impose a serious 6061
youthful offender disposition under section 2152.13 of the 6062
Revised Code. 6063

(I) "Discretionary transfer" means that the juvenile court 6064
has discretion to transfer a case for criminal prosecution under 6065
division (B) of section 2152.12 of the Revised Code. 6066

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

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

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

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

(N) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code.

(O) "Juvenile traffic offender" means any child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or any political subdivision of this state, other than a resolution, ordinance, or regulation of a political subdivision of this state the violation of which is required to be handled by a parking violations bureau or a joint parking violations bureau pursuant to Chapter 4521. of the Revised Code.

~~(O)~~ (P) A "legitimate excuse for absence from the public school the child is supposed to attend" has the same meaning as

in section 2151.011 of the Revised Code. 6096

~~(P)~~(Q) "Mandatory serious youthful offender" means a 6097
person who is eligible for a mandatory SYO and who is not 6098
transferred to adult court under a mandatory or discretionary 6099
transfer and also includes, for purposes of imposition of a 6100
mandatory serious youthful dispositional sentence under section 6101
2152.13 of the Revised Code, a person upon whom a juvenile court 6102
is required to impose such a sentence under division (B) (3) of 6103
section 2152.121 of the Revised Code. 6104

~~(Q)~~(R) "Mandatory SYO" means a case in which the juvenile 6105
court is required to impose a mandatory serious youthful 6106
offender disposition under section 2152.13 of the Revised Code. 6107

~~(R)~~(S) "Mandatory transfer" means that a case is required 6108
to be transferred for criminal prosecution under division (A) of 6109
section 2152.12 of the Revised Code. 6110

~~(S)~~(T) "Mental illness" has the same meaning as in 6111
section 5122.01 of the Revised Code. 6112

~~(T)~~ "Mentally retarded person" has the same meaning as in 6113
~~section 5123.01 of the Revised Code.~~ 6114

(U) "Monitored time" and "repeat violent offender" have 6115
the same meanings as in section 2929.01 of the Revised Code. 6116

(V) "Of compulsory school age" has the same meaning as in 6117
section 3321.01 of the Revised Code. 6118

(W) "Public record" has the same meaning as in section 6119
149.43 of the Revised Code. 6120

(X) "Serious youthful offender" means a person who is 6121
eligible for a mandatory SYO or discretionary SYO but who is not 6122
transferred to adult court under a mandatory or discretionary 6123

transfer and also includes, for purposes of imposition of a 6124
mandatory serious youthful dispositional sentence under section 6125
2152.13 of the Revised Code, a person upon whom a juvenile court 6126
is required to impose such a sentence under division (B) (3) of 6127
section 2152.121 of the Revised Code. 6128

(Y) "Sexually oriented offense," "juvenile offender 6129
registrant," "child-victim oriented offense," "tier I sex 6130
offender/child-victim offender," "tier II sex offender/child- 6131
victim offender," "tier III sex offender/child-victim offender," 6132
and "public registry-qualified juvenile offender registrant" 6133
have the same meanings as in section 2950.01 of the Revised 6134
Code. 6135

(Z) "Traditional juvenile" means a case that is not 6136
transferred to adult court under a mandatory or discretionary 6137
transfer, that is eligible for a disposition under sections 6138
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 6139
that is not eligible for a disposition under section 2152.13 of 6140
the Revised Code. 6141

(AA) "Transfer" means the transfer for criminal 6142
prosecution of a case involving the alleged commission by a 6143
child of an act that would be an offense if committed by an 6144
adult from the juvenile court to the appropriate court that has 6145
jurisdiction of the offense. 6146

(BB) "Category one offense" means any of the following: 6147

(1) A violation of section 2903.01 or 2903.02 of the 6148
Revised Code; 6149

(2) A violation of section 2923.02 of the Revised Code 6150
involving an attempt to commit aggravated murder or murder. 6151

(CC) "Category two offense" means any of the following: 6152

(1) A violation of section 2903.03, 2905.01, 2907.02, 6153
2909.02, 2911.01, or 2911.11 of the Revised Code; 6154

(2) A violation of section 2903.04 of the Revised Code 6155
that is a felony of the first degree; 6156

(3) A violation of section 2907.12 of the Revised Code as 6157
it existed prior to September 3, 1996. 6158

(DD) "Non-economic loss" means nonpecuniary harm suffered 6159
by a victim of a delinquent act or juvenile traffic offense as a 6160
result of or related to the delinquent act or juvenile traffic 6161
offense, including, but not limited to, pain and suffering; loss 6162
of society, consortium, companionship, care, assistance, 6163
attention, protection, advice, guidance, counsel, instruction, 6164
training, or education; mental anguish; and any other intangible 6165
loss. 6166

Sec. 2152.12. (A) (1) (a) After a complaint has been filed 6167
alleging that a child is a delinquent child for committing an 6168
act that would be aggravated murder, murder, attempted 6169
aggravated murder, or attempted murder if committed by an adult, 6170
the juvenile court at a hearing shall transfer the case if 6171
either of the following applies: 6172

(i) The child was sixteen or seventeen years of age at the 6173
time of the act charged and there is probable cause to believe 6174
that the child committed the act charged. 6175

(ii) The child was fourteen or fifteen years of age at the 6176
time of the act charged, section 2152.10 of the Revised Code 6177
provides that the child is eligible for mandatory transfer, and 6178
there is probable cause to believe that the child committed the 6179
act charged. 6180

(b) After a complaint has been filed alleging that a child 6181

is a delinquent child by reason of committing a category two 6182
offense, the juvenile court at a hearing shall transfer the case 6183
if the child was sixteen or seventeen years of age at the time 6184
of the act charged and either of the following applies: 6185

(i) Division (A) (2) (a) of section 2152.10 of the Revised 6186
Code requires the mandatory transfer of the case, and there is 6187
probable cause to believe that the child committed the act 6188
charged. 6189

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 6190
Code requires the mandatory transfer of the case, and there is 6191
probable cause to believe that the child committed the act 6192
charged. 6193

(2) The juvenile court also shall transfer a case in the 6194
circumstances described in division (C) (5) of section 2152.02 of 6195
the Revised Code or if either of the following applies: 6196

(a) A complaint is filed against a child who is eligible 6197
for a discretionary transfer under section 2152.10 of the 6198
Revised Code and who previously was convicted of or pleaded 6199
guilty to a felony in a case that was transferred to a criminal 6200
court. 6201

(b) A complaint is filed against a child who is domiciled 6202
in another state alleging that the child is a delinquent child 6203
for committing an act that would be a felony if committed by an 6204
adult, and, if the act charged had been committed in that other 6205
state, the child would be subject to criminal prosecution as an 6206
adult under the law of that other state without the need for a 6207
transfer of jurisdiction from a juvenile, family, or similar 6208
noncriminal court to a criminal court. 6209

(3) If a complaint is filed against a child alleging that 6210

the child is a delinquent child and the case is transferred 6211
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 6212
section and if the child subsequently is convicted of or pleads 6213
guilty to an offense in that case, the sentence to be imposed or 6214
disposition to be made of the child shall be determined in 6215
accordance with section 2152.121 of the Revised Code. 6216

(B) Except as provided in division (A) of this section, 6217
after a complaint has been filed alleging that a child is a 6218
delinquent child for committing an act that would be a felony if 6219
committed by an adult, the juvenile court at a hearing may 6220
transfer the case if the court finds all of the following: 6221

(1) The child was fourteen years of age or older at the 6222
time of the act charged. 6223

(2) There is probable cause to believe that the child 6224
committed the act charged. 6225

(3) The child is not amenable to care or rehabilitation 6226
within the juvenile system, and the safety of the community may 6227
require that the child be subject to adult sanctions. In making 6228
its decision under this division, the court shall consider 6229
whether the applicable factors under division (D) of this 6230
section indicating that the case should be transferred outweigh 6231
the applicable factors under division (E) of this section 6232
indicating that the case should not be transferred. The record 6233
shall indicate the specific factors that were applicable and 6234
that the court weighed. 6235

(C) Before considering a transfer under division (B) of 6236
this section, the juvenile court shall order an investigation 6237
into the child's social history, education, family situation, 6238
and any other factor bearing on whether the child is amenable to 6239

juvenile rehabilitation, including a mental examination of the 6240
child by a public or private agency or a person qualified to 6241
make the examination. The investigation shall be completed and a 6242
report on the investigation shall be submitted to the court as 6243
soon as possible but not more than forty-five calendar days 6244
after the court orders the investigation. The court may grant 6245
one or more extensions for a reasonable length of time. The 6246
child may waive the examination required by this division if the 6247
court finds that the waiver is competently and intelligently 6248
made. Refusal to submit to a mental examination by the child 6249
constitutes a waiver of the examination. 6250

(D) In considering whether to transfer a child under 6251
division (B) of this section, the juvenile court shall consider 6252
the following relevant factors, and any other relevant factors, 6253
in favor of a transfer under that division: 6254

(1) The victim of the act charged suffered physical or 6255
psychological harm, or serious economic harm, as a result of the 6256
alleged act. 6257

(2) The physical or psychological harm suffered by the 6258
victim due to the alleged act of the child was exacerbated 6259
because of the physical or psychological vulnerability or the 6260
age of the victim. 6261

(3) The child's relationship with the victim facilitated 6262
the act charged. 6263

(4) The child allegedly committed the act charged for hire 6264
or as a part of a gang or other organized criminal activity. 6265

(5) The child had a firearm on or about the child's person 6266
or under the child's control at the time of the act charged, the 6267
act charged is not a violation of section 2923.12 of the Revised 6268

Code, and the child, during the commission of the act charged, 6269
allegedly used or displayed the firearm, brandished the firearm, 6270
or indicated that the child possessed a firearm. 6271

(6) At the time of the act charged, the child was awaiting 6272
adjudication or disposition as a delinquent child, was under a 6273
community control sanction, or was on parole for a prior 6274
delinquent child adjudication or conviction. 6275

(7) The results of any previous juvenile sanctions and 6276
programs indicate that rehabilitation of the child will not 6277
occur in the juvenile system. 6278

(8) The child is emotionally, physically, or 6279
psychologically mature enough for the transfer. 6280

(9) There is not sufficient time to rehabilitate the child 6281
within the juvenile system. 6282

(E) In considering whether to transfer a child under 6283
division (B) of this section, the juvenile court shall consider 6284
the following relevant factors, and any other relevant factors, 6285
against a transfer under that division: 6286

(1) The victim induced or facilitated the act charged. 6287

(2) The child acted under provocation in allegedly 6288
committing the act charged. 6289

(3) The child was not the principal actor in the act 6290
charged, or, at the time of the act charged, the child was under 6291
the negative influence or coercion of another person. 6292

(4) The child did not cause physical harm to any person or 6293
property, or have reasonable cause to believe that harm of that 6294
nature would occur, in allegedly committing the act charged. 6295

(5) The child previously has not been adjudicated a delinquent child. 6296
6297

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer. 6298
6299

(7) The child has a mental illness or ~~is a mentally retarded person~~ intellectual disability. 6300
6301

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety. 6302
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(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred ~~for~~, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner: 6306
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(1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred. 6316
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(2) If the court determines that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, the court shall transfer the case or cases in accordance with that division. After the transfer pursuant to division (A) of this section, the 6320
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court shall decide, in accordance with division (B) of this 6325
section, whether to grant the motion requesting that the case or 6326
cases involving one or more of the acts charged be transferred 6327
pursuant to that division. Notwithstanding division (B) of this 6328
section, prior to transferring a case pursuant to division (A) 6329
of this section, the court is not required to consider any 6330
factor specified in division (D) or (E) of this section or to 6331
conduct an investigation under division (C) of this section. 6332

(3) If the court determines that division (A) of this 6333
section does not require that the case or cases involving one or 6334
more of the acts charged be transferred, the court shall decide 6335
in accordance with division (B) of this section whether to grant 6336
the motion requesting that the case or cases involving one or 6337
more of the acts charged be transferred pursuant to that 6338
division. 6339

(4) No report on an investigation conducted pursuant to 6340
division (C) of this section shall include details of the 6341
alleged offense as reported by the child. 6342

(G) The court shall give notice in writing of the time, 6343
place, and purpose of any hearing held pursuant to division (A) 6344
or (B) of this section to the child's parents, guardian, or 6345
other custodian and to the child's counsel at least three days 6346
prior to the hearing. 6347

(H) No person, either before or after reaching eighteen 6348
years of age, shall be prosecuted as an adult for an offense 6349
committed prior to becoming eighteen years of age, unless the 6350
person has been transferred as provided in division (A) or (B) 6351
of this section or unless division (J) of this section applies. 6352
Any prosecution that is had in a criminal court on the mistaken 6353
belief that the person who is the subject of the case was 6354

eighteen years of age or older at the time of the commission of 6355
the offense shall be deemed a nullity, and the person shall not 6356
be considered to have been in jeopardy on the offense. 6357

(I) Upon the transfer of a case under division (A) or (B) 6358
of this section, the juvenile court shall state the reasons for 6359
the transfer on the record, and shall order the child to enter 6360
into a recognizance with good and sufficient surety for the 6361
child's appearance before the appropriate court for any 6362
disposition that the court is authorized to make for a similar 6363
act committed by an adult. The transfer abates the jurisdiction 6364
of the juvenile court with respect to the delinquent acts 6365
alleged in the complaint, and, upon the transfer, all further 6366
proceedings pertaining to the act charged shall be discontinued 6367
in the juvenile court, and the case then shall be within the 6368
jurisdiction of the court to which it is transferred as 6369
described in division (H) of section 2151.23 of the Revised 6370
Code. 6371

(J) If a person under eighteen years of age allegedly 6372
commits an act that would be a felony if committed by an adult 6373
and if the person is not taken into custody or apprehended for 6374
that act until after the person attains twenty-one years of age, 6375
the juvenile court does not have jurisdiction to hear or 6376
determine any portion of the case charging the person with 6377
committing that act. In those circumstances, divisions (A) and 6378
(B) of this section do not apply regarding the act, and the case 6379
charging the person with committing the act shall be a criminal 6380
prosecution commenced and heard in the appropriate court having 6381
jurisdiction of the offense as if the person had been eighteen 6382
years of age or older when the person committed the act. All 6383
proceedings pertaining to the act shall be within the 6384
jurisdiction of the court having jurisdiction of the offense, 6385

and that court has all the authority and duties in the case as 6386
it has in other criminal cases in that court. 6387

Sec. 2152.14. (A) (1) The director of youth services may 6388
request the prosecuting attorney of the county in which is 6389
located the juvenile court that imposed a serious youthful 6390
offender dispositional sentence upon a person under section 6391
2152.121 or 2152.13 of the Revised Code to file a motion with 6392
that juvenile court to invoke the adult portion of the 6393
dispositional sentence if all of the following apply to the 6394
person: 6395

(a) The person is at least fourteen years of age. 6396

(b) The person is in the institutional custody, or an 6397
escapee from the custody, of the department of youth services. 6398

(c) The person is serving the juvenile portion of the 6399
serious youthful offender dispositional sentence. 6400

(2) The motion shall state that there is reasonable cause 6401
to believe that either of the following misconduct has occurred 6402
and shall state that at least one incident of misconduct of that 6403
nature occurred after the person reached fourteen years of age: 6404

(a) The person committed an act that is a violation of the 6405
rules of the institution and that could be charged as any felony 6406
or as a first degree misdemeanor offense of violence if 6407
committed by an adult. 6408

(b) The person has engaged in conduct that creates a 6409
substantial risk to the safety or security of the institution, 6410
the community, or the victim. 6411

(B) If a person is at least fourteen years of age, is 6412
serving the juvenile portion of a serious youthful offender 6413

dispositional sentence imposed under section 2152.121 or 2152.13 6414
of the Revised Code, and is on parole or aftercare from a 6415
department of youth services facility, or on community control, 6416
the director of youth services, the juvenile court that imposed 6417
the serious youthful offender dispositional sentence on the 6418
person, or the probation department supervising the person may 6419
request the prosecuting attorney of the county in which is 6420
located the juvenile court to file a motion with the juvenile 6421
court to invoke the adult portion of the dispositional sentence. 6422
The prosecuting attorney may file a motion to invoke the adult 6423
portion of the dispositional sentence even if no request is 6424
made. The motion shall state that there is reasonable cause to 6425
believe that either of the following occurred and shall state 6426
that at least one incident of misconduct of that nature occurred 6427
after the person reached fourteen years of age: 6428

(1) The person committed an act that is a violation of the 6429
conditions of supervision and that could be charged as any 6430
felony or as a first degree misdemeanor offense of violence if 6431
committed by an adult. 6432

(2) The person has engaged in conduct that creates a 6433
substantial risk to the safety or security of the community or 6434
of the victim. 6435

(C) If the prosecuting attorney declines a request to file 6436
a motion that was made by the department of youth services or 6437
the supervising probation department under division (A) or (B) 6438
of this section or fails to act on a request made under either 6439
division by the department within a reasonable time, the 6440
department of youth services or the supervising probation 6441
department may file a motion of the type described in division 6442
(A) or (B) of this section with the juvenile court to invoke the 6443

adult portion of the serious youthful offender dispositional 6444
sentence. If the prosecuting attorney declines a request to file 6445
a motion that was made by the juvenile court under division (B) 6446
of this section or fails to act on a request from the court 6447
under that division within a reasonable time, the juvenile court 6448
may hold the hearing described in division (D) of this section 6449
on its own motion. 6450

(D) Upon the filing of a motion described in division (A), 6451
(B), or (C) of this section, the juvenile court may hold a 6452
hearing to determine whether to invoke the adult portion of a 6453
person's serious juvenile offender dispositional sentence. The 6454
juvenile court shall not invoke the adult portion of the 6455
dispositional sentence without a hearing. At the hearing the 6456
person who is the subject of the serious youthful offender 6457
disposition has the right to be present, to receive notice of 6458
the grounds upon which the adult sentence portion is sought to 6459
be invoked, to be represented by counsel including counsel 6460
appointed under Juvenile Rule 4(A), to be advised on the 6461
procedures and protections set forth in the Juvenile Rules, and 6462
to present evidence on the person's own behalf, including 6463
evidence that the person has a mental illness or ~~is a mentally-~~ 6464
~~retarded person~~intellectual disability. The person may not waive 6465
the right to counsel. The hearing shall be open to the public. 6466
If the person presents evidence that the person has a mental 6467
illness or ~~is a mentally retarded person~~ intellectual 6468
disability, the juvenile court shall consider that evidence in 6469
determining whether to invoke the adult portion of the serious 6470
youthful offender dispositional sentence. 6471

(E) (1) The juvenile court may invoke the adult portion of 6472
a person's serious youthful offender dispositional sentence if 6473
the juvenile court finds all of the following on the record by 6474

clear and convincing evidence: 6475

(a) The person is serving the juvenile portion of a 6476
serious youthful offender dispositional sentence. 6477

(b) The person is at least fourteen years of age and has 6478
been admitted to a department of youth services facility, or 6479
criminal charges are pending against the person. 6480

(c) The person engaged in the conduct or acts charged 6481
under division (A), (B), or (C) of this section, and the 6482
person's conduct demonstrates that the person is unlikely to be 6483
rehabilitated during the remaining period of juvenile 6484
jurisdiction. 6485

(2) The court may modify the adult sentence the court 6486
invokes to consist of any lesser prison term that could be 6487
imposed for the offense and, in addition to the prison term or 6488
in lieu of the prison term if the prison term was not mandatory, 6489
any community control sanction that the offender was eligible to 6490
receive at sentencing. 6491

(F) If a juvenile court issues an order invoking the adult 6492
portion of a serious youthful offender dispositional sentence 6493
under division (E) of this section, the juvenile portion of the 6494
dispositional sentence shall terminate, and the department of 6495
youth services shall transfer the person to the department of 6496
rehabilitation and correction or place the person under another 6497
sanction imposed as part of the sentence. The juvenile court 6498
shall state in its order the total number of days that the 6499
person has been held in detention or in a facility operated by, 6500
or under contract with, the department of youth services under 6501
the juvenile portion of the dispositional sentence. The time the 6502
person must serve on a prison term imposed under the adult 6503

portion of the dispositional sentence shall be reduced by the 6504
total number of days specified in the order plus any additional 6505
days the person is held in a juvenile facility or in detention 6506
after the order is issued and before the person is transferred 6507
to the custody of the department of rehabilitation and 6508
correction. In no case shall the total prison term as calculated 6509
under this division exceed the maximum prison term available for 6510
an adult who is convicted of violating the same sections of the 6511
Revised Code. 6512

Any community control imposed as part of the adult 6513
sentence or as a condition of a judicial release from prison 6514
shall be under the supervision of the entity that provides adult 6515
probation services in the county. Any post-release control 6516
imposed after the offender otherwise is released from prison 6517
shall be supervised by the adult parole authority. 6518

Sec. 2152.51. (A) As used in sections 2152.51 to 2152.59 6519
of the Revised Code: 6520

(1) "Competent" and "competency" refer to a child's 6521
ability to understand the nature and objectives of a proceeding 6522
against the child and to assist in the child's defense. A child 6523
is incompetent if, due to mental illness, ~~intellectual-~~ 6524
~~disability, or due to~~ developmental disability, or otherwise due 6525
to a lack of mental capacity, the child is presently incapable 6526
of understanding the nature and objective of proceedings against 6527
the child or of assisting in the child's defense. 6528

(2) "Delinquent child proceeding" means any proceeding 6529
under this chapter. 6530

(3) ~~"A person who is at least moderately intellectually-~~ 6531
~~disabled" means "a person who is at least moderately mentally-~~ 6532

~~retarded," as defined in section 5123.01 of the Revised Code.~~ 6533

~~(4) "Person with intellectual disability" has the same~~ 6534
~~meaning as in section 2951.041 Developmental disability,~~ 6535
~~"intellectual disability," and "moderate level of intellectual~~ 6536
~~disability" have the same meanings as in section 5123.01 of the~~ 6537
~~Revised Code.~~ 6538

(B) Each juvenile court shall adopt rules to expedite 6539
proceedings under sections 2152.51 to 2152.59 of the Revised 6540
Code. The rules shall include provisions for giving notice of 6541
any hearings held under those sections and for staying any 6542
proceedings on the underlying complaint pending the 6543
determinations under those sections. 6544

(C) At a competency-related hearing held under section 6545
2152.53 or 2152.58 of the Revised Code, the child shall be 6546
represented by an attorney. If the child is indigent and cannot 6547
obtain counsel, the court shall appoint an attorney under 6548
Chapter 120. of the Revised Code or the Rules of Juvenile 6549
Procedure. 6550

Sec. 2152.52. (A) (1) In any proceeding under this chapter 6551
other than a proceeding alleging that a child is an unruly child 6552
or a juvenile traffic offender, any party or the court may move 6553
for a determination regarding the child's competency to 6554
participate in the proceeding. 6555

(2) In any proceeding under this chapter other than a 6556
proceeding alleging that a child is an unruly child or a 6557
juvenile traffic offender, if the child who is the subject of 6558
the proceeding is fourteen years of age or older and if the 6559
child is not otherwise found to ~~be mentally ill, intellectually~~ 6560
~~disabled, or developmentally disabled~~have a mental illness or 6561

developmental disability, it is rebuttably presumed that the 6562
child does not have a lack of mental capacity. This presumption 6563
applies only in making a determination as to whether the child 6564
has a lack of mental capacity and shall not be used or 6565
applicable for any other purpose. 6566

(B) The court may find a child incompetent to proceed 6567
without ordering an evaluation of the child's competency or 6568
holding a hearing to determine the child's competency if either 6569
of the following applies: 6570

(1) The prosecuting attorney, the child's attorney, and at 6571
least one of the child's parents, guardians, or custodians agree 6572
to the determination. 6573

(2) The court relies on a prior court determination that 6574
the child was incompetent and could not attain competency even 6575
if the child were to participate in competency attainment 6576
services. 6577

Sec. 2152.54. (A) An evaluation of a child who does not 6578
appear to the court to ~~be a person who is~~ have at least 6579
~~moderately intellectually disabled~~ a moderate level of 6580
intellectual disability shall be made by an evaluator who is one 6581
of the following: 6582

(1) A professional employed by a psychiatric facility or 6583
center certified by the department of mental health and 6584
addiction services to provide forensic services and appointed by 6585
the director of the facility or center to conduct the 6586
evaluation; 6587

(2) A psychiatrist or a licensed clinical psychologist who 6588
satisfies the criteria of division (I) of section 5122.01 of the 6589
Revised Code and has specialized education, training, or 6590

experience in forensic evaluations of children or adolescents. 6591

(B) An evaluation of a child who appears to the court to 6592
~~be a person who is have~~ at least ~~moderately intellectually~~ 6593
~~disabled a moderate level of intellectual disability~~ shall be 6594
made by a psychiatrist or licensed clinical psychologist who 6595
satisfies the criteria of division (I) of section 5122.01 of the 6596
Revised Code and has specialized education, training, or 6597
experience in forensic evaluations of children or adolescents 6598
~~who have with intellectual disability disabilities.~~ 6599

(C) If an evaluation is conducted by an evaluator of the 6600
type described in division (A) (1) or (2) of this section and the 6601
evaluator concludes that the child ~~is a person who is~~ has at 6602
least ~~moderately intellectually disabled a moderate level of~~ 6603
intellectual disability, the evaluator shall discontinue the 6604
evaluation and notify the court within one business day after 6605
reaching the conclusion. Within two business days after 6606
receiving notification, the court shall order the child to 6607
undergo an evaluation by an evaluator of the type described in 6608
division (B) of this section. Within two business days after the 6609
appointment of the new evaluator, the original evaluator shall 6610
deliver to the new evaluator all information relating to the 6611
child obtained during the original evaluation. 6612

Sec. 2152.56. (A) Upon completing an evaluation ordered 6613
pursuant to section 2152.53 of the Revised Code, an evaluator 6614
shall submit to the court a written competency assessment 6615
report. The report shall include the evaluator's opinion as to 6616
whether the child, due to mental illness, ~~intellectual~~ 6617
~~disability, or due to developmental disability~~, or otherwise due 6618
to a lack of mental capacity, is currently incapable of 6619
understanding the nature and objective of the proceedings 6620

against the child or of assisting in the child's defense. The 6621
report shall not include any opinion as to the child's sanity at 6622
the time of the alleged offense, details of the alleged offense 6623
as reported by the child, or an opinion as to whether the child 6624
actually committed the offense or could have been culpable for 6625
committing the offense. 6626

(B) A competency assessment report shall address the 6627
child's capacity to do all of the following: 6628

(1) Comprehend and appreciate the charges or allegations 6629
against the child; 6630

(2) Understand the adversarial nature of the proceedings, 6631
including the role of the judge, defense counsel, prosecuting 6632
attorney, guardian ad litem or court-appointed special 6633
assistant, and witnesses; 6634

(3) Assist in the child's defense and communicate with 6635
counsel; 6636

(4) Comprehend and appreciate the consequences that may be 6637
imposed or result from the proceedings. 6638

(C) A competency assessment report shall include the 6639
evaluator's opinion regarding the extent to which the child's 6640
competency may be impaired by the child's failure to meet one or 6641
more of the criteria listed in division (B) of this section. If 6642
the evaluator concludes that the child's competency is impaired 6643
but that the child may be enabled to understand the nature and 6644
objectives of the proceeding against the child and to assist in 6645
the child's defense with reasonable accommodations, the report 6646
shall include recommendations for those reasonable 6647
accommodations that the court might make. If the evaluator 6648
concludes that the child's competency is so impaired that the 6649

child would not be able to understand the nature and objectives 6650
of the proceeding against the child or to assist in the child's 6651
defense, the report shall include an opinion as to the 6652
likelihood that the child could attain competency within the 6653
periods set forth in division (D) (2) of section 2152.59 of the 6654
Revised Code. 6655

(D) If the evaluator concludes that the child could likely 6656
attain competency within the periods set forth in division (D) 6657
(2) of section 2152.59 of the Revised Code, the competency 6658
assessment report shall include both of the following: 6659

(1) A recommendation as to the least restrictive setting 6660
for child competency attainment services that is consistent with 6661
the child's ability to attain competency and the safety of both 6662
the child and the community; 6663

(2) A list of the providers of child competency attainment 6664
services known to the evaluator that are located most closely to 6665
the child's current residence. 6666

(E) If the evaluator is unable, within the maximum 6667
allowable time for submission of a competency assessment report 6668
under division (A) of section 2152.57 of the Revised Code, to 6669
form an opinion regarding the extent to which the child's 6670
competency may be impaired by the child's failure to meet one or 6671
more of the criteria listed in division (B) of this section, the 6672
evaluator shall so state in the report. The evaluator shall also 6673
include recommendations for services to support the safety of 6674
the child or the community. 6675

Sec. 2152.811. (A) As used in this section: 6676

(1) ~~"Mentally retarded person" and "developmentally-~~ 6677
~~disabled person~~Developmental disability ~~have~~has the same 6678

~~meanings~~ meaning as in section 5123.01 of the Revised Code. 6679

(2) "~~Mentally retarded or developmentally disabled-~~
~~victim~~ Victim with a developmental disability" includes any of 6680
the following persons: 6681
6682

(a) A ~~mentally retarded person or developmentally disabled-~~
~~person~~ with a developmental disability who was a victim of a 6683
violation identified in division (B) (1) of this section or an 6684
act that would be an offense of violence if committed by an 6685
adult; 6686
6687

(b) A ~~mentally retarded person or developmentally disabled-~~
~~person~~ with a developmental disability against whom was directed 6688
any conduct that constitutes, or that is an element of, a 6689
violation identified in division (B) (1) of this section or an 6690
act that would be an offense of violence if committed by an 6691
adult. 6692
6693

(B) (1) In any proceeding in juvenile court involving a 6694
complaint, indictment, or information in which a child is 6695
charged with a violation of section 2903.16, 2903.34, 2903.341, 6696
2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 6697
2907.321, 2907.322, or 2907.323 of the Revised Code or an act 6698
that would be an offense of violence if committed by an adult 6699
and in which an alleged victim of the violation or act was a 6700
~~mentally retarded person or developmentally disabled person with~~
a developmental disability, the juvenile judge, upon motion of 6701
the prosecution, shall order that the testimony of the ~~mentally-~~
~~retarded or developmentally disabled-victim~~ with a developmental
disability be taken by deposition. The prosecution also may 6702
request that the deposition be videotaped in accordance with 6703
division (B) (2) of this section. The judge shall notify the 6704
~~mentally retarded or developmentally disabled-victim~~ with a 6705
6706
6707
6708

developmental disability whose deposition is to be taken, the 6709
prosecution, and the attorney for the child who is charged with 6710
the violation or act of the date, time, and place for taking the 6711
deposition. The notice shall identify the ~~mentally retarded or~~ 6712
~~developmentally disabled~~ victim with a developmental disability 6713
who is to be examined and shall indicate whether a request that 6714
the deposition be videotaped has been made. The child who is 6715
charged with the violation or act shall have the right to attend 6716
the deposition and the right to be represented by counsel. 6717
Depositions shall be taken in the manner provided in civil 6718
cases, except that the judge in the proceeding shall preside at 6719
the taking of the deposition and shall rule at that time on any 6720
objections of the prosecution or the attorney for the child 6721
charged with the violation or act. The prosecution and the 6722
attorney for the child charged with the violation or act shall 6723
have the right, as at an adjudication hearing, to full 6724
examination and cross-examination of the ~~mentally retarded or~~ 6725
~~developmentally disabled~~ victim with a developmental disability 6726
whose deposition is to be taken. 6727

If a deposition taken under this division is intended to 6728
be offered as evidence in the proceeding, it shall be filed in 6729
the juvenile court in which the action is pending and is 6730
admissible in the manner described in division (C) of this 6731
section. If a deposition of a ~~mentally retarded or~~ 6732
~~developmentally disabled~~ victim with a developmental disability 6733
taken under this division is admitted as evidence at the 6734
proceeding under division (C) of this section, the ~~mentally~~ 6735
~~retarded or developmentally disabled~~ victim with a developmental 6736
disability shall not be required to testify in person at the 6737
proceeding. 6738

At any time before the conclusion of the proceeding, the 6739

attorney for the child charged with the violation or act may 6740
file a motion with the judge requesting that another deposition 6741
of the ~~mentally retarded or developmentally disabled~~ victim with 6742
a developmental disability be taken because new evidence 6743
material to the defense of the child charged has been discovered 6744
that the attorney for the child charged could not with 6745
reasonable diligence have discovered prior to the taking of the 6746
admitted deposition. Any motion requesting another deposition 6747
shall be accompanied by supporting affidavits. Upon the filing 6748
of the motion and affidavits, the court may order that 6749
additional testimony of the ~~mentally retarded or developmentally~~ 6750
~~disabled~~ victim with a developmental disability relative to the 6751
new evidence be taken by another deposition. If the court orders 6752
the taking of another deposition under this provision, the 6753
deposition shall be taken in accordance with this division. If 6754
the admitted deposition was a videotaped deposition taken in 6755
accordance with division (B) (2) of this section, the new 6756
deposition also shall be videotaped in accordance with that 6757
division. In other cases, the new deposition may be videotaped 6758
in accordance with that division. 6759

(2) If the prosecution requests that a deposition to be 6760
taken under division (B) (1) of this section be videotaped, the 6761
juvenile judge shall order that the deposition be videotaped in 6762
accordance with this division. If a juvenile judge issues an 6763
order to video tape the deposition, the judge shall exclude from 6764
the room in which the deposition is to be taken every person 6765
except the ~~mentally retarded or developmentally disabled~~ victim 6766
with a developmental disability giving the testimony, the judge, 6767
one or more interpreters if needed, the attorneys for the 6768
prosecution and the child who is charged with the violation or 6769
act, any person needed to operate the equipment to be used, one 6770

person chosen by the ~~mentally retarded or developmentally~~ 6771
~~disabled~~ victim with a developmental disability giving the 6772
deposition, and any person whose presence the judge determines 6773
would contribute to the welfare and well-being of the ~~mentally-~~ 6774
~~retarded or developmentally disabled~~ victim with a developmental 6775
disability giving the deposition. The person chosen by the 6776
~~mentally retarded or developmentally disabled~~ victim with a 6777
developmental disability shall not be a witness in the 6778
proceeding and, both before and during the deposition, shall not 6779
discuss the testimony of the victim with any other witness in 6780
the proceeding. To the extent feasible, any person operating the 6781
recording equipment shall be restricted to a room adjacent to 6782
the room in which the deposition is being taken, or to a 6783
location in the room in which the deposition is being taken that 6784
is behind a screen or mirror so that the person operating the 6785
recording equipment can see and hear, but cannot be seen or 6786
heard by, the ~~mentally retarded or developmentally disabled~~ 6787
~~victim with a developmental disability~~ giving the deposition 6788
during the deposition. 6789

The child who is charged with the violation or act shall 6790
be permitted to observe and hear the testimony of the ~~mentally-~~ 6791
~~retarded or developmentally disabled~~ victim with a developmental 6792
disability giving the deposition on a monitor, shall be provided 6793
with an electronic means of immediate communication with the 6794
attorney of the child who is charged with the violation or act 6795
during the testimony, and shall be restricted to a location from 6796
which the child who is charged with the violation or act cannot 6797
be seen or heard by the ~~mentally retarded or developmentally-~~ 6798
~~disabled~~ victim with a developmental disability giving the 6799
deposition, except on a monitor provided for that purpose. The 6800
~~mentally retarded or developmentally disabled~~ victim with a 6801

developmental disability giving the deposition shall be provided 6802
with a monitor on which the ~~mentally retarded or developmentally~~ 6803
~~disabled~~ victim with a developmental disability can observe, 6804
while giving testimony, the child who is charged with the 6805
violation or act. The judge, at the judge's discretion, may 6806
preside at the deposition by electronic means from outside the 6807
room in which the deposition is to be taken; if the judge 6808
presides by electronic means, the judge shall be provided with 6809
monitors on which the judge can see each person in the room in 6810
which the deposition is to be taken and with an electronic means 6811
of communication with each person in that room, and each person 6812
in the room shall be provided with a monitor on which that 6813
person can see the judge and with an electronic means of 6814
communication with the judge. A deposition that is videotaped 6815
under this division shall be taken and filed in the manner 6816
described in division (B) (1) of this section and is admissible 6817
in the manner described in this division and division (C) of 6818
this section. If a deposition that is videotaped under this 6819
division is admitted as evidence at the proceeding, the ~~mentally~~ 6820
~~retarded or developmentally disabled~~ victim with a developmental 6821
disability shall not be required to testify in person at the 6822
proceeding. No deposition videotaped under this division shall 6823
be admitted as evidence at any proceeding unless division (C) of 6824
this section is satisfied relative to the deposition and all of 6825
the following apply relative to the recording: 6826

(a) The recording is both aural and visual and is recorded 6827
on film or videotape, or by other electronic means. 6828

(b) The recording is authenticated under the Rules of 6829
Evidence and the Rules of Criminal Procedure as a fair and 6830
accurate representation of what occurred, and the recording is 6831
not altered other than at the direction and under the 6832

supervision of the judge in the proceeding. 6833

(c) Each voice on the recording that is material to the 6834
testimony on the recording or the making of the recording, as 6835
determined by the judge, is identified. 6836

(d) Both the prosecution and the child who is charged with 6837
the violation or act are afforded an opportunity to view the 6838
recording before it is shown in the proceeding. 6839

(C) (1) At any proceeding in relation to which a deposition 6840
was taken under division (B) of this section, the deposition or 6841
a part of it is admissible in evidence upon motion of the 6842
prosecution if the testimony in the deposition or the part to be 6843
admitted is not excluded by the hearsay rule and if the 6844
deposition or the part to be admitted otherwise is admissible 6845
under the Rules of Evidence. For purposes of this division, 6846
testimony is not excluded by the hearsay rule if the testimony 6847
is not hearsay under Evidence Rule 801; the testimony is within 6848
an exception to the hearsay rule set forth in Evidence Rule 803; 6849
the ~~mentally retarded or developmentally disabled~~ victim with a 6850
developmental disability who gave the testimony is unavailable 6851
as a witness, as defined in Evidence Rule 804, and the testimony 6852
is admissible under that rule; or both of the following apply: 6853

(a) The child who is charged with the violation or act had 6854
an opportunity and similar motive at the time of the taking of 6855
the deposition to develop the testimony by direct, cross, or 6856
redirect examination. 6857

(b) The judge determines that there is reasonable cause to 6858
believe that, if the ~~mentally retarded or developmentally~~ 6859
~~disabled~~ victim with a developmental disability who gave the 6860
testimony in the deposition were to testify in person at the 6861

proceeding, the ~~mentally retarded or developmentally disabled~~ 6862
victim with a developmental disability would experience serious 6863
emotional trauma as a result of the ~~mentally retarded or~~ 6864
~~developmentally disabled victim's~~ participation of the victim 6865
with a developmental disability at the proceeding. 6866

(2) Objections to receiving in evidence a deposition or a 6867
part of it under division (C) of this section shall be made as 6868
provided in civil actions. 6869

(3) The provisions of divisions (B) and (C) of this 6870
section are in addition to any other provisions of the Revised 6871
Code, the Rules of Juvenile Procedure, the Rules of Criminal 6872
Procedure, or the Rules of Evidence that pertain to the taking 6873
or admission of depositions in a juvenile court proceeding and 6874
do not limit the admissibility under any of those other 6875
provisions of any deposition taken under division (B) of this 6876
section or otherwise taken. 6877

(D) In any proceeding in juvenile court involving a 6878
complaint, indictment, or information in which a child is 6879
charged with a violation listed in division (B)(1) of this 6880
section or an act that would be an offense of violence if 6881
committed by an adult and in which an alleged victim of the 6882
violation or offense was a ~~mentally retarded or developmentally~~ 6883
~~disabled~~ person with a developmental disability, the prosecution 6884
may file a motion with the juvenile judge requesting the judge 6885
to order the testimony of the ~~mentally retarded or~~ 6886
~~developmentally disabled~~ victim with a developmental disability 6887
to be taken in a room other than the room in which the 6888
proceeding is being conducted and be televised, by closed 6889
circuit equipment, into the room in which the proceeding is 6890
being conducted to be viewed by the child who is charged with 6891

the violation or act and any other persons who are not permitted 6892
in the room in which the testimony is to be taken but who would 6893
have been present during the testimony of the ~~mentally retarded-~~ 6894
~~or developmentally disabled~~ victim with a developmental 6895
disability had it been given in the room in which the proceeding 6896
is being conducted. Except for good cause shown, the prosecution 6897
shall file a motion under this division at least seven days 6898
before the date of the proceeding. The juvenile judge may issue 6899
the order upon the motion of the prosecution filed under this 6900
division, if the judge determines that the ~~mentally retarded or-~~ 6901
~~developmentally disabled~~ victim with a developmental disability 6902
is unavailable to testify in the room in which the proceeding is 6903
being conducted in the physical presence of the child charged 6904
with the violation or act for one or more of the reasons set 6905
forth in division (F) of this section. If a juvenile judge 6906
issues an order of that nature, the judge shall exclude from the 6907
room in which the testimony is to be taken every person except a 6908
person described in division (B) (2) of this section. The judge, 6909
at the judge's discretion, may preside during the giving of the 6910
testimony by electronic means from outside the room in which it 6911
is being given, subject to the limitations set forth in division 6912
(B) (2) of this section. To the extent feasible, any person 6913
operating the televising equipment shall be hidden from the 6914
sight and hearing of the ~~mentally retarded or developmentally-~~ 6915
~~disabled~~ victim with a developmental disability giving the 6916
testimony, in a manner similar to that described in division (B) 6917
(2) of this section. The child who is charged with the violation 6918
or act shall be permitted to observe and hear the testimony of 6919
the ~~mentally retarded or developmentally disabled~~ victim with a 6920
developmental disability giving the testimony on a monitor, 6921
shall be provided with an electronic means of immediate 6922
communication with the attorney of the child who is charged with 6923

the violation or act during the testimony, and shall be 6924
restricted to a location from which the child who is charged 6925
with the violation or act cannot be seen or heard by the 6926
~~mentally retarded or developmentally disabled~~ victim with a 6927
developmental disability giving the testimony, except on a 6928
monitor provided for that purpose. The ~~mentally retarded or~~ 6929
~~developmentally disabled~~ victim with a developmental disability 6930
giving the testimony shall be provided with a monitor on which 6931
the ~~mentally retarded or developmentally disabled~~ victim with a 6932
developmental disability can observe, while giving testimony, 6933
the child who is charged with the violation or act. 6934

(E) In any proceeding in juvenile court involving a 6935
complaint, indictment, or information in which a child is 6936
charged with a violation listed in division (B)(1) of this 6937
section or an act that would be an offense of violence if 6938
committed by an adult and in which an alleged victim of the 6939
violation or offense was a ~~mentally retarded or developmentally~~ 6940
~~disabled~~ person with a developmental disability, the prosecution 6941
may file a motion with the juvenile judge requesting the judge 6942
to order the testimony of the ~~mentally retarded or~~ 6943
~~developmentally disabled~~ victim with a developmental disability 6944
to be taken outside of the room in which the proceeding is being 6945
conducted and be recorded for showing in the room in which the 6946
proceeding is being conducted before the judge, the child who is 6947
charged with the violation or act, and any other persons who 6948
would have been present during the testimony of the ~~mentally~~ 6949
~~retarded or developmentally disabled~~ victim with a developmental 6950
disability had it been given in the room in which the proceeding 6951
is being conducted. Except for good cause shown, the prosecution 6952
shall file a motion under this division at least seven days 6953
before the date of the proceeding. The juvenile judge may issue 6954

the order upon the motion of the prosecution filed under this 6955
division, if the judge determines that the ~~mentally retarded or~~ 6956
~~developmentally disabled~~ victim with a developmental disability 6957
is unavailable to testify in the room in which the proceeding is 6958
being conducted in the physical presence of the child charged 6959
with the violation or act, due to one or more of the reasons set 6960
forth in division (F) of this section. If a juvenile judge 6961
issues an order of that nature, the judge shall exclude from the 6962
room in which the testimony is to be taken every person except a 6963
person described in division (B) (2) of this section. To the 6964
extent feasible, any person operating the recording equipment 6965
shall be hidden from the sight and hearing of the ~~mentally~~ 6966
~~retarded or developmentally disabled~~ victim with a developmental 6967
disability giving the testimony, in a manner similar to that 6968
described in division (B) (2) of this section. The child who is 6969
charged with the violation or act shall be permitted to observe 6970
and hear the testimony of the ~~mentally retarded or~~ 6971
~~developmentally disabled~~ victim with a developmental disability 6972
giving the testimony on a monitor, shall be provided with an 6973
electronic means of immediate communication with the attorney of 6974
the child who is charged with the violation or act during the 6975
testimony, and shall be restricted to a location from which the 6976
child who is charged with the violation or act cannot be seen or 6977
heard by the ~~mentally retarded or developmentally disabled~~ 6978
victim with a developmental disability giving the testimony, 6979
except on a monitor provided for that purpose. The ~~mentally~~ 6980
~~retarded or developmentally disabled~~ victim with a developmental 6981
disability giving the testimony shall be provided with a monitor 6982
on which the ~~mentally retarded or developmentally disabled~~ 6983
victim with a developmental disability can observe, while giving 6984
testimony, the child who is charged with the violation or act. 6985
No order for the taking of testimony by recording shall be 6986

issued under this division unless the provisions set forth in 6987
divisions (B) (2) (a), (b), (c), and (d) of this section apply to 6988
the recording of the testimony. 6989

(F) For purposes of divisions (D) and (E) of this section, 6990
a juvenile judge may order the testimony of a ~~mentally retarded-~~ 6991
~~or developmentally disabled-victim~~ with a developmental 6992
disability to be taken outside of the room in which a proceeding 6993
is being conducted if the judge determines that the ~~mentally-~~ 6994
~~retarded or developmentally disabled-victim~~ with a developmental 6995
disability is unavailable to testify in the room in the physical 6996
presence of the child charged with the violation or act due to 6997
one or more of the following circumstances: 6998

(1) The persistent refusal of the ~~mentally retarded or-~~ 6999
~~developmentally disabled-victim~~ with a developmental disability 7000
to testify despite judicial requests to do so; 7001

(2) The inability of the ~~mentally retarded or-~~ 7002
~~developmentally disabled-victim~~ with a developmental disability 7003
to communicate about the alleged violation or offense because of 7004
extreme fear, failure of memory, or another similar reason; 7005

(3) The substantial likelihood that the ~~mentally retarded-~~ 7006
~~or developmentally disabled-victim~~ with a developmental 7007
disability will suffer serious emotional trauma from so 7008
testifying. 7009

(G) (1) If a juvenile judge issues an order pursuant to 7010
division (D) or (E) of this section that requires the testimony 7011
of a ~~mentally retarded or developmentally disabled-victim~~ with a 7012
developmental disability in a juvenile court proceeding to be 7013
taken outside of the room in which the proceeding is being 7014
conducted, the order shall specifically identify the ~~mentally-~~ 7015

~~retarded or developmentally disabled~~ victim with a developmental 7016
disability to whose testimony it applies, the order applies only 7017
during the testimony of the specified ~~mentally retarded or~~ 7018
~~developmentally disabled~~ victim with a developmental disability, 7019
and the ~~mentally retarded or developmentally disabled~~ victim 7020
with a developmental disability giving the testimony shall not 7021
be required to testify at the proceeding other than in 7022
accordance with the order. The authority of a judge to close the 7023
taking of a deposition under division (B) (2) of this section or 7024
a proceeding under division (D) or (E) of this section is in 7025
addition to the authority of a judge to close a hearing pursuant 7026
to section 2151.35 of the Revised Code. 7027

(2) A juvenile judge who makes any determination regarding 7028
the admissibility of a deposition under divisions (B) and (C) of 7029
this section, the videotaping of a deposition under division (B) 7030
(2) of this section, or the taking of testimony outside of the 7031
room in which a proceeding is being conducted under division (D) 7032
or (E) of this section shall enter the determination and 7033
findings on the record in the proceeding. 7034

Sec. 2305.111. (A) As used in this section: 7035

(1) "Childhood sexual abuse" means any conduct that 7036
constitutes any of the violations identified in division (A) (1) 7037
(a) or (b) of this section and would constitute a criminal 7038
offense under the specified section or division of the Revised 7039
Code, if the victim of the violation is at the time of the 7040
violation a child under eighteen years of age or a ~~mentally-~~ 7041
~~retarded, developmentally disabled, or physically impaired~~ child 7042
with a developmental disability or physical impairment under 7043
twenty-one years of age. The court need not find that any person 7044
has been convicted of or pleaded guilty to the offense under the 7045

specified section or division of the Revised Code in order for 7046
the conduct that is the violation constituting the offense to be 7047
childhood sexual abuse for purposes of this division. This 7048
division applies to any of the following violations committed in 7049
the following specified circumstances: 7050

(a) A violation of section 2907.02 or of division (A) (1), 7051
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 7052
of the Revised Code; 7053

(b) A violation of section 2907.05 or 2907.06 of the 7054
Revised Code if, at the time of the violation, any of the 7055
following apply: 7056

(i) The actor is the victim's natural parent, adoptive 7057
parent, or stepparent or the guardian, custodian, or person in 7058
loco parentis of the victim. 7059

(ii) The victim is in custody of law or a patient in a 7060
hospital or other institution, and the actor has supervisory or 7061
disciplinary authority over the victim. 7062

(iii) The actor is a teacher, administrator, coach, or 7063
other person in authority employed by or serving in a school for 7064
which the state board of education prescribes minimum standards 7065
pursuant to division (D) of section 3301.07 of the Revised Code, 7066
the victim is enrolled in or attends that school, and the actor 7067
is not enrolled in and does not attend that school. 7068

(iv) The actor is a teacher, administrator, coach, or 7069
other person in authority employed by or serving in an 7070
institution of higher education, and the victim is enrolled in 7071
or attends that institution. 7072

(v) The actor is the victim's athletic or other type of 7073
coach, is the victim's instructor, is the leader of a scouting 7074

troop of which the victim is a member, or is a person with 7075
temporary or occasional disciplinary control over the victim. 7076

(vi) The actor is a mental health professional, the victim 7077
is a mental health client or patient of the actor, and the actor 7078
induces the victim to submit by falsely representing to the 7079
victim that the sexual contact involved in the violation is 7080
necessary for mental health treatment purposes. 7081

(vii) The victim is confined in a detention facility, and 7082
the actor is an employee of that detention facility. 7083

(viii) The actor is a cleric, and the victim is a member 7084
of, or attends, the church or congregation served by the cleric. 7085

(2) "Cleric" has the same meaning as in section 2317.02 of 7086
the Revised Code. 7087

(3) "Mental health client or patient" has the same meaning 7088
as in section 2305.51 of the Revised Code. 7089

(4) "Mental health professional" has the same meaning as 7090
in section 2305.115 of the Revised Code. 7091

(5) "Sexual contact" has the same meaning as in section 7092
2907.01 of the Revised Code. 7093

(6) "Victim" means, except as provided in division (B) of 7094
this section, a victim of childhood sexual abuse. 7095

(B) Except as provided in section 2305.115 of the Revised 7096
Code and subject to division (C) of this section, an action for 7097
assault or battery shall be brought within one year after the 7098
cause of the action accrues. For purposes of this section, a 7099
cause of action for assault or battery accrues upon the later of 7100
the following: 7101

(1) The date on which the alleged assault or battery occurred; 7102
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(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates: 7104
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(a) The date on which the plaintiff learns the identity of that person; 7108
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(b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person. 7110
7111
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(C) An action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, shall be brought within twelve years after the cause of action accrues. For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority. If the defendant in an action brought by a victim of childhood sexual abuse asserting a claim resulting from childhood sexual abuse that occurs on or after ~~the effective date of this act~~ August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts. 7113
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Sec. 2311.14. (A) (1) Whenever because of a hearing, 7130

speech, or other impairment a party to or witness in a legal proceeding cannot readily understand or communicate, the court shall appoint a qualified interpreter to assist such person.

(2) This section is not limited to a person who speaks a language other than English. It also applies to the language and descriptions of any ~~mentally retarded person or developmentally disabled person~~ with a developmental disability who cannot be reasonably understood, or who cannot understand questioning, without the aid of an interpreter. The interpreter may aid the parties in formulating methods of questioning the person with ~~mental retardation or~~ a developmental disability and in interpreting the answers of the person.

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

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

interpreter's fees. 7161

(D) As used in this section, "~~mentally retarded person~~" 7162
and "~~developmentally disabled person~~developmental disability" 7163
~~have~~has the same ~~meanings~~meaning as in section 5123.01 of the 7164
Revised Code. 7165

Sec. 2317.021. (A) As used in division (A) of section 7166
2317.02 of the Revised Code: 7167

"Client" means a person, firm, partnership, corporation, 7168
or other association that, directly or through any 7169
representative, consults an attorney for the purpose of 7170
retaining the attorney or securing legal service or advice from 7171
the attorney in the attorney's professional capacity, or 7172
consults an attorney employee for legal service or advice, and 7173
who communicates, either directly or through an agent, employee, 7174
or other representative, with such attorney; and includes an 7175
incompetent person whose guardian so consults the attorney in 7176
behalf of the incompetent person. 7177

Where a corporation or association is a client having the 7178
privilege and it has been dissolved, the privilege shall extend 7179
to the last board of directors, their successors or assigns, or 7180
to the trustees, their successors or assigns. 7181

This section shall be construed as in addition to, and not 7182
in limitation of, other laws affording protection to 7183
communications under the attorney-client privilege. 7184

(B) As used in this section and in sections 2317.02 and 7185
2317.03 of the Revised Code, "incompetent" or "incompetent 7186
person" means a person who is so mentally impaired, as a result 7187
of a mental or physical illness or disability, ~~or mental~~ 7188
~~retardation~~ as a result of an intellectual disability, or as a 7189

result of chronic substance abuse, that the person is incapable 7190
of taking proper care of the person's self or property or fails 7191
to provide for the person's family or other persons for whom the 7192
person is charged by law to provide. 7193

Sec. 2503.37. Cases commenced in or taken to the supreme 7194
court shall be entered on the docket in the order in which they 7195
are commenced, received, or filed. They shall be disposed of in 7196
the same order, except that the court may dispose of the 7197
following classes of cases in advance of their order on the 7198
docket: 7199

(A) Proceedings in quo warranto, mandamus, procedendo, 7200
prohibition, or habeas corpus; 7201

(B) Cases in which the person seeking relief has been 7202
convicted of felony; 7203

(C) Cases involving the validity of a tax levy or 7204
assessment; 7205

(D) Cases involving the construction or constitutionality 7206
of a statute, or a question of practice, in which the questions 7207
arising are of general public interest; 7208

(E) Cases of general interest to the public, if two or 7209
more of the courts of appeals have held the law directly 7210
opposite upon like facts; 7211

(F) Cases in which the relief sought is damages for 7212
personal injury, or for death caused by negligence, and in which 7213
the person injured makes affidavit that the person's livelihood 7214
is dependent upon daily labor, or, in case of death, in which 7215
the surviving spouse or any of the next of kin of the deceased 7216
makes an affidavit that the surviving spouse or next of kin was 7217
dependent for livelihood upon the person's or the decedent's 7218

daily labor; 7219

(G) Cases in which a trust fund for the care, support, or 7220
education of a minor, or care or support of a ~~mentally retarded~~ 7221
person with an intellectual disability, is in question; 7222

(H) Cases involving controversies or questions arising in 7223
the administration of the estate of a deceased person under the 7224
laws of this state; 7225

(I) Cases involving the construction of a statute for the 7226
annexation of territory to a municipal corporation. 7227

Sec. 2721.05. As used in this section, "incompetent 7228
person" means a person who is so mentally impaired, as a result 7229
of a mental or physical illness or disability, ~~or mental~~ 7230
retardation as a result of an intellectual disability, or as a 7231
result of chronic substance abuse, that the person is incapable 7232
of taking proper care of the person's self or property or fails 7233
to provide for the person's family or other persons for whom the 7234
person is charged by law to provide. 7235

Any person interested as or through an executor, 7236
administrator, trustee, guardian, or other fiduciary, creditor, 7237
devisee, legatee, heir, next of kin, or cestui que trust, in the 7238
administration of a trust, or of the estate of a decedent, an 7239
infant, an incompetent person, or an insolvent person, may have 7240
a declaration of rights or legal relations in respect thereto in 7241
any of the following cases: 7242

(A) To ascertain any class of creditors, devisees, 7243
legatees, heirs, next of kin, or others; 7244

(B) To direct the executors, administrators, trustees, or 7245
other fiduciaries to do or abstain from doing any particular act 7246
in their fiduciary capacity; 7247

(C) To determine any question arising in the 7248
administration of the estate or trust, including questions of 7249
construction of wills and other writings. 7250

Sec. 2744.01. As used in this chapter: 7251

(A) "Emergency call" means a call to duty, including, but 7252
not limited to, communications from citizens, police dispatches, 7253
and personal observations by peace officers of inherently 7254
dangerous situations that demand an immediate response on the 7255
part of a peace officer. 7256

(B) "Employee" means an officer, agent, employee, or 7257
servant, whether or not compensated or full-time or part-time, 7258
who is authorized to act and is acting within the scope of the 7259
officer's, agent's, employee's, or servant's employment for a 7260
political subdivision. "Employee" does not include an 7261
independent contractor and does not include any individual 7262
engaged by a school district pursuant to section 3319.301 of the 7263
Revised Code. "Employee" includes any elected or appointed 7264
official of a political subdivision. "Employee" also includes a 7265
person who has been convicted of or pleaded guilty to a criminal 7266
offense and who has been sentenced to perform community service 7267
work in a political subdivision whether pursuant to section 7268
2951.02 of the Revised Code or otherwise, and a child who is 7269
found to be a delinquent child and who is ordered by a juvenile 7270
court pursuant to section 2152.19 or 2152.20 of the Revised Code 7271
to perform community service or community work in a political 7272
subdivision. 7273

(C) (1) "Governmental function" means a function of a 7274
political subdivision that is specified in division (C) (2) of 7275
this section or that satisfies any of the following: 7276

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;	7277 7278 7279
(b) A function that is for the common good of all citizens of the state;	7280 7281
(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G) (2) of this section as a proprietary function.	7282 7283 7284 7285 7286
(2) A "governmental function" includes, but is not limited to, the following:	7287 7288
(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;	7289 7290
(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;	7291 7292 7293 7294 7295
(c) The provision of a system of public education;	7296
(d) The provision of a free public library system;	7297
(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;	7298 7299 7300
(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;	7301 7302
(g) The construction, reconstruction, repair, renovation,	7303

maintenance, and operation of buildings that are used in 7304
connection with the performance of a governmental function, 7305
including, but not limited to, office buildings and courthouses; 7306

(h) The design, construction, reconstruction, renovation, 7307
repair, maintenance, and operation of jails, places of juvenile 7308
detention, workhouses, or any other detention facility, as 7309
defined in section 2921.01 of the Revised Code; 7310

(i) The enforcement or nonperformance of any law; 7311

(j) The regulation of traffic, and the erection or 7312
nonerection of traffic signs, signals, or control devices; 7313

(k) The collection and disposal of solid wastes, as 7314
defined in section 3734.01 of the Revised Code, including, but 7315
not limited to, the operation of solid waste disposal 7316
facilities, as "facilities" is defined in that section, and the 7317
collection and management of hazardous waste generated by 7318
households. As used in division (C) (2) (k) of this section, 7319
"hazardous waste generated by households" means solid waste 7320
originally generated by individual households that is listed 7321
specifically as hazardous waste in or exhibits one or more 7322
characteristics of hazardous waste as defined by rules adopted 7323
under section 3734.12 of the Revised Code, but that is excluded 7324
from regulation as a hazardous waste by those rules. 7325

(l) The provision or nonprovision, planning or design, 7326
construction, or reconstruction of a public improvement, 7327
including, but not limited to, a sewer system; 7328

(m) The operation of a job and family services department 7329
or agency, including, but not limited to, the provision of 7330
assistance to aged and infirm persons and to persons who are 7331
indigent; 7332

- (n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine; 7333
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- (o) The operation of mental health facilities, ~~mental-retardation or~~ developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies; 7342
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- (p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures; 7345
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- (q) Urban renewal projects and the elimination of slum conditions, including the performance of any activity that a county land reutilization corporation is authorized to perform under Chapter 1724. or 5722. of the Revised Code; 7353
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- (r) Flood control measures; 7357
- (s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery; 7358
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- (t) The issuance of revenue obligations under section 140.06 of the Revised Code; 7360
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(u) The design, construction, reconstruction, renovation, 7362
repair, maintenance, and operation of any school athletic 7363
facility, school auditorium, or gymnasium or any recreational 7364
area or facility, including, but not limited to, any of the 7365
following: 7366

(i) A park, playground, or playfield; 7367

(ii) An indoor recreational facility; 7368

(iii) A zoo or zoological park; 7369

(iv) A bath, swimming pool, pond, water park, wading pool, 7370
wave pool, water slide, or other type of aquatic facility; 7371

(v) A golf course; 7372

(vi) A bicycle motocross facility or other type of 7373
recreational area or facility in which bicycling, skating, skate 7374
boarding, or scooter riding is engaged; 7375

(vii) A rope course or climbing walls; 7376

(viii) An all-purpose vehicle facility in which all- 7377
purpose vehicles, as defined in section 4519.01 of the Revised 7378
Code, are contained, maintained, or operated for recreational 7379
activities. 7380

(v) The provision of public defender services by a county 7381
or joint county public defender's office pursuant to Chapter 7382
120. of the Revised Code; 7383

(w) (i) At any time before regulations prescribed pursuant 7384
to 49 U.S.C.A 20153 become effective, the designation, 7385
establishment, design, construction, implementation, operation, 7386
repair, or maintenance of a public road rail crossing in a zone 7387
within a municipal corporation in which, by ordinance, the 7388

legislative authority of the municipal corporation regulates the 7389
sounding of locomotive horns, whistles, or bells; 7390

(ii) On and after the effective date of regulations 7391
prescribed pursuant to 49 U.S.C.A. 20153, the designation, 7392
establishment, design, construction, implementation, operation, 7393
repair, or maintenance of a public road rail crossing in such a 7394
zone or of a supplementary safety measure, as defined in 49 7395
U.S.C.A 20153, at or for a public road rail crossing, if and to 7396
the extent that the public road rail crossing is excepted, 7397
pursuant to subsection (c) of that section, from the requirement 7398
of the regulations prescribed under subsection (b) of that 7399
section. 7400

(x) A function that the general assembly mandates a 7401
political subdivision to perform. 7402

(D) "Law" means any provision of the constitution, 7403
statutes, or rules of the United States or of this state; 7404
provisions of charters, ordinances, resolutions, and rules of 7405
political subdivisions; and written policies adopted by boards 7406
of education. When used in connection with the "common law," 7407
this definition does not apply. 7408

(E) "Motor vehicle" has the same meaning as in section 7409
4511.01 of the Revised Code. 7410

(F) "Political subdivision" or "subdivision" means a 7411
municipal corporation, township, county, school district, or 7412
other body corporate and politic responsible for governmental 7413
activities in a geographic area smaller than that of the state. 7414
"Political subdivision" includes, but is not limited to, a 7415
county hospital commission appointed under section 339.14 of the 7416
Revised Code, board of hospital commissioners appointed for a 7417

municipal hospital under section 749.04 of the Revised Code, 7418
board of hospital trustees appointed for a municipal hospital 7419
under section 749.22 of the Revised Code, regional planning 7420
commission created pursuant to section 713.21 of the Revised 7421
Code, county planning commission created pursuant to section 7422
713.22 of the Revised Code, joint planning council created 7423
pursuant to section 713.231 of the Revised Code, interstate 7424
regional planning commission created pursuant to section 713.30 7425
of the Revised Code, port authority created pursuant to section 7426
4582.02 or 4582.26 of the Revised Code or in existence on 7427
December 16, 1964, regional council established by political 7428
subdivisions pursuant to Chapter 167. of the Revised Code, 7429
emergency planning district and joint emergency planning 7430
district designated under section 3750.03 of the Revised Code, 7431
joint emergency medical services district created pursuant to 7432
section 307.052 of the Revised Code, fire and ambulance district 7433
created pursuant to section 505.375 of the Revised Code, joint 7434
interstate emergency planning district established by an 7435
agreement entered into under that section, county solid waste 7436
management district and joint solid waste management district 7437
established under section 343.01 or 343.012 of the Revised Code, 7438
community school established under Chapter 3314. of the Revised 7439
Code, county land reutilization corporation organized under 7440
Chapter 1724. of the Revised Code, the county or counties served 7441
by a community-based correctional facility and program or 7442
district community-based correctional facility and program 7443
established and operated under sections 2301.51 to 2301.58 of 7444
the Revised Code, a community-based correctional facility and 7445
program or district community-based correctional facility and 7446
program that is so established and operated, and the facility 7447
governing board of a community-based correctional facility and 7448
program or district community-based correctional facility and 7449

program that is so established and operated. 7450

(G) (1) "Proprietary function" means a function of a 7451
political subdivision that is specified in division (G) (2) of 7452
this section or that satisfies both of the following: 7453

(a) The function is not one described in division (C) (1) 7454
(a) or (b) of this section and is not one specified in division 7455
(C) (2) of this section; 7456

(b) The function is one that promotes or preserves the 7457
public peace, health, safety, or welfare and that involves 7458
activities that are customarily engaged in by nongovernmental 7459
persons. 7460

(2) A "proprietary function" includes, but is not limited 7461
to, the following: 7462

(a) The operation of a hospital by one or more political 7463
subdivisions; 7464

(b) The design, construction, reconstruction, renovation, 7465
repair, maintenance, and operation of a public cemetery other 7466
than a township cemetery; 7467

(c) The establishment, maintenance, and operation of a 7468
utility, including, but not limited to, a light, gas, power, or 7469
heat plant, a railroad, a busline or other transit company, an 7470
airport, and a municipal corporation water supply system; 7471

(d) The maintenance, destruction, operation, and upkeep of 7472
a sewer system; 7473

(e) The operation and control of a public stadium, 7474
auditorium, civic or social center, exhibition hall, arts and 7475
crafts center, band or orchestra, or off-street parking 7476
facility. 7477

(H) "Public roads" means public roads, highways, streets, 7478
avenues, alleys, and bridges within a political subdivision. 7479
"Public roads" does not include berms, shoulders, rights-of-way, 7480
or traffic control devices unless the traffic control devices 7481
are mandated by the Ohio manual of uniform traffic control 7482
devices. 7483

(I) "State" means the state of Ohio, including, but not 7484
limited to, the general assembly, the supreme court, the offices 7485
of all elected state officers, and all departments, boards, 7486
offices, commissions, agencies, colleges and universities, 7487
institutions, and other instrumentalities of the state of Ohio. 7488
"State" does not include political subdivisions. 7489

Sec. 2901.13. (A) (1) Except as provided in division (A) 7490
(2), (3), or (4) of this section or as otherwise provided in 7491
this section, a prosecution shall be barred unless it is 7492
commenced within the following periods after an offense is 7493
committed: 7494

(a) For a felony, six years; 7495

(b) For a misdemeanor other than a minor misdemeanor, two 7496
years; 7497

(c) For a minor misdemeanor, six months. 7498

(2) There is no period of limitation for the prosecution 7499
of a violation of section 2903.01 or 2903.02 of the Revised 7500
Code. 7501

(3) Except as otherwise provided in divisions (B) to (J) 7502
of this section, a prosecution of any of the following offenses 7503
shall be barred unless it is commenced within twenty years after 7504
the offense is committed: 7505

(a) A violation of section 2903.03, 2903.04, 2905.01, 7506
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 7507
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 7508
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 7509
section 2903.11 or 2903.12 of the Revised Code if the victim is 7510
a peace officer, a violation of section 2903.13 of the Revised 7511
Code that is a felony, or a violation of former section 2907.12 7512
of the Revised Code; 7513

(b) A conspiracy to commit, attempt to commit, or 7514
complicity in committing a violation set forth in division (A) 7515
(3)(a) of this section. 7516

(4) Except as otherwise provided in divisions (D) to (L) 7517
of this section, a prosecution of a violation of section 2907.02 7518
or 2907.03 of the Revised Code or a conspiracy to commit, 7519
attempt to commit, or complicity in committing a violation of 7520
either section shall be barred unless it is commenced within 7521
twenty-five years after the offense is committed. 7522

(B)(1) Except as otherwise provided in division (B)(2) of 7523
this section, if the period of limitation provided in division 7524
(A)(1) or (3) of this section has expired, prosecution shall be 7525
commenced for an offense of which an element is fraud or breach 7526
of a fiduciary duty, within one year after discovery of the 7527
offense either by an aggrieved person, or by the aggrieved 7528
person's legal representative who is not a party to the offense. 7529

(2) If the period of limitation provided in division (A) 7530
(1) or (3) of this section has expired, prosecution for a 7531
violation of section 2913.49 of the Revised Code shall be 7532
commenced within five years after discovery of the offense 7533
either by an aggrieved person or the aggrieved person's legal 7534
representative who is not a party to the offense. 7535

(C) (1) If the period of limitation provided in division 7536
(A) (1) or (3) of this section has expired, prosecution shall be 7537
commenced for the following offenses during the following 7538
specified periods of time: 7539

(a) For an offense involving misconduct in office by a 7540
public servant, at any time while the accused remains a public 7541
servant, or within two years thereafter; 7542

(b) For an offense by a person who is not a public servant 7543
but whose offense is directly related to the misconduct in 7544
office of a public servant, at any time while that public 7545
servant remains a public servant, or within two years 7546
thereafter. 7547

(2) As used in this division: 7548

(a) An "offense is directly related to the misconduct in 7549
office of a public servant" includes, but is not limited to, a 7550
violation of section 101.71, 101.91, 121.61 or 2921.13, division 7551
(F) or (H) of section 102.03, division (A) of section 2921.02, 7552
division (A) or (B) of section 2921.43, or division (F) or (G) 7553
of section 3517.13 of the Revised Code, that is directly related 7554
to an offense involving misconduct in office of a public 7555
servant. 7556

(b) "Public servant" has the same meaning as in section 7557
2921.01 of the Revised Code. 7558

(D) (1) If a DNA record made in connection with the 7559
criminal investigation of the commission of a violation of 7560
section 2907.02 or 2907.03 of the Revised Code is determined to 7561
match another DNA record that is of an identifiable person and 7562
if the time of the determination is later than twenty-five years 7563
after the offense is committed, prosecution of that person for a 7564

violation of the section may be commenced within five years 7565
after the determination is complete. 7566

(2) If a DNA record made in connection with the criminal 7567
investigation of the commission of a violation of section 7568
2907.02 or 2907.03 of the Revised Code is determined to match 7569
another DNA record that is of an identifiable person and if the 7570
time of the determination is within twenty-five years after the 7571
offense is committed, prosecution of that person for a violation 7572
of the section may be commenced within the longer of twenty-five 7573
years after the offense is committed or five years after the 7574
determination is complete. 7575

(3) As used in this division, "DNA record" has the same 7576
meaning as in section 109.573 of the Revised Code. 7577

(E) An offense is committed when every element of the 7578
offense occurs. In the case of an offense of which an element is 7579
a continuing course of conduct, the period of limitation does 7580
not begin to run until such course of conduct or the accused's 7581
accountability for it terminates, whichever occurs first. 7582

(F) A prosecution is commenced on the date an indictment 7583
is returned or an information filed, or on the date a lawful 7584
arrest without a warrant is made, or on the date a warrant, 7585
summons, citation, or other process is issued, whichever occurs 7586
first. A prosecution is not commenced by the return of an 7587
indictment or the filing of an information unless reasonable 7588
diligence is exercised to issue and execute process on the same. 7589
A prosecution is not commenced upon issuance of a warrant, 7590
summons, citation, or other process, unless reasonable diligence 7591
is exercised to execute the same. 7592

(G) The period of limitation shall not run during any time 7593

when the corpus delicti remains undiscovered. 7594

(H) The period of limitation shall not run during any time 7595
when the accused purposely avoids prosecution. Proof that the 7596
accused departed this state or concealed the accused's identity 7597
or whereabouts is prima-facie evidence of the accused's purpose 7598
to avoid prosecution. 7599

(I) The period of limitation shall not run during any time 7600
a prosecution against the accused based on the same conduct is 7601
pending in this state, even though the indictment, information, 7602
or process that commenced the prosecution is quashed or the 7603
proceedings on the indictment, information, or process are set 7604
aside or reversed on appeal. 7605

(J) The period of limitation for a violation of any 7606
provision of Title XXIX of the Revised Code that involves a 7607
physical or mental wound, injury, disability, or condition of a 7608
nature that reasonably indicates abuse or neglect of a child 7609
under eighteen years of age or of a ~~mentally retarded,~~ 7610
~~developmentally disabled, or physically impaired~~ child with a 7611
developmental disability or physical impairment under twenty-one 7612
years of age shall not begin to run until either of the 7613
following occurs: 7614

(1) The victim of the offense reaches the age of majority. 7615

(2) A public children services agency, or a municipal or 7616
county peace officer that is not the parent or guardian of the 7617
child, in the county in which the child resides or in which the 7618
abuse or neglect is occurring or has occurred has been notified 7619
that abuse or neglect is known, suspected, or believed to have 7620
occurred. 7621

(K) As used in this section, "peace officer" has the same 7622

meaning as in section 2935.01 of the Revised Code. 7623

(L) The amendments to divisions (A) and (D) of this 7624
section apply to a violation of section 2907.02 or 2907.03 of 7625
the Revised Code committed on and after ~~the effective date of~~ 7626
~~those amendments July 16, 2015,~~ and apply to a violation of 7627
either of those sections committed prior to ~~the effective date~~ 7628
~~of the amendments July 16, 2015,~~ if prosecution for that 7629
violation was not barred under this section as it existed on the 7630
day prior to ~~the effective date of the amendments July 16, 2015.~~ 7631

Sec. 2903.341. (A) As used in this section: 7632

(1) "~~MR/DD~~ Developmental disabilities caretaker" means any 7633
~~MR/DD~~ developmental disabilities employee or any person who 7634
assumes the duty to provide for the care and protection of a 7635
~~mentally retarded person or a developmentally disabled person~~ 7636
with a developmental disability on a voluntary basis, by 7637
contract, through receipt of payment for care and protection, as 7638
a result of a family relationship, or by order of a court of 7639
competent jurisdiction. "~~MR/DD~~ Developmental disabilities 7640
caretaker" includes a person who is an employee of a care 7641
facility and a person who is an employee of an entity under 7642
contract with a provider. "~~MR/DD~~ Developmental disabilities 7643
caretaker" does not include a person who owns, operates, or 7644
administers a care facility or who is an agent of a care 7645
facility unless that person also personally provides care to 7646
~~persons~~ a person with mental retardation or a developmental 7647
disability. 7648

(2) "~~Mentally retarded person~~" and "~~developmentally~~ 7649
~~disabled person~~" have the same meanings as in section 5123.01 of 7650
the Revised Code. 7651

~~(3) "MR/DD-Developmental disabilities employee"~~ has the 7652
same meaning as in section 5123.50 of the Revised Code. 7653

(3) "Developmental disability" has the same meaning as in 7654
section 5123.01 of the Revised Code. 7655

(B) No ~~MR/DD-developmental disabilities~~ caretaker shall 7656
create a substantial risk to the health or safety of a ~~mentally-~~ 7657
~~retarded person or a developmentally disabled person with a~~ 7658
developmental disability. ~~An MR/DD-A developmental disabilities~~ 7659
caretaker does not create a substantial risk to the health or 7660
safety of a ~~mentally retarded person or a developmentally-~~ 7661
~~disabled person with a developmental disability~~ under this 7662
division when the ~~MR/DD-developmental disabilities~~ caretaker 7663
treats a physical or mental illness or defect of the ~~mentally-~~ 7664
~~retarded person or developmentally disabled person with a~~ 7665
developmental disability by spiritual means through prayer 7666
alone, in accordance with the tenets of a recognized religious 7667
body. 7668

(C) No person who owns, operates, or administers a care 7669
facility or who is an agent of a care facility shall condone, or 7670
knowingly permit, any conduct by ~~an MR/DD-a developmental~~ 7671
disabilities caretaker who is employed by or under the control 7672
of the owner, operator, administrator, or agent that is in 7673
violation of division (B) of this section and that involves a 7674
~~mentally retarded person or a developmentally disabled person~~ 7675
with a developmental disability who is under the care of the 7676
owner, operator, administrator, or agent. A person who relies 7677
upon treatment by spiritual means through prayer alone, in 7678
accordance with the tenets of a recognized religious 7679
denomination, shall not be considered endangered under this 7680
division for that reason alone. 7681

(D) (1) It is an affirmative defense to a charge of a violation of division (B) or (C) of this section that the actor's conduct was committed in good faith solely because the actor was ordered to commit the conduct by a person to whom one of the following applies:

(a) The person has supervisory authority over the actor.

(b) The person has authority over the actor's conduct pursuant to a contract for the provision of services.

(2) It is an affirmative defense to a charge of a violation of division (C) of this section that the person who owns, operates, or administers a care facility or who is an agent of a care facility and who is charged with the violation is following the individual service plan for the involved ~~mentally retarded person or a developmentally disabled person~~ with a developmental disability or that the admission, discharge, and transfer rule set forth in the Administrative Code is being followed.

(3) It is an affirmative defense to a charge of a violation of division (C) of this section that the actor did not have readily available a means to prevent either the harm to the person with ~~mental retardation~~ ~~or~~ a developmental disability or the death of such a person and the actor took reasonable steps to summon aid.

(E) (1) Except as provided in division (E) (2) or (E) (3) of this section, whoever violates division (B) or (C) of this section is guilty of patient endangerment, a misdemeanor of the first degree.

(2) If the offender previously has been convicted of, or pleaded guilty to, a violation of this section, patient

endangerment is a felony of the fourth degree. 7711

(3) If the violation results in serious physical harm to 7712
the person with ~~mental retardation or~~ a developmental 7713
disability, patient endangerment is a felony of the third 7714
degree. 7715

Sec. 2905.32. (A) No person shall knowingly recruit, lure, 7716
entice, isolate, harbor, transport, provide, obtain, or 7717
maintain, or knowingly attempt to recruit, lure, entice, 7718
isolate, harbor, transport, provide, obtain, or maintain, 7719
another person if any of the following applies: 7720

(1) The offender knows that the other person will be 7721
subjected to involuntary servitude or be compelled to engage in 7722
sexual activity for hire, engage in a performance that is 7723
obscene, sexually oriented, or nudity oriented, or be a model or 7724
participant in the production of material that is obscene, 7725
sexually oriented, or nudity oriented. 7726

(2) The other person is less than sixteen years of age or 7727
is a ~~developmentally disabled person~~ with a developmental 7728
disability whom the offender knows or has reasonable cause to 7729
believe is a ~~developmentally disabled person~~ with a 7730
developmental disability, and either the offender knows that the 7731
other person will be subjected to involuntary servitude or the 7732
offender's knowing recruitment, luring, enticement, isolation, 7733
harboring, transportation, provision, obtaining, or maintenance 7734
of the other person or knowing attempt to recruit, lure, entice, 7735
isolate, harbor, transport, provide, obtain, or maintain the 7736
other person is for any of the following purposes: 7737

(a) To engage in sexual activity for hire; 7738

(b) To engage in a performance for hire that is obscene, 7739

sexually oriented, or nudity oriented; 7740

(c) To be a model or participant for hire in the 7741
production of material that is obscene, sexually oriented, or 7742
nudity oriented. 7743

(3) The other person is sixteen or seventeen years of age, 7744
either the offender knows that the other person will be 7745
subjected to involuntary servitude or the offender's knowing 7746
recruitment, luring, enticement, isolation, harboring, 7747
transportation, provision, obtaining, or maintenance of the 7748
other person or knowing attempt to recruit, lure, entice, 7749
isolate, harbor, transport, provide, obtain, or maintain the 7750
other person is for any purpose described in divisions (A) (2) (a) 7751
to (c) of this section, and the circumstances described in 7752
division (A) (5), (6), (7), (8), (9), (10), (11), (12), or (13) 7753
of section 2907.03 of the Revised Code apply with respect to the 7754
offender and the other person. 7755

(B) For a prosecution under division (A) (1) of this 7756
section, the element "compelled" does not require that the 7757
compulsion be openly displayed or physically exerted. The 7758
element "compelled" has been established if the state proves 7759
that the victim's will was overcome by force, fear, duress, 7760
intimidation, or fraud. 7761

(C) In a prosecution under this section, proof that the 7762
defendant engaged in sexual activity with any person, or 7763
solicited sexual activity with any person, whether or not for 7764
hire, without more, does not constitute a violation of this 7765
section. 7766

(D) A prosecution for a violation of this section does not 7767
preclude a prosecution of a violation of any other section of 7768

the Revised Code. One or more acts, a series of acts, or a 7769
course of behavior that can be prosecuted under this section or 7770
any other section of the Revised Code may be prosecuted under 7771
this section, the other section of the Revised Code, or both 7772
sections. However, if an offender is convicted of or pleads 7773
guilty to a violation of this section and also is convicted of 7774
or pleads guilty to a violation of section 2907.21 of the 7775
Revised Code based on the same conduct involving the same victim 7776
that was the basis of the violation of this section, or is 7777
convicted of or pleads guilty to any other violation of Chapter 7778
2907. of the Revised Code based on the same conduct involving 7779
the same victim that was the basis of the violation of this 7780
section, the two offenses are allied offenses of similar import 7781
under section 2941.25 of the Revised Code. 7782

(E) Whoever violates this section is guilty of trafficking 7783
in persons, a felony of the first degree. Notwithstanding 7784
division (A)(1) of section 2929.14 of the Revised Code, the 7785
court shall sentence the offender to a definite prison term of 7786
ten, eleven, twelve, thirteen, fourteen, or fifteen years. 7787

(F) As used in this section: 7788

(1) "~~Developmentally disabled person~~Person with a 7789
developmental disability" means a person whose ability to resist 7790
or consent to an act is substantially impaired because of a 7791
mental or physical condition or because of advanced age. 7792

(2) "Sexual activity for hire," "performance for hire," 7793
and "model or participant for hire" mean an implicit or explicit 7794
agreement to provide sexual activity, engage in an obscene, 7795
sexually oriented, or nudity oriented performance, or be a model 7796
or participant in the production of obscene, sexually oriented, 7797
or nudity oriented material, whichever is applicable, in 7798

exchange for anything of value paid to any of the following:	7799
(a) The person engaging in such sexual activity,	7800
performance, or modeling or participation;	7801
(b) Any person who recruits, lures, entices, isolates,	7802
harbors, transports, provides, obtains, or maintains, or	7803
attempts to recruit, lure, entice, isolate, harbor, transport,	7804
provide, obtain, or maintain the person described in division	7805
(F) (2) (a) of this section;	7806
(c) Any person associated with a person described in	7807
division (F) (2) (a) or (b) of this section.	7808
(3) "Material that is obscene, sexually oriented, or	7809
nudity oriented" and "performance that is obscene, sexually	7810
oriented, or nudity oriented" have the same meanings as in	7811
section 2929.01 of the Revised Code.	7812
Sec. 2907.24. (A) (1) No person shall solicit another who	7813
is eighteen years of age or older to engage with such other	7814
person in sexual activity for hire.	7815
(2) No person shall solicit another to engage with such	7816
other person in sexual activity for hire if the other person is	7817
sixteen or seventeen years of age and the offender knows that	7818
the other person is sixteen or seventeen years of age or is	7819
reckless in that regard.	7820
(3) No person shall solicit another to engage with such	7821
other person in sexual activity for hire if either of the	7822
following applies:	7823
(a) The other person is less than sixteen years of age,	7824
whether or not the offender knows the age of the other person.	7825
(b) The other person is a developmentally disabled person	7826

with a developmental disability and the offender knows or has 7827
reasonable cause to believe the other person is a 7828
~~developmentally disabled person~~ with a developmental disability. 7829

(B) No person, with knowledge that the person has tested 7830
positive as a carrier of a virus that causes acquired 7831
immunodeficiency syndrome, shall engage in conduct in violation 7832
of division (A) of this section. 7833

(C) (1) Whoever violates division (A) of this section is 7834
guilty of soliciting. A violation of division (A) (1) of this 7835
section is a misdemeanor of the third degree. A violation of 7836
division (A) (2) of this section is a felony of the fifth degree. 7837
A violation of division (A) (3) of this section is a felony of 7838
the third degree. 7839

(2) Whoever violates division (B) of this section is 7840
guilty of engaging in solicitation after a positive HIV test. If 7841
the offender commits the violation prior to July 1, 1996, 7842
engaging in solicitation after a positive HIV test is a felony 7843
of the second degree. If the offender commits the violation on 7844
or after July 1, 1996, engaging in solicitation after a positive 7845
HIV test is a felony of the third degree. 7846

(D) If a person is convicted of or pleads guilty to a 7847
violation of any provision of this section, an attempt to commit 7848
a violation of any provision of this section, or a violation of 7849
or an attempt to commit a violation of a municipal ordinance 7850
that is substantially equivalent to any provision of this 7851
section and if the person, in committing or attempting to commit 7852
the violation, was in, was on, or used a motor vehicle, the 7853
court, in addition to or independent of all other penalties 7854
imposed for the violation, may impose upon the offender a class 7855
six suspension of the person's driver's license, commercial 7856

driver's license, temporary instruction permit, probationary 7857
license, or nonresident operating privilege from the range 7858
specified in division (A) (6) of section 4510.02 of the Revised 7859
Code. In lieu of imposing upon the offender the class six 7860
suspension, the court instead may require the offender to 7861
perform community service for a number of hours determined by 7862
the court. 7863

(E) As used in this section: 7864

(1) "~~Developmentally disabled person~~Person with a 7865
developmental disability" has the same meaning as in section 7866
2905.32 of the Revised Code. 7867

(2) "Sexual activity for hire" means an implicit or 7868
explicit agreement to provide sexual activity in exchange for 7869
anything of value paid to the person engaging in such sexual 7870
activity, to any person trafficking that person, or to any 7871
person associated with either such person. 7872

Sec. 2919.23. (A) No person, knowing the person is without 7873
privilege to do so or being reckless in that regard, shall 7874
entice, take, keep, or harbor a person identified in division 7875
(A) (1), (2), or (3) of this section from the parent, guardian, 7876
or custodian of the person identified in division (A) (1), (2), 7877
or (3) of this section: 7878

(1) A child under the age of eighteen, or a mentally or 7879
physically handicapped child under the age of twenty-one; 7880

(2) A person committed by law to an institution for 7881
delinquent, unruly, neglected, abused, or dependent children; 7882

(3) A person committed by law to an institution for the 7883
mentally ill or ~~mentally retarded~~ an institution for persons 7884
with developmental disabilities. 7885

(B) No person shall aid, abet, induce, cause, or encourage
a child or a ward of the juvenile court who has been committed
to the custody of any person, department, or public or private
institution to leave the custody of that person, department, or
institution without legal consent.

(C) It is an affirmative defense to a charge of enticing
or taking under division (A) (1) of this section, that the actor
reasonably believed that the actor's conduct was necessary to
preserve the child's health or safety. It is an affirmative
defense to a charge of keeping or harboring under division (A)
of this section, that the actor in good faith gave notice to law
enforcement or judicial authorities within a reasonable time
after the child or committed person came under the actor's
shelter, protection, or influence.

(D) (1) Whoever violates this section is guilty of
interference with custody.

(2) Except as otherwise provided in this division, a
violation of division (A) (1) of this section is a misdemeanor of
the first degree. If the child who is the subject of a violation
of division (A) (1) of this section is removed from the state or
if the offender previously has been convicted of an offense
under this section, a violation of division (A) (1) of this
section is a felony of the fifth degree. If the child who is the
subject of a violation of division (A) (1) of this section
suffers physical harm as a result of the violation, a violation
of division (A) (1) of this section is a felony of the fourth
degree.

(3) A violation of division (A) (2) or (3) of this section
is a misdemeanor of the third degree.

(4) A violation of division (B) of this section is a 7915
misdemeanor of the first degree. Each day of violation of 7916
division (B) of this section is a separate offense. 7917

Sec. 2929.01. As used in this chapter: 7918

(A) (1) "Alternative residential facility" means, subject 7919
to division (A) (2) of this section, any facility other than an 7920
offender's home or residence in which an offender is assigned to 7921
live and that satisfies all of the following criteria: 7922

(a) It provides programs through which the offender may 7923
seek or maintain employment or may receive education, training, 7924
treatment, or habilitation. 7925

(b) It has received the appropriate license or certificate 7926
for any specialized education, training, treatment, 7927
habilitation, or other service that it provides from the 7928
government agency that is responsible for licensing or 7929
certifying that type of education, training, treatment, 7930
habilitation, or service. 7931

(2) "Alternative residential facility" does not include a 7932
community-based correctional facility, jail, halfway house, or 7933
prison. 7934

(B) "Basic probation supervision" means a requirement that 7935
the offender maintain contact with a person appointed to 7936
supervise the offender in accordance with sanctions imposed by 7937
the court or imposed by the parole board pursuant to section 7938
2967.28 of the Revised Code. "Basic probation supervision" 7939
includes basic parole supervision and basic post-release control 7940
supervision. 7941

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have 7942
the same meanings as in section 2925.01 of the Revised Code. 7943

(D) "Community-based correctional facility" means a community-based correctional facility and program or district community-based correctional facility and program developed pursuant to sections 2301.51 to 2301.58 of the Revised Code.

(E) "Community control sanction" means a sanction that is not a prison term and that is described in section 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction that is not a jail term and that is described in section 2929.26, 2929.27, or 2929.28 of the Revised Code. "Community control sanction" includes probation if the sentence involved was imposed for a felony that was committed prior to July 1, 1996, or if the sentence involved was imposed for a misdemeanor that was committed prior to January 1, 2004.

(F) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code.

(G) "Curfew" means a requirement that an offender during a specified period of time be at a designated place.

(H) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

(I) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(J) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(K) "Drug treatment program" means any program under which 7973
a person undergoes assessment and treatment designed to reduce 7974
or completely eliminate the person's physical or emotional 7975
reliance upon alcohol, another drug, or alcohol and another drug 7976
and under which the person may be required to receive assessment 7977
and treatment on an outpatient basis or may be required to 7978
reside at a facility other than the person's home or residence 7979
while undergoing assessment and treatment. 7980

(L) "Economic loss" means any economic detriment suffered 7981
by a victim as a direct and proximate result of the commission 7982
of an offense and includes any loss of income due to lost time 7983
at work because of any injury caused to the victim, and any 7984
property loss, medical cost, or funeral expense incurred as a 7985
result of the commission of the offense. "Economic loss" does 7986
not include non-economic loss or any punitive or exemplary 7987
damages. 7988

(M) "Education or training" includes study at, or in 7989
conjunction with a program offered by, a university, college, or 7990
technical college or vocational study and also includes the 7991
completion of primary school, secondary school, and literacy 7992
curricula or their equivalent. 7993

(N) "Firearm" has the same meaning as in section 2923.11 7994
of the Revised Code. 7995

(O) "Halfway house" means a facility licensed by the 7996
division of parole and community services of the department of 7997
rehabilitation and correction pursuant to section 2967.14 of the 7998
Revised Code as a suitable facility for the care and treatment 7999
of adult offenders. 8000

(P) "House arrest" means a period of confinement of an 8001

offender that is in the offender's home or in other premises 8002
specified by the sentencing court or by the parole board 8003
pursuant to section 2967.28 of the Revised Code and during which 8004
all of the following apply: 8005

(1) The offender is required to remain in the offender's 8006
home or other specified premises for the specified period of 8007
confinement, except for periods of time during which the 8008
offender is at the offender's place of employment or at other 8009
premises as authorized by the sentencing court or by the parole 8010
board. 8011

(2) The offender is required to report periodically to a 8012
person designated by the court or parole board. 8013

(3) The offender is subject to any other restrictions and 8014
requirements that may be imposed by the sentencing court or by 8015
the parole board. 8016

(Q) "Intensive probation supervision" means a requirement 8017
that an offender maintain frequent contact with a person 8018
appointed by the court, or by the parole board pursuant to 8019
section 2967.28 of the Revised Code, to supervise the offender 8020
while the offender is seeking or maintaining necessary 8021
employment and participating in training, education, and 8022
treatment programs as required in the court's or parole board's 8023
order. "Intensive probation supervision" includes intensive 8024
parole supervision and intensive post-release control 8025
supervision. 8026

(R) "Jail" means a jail, workhouse, minimum security jail, 8027
or other residential facility used for the confinement of 8028
alleged or convicted offenders that is operated by a political 8029
subdivision or a combination of political subdivisions of this 8030

state. 8031

(S) "Jail term" means the term in a jail that a sentencing 8032
court imposes or is authorized to impose pursuant to section 8033
2929.24 or 2929.25 of the Revised Code or pursuant to any other 8034
provision of the Revised Code that authorizes a term in a jail 8035
for a misdemeanor conviction. 8036

(T) "Mandatory jail term" means the term in a jail that a 8037
sentencing court is required to impose pursuant to division (G) 8038
of section 1547.99 of the Revised Code, division (E) of section 8039
2903.06 or division (D) of section 2903.08 of the Revised Code, 8040
division (E) or (G) of section 2929.24 of the Revised Code, 8041
division (B) of section 4510.14 of the Revised Code, or division 8042
(G) of section 4511.19 of the Revised Code or pursuant to any 8043
other provision of the Revised Code that requires a term in a 8044
jail for a misdemeanor conviction. 8045

(U) "Delinquent child" has the same meaning as in section 8046
2152.02 of the Revised Code. 8047

(V) "License violation report" means a report that is made 8048
by a sentencing court, or by the parole board pursuant to 8049
section 2967.28 of the Revised Code, to the regulatory or 8050
licensing board or agency that issued an offender a professional 8051
license or a license or permit to do business in this state and 8052
that specifies that the offender has been convicted of or 8053
pleaded guilty to an offense that may violate the conditions 8054
under which the offender's professional license or license or 8055
permit to do business in this state was granted or an offense 8056
for which the offender's professional license or license or 8057
permit to do business in this state may be revoked or suspended. 8058

(W) "Major drug offender" means an offender who is 8059

convicted of or pleads guilty to the possession of, sale of, or 8060
offer to sell any drug, compound, mixture, preparation, or 8061
substance that consists of or contains at least one thousand 8062
grams of hashish; at least one hundred grams of cocaine; at 8063
least two thousand five hundred unit doses or two hundred fifty 8064
grams of heroin; at least five thousand unit doses of L.S.D. or 8065
five hundred grams of L.S.D. in a liquid concentrate, liquid 8066
extract, or liquid distillate form; at least fifty grams of a 8067
controlled substance analog; or at least one hundred times the 8068
amount of any other schedule I or II controlled substance other 8069
than marihuana that is necessary to commit a felony of the third 8070
degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 8071
of the Revised Code that is based on the possession of, sale of, 8072
or offer to sell the controlled substance. 8073

(X) "Mandatory prison term" means any of the following: 8074

(1) Subject to division (X) (2) of this section, the term 8075
in prison that must be imposed for the offenses or circumstances 8076
set forth in divisions (F) (1) to (8) or (F) (12) to (18) of 8077
section 2929.13 and division (B) of section 2929.14 of the 8078
Revised Code. Except as provided in sections 2925.02, 2925.03, 8079
2925.04, 2925.05, and 2925.11 of the Revised Code, unless the 8080
maximum or another specific term is required under section 8081
2929.14 or 2929.142 of the Revised Code, a mandatory prison term 8082
described in this division may be any prison term authorized for 8083
the level of offense. 8084

(2) The term of sixty or one hundred twenty days in prison 8085
that a sentencing court is required to impose for a third or 8086
fourth degree felony OVI offense pursuant to division (G) (2) of 8087
section 2929.13 and division (G) (1) (d) or (e) of section 4511.19 8088
of the Revised Code or the term of one, two, three, four, or 8089

five years in prison that a sentencing court is required to 8090
impose pursuant to division (G)(2) of section 2929.13 of the 8091
Revised Code. 8092

(3) The term in prison imposed pursuant to division (A) of 8093
section 2971.03 of the Revised Code for the offenses and in the 8094
circumstances described in division (F)(11) of section 2929.13 8095
of the Revised Code or pursuant to division (B)(1)(a), (b), or 8096
(c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of 8097
section 2971.03 of the Revised Code and that term as modified or 8098
terminated pursuant to section 2971.05 of the Revised Code. 8099

(Y) "Monitored time" means a period of time during which 8100
an offender continues to be under the control of the sentencing 8101
court or parole board, subject to no conditions other than 8102
leading a law-abiding life. 8103

(Z) "Offender" means a person who, in this state, is 8104
convicted of or pleads guilty to a felony or a misdemeanor. 8105

(AA) "Prison" means a residential facility used for the 8106
confinement of convicted felony offenders that is under the 8107
control of the department of rehabilitation and correction but 8108
does not include a violation sanction center operated under 8109
authority of section 2967.141 of the Revised Code. 8110

(BB) "Prison term" includes either of the following 8111
sanctions for an offender: 8112

(1) A stated prison term; 8113

(2) A term in a prison shortened by, or with the approval 8114
of, the sentencing court pursuant to section 2929.143, 2929.20, 8115
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code. 8116

(CC) "Repeat violent offender" means a person about whom 8117

both of the following apply: 8118

(1) The person is being sentenced for committing or for 8119
complicity in committing any of the following: 8120

(a) Aggravated murder, murder, any felony of the first or 8121
second degree that is an offense of violence, or an attempt to 8122
commit any of these offenses if the attempt is a felony of the 8123
first or second degree; 8124

(b) An offense under an existing or former law of this 8125
state, another state, or the United States that is or was 8126
substantially equivalent to an offense described in division 8127
(CC) (1) (a) of this section. 8128

(2) The person previously was convicted of or pleaded 8129
guilty to an offense described in division (CC) (1) (a) or (b) of 8130
this section. 8131

(DD) "Sanction" means any penalty imposed upon an offender 8132
who is convicted of or pleads guilty to an offense, as 8133
punishment for the offense. "Sanction" includes any sanction 8134
imposed pursuant to any provision of sections 2929.14 to 2929.18 8135
or 2929.24 to 2929.28 of the Revised Code. 8136

(EE) "Sentence" means the sanction or combination of 8137
sanctions imposed by the sentencing court on an offender who is 8138
convicted of or pleads guilty to an offense. 8139

(FF) "Stated prison term" means the prison term, mandatory 8140
prison term, or combination of all prison terms and mandatory 8141
prison terms imposed by the sentencing court pursuant to section 8142
2929.14, 2929.142, or 2971.03 of the Revised Code or under 8143
section 2919.25 of the Revised Code. "Stated prison term" 8144
includes any credit received by the offender for time spent in 8145
jail awaiting trial, sentencing, or transfer to prison for the 8146

offense and any time spent under house arrest or house arrest 8147
with electronic monitoring imposed after earning credits 8148
pursuant to section 2967.193 of the Revised Code. If an offender 8149
is serving a prison term as a risk reduction sentence under 8150
sections 2929.143 and 5120.036 of the Revised Code, "stated 8151
prison term" includes any period of time by which the prison 8152
term imposed upon the offender is shortened by the offender's 8153
successful completion of all assessment and treatment or 8154
programming pursuant to those sections. 8155

(GG) "Victim-offender mediation" means a reconciliation or 8156
mediation program that involves an offender and the victim of 8157
the offense committed by the offender and that includes a 8158
meeting in which the offender and the victim may discuss the 8159
offense, discuss restitution, and consider other sanctions for 8160
the offense. 8161

(HH) "Fourth degree felony OVI offense" means a violation 8162
of division (A) of section 4511.19 of the Revised Code that, 8163
under division (G) of that section, is a felony of the fourth 8164
degree. 8165

(II) "Mandatory term of local incarceration" means the 8166
term of sixty or one hundred twenty days in a jail, a community- 8167
based correctional facility, a halfway house, or an alternative 8168
residential facility that a sentencing court may impose upon a 8169
person who is convicted of or pleads guilty to a fourth degree 8170
felony OVI offense pursuant to division (G) (1) of section 8171
2929.13 of the Revised Code and division (G) (1) (d) or (e) of 8172
section 4511.19 of the Revised Code. 8173

(JJ) "Designated homicide, assault, or kidnapping 8174
offense," "violent sex offense," "sexual motivation 8175
specification," "sexually violent offense," "sexually violent 8176

predator," and "sexually violent predator specification" have 8177
the same meanings as in section 2971.01 of the Revised Code. 8178

(KK) "Sexually oriented offense," "child-victim oriented 8179
offense," and "tier III sex offender/child-victim offender" have 8180
the same meanings as in section 2950.01 of the Revised Code. 8181

(LL) An offense is "committed in the vicinity of a child" 8182
if the offender commits the offense within thirty feet of or 8183
within the same residential unit as a child who is under 8184
eighteen years of age, regardless of whether the offender knows 8185
the age of the child or whether the offender knows the offense 8186
is being committed within thirty feet of or within the same 8187
residential unit as the child and regardless of whether the 8188
child actually views the commission of the offense. 8189

(MM) "Family or household member" has the same meaning as 8190
in section 2919.25 of the Revised Code. 8191

(NN) "Motor vehicle" and "manufactured home" have the same 8192
meanings as in section 4501.01 of the Revised Code. 8193

(OO) "Detention" and "detention facility" have the same 8194
meanings as in section 2921.01 of the Revised Code. 8195

(PP) "Third degree felony OVI offense" means a violation 8196
of division (A) of section 4511.19 of the Revised Code that, 8197
under division (G) of that section, is a felony of the third 8198
degree. 8199

(QQ) "Random drug testing" has the same meaning as in 8200
section 5120.63 of the Revised Code. 8201

(RR) "Felony sex offense" has the same meaning as in 8202
section 2967.28 of the Revised Code. 8203

(SS) "Body armor" has the same meaning as in section 8204

2941.1411 of the Revised Code. 8205

(TT) "Electronic monitoring" means monitoring through the 8206
use of an electronic monitoring device. 8207

(UU) "Electronic monitoring device" means any of the 8208
following: 8209

(1) Any device that can be operated by electrical or 8210
battery power and that conforms with all of the following: 8211

(a) The device has a transmitter that can be attached to a 8212
person, that will transmit a specified signal to a receiver of 8213
the type described in division (UU) (1) (b) of this section if the 8214
transmitter is removed from the person, turned off, or altered 8215
in any manner without prior court approval in relation to 8216
electronic monitoring or without prior approval of the 8217
department of rehabilitation and correction in relation to the 8218
use of an electronic monitoring device for an inmate on 8219
transitional control or otherwise is tampered with, that can 8220
transmit continuously and periodically a signal to that receiver 8221
when the person is within a specified distance from the 8222
receiver, and that can transmit an appropriate signal to that 8223
receiver if the person to whom it is attached travels a 8224
specified distance from that receiver. 8225

(b) The device has a receiver that can receive 8226
continuously the signals transmitted by a transmitter of the 8227
type described in division (UU) (1) (a) of this section, can 8228
transmit continuously those signals by a wireless or landline 8229
telephone connection to a central monitoring computer of the 8230
type described in division (UU) (1) (c) of this section, and can 8231
transmit continuously an appropriate signal to that central 8232
monitoring computer if the device has been turned off or altered 8233

without prior court approval or otherwise tampered with. The 8234
device is designed specifically for use in electronic 8235
monitoring, is not a converted wireless phone or another 8236
tracking device that is clearly not designed for electronic 8237
monitoring, and provides a means of text-based or voice 8238
communication with the person. 8239

(c) The device has a central monitoring computer that can 8240
receive continuously the signals transmitted by a wireless or 8241
landline telephone connection by a receiver of the type 8242
described in division (UU) (1) (b) of this section and can monitor 8243
continuously the person to whom an electronic monitoring device 8244
of the type described in division (UU) (1) (a) of this section is 8245
attached. 8246

(2) Any device that is not a device of the type described 8247
in division (UU) (1) of this section and that conforms with all 8248
of the following: 8249

(a) The device includes a transmitter and receiver that 8250
can monitor and determine the location of a subject person at 8251
any time, or at a designated point in time, through the use of a 8252
central monitoring computer or through other electronic means. 8253

(b) The device includes a transmitter and receiver that 8254
can determine at any time, or at a designated point in time, 8255
through the use of a central monitoring computer or other 8256
electronic means the fact that the transmitter is turned off or 8257
altered in any manner without prior approval of the court in 8258
relation to the electronic monitoring or without prior approval 8259
of the department of rehabilitation and correction in relation 8260
to the use of an electronic monitoring device for an inmate on 8261
transitional control or otherwise is tampered with. 8262

(3) Any type of technology that can adequately track or 8263
determine the location of a subject person at any time and that 8264
is approved by the director of rehabilitation and correction, 8265
including, but not limited to, any satellite technology, voice 8266
tracking system, or retinal scanning system that is so approved. 8267

(VV) "Non-economic loss" means nonpecuniary harm suffered 8268
by a victim of an offense as a result of or related to the 8269
commission of the offense, including, but not limited to, pain 8270
and suffering; loss of society, consortium, companionship, care, 8271
assistance, attention, protection, advice, guidance, counsel, 8272
instruction, training, or education; mental anguish; and any 8273
other intangible loss. 8274

(WW) "Prosecutor" has the same meaning as in section 8275
2935.01 of the Revised Code. 8276

(XX) "Continuous alcohol monitoring" means the ability to 8277
automatically test and periodically transmit alcohol consumption 8278
levels and tamper attempts at least every hour, regardless of 8279
the location of the person who is being monitored. 8280

(YY) A person is "adjudicated a sexually violent predator" 8281
if the person is convicted of or pleads guilty to a violent sex 8282
offense and also is convicted of or pleads guilty to a sexually 8283
violent predator specification that was included in the 8284
indictment, count in the indictment, or information charging 8285
that violent sex offense or if the person is convicted of or 8286
pleads guilty to a designated homicide, assault, or kidnapping 8287
offense and also is convicted of or pleads guilty to both a 8288
sexual motivation specification and a sexually violent predator 8289
specification that were included in the indictment, count in the 8290
indictment, or information charging that designated homicide, 8291
assault, or kidnapping offense. 8292

(ZZ) An offense is "committed in proximity to a school" if 8293
the offender commits the offense in a school safety zone or 8294
within five hundred feet of any school building or the 8295
boundaries of any school premises, regardless of whether the 8296
offender knows the offense is being committed in a school safety 8297
zone or within five hundred feet of any school building or the 8298
boundaries of any school premises. 8299

(AAA) "Human trafficking" means a scheme or plan to which 8300
all of the following apply: 8301

(1) Its object is one or more of the following: 8302

(a) To subject a victim or victims to involuntary 8303
servitude, as defined in section 2905.31 of the Revised Code or 8304
to compel a victim or victims to engage in sexual activity for 8305
hire, to engage in a performance that is obscene, sexually 8306
oriented, or nudity oriented, or to be a model or participant in 8307
the production of material that is obscene, sexually oriented, 8308
or nudity oriented; 8309

(b) To facilitate, encourage, or recruit a victim who is 8310
less than sixteen years of age or is a ~~developmentally disabled~~ 8311
person with a developmental disability, or victims who are less 8312
than sixteen years of age or are ~~developmentally disabled~~ 8313
persons with developmental disabilities, for any purpose listed 8314
in divisions (A) (2) (a) to (c) of section 2905.32 of the Revised 8315
Code; 8316

(c) To facilitate, encourage, or recruit a victim who is 8317
sixteen or seventeen years of age, or victims who are sixteen or 8318
seventeen years of age, for any purpose listed in divisions (A) 8319
(2) (a) to (c) of section 2905.32 of the Revised Code, if the 8320
circumstances described in division (A) (5), (6), (7), (8), (9), 8321

(10), (11), (12), or (13) of section 2907.03 of the Revised Code 8322
apply with respect to the person engaging in the conduct and the 8323
victim or victims. 8324

(2) It involves at least two felony offenses, whether or 8325
not there has been a prior conviction for any of the felony 8326
offenses, to which all of the following apply: 8327

(a) Each of the felony offenses is a violation of section 8328
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, 8329
division (A) (1) or (2) of section 2907.323, or division (B) (1), 8330
(2), (3), (4), or (5) of section 2919.22 of the Revised Code or 8331
is a violation of a law of any state other than this state that 8332
is substantially similar to any of the sections or divisions of 8333
the Revised Code identified in this division. 8334

(b) At least one of the felony offenses was committed in 8335
this state. 8336

(c) The felony offenses are related to the same scheme or 8337
plan and are not isolated instances. 8338

(BBB) "Material," "nudity," "obscene," "performance," and 8339
"sexual activity" have the same meanings as in section 2907.01 8340
of the Revised Code. 8341

(CCC) "Material that is obscene, sexually oriented, or 8342
nudity oriented" means any material that is obscene, that shows 8343
a person participating or engaging in sexual activity, 8344
masturbation, or bestiality, or that shows a person in a state 8345
of nudity. 8346

(DDD) "Performance that is obscene, sexually oriented, or 8347
nudity oriented" means any performance that is obscene, that 8348
shows a person participating or engaging in sexual activity, 8349
masturbation, or bestiality, or that shows a person in a state 8350

of nudity. 8351

Sec. 2929.04. (A) Imposition of the death penalty for 8352
aggravated murder is precluded unless one or more of the 8353
following is specified in the indictment or count in the 8354
indictment pursuant to section 2941.14 of the Revised Code and 8355
proved beyond a reasonable doubt: 8356

(1) The offense was the assassination of the president of 8357
the United States or a person in line of succession to the 8358
presidency, the governor or lieutenant governor of this state, 8359
the president-elect or vice president-elect of the United 8360
States, the governor-elect or lieutenant governor-elect of this 8361
state, or a candidate for any of the offices described in this 8362
division. For purposes of this division, a person is a candidate 8363
if the person has been nominated for election according to law, 8364
if the person has filed a petition or petitions according to law 8365
to have the person's name placed on the ballot in a primary or 8366
general election, or if the person campaigns as a write-in 8367
candidate in a primary or general election. 8368

(2) The offense was committed for hire. 8369

(3) The offense was committed for the purpose of escaping 8370
detection, apprehension, trial, or punishment for another 8371
offense committed by the offender. 8372

(4) The offense was committed while the offender was under 8373
detention or while the offender was at large after having broken 8374
detention. As used in division (A) (4) of this section, 8375
"detention" has the same meaning as in section 2921.01 of the 8376
Revised Code, except that detention does not include 8377
hospitalization, institutionalization, or confinement in a 8378
mental health facility or ~~mental retardation and developmentally~~ 8379

~~disabled developmental disabilities~~ facility unless at the time 8380
of the commission of the offense either of the following 8381
circumstances apply: 8382

(a) The offender was in the facility as a result of being 8383
charged with a violation of a section of the Revised Code. 8384

(b) The offender was under detention as a result of being 8385
convicted of or pleading guilty to a violation of a section of 8386
the Revised Code. 8387

(5) Prior to the offense at bar, the offender was 8388
convicted of an offense an essential element of which was the 8389
purposeful killing of or attempt to kill another, or the offense 8390
at bar was part of a course of conduct involving the purposeful 8391
killing of or attempt to kill two or more persons by the 8392
offender. 8393

(6) The victim of the offense was a law enforcement 8394
officer, as defined in section 2911.01 of the Revised Code, whom 8395
the offender had reasonable cause to know or knew to be a law 8396
enforcement officer as so defined, and either the victim, at the 8397
time of the commission of the offense, was engaged in the 8398
victim's duties, or it was the offender's specific purpose to 8399
kill a law enforcement officer as so defined. 8400

(7) The offense was committed while the offender was 8401
committing, attempting to commit, or fleeing immediately after 8402
committing or attempting to commit kidnapping, rape, aggravated 8403
arson, aggravated robbery, or aggravated burglary, and either 8404
the offender was the principal offender in the commission of the 8405
aggravated murder or, if not the principal offender, committed 8406
the aggravated murder with prior calculation and design. 8407

(8) The victim of the aggravated murder was a witness to 8408

an offense who was purposely killed to prevent the victim's 8409
testimony in any criminal proceeding and the aggravated murder 8410
was not committed during the commission, attempted commission, 8411
or flight immediately after the commission or attempted 8412
commission of the offense to which the victim was a witness, or 8413
the victim of the aggravated murder was a witness to an offense 8414
and was purposely killed in retaliation for the victim's 8415
testimony in any criminal proceeding. 8416

(9) The offender, in the commission of the offense, 8417
purposefully caused the death of another who was under thirteen 8418
years of age at the time of the commission of the offense, and 8419
either the offender was the principal offender in the commission 8420
of the offense or, if not the principal offender, committed the 8421
offense with prior calculation and design. 8422

(10) The offense was committed while the offender was 8423
committing, attempting to commit, or fleeing immediately after 8424
committing or attempting to commit terrorism. 8425

(B) If one or more of the aggravating circumstances listed 8426
in division (A) of this section is specified in the indictment 8427
or count in the indictment and proved beyond a reasonable doubt, 8428
and if the offender did not raise the matter of age pursuant to 8429
section 2929.023 of the Revised Code or if the offender, after 8430
raising the matter of age, was found at trial to have been 8431
eighteen years of age or older at the time of the commission of 8432
the offense, the court, trial jury, or panel of three judges 8433
shall consider, and weigh against the aggravating circumstances 8434
proved beyond a reasonable doubt, the nature and circumstances 8435
of the offense, the history, character, and background of the 8436
offender, and all of the following factors: 8437

(1) Whether the victim of the offense induced or 8438

facilitated it; 8439

(2) Whether it is unlikely that the offense would have 8440
been committed, but for the fact that the offender was under 8441
duress, coercion, or strong provocation; 8442

(3) Whether, at the time of committing the offense, the 8443
offender, because of a mental disease or defect, lacked 8444
substantial capacity to appreciate the criminality of the 8445
offender's conduct or to conform the offender's conduct to the 8446
requirements of the law; 8447

(4) The youth of the offender; 8448

(5) The offender's lack of a significant history of prior 8449
criminal convictions and delinquency adjudications; 8450

(6) If the offender was a participant in the offense but 8451
not the principal offender, the degree of the offender's 8452
participation in the offense and the degree of the offender's 8453
participation in the acts that led to the death of the victim; 8454

(7) Any other factors that are relevant to the issue of 8455
whether the offender should be sentenced to death. 8456

(C) The defendant shall be given great latitude in the 8457
presentation of evidence of the factors listed in division (B) 8458
of this section and of any other factors in mitigation of the 8459
imposition of the sentence of death. 8460

The existence of any of the mitigating factors listed in 8461
division (B) of this section does not preclude the imposition of 8462
a sentence of death on the offender but shall be weighed 8463
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 8464
Revised Code by the trial court, trial jury, or the panel of 8465
three judges against the aggravating circumstances the offender 8466

was found guilty of committing. 8467

Sec. 2929.06. (A) If a sentence of death imposed upon an 8468
offender is set aside, nullified, or vacated because the court 8469
of appeals, in a case in which a sentence of death was imposed 8470
for an offense committed before January 1, 1995, or the supreme 8471
court, in cases in which the supreme court reviews the sentence 8472
upon appeal, could not affirm the sentence of death under the 8473
standards imposed by section 2929.05 of the Revised Code, is set 8474
aside, nullified, or vacated for the sole reason that the 8475
statutory procedure for imposing the sentence of death that is 8476
set forth in sections 2929.03 and 2929.04 of the Revised Code is 8477
unconstitutional, is set aside, nullified, or vacated pursuant 8478
to division (C) of section 2929.05 of the Revised Code, or is 8479
set aside, nullified, or vacated because a court has determined 8480
that the offender is ~~mentally retarded~~ a person with an 8481
intellectual disability under standards set forth in decisions 8482
of the supreme court of this state or the United States supreme 8483
court, the trial court that sentenced the offender shall conduct 8484
a hearing to resentence the offender. At the resentencing 8485
hearing, the court shall impose upon the offender a sentence of 8486
life imprisonment or an indefinite term consisting of a minimum 8487
term of thirty years and a maximum term of life imprisonment 8488
that is determined as specified in this division. If division 8489
(D) of section 2929.03 of the Revised Code, at the time the 8490
offender committed the aggravated murder for which the sentence 8491
of death was imposed, required the imposition when a sentence of 8492
death was not imposed of a sentence of life imprisonment without 8493
parole or a sentence of an indefinite term consisting of a 8494
minimum term of thirty years and a maximum term of life 8495
imprisonment to be imposed pursuant to division (A) or (B) (3) of 8496
section 2971.03 of the Revised Code and served pursuant to that 8497

section, the court shall impose the sentence so required. In all 8498
other cases, the sentences of life imprisonment that are 8499
available at the hearing, and from which the court shall impose 8500
sentence, shall be the same sentences of life imprisonment that 8501
were available under division (D) of section 2929.03 or under 8502
section 2909.24 of the Revised Code at the time the offender 8503
committed the offense for which the sentence of death was 8504
imposed. Nothing in this division regarding the resentencing of 8505
an offender shall affect the operation of section 2971.03 of the 8506
Revised Code. 8507

(B) Whenever any court of this state or any federal court 8508
sets aside, nullifies, or vacates a sentence of death imposed 8509
upon an offender because of error that occurred in the 8510
sentencing phase of the trial and if division (A) of this 8511
section does not apply, the trial court that sentenced the 8512
offender shall conduct a new hearing to resentence the offender. 8513
If the offender was tried by a jury, the trial court shall 8514
impanel a new jury for the hearing. If the offender was tried by 8515
a panel of three judges, that panel or, if necessary, a new 8516
panel of three judges shall conduct the hearing. At the hearing, 8517
the court or panel shall follow the procedure set forth in 8518
division (D) of section 2929.03 of the Revised Code in 8519
determining whether to impose upon the offender a sentence of 8520
death, a sentence of life imprisonment, or an indefinite term 8521
consisting of a minimum term of thirty years and a maximum term 8522
of life imprisonment. If, pursuant to that procedure, the court 8523
or panel determines that it will impose a sentence other than a 8524
sentence of death, the court or panel shall impose upon the 8525
offender one of the sentences of life imprisonment that could 8526
have been imposed at the time the offender committed the offense 8527
for which the sentence of death was imposed, determined as 8528

specified in this division, or an indefinite term consisting of 8529
a minimum term of thirty years and a maximum term of life 8530
imprisonment that is determined as specified in this division. 8531
If division (D) of section 2929.03 of the Revised Code, at the 8532
time the offender committed the aggravated murder for which the 8533
sentence of death was imposed, required the imposition when a 8534
sentence of death was not imposed of a sentence of life 8535
imprisonment without parole or a sentence of an indefinite term 8536
consisting of a minimum term of thirty years and a maximum term 8537
of life imprisonment to be imposed pursuant to division (A) or 8538
(B) (3) of section 2971.03 of the Revised Code and served 8539
pursuant to that section, the court or panel shall impose the 8540
sentence so required. In all other cases, the sentences of life 8541
imprisonment that are available at the hearing, and from which 8542
the court or panel shall impose sentence, shall be the same 8543
sentences of life imprisonment that were available under 8544
division (D) of section 2929.03 or under section 2909.24 of the 8545
Revised Code at the time the offender committed the offense for 8546
which the sentence of death was imposed. 8547

(C) If a sentence of life imprisonment without parole 8548
imposed upon an offender pursuant to section 2929.021 or 2929.03 8549
of the Revised Code is set aside, nullified, or vacated for the 8550
sole reason that the statutory procedure for imposing the 8551
sentence of life imprisonment without parole that is set forth 8552
in sections 2929.03 and 2929.04 of the Revised Code is 8553
unconstitutional, the trial court that sentenced the offender 8554
shall conduct a hearing to resentence the offender to life 8555
imprisonment with parole eligibility after serving twenty-five 8556
full years of imprisonment or to life imprisonment with parole 8557
eligibility after serving thirty full years of imprisonment. 8558

(D) Nothing in this section limits or restricts the rights 8559

of the state to appeal any order setting aside, nullifying, or 8560
vacating a conviction or sentence of death, when an appeal of 8561
that nature otherwise would be available. 8562

(E) This section, as amended by H.B. 184 of the 125th 8563
general assembly, shall apply to all offenders who have been 8564
sentenced to death for an aggravated murder that was committed 8565
on or after October 19, 1981, or for terrorism that was 8566
committed on or after May 15, 2002. This section, as amended by 8567
H.B. 184 of the 125th general assembly, shall apply equally to 8568
all such offenders sentenced to death prior to, on, or after 8569
March 23, 2005, including offenders who, on March 23, 2005, are 8570
challenging their sentence of death and offenders whose sentence 8571
of death has been set aside, nullified, or vacated by any court 8572
of this state or any federal court but who, as of March 23, 8573
2005, have not yet been resentenced. 8574

Sec. 2930.061. (A) If a person is charged in a complaint, 8575
indictment, or information with any crime or specified 8576
delinquent act or with any other violation of law, and if the 8577
case involves a victim that the prosecutor in the case knows is 8578
a ~~mentally retarded person or a developmentally disabled person~~ 8579
with a developmental disability, in addition to any other 8580
notices required under this chapter or under any other provision 8581
of law, the prosecutor in the case shall send written notice of 8582
the charges to the department of developmental disabilities. The 8583
written notice shall specifically identify the person so 8584
charged. 8585

(B) As used in this section, "~~mentally retarded person~~" 8586
and "~~developmentally disabled person~~developmental disability" 8587
~~have~~has the same ~~meanings~~meaning as in section 5123.01 of the 8588
Revised Code. 8589

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 8590
in a case who has requested to receive notice under this section 8591
shall be given notice of the incarceration of the defendant. If 8592
an alleged juvenile offender is committed to the temporary 8593
custody of a school, camp, institution, or other facility 8594
operated for the care of delinquent children or to the legal 8595
custody of the department of youth services, a victim in a case 8596
who has requested to receive notice under this section shall be 8597
given notice of the commitment. Promptly after sentence is 8598
imposed upon the defendant or the commitment of the alleged 8599
juvenile offender is ordered, the prosecutor in the case shall 8600
notify the victim of the date on which the defendant will be 8601
released from confinement or the prosecutor's reasonable 8602
estimate of that date or the date on which the alleged juvenile 8603
offender will have served the minimum period of commitment or 8604
the prosecutor's reasonable estimate of that date. The 8605
prosecutor also shall notify the victim of the name of the 8606
custodial agency of the defendant or alleged juvenile offender 8607
and tell the victim how to contact that custodial agency. If the 8608
custodial agency is the department of rehabilitation and 8609
correction, the prosecutor shall notify the victim of the 8610
services offered by the office of victims' services pursuant to 8611
section 5120.60 of the Revised Code. If the custodial agency is 8612
the department of youth services, the prosecutor shall notify 8613
the victim of the services provided by the office of victims' 8614
services within the release authority of the department pursuant 8615
to section 5139.55 of the Revised Code and the victim's right 8616
pursuant to section 5139.56 of the Revised Code to submit a 8617
written request to the release authority to be notified of 8618
actions the release authority takes with respect to the alleged 8619
juvenile offender. The victim shall keep the custodial agency 8620
informed of the victim's current address and telephone number. 8621

(B) (1) Upon the victim's request or in accordance with 8622
division (D) of this section, the prosecutor promptly shall 8623
notify the victim of any hearing for judicial release of the 8624
defendant pursuant to section 2929.20 of the Revised Code, of 8625
any hearing for release of the defendant pursuant to section 8626
2967.19 of the Revised Code, or of any hearing for judicial 8627
release or early release of the alleged juvenile offender 8628
pursuant to section 2151.38 of the Revised Code and of the 8629
victim's right to make a statement under those sections. The 8630
court shall notify the victim of its ruling in each of those 8631
hearings and on each of those applications. 8632

(2) If an offender is sentenced to a prison term pursuant 8633
to division (A) (3) or (B) of section 2971.03 of the Revised 8634
Code, upon the request of the victim of the crime or in 8635
accordance with division (D) of this section, the prosecutor 8636
promptly shall notify the victim of any hearing to be conducted 8637
pursuant to section 2971.05 of the Revised Code to determine 8638
whether to modify the requirement that the offender serve the 8639
entire prison term in a state correctional facility in 8640
accordance with division (C) of that section, whether to 8641
continue, revise, or revoke any existing modification of that 8642
requirement, or whether to terminate the prison term in 8643
accordance with division (D) of that section. The court shall 8644
notify the victim of any order issued at the conclusion of the 8645
hearing. 8646

(C) Upon the victim's request made at any time before the 8647
particular notice would be due or in accordance with division 8648
(D) of this section, the custodial agency of a defendant or 8649
alleged juvenile offender shall give the victim any of the 8650
following notices that is applicable: 8651

(1) At least sixty days before the adult parole authority 8652
recommends a pardon or commutation of sentence for the defendant 8653
or at least sixty days prior to a hearing before the adult 8654
parole authority regarding a grant of parole to the defendant, 8655
notice of the victim's right to submit a statement regarding the 8656
impact of the defendant's release in accordance with section 8657
2967.12 of the Revised Code and, if applicable, of the victim's 8658
right to appear at a full board hearing of the parole board to 8659
give testimony as authorized by section 5149.101 of the Revised 8660
Code; 8661

(2) At least sixty days before the defendant is 8662
transferred to transitional control under section 2967.26 of the 8663
Revised Code, notice of the pendency of the transfer and of the 8664
victim's right under that section to submit a statement 8665
regarding the impact of the transfer; 8666

(3) At least sixty days before the release authority of 8667
the department of youth services holds a release review, release 8668
hearing, or discharge review for the alleged juvenile offender, 8669
notice of the pendency of the review or hearing, of the victim's 8670
right to make an oral or written statement regarding the impact 8671
of the crime upon the victim or regarding the possible release 8672
or discharge, and, if the notice pertains to a hearing, of the 8673
victim's right to attend and make statements or comments at the 8674
hearing as authorized by section 5139.56 of the Revised Code; 8675

(4) Prompt notice of the defendant's or alleged juvenile 8676
offender's escape from a facility of the custodial agency in 8677
which the defendant was incarcerated or in which the alleged 8678
juvenile offender was placed after commitment, of the 8679
defendant's or alleged juvenile offender's absence without leave 8680
from a mental health or ~~mental retardation and~~ developmental 8681

disabilities facility or from other custody, and of the capture 8682
of the defendant or alleged juvenile offender after an escape or 8683
absence; 8684

(5) Notice of the defendant's or alleged juvenile 8685
offender's death while in confinement or custody; 8686

(6) Notice of the filing of a petition by the director of 8687
rehabilitation and correction pursuant to section 2967.19 of the 8688
Revised Code requesting the early release under that section of 8689
the defendant; 8690

(7) Notice of the defendant's or alleged juvenile 8691
offender's release from confinement or custody and the terms and 8692
conditions of the release. 8693

(D) (1) If a defendant is incarcerated for the commission 8694
of aggravated murder, murder, or an offense of violence that is 8695
a felony of the first, second, or third degree or is under a 8696
sentence of life imprisonment or if an alleged juvenile offender 8697
has been charged with the commission of an act that would be 8698
aggravated murder, murder, or an offense of violence that is a 8699
felony of the first, second, or third degree or be subject to a 8700
sentence of life imprisonment if committed by an adult, except 8701
as otherwise provided in this division, the notices described in 8702
divisions (B) and (C) of this section shall be given regardless 8703
of whether the victim has requested the notification. The 8704
notices described in divisions (B) and (C) of this section shall 8705
not be given under this division to a victim if the victim has 8706
requested pursuant to division (B) (2) of section 2930.03 of the 8707
Revised Code that the victim not be provided the notice. 8708
Regardless of whether the victim has requested that the notices 8709
described in division (C) of this section be provided or not be 8710
provided, the custodial agency shall give notice similar to 8711

those notices to the prosecutor in the case, to the sentencing 8712
court, to the law enforcement agency that arrested the defendant 8713
or alleged juvenile offender if any officer of that agency was a 8714
victim of the offense, and to any member of the victim's 8715
immediate family who requests notification. If the notice given 8716
under this division to the victim is based on an offense 8717
committed prior to ~~the effective date of this amendment~~ March 8718
22, 2013, and if the prosecutor or custodial agency has not 8719
previously successfully provided any notice to the victim under 8720
this division or division (B) or (C) of this section with 8721
respect to that offense and the offender who committed it, the 8722
notice also shall inform the victim that the victim may request 8723
that the victim not be provided any further notices with respect 8724
to that offense and the offender who committed it and shall 8725
describe the procedure for making that request. If the notice 8726
given under this division to the victim pertains to a hearing 8727
regarding a grant of a parole to the defendant, the notice also 8728
shall inform the victim that the victim, a member of the 8729
victim's immediate family, or the victim's representative may 8730
request a victim conference, as described in division (E) of 8731
this section, and shall provide an explanation of a victim 8732
conference. 8733

The prosecutor or custodial agency may give the notices to 8734
which this division applies by any reasonable means, including 8735
regular mail, telephone, and electronic mail. If the prosecutor 8736
or custodial agency attempts to provide notice to a victim under 8737
this division but the attempt is unsuccessful because the 8738
prosecutor or custodial agency is unable to locate the victim, 8739
is unable to provide the notice by its chosen method because it 8740
cannot determine the mailing address, telephone number, or 8741
electronic mail address at which to provide the notice, or, if 8742

the notice is sent by mail, the notice is returned, the 8743
prosecutor or custodial agency shall make another attempt to 8744
provide the notice to the victim. If the second attempt is 8745
unsuccessful, the prosecutor or custodial agency shall make at 8746
least one more attempt to provide the notice. If the notice is 8747
based on an offense committed prior to ~~the effective date of~~ 8748
~~this amendment~~ March 22, 2013, in each attempt to provide the 8749
notice to the victim, the notice shall include the opt-out 8750
information described in the preceding paragraph. The prosecutor 8751
or custodial agency, in accordance with division (D) (2) of this 8752
section, shall keep a record of all attempts to provide the 8753
notice, and of all notices provided, under this division. 8754

Division (D) (1) of this section, and the notice-related 8755
provisions of divisions (E) (2) and (K) of section 2929.20, 8756
division (H) of section 2967.12, division (E) (1) (b) of section 8757
2967.19, division (A) (3) (b) of section 2967.26, division (D) (1) 8758
of section 2967.28, and division (A) (2) of section 5149.101 of 8759
the Revised Code enacted in the act in which division (D) (1) of 8760
this section was enacted, shall be known as "Roberta's Law." 8761

(2) Each prosecutor and custodial agency that attempts to 8762
give any notice to which division (D) (1) of this section applies 8763
shall keep a record of all attempts to give the notice. The 8764
record shall indicate the person who was to be the recipient of 8765
the notice, the date on which the attempt was made, the manner 8766
in which the attempt was made, and the person who made the 8767
attempt. If the attempt is successful and the notice is given, 8768
the record shall indicate that fact. The record shall be kept in 8769
a manner that allows public inspection of attempts and notices 8770
given to persons other than victims without revealing the names, 8771
addresses, or other identifying information relating to victims. 8772
The record of attempts and notices given to victims is not a 8773

public record, but the prosecutor or custodial agency shall 8774
provide upon request a copy of that record to a prosecuting 8775
attorney, judge, law enforcement agency, or member of the 8776
general assembly. The record of attempts and notices given to 8777
persons other than victims is a public record. A record kept 8778
under this division may be indexed by offender name, or in any 8779
other manner determined by the prosecutor or the custodial 8780
agency. Each prosecutor or custodial agency that is required to 8781
keep a record under this division shall determine the procedures 8782
for keeping the record and the manner in which it is to be kept, 8783
subject to the requirements of this division. 8784

(E) The adult parole authority shall adopt rules under 8785
Chapter 119. of the Revised Code providing for a victim 8786
conference, upon request of the victim, a member of the victim's 8787
immediate family, or the victim's representative, prior to a 8788
parole hearing in the case of a prisoner who is incarcerated for 8789
the commission of aggravated murder, murder, or an offense of 8790
violence that is a felony of the first, second, or third degree 8791
or is under a sentence of life imprisonment. The rules shall 8792
provide for, but not be limited to, all of the following: 8793

(1) Subject to division (E)(3) of this section, attendance 8794
by the victim, members of the victim's immediate family, the 8795
victim's representative, and, if practicable, other individuals; 8796

(2) Allotment of up to one hour for the conference; 8797

(3) A specification of the number of persons specified in 8798
division (E)(1) of this section who may be present at any single 8799
victim conference, if limited by the department pursuant to 8800
division (F) of this section. 8801

(F) The department may limit the number of persons 8802

specified in division (E) (1) of this section who may be present 8803
at any single victim conference, provided that the department 8804
shall not limit the number of persons who may be present at any 8805
single conference to fewer than three. If the department limits 8806
the number of persons who may be present at any single victim 8807
conference, the department shall permit and schedule, upon 8808
request of the victim, a member of the victim's immediate 8809
family, or the victim's representative, multiple victim 8810
conferences for the persons specified in division (E) (1) of this 8811
section. 8812

(G) As used in this section, "victim's immediate family" 8813
has the same meaning as in section 2967.12 of the Revised Code. 8814

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 8815
of the Revised Code: 8816

(1) "Prosecutor" means a prosecuting attorney or a city 8817
director of law, village solicitor, or similar chief legal 8818
officer of a municipal corporation who has authority to 8819
prosecute a criminal case that is before the court or the 8820
criminal case in which a defendant in a criminal case has been 8821
found incompetent to stand trial or not guilty by reason of 8822
insanity. 8823

(2) "Examiner" means either of the following: 8824

(a) A psychiatrist or a licensed clinical psychologist who 8825
satisfies the criteria of division (I) of section 5122.01 of the 8826
Revised Code or is employed by a certified forensic center 8827
designated by the department of mental health and addiction 8828
services to conduct examinations or evaluations. 8829

(b) For purposes of a separate ~~mental retardation~~ 8830
intellectual disability evaluation that is ordered by a court 8831

pursuant to division (H) of section 2945.371 of the Revised Code, a psychologist designated by the director of developmental disabilities pursuant to that section to conduct that separate ~~mental retardation~~ intellectual disability evaluation. 8832
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(3) "Nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional release, that is granted to a person who is found incompetent to stand trial and is committed pursuant to section 2945.39 of the Revised Code or to a person who is found not guilty by reason of insanity and is committed pursuant to section 2945.40 of the Revised Code. 8836
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(4) "Unsupervised, off-grounds movement" includes only off-grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis. 8843
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(5) "Trial visit" means a patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times. 8847
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(6) "Conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitization or reinstitutionalization of the person as described in division (A) of section 2945.402 of the Revised Code and pursuant to which a person who is found incompetent to stand trial or a person who is found not guilty by reason of insanity lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the offense in question had the person been convicted of the offense instead of being 8851
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found incompetent to stand trial on the charge of the offense or 8862
being found not guilty by reason of insanity relative to the 8863
offense. 8864

(7) "Licensed clinical psychologist," "mentally ill person 8865
subject to court order," and "psychiatrist" have the same 8866
meanings as in section 5122.01 of the Revised Code. 8867

(8) "~~Mentally retarded person~~ Person with an intellectual 8868
disability subject to institutionalization by court order" has 8869
the same meaning as in section 5123.01 of the Revised Code. 8870

(B) In a criminal action in a court of common pleas, a 8871
county court, or a municipal court, the court, prosecutor, or 8872
defense may raise the issue of the defendant's competence to 8873
stand trial. If the issue is raised before the trial has 8874
commenced, the court shall hold a hearing on the issue as 8875
provided in this section. If the issue is raised after the trial 8876
has commenced, the court shall hold a hearing on the issue only 8877
for good cause shown or on the court's own motion. 8878

(C) The court shall conduct the hearing required or 8879
authorized under division (B) of this section within thirty days 8880
after the issue is raised, unless the defendant has been 8881
referred for evaluation in which case the court shall conduct 8882
the hearing within ten days after the filing of the report of 8883
the evaluation or, in the case of a defendant who is ordered by 8884
the court pursuant to division (H) of section 2945.371 of the 8885
Revised Code to undergo a separate ~~mental retardation~~ 8886
intellectual disability evaluation conducted by a psychologist 8887
designated by the director of developmental disabilities, within 8888
ten days after the filing of the report of the separate ~~mental~~ 8889
~~retardation~~ intellectual disability evaluation under that 8890
division. A hearing may be continued for good cause. 8891

(D) The defendant shall be represented by counsel at the hearing conducted under division (C) of this section. If the defendant is unable to obtain counsel, the court shall appoint counsel under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code before proceeding with the hearing.

(E) The prosecutor and defense counsel may submit evidence on the issue of the defendant's competence to stand trial. A written report of the evaluation of the defendant may be admitted into evidence at the hearing by stipulation, but, if either the prosecution or defense objects to its admission, the report may be admitted under sections 2317.36 to 2317.38 of the Revised Code or any other applicable statute or rule.

(F) The court shall not find a defendant incompetent to stand trial solely because the defendant is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. or a voluntary or involuntary ~~mentally retarded~~ resident with an intellectual disability under Chapter 5123. of the Revised Code or because the defendant is receiving or has received psychotropic drugs or other medication, even if the defendant might become incompetent to stand trial without the drugs or medication.

(G) A defendant is presumed to be competent to stand trial. If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the court shall find

the defendant incompetent to stand trial and shall enter an 8922
order authorized by section 2945.38 of the Revised Code. 8923

(H) Municipal courts shall follow the procedures set forth 8924
in sections 2945.37 to 2945.402 of the Revised Code. Except as 8925
provided in section 2945.371 of the Revised Code, a municipal 8926
court shall not order an evaluation of the defendant's 8927
competence to stand trial or the defendant's mental condition at 8928
the time of the commission of the offense to be conducted at any 8929
hospital operated by the department of mental health and 8930
addiction services. Those evaluations shall be performed through 8931
community resources including, but not limited to, certified 8932
forensic centers, court probation departments, and community 8933
mental health services providers. All expenses of the 8934
evaluations shall be borne by the legislative authority of the 8935
municipal court, as defined in section 1901.03 of the Revised 8936
Code, and shall be taxed as costs in the case. If a defendant is 8937
found incompetent to stand trial or not guilty by reason of 8938
insanity, a municipal court may commit the defendant as provided 8939
in sections 2945.38 to 2945.402 of the Revised Code. 8940

Sec. 2945.371. (A) If the issue of a defendant's 8941
competence to stand trial is raised or if a defendant enters a 8942
plea of not guilty by reason of insanity, the court may order 8943
one or more evaluations of the defendant's present mental 8944
condition or, in the case of a plea of not guilty by reason of 8945
insanity, of the defendant's mental condition at the time of the 8946
offense charged. An examiner shall conduct the evaluation. 8947

(B) If the court orders more than one evaluation under 8948
division (A) of this section, the prosecutor and the defendant 8949
may recommend to the court an examiner whom each prefers to 8950
perform one of the evaluations. If a defendant enters a plea of 8951

not guilty by reason of insanity and if the court does not 8952
designate an examiner recommended by the defendant, the court 8953
shall inform the defendant that the defendant may have 8954
independent expert evaluation and that, if the defendant is 8955
unable to obtain independent expert evaluation, it will be 8956
obtained for the defendant at public expense if the defendant is 8957
indigent. 8958

(C) If the court orders an evaluation under division (A) 8959
of this section, the defendant shall be available at the times 8960
and places established by the examiners who are to conduct the 8961
evaluation. The court may order a defendant who has been 8962
released on bail or recognizance to submit to an evaluation 8963
under this section. If a defendant who has been released on bail 8964
or recognizance refuses to submit to a complete evaluation, the 8965
court may amend the conditions of bail or recognizance and order 8966
the sheriff to take the defendant into custody and deliver the 8967
defendant to a center, program, or facility operated or 8968
certified by the department of mental health and addiction 8969
services or the department of developmental disabilities where 8970
the defendant may be held for evaluation for a reasonable period 8971
of time not to exceed twenty days. 8972

(D) A defendant who has not been released on bail or 8973
recognizance may be evaluated at the defendant's place of 8974
detention. Upon the request of the examiner, the court may order 8975
the sheriff to transport the defendant to a program or facility 8976
operated or certified by the department of mental health and 8977
addiction services or the department of developmental 8978
disabilities, where the defendant may be held for evaluation for 8979
a reasonable period of time not to exceed twenty days, and to 8980
return the defendant to the place of detention after the 8981
evaluation. A municipal court may make an order under this 8982

division only upon the request of a certified forensic center 8983
examiner. 8984

(E) If a court orders the evaluation to determine a 8985
defendant's mental condition at the time of the offense charged, 8986
the court shall inform the examiner of the offense with which 8987
the defendant is charged. 8988

(F) In conducting an evaluation of a defendant's mental 8989
condition at the time of the offense charged, the examiner shall 8990
consider all relevant evidence. If the offense charged involves 8991
the use of force against another person, the relevant evidence 8992
to be considered includes, but is not limited to, any evidence 8993
that the defendant suffered, at the time of the commission of 8994
the offense, from the "battered woman syndrome." 8995

(G) The examiner shall file a written report with the 8996
court within thirty days after entry of a court order for 8997
evaluation, and the court shall provide copies of the report to 8998
the prosecutor and defense counsel. The report shall include all 8999
of the following: 9000

(1) The examiner's findings; 9001

(2) The facts in reasonable detail on which the findings 9002
are based; 9003

(3) If the evaluation was ordered to determine the 9004
defendant's competence to stand trial, all of the following 9005
findings or recommendations that are applicable: 9006

(a) Whether the defendant is capable of understanding the 9007
nature and objective of the proceedings against the defendant or 9008
of assisting in the defendant's defense; 9009

(b) If the examiner's opinion is that the defendant is 9010

incapable of understanding the nature and objective of the 9011
proceedings against the defendant or of assisting in the 9012
defendant's defense, whether the defendant presently is mentally 9013
ill or ~~mentally retarded~~ has an intellectual disability and, if 9014
the examiner's opinion is that the defendant presently ~~is~~ 9015
~~mentally retarded~~ has an intellectual disability, whether the 9016
defendant appears to be a ~~mentally retarded~~ person with an 9017
intellectual disability subject to institutionalization by court 9018
order; 9019

(c) If the examiner's opinion is that the defendant is 9020
incapable of understanding the nature and objective of the 9021
proceedings against the defendant or of assisting in the 9022
defendant's defense, the examiner's opinion as to the likelihood 9023
of the defendant becoming capable of understanding the nature 9024
and objective of the proceedings against the defendant and of 9025
assisting in the defendant's defense within one year if the 9026
defendant is provided with a course of treatment; 9027

(d) If the examiner's opinion is that the defendant is 9028
incapable of understanding the nature and objective of the 9029
proceedings against the defendant or of assisting in the 9030
defendant's defense and that the defendant presently is mentally 9031
ill or ~~mentally retarded~~ has an intellectual disability, the 9032
examiner's recommendation as to the least restrictive placement 9033
or commitment alternative, consistent with the defendant's 9034
treatment needs for restoration to competency and with the 9035
safety of the community. 9036

(4) If the evaluation was ordered to determine the 9037
defendant's mental condition at the time of the offense charged, 9038
the examiner's findings as to whether the defendant, at the time 9039
of the offense charged, did not know, as a result of a severe 9040

mental disease or defect, the wrongfulness of the defendant's 9041
acts charged. 9042

(H) If the examiner's report filed under division (G) of 9043
this section indicates that in the examiner's opinion the 9044
defendant is incapable of understanding the nature and objective 9045
of the proceedings against the defendant or of assisting in the 9046
defendant's defense and that in the examiner's opinion the 9047
defendant appears to be a ~~mentally retarded~~ person with an 9048
intellectual disability subject to institutionalization by court 9049
order, the court shall order the defendant to undergo a separate 9050
~~mental retardation~~ intellectual disability evaluation conducted 9051
by a psychologist designated by the director of developmental 9052
disabilities. Divisions (C) to (F) of this section apply in 9053
relation to a separate ~~mental retardation~~ intellectual 9054
disability evaluation conducted under this division. The 9055
psychologist appointed under this division to conduct the 9056
separate ~~mental retardation~~ intellectual disability evaluation 9057
shall file a written report with the court within thirty days 9058
after the entry of the court order requiring the separate ~~mental~~ 9059
~~retardation~~ intellectual disability evaluation, and the court 9060
shall provide copies of the report to the prosecutor and defense 9061
counsel. The report shall include all of the information 9062
described in divisions (G) (1) to (4) of this section. If the 9063
court orders a separate ~~mental retardation~~ intellectual 9064
disability evaluation of a defendant under this division, the 9065
court shall not conduct a hearing under divisions (B) to (H) of 9066
section 2945.37 of the Revised Code regarding that defendant 9067
until a report of the separate ~~mental retardation~~ intellectual 9068
disability evaluation conducted under this division has been 9069
filed. Upon the filing of that report, the court shall conduct 9070
the hearing within the period of time specified in division (C) 9071

of section 2945.37 of the Revised Code. 9072

(I) An examiner appointed under divisions (A) and (B) of 9073
this section or under division (H) of this section to evaluate a 9074
defendant to determine the defendant's competence to stand trial 9075
also may be appointed to evaluate a defendant who has entered a 9076
plea of not guilty by reason of insanity, but an examiner of 9077
that nature shall prepare separate reports on the issue of 9078
competence to stand trial and the defense of not guilty by 9079
reason of insanity. 9080

(J) No statement that a defendant makes in an evaluation 9081
or hearing under divisions (A) to (H) of this section relating 9082
to the defendant's competence to stand trial or to the 9083
defendant's mental condition at the time of the offense charged 9084
shall be used against the defendant on the issue of guilt in any 9085
criminal action or proceeding, but, in a criminal action or 9086
proceeding, the prosecutor or defense counsel may call as a 9087
witness any person who evaluated the defendant or prepared a 9088
report pursuant to a referral under this section. Neither the 9089
appointment nor the testimony of an examiner appointed under 9090
this section precludes the prosecutor or defense counsel from 9091
calling other witnesses or presenting other evidence on 9092
competency or insanity issues. 9093

(K) Persons appointed as examiners under divisions (A) and 9094
(B) of this section or under division (H) of this section shall 9095
be paid a reasonable amount for their services and expenses, as 9096
certified by the court. The certified amount shall be paid by 9097
the county in the case of county courts and courts of common 9098
pleas and by the legislative authority, as defined in section 9099
1901.03 of the Revised Code, in the case of municipal courts. 9100

Sec. 2945.38. (A) If the issue of a defendant's competence 9101

to stand trial is raised and if the court, upon conducting the 9102
hearing provided for in section 2945.37 of the Revised Code, 9103
finds that the defendant is competent to stand trial, the 9104
defendant shall be proceeded against as provided by law. If the 9105
court finds the defendant competent to stand trial and the 9106
defendant is receiving psychotropic drugs or other medication, 9107
the court may authorize the continued administration of the 9108
drugs or medication or other appropriate treatment in order to 9109
maintain the defendant's competence to stand trial, unless the 9110
defendant's attending physician advises the court against 9111
continuation of the drugs, other medication, or treatment. 9112

(B) (1) (a) If, after taking into consideration all relevant 9113
reports, information, and other evidence, the court finds that 9114
the defendant is incompetent to stand trial and that there is a 9115
substantial probability that the defendant will become competent 9116
to stand trial within one year if the defendant is provided with 9117
a course of treatment, the court shall order the defendant to 9118
undergo treatment. If the defendant has been charged with a 9119
felony offense and if, after taking into consideration all 9120
relevant reports, information, and other evidence, the court 9121
finds that the defendant is incompetent to stand trial, but the 9122
court is unable at that time to determine whether there is a 9123
substantial probability that the defendant will become competent 9124
to stand trial within one year if the defendant is provided with 9125
a course of treatment, the court shall order continuing 9126
evaluation and treatment of the defendant for a period not to 9127
exceed four months to determine whether there is a substantial 9128
probability that the defendant will become competent to stand 9129
trial within one year if the defendant is provided with a course 9130
of treatment. 9131

(b) The court order for the defendant to undergo treatment 9132

or continuing evaluation and treatment under division (B) (1) (a) 9133
of this section shall specify that the defendant, if determined 9134
to require mental health treatment or continuing evaluation and 9135
treatment, either shall be committed to the department of mental 9136
health and addiction services for treatment or continuing 9137
evaluation and treatment at a hospital, facility, or agency, as 9138
determined to be clinically appropriate by the department of 9139
mental health and addiction services or shall be committed to a 9140
facility certified by the department of mental health and 9141
addiction services as being qualified to treat mental illness, 9142
to a public or community mental health facility, or to a 9143
psychiatrist or another mental health professional for treatment 9144
or continuing evaluation and treatment. Prior to placing the 9145
defendant, the department of mental health and addiction 9146
services shall obtain court approval for that placement 9147
following a hearing. The court order for the defendant to 9148
undergo treatment or continuing evaluation and treatment under 9149
division (B) (1) (a) of this section shall specify that the 9150
defendant, if determined to require treatment or continuing 9151
evaluation and treatment for ~~mental retardation~~ an intellectual 9152
disability, shall receive treatment or continuing evaluation and 9153
treatment at an institution or facility operated by the 9154
department of developmental disabilities, at a facility 9155
certified by the department of developmental disabilities as 9156
being qualified to treat ~~mental retardation~~ intellectual 9157
disabilities, at a public or private ~~mental retardation~~ 9158
developmental disabilities facility, or by a psychiatrist or 9159
another ~~mental retardation~~ intellectual disabilities 9160
professional. In any case, the order may restrict the 9161
defendant's freedom of movement as the court considers 9162
necessary. The prosecutor in the defendant's case shall send to 9163
the chief clinical officer of the hospital, facility, or agency 9164

where the defendant is placed by the department of mental health 9165
and addiction services, or to the managing officer of the 9166
institution, the director of the program or facility, or the 9167
person to which the defendant is committed, copies of relevant 9168
police reports and other background information that pertains to 9169
the defendant and is available to the prosecutor unless the 9170
prosecutor determines that the release of any of the information 9171
in the police reports or any of the other background information 9172
to unauthorized persons would interfere with the effective 9173
prosecution of any person or would create a substantial risk of 9174
harm to any person. 9175

In determining the place of commitment, the court shall 9176
consider the extent to which the person is a danger to the 9177
person and to others, the need for security, and the type of 9178
crime involved and shall order the least restrictive alternative 9179
available that is consistent with public safety and treatment 9180
goals. In weighing these factors, the court shall give 9181
preference to protecting public safety. 9182

(c) If the defendant is found incompetent to stand trial, 9183
if the chief clinical officer of the hospital, facility, or 9184
agency where the defendant is placed, or the managing officer of 9185
the institution, the director of the program or facility, or the 9186
person to which the defendant is committed for treatment or 9187
continuing evaluation and treatment under division (B)(1)(b) of 9188
this section determines that medication is necessary to restore 9189
the defendant's competency to stand trial, and if the defendant 9190
lacks the capacity to give informed consent or refuses 9191
medication, the chief clinical officer of the hospital, 9192
facility, or agency where the defendant is placed, or the 9193
managing officer of the institution, the director of the program 9194
or facility, or the person to which the defendant is committed 9195

for treatment or continuing evaluation and treatment may 9196
petition the court for authorization for the involuntary 9197
administration of medication. The court shall hold a hearing on 9198
the petition within five days of the filing of the petition if 9199
the petition was filed in a municipal court or a county court 9200
regarding an incompetent defendant charged with a misdemeanor or 9201
within ten days of the filing of the petition if the petition 9202
was filed in a court of common pleas regarding an incompetent 9203
defendant charged with a felony offense. Following the hearing, 9204
the court may authorize the involuntary administration of 9205
medication or may dismiss the petition. 9206

(2) If the court finds that the defendant is incompetent 9207
to stand trial and that, even if the defendant is provided with 9208
a course of treatment, there is not a substantial probability 9209
that the defendant will become competent to stand trial within 9210
one year, the court shall order the discharge of the defendant, 9211
unless upon motion of the prosecutor or on its own motion, the 9212
court either seeks to retain jurisdiction over the defendant 9213
pursuant to section 2945.39 of the Revised Code or files an 9214
affidavit in the probate court for the civil commitment of the 9215
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 9216
alleging that the defendant is a mentally ill person subject to 9217
court order or a ~~mentally retarded~~ person with an intellectual 9218
disability subject to institutionalization by court order. If an 9219
affidavit is filed in the probate court, the trial court shall 9220
send to the probate court copies of all written reports of the 9221
defendant's mental condition that were prepared pursuant to 9222
section 2945.371 of the Revised Code. 9223

The trial court may issue the temporary order of detention 9224
that a probate court may issue under section 5122.11 or 5123.71 9225
of the Revised Code, to remain in effect until the probable 9226

cause or initial hearing in the probate court. Further 9227
proceedings in the probate court are civil proceedings governed 9228
by Chapter 5122. or 5123. of the Revised Code. 9229

(C) No defendant shall be required to undergo treatment, 9230
including any continuing evaluation and treatment, under 9231
division (B) (1) of this section for longer than whichever of the 9232
following periods is applicable: 9233

(1) One year, if the most serious offense with which the 9234
defendant is charged is one of the following offenses: 9235

(a) Aggravated murder, murder, or an offense of violence 9236
for which a sentence of death or life imprisonment may be 9237
imposed; 9238

(b) An offense of violence that is a felony of the first 9239
or second degree; 9240

(c) A conspiracy to commit, an attempt to commit, or 9241
complicity in the commission of an offense described in division 9242
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 9243
complicity is a felony of the first or second degree. 9244

(2) Six months, if the most serious offense with which the 9245
defendant is charged is a felony other than a felony described 9246
in division (C) (1) of this section; 9247

(3) Sixty days, if the most serious offense with which the 9248
defendant is charged is a misdemeanor of the first or second 9249
degree; 9250

(4) Thirty days, if the most serious offense with which 9251
the defendant is charged is a misdemeanor of the third or fourth 9252
degree, a minor misdemeanor, or an unclassified misdemeanor. 9253

(D) Any defendant who is committed pursuant to this 9254

section shall not voluntarily admit the defendant or be 9255
voluntarily admitted to a hospital or institution pursuant to 9256
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 9257
Code. 9258

(E) Except as otherwise provided in this division, a 9259
defendant who is charged with an offense and is committed by the 9260
court under this section to the department of mental health and 9261
addiction services or is committed to an institution or facility 9262
for the treatment of ~~mental retardation~~ developmental 9263
disabilities shall not be granted unsupervised on-grounds 9264
movement, supervised off-grounds movement, or nonsecured status 9265
except in accordance with the court order. The court may grant a 9266
defendant supervised off-grounds movement to obtain medical 9267
treatment or specialized habilitation treatment services if the 9268
person who supervises the treatment or the continuing evaluation 9269
and treatment of the defendant ordered under division (B) (1) (a) 9270
of this section informs the court that the treatment or 9271
continuing evaluation and treatment cannot be provided at the 9272
hospital or facility where the defendant is placed by the 9273
department of mental health and addiction services or the 9274
institution or facility to which the defendant is committed. The 9275
chief clinical officer of the hospital or facility where the 9276
defendant is placed by the department of mental health and 9277
addiction services or the managing officer of the institution or 9278
director of the facility to which the defendant is committed, or 9279
a designee of any of those persons, may grant a defendant 9280
movement to a medical facility for an emergency medical 9281
situation with appropriate supervision to ensure the safety of 9282
the defendant, staff, and community during that emergency 9283
medical situation. The chief clinical officer of the hospital or 9284
facility where the defendant is placed by the department of 9285

mental health and addiction services or the managing officer of 9286
the institution or director of the facility to which the 9287
defendant is committed shall notify the court within twenty-four 9288
hours of the defendant's movement to the medical facility for an 9289
emergency medical situation under this division. 9290

(F) The person who supervises the treatment or continuing 9291
evaluation and treatment of a defendant ordered to undergo 9292
treatment or continuing evaluation and treatment under division 9293
(B) (1) (a) of this section shall file a written report with the 9294
court at the following times: 9295

(1) Whenever the person believes the defendant is capable 9296
of understanding the nature and objective of the proceedings 9297
against the defendant and of assisting in the defendant's 9298
defense; 9299

(2) For a felony offense, fourteen days before expiration 9300
of the maximum time for treatment as specified in division (C) 9301
of this section and fourteen days before the expiration of the 9302
maximum time for continuing evaluation and treatment as 9303
specified in division (B) (1) (a) of this section, and, for a 9304
misdemeanor offense, ten days before the expiration of the 9305
maximum time for treatment, as specified in division (C) of this 9306
section; 9307

(3) At a minimum, after each six months of treatment; 9308

(4) Whenever the person who supervises the treatment or 9309
continuing evaluation and treatment of a defendant ordered under 9310
division (B) (1) (a) of this section believes that there is not a 9311
substantial probability that the defendant will become capable 9312
of understanding the nature and objective of the proceedings 9313
against the defendant or of assisting in the defendant's defense 9314

even if the defendant is provided with a course of treatment. 9315

(G) A report under division (F) of this section shall 9316
contain the examiner's findings, the facts in reasonable detail 9317
on which the findings are based, and the examiner's opinion as 9318
to the defendant's capability of understanding the nature and 9319
objective of the proceedings against the defendant and of 9320
assisting in the defendant's defense. If, in the examiner's 9321
opinion, the defendant remains incapable of understanding the 9322
nature and objective of the proceedings against the defendant 9323
and of assisting in the defendant's defense and there is a 9324
substantial probability that the defendant will become capable 9325
of understanding the nature and objective of the proceedings 9326
against the defendant and of assisting in the defendant's 9327
defense if the defendant is provided with a course of treatment, 9328
if in the examiner's opinion the defendant remains mentally ill 9329
~~or mentally retarded~~ continues to have an intellectual 9330
disability, and if the maximum time for treatment as specified 9331
in division (C) of this section has not expired, the report also 9332
shall contain the examiner's recommendation as to the least 9333
restrictive placement or commitment alternative that is 9334
consistent with the defendant's treatment needs for restoration 9335
to competency and with the safety of the community. The court 9336
shall provide copies of the report to the prosecutor and defense 9337
counsel. 9338

(H) If a defendant is committed pursuant to division (B) 9339
(1) of this section, within ten days after the treating 9340
physician of the defendant or the examiner of the defendant who 9341
is employed or retained by the treating facility advises that 9342
there is not a substantial probability that the defendant will 9343
become capable of understanding the nature and objective of the 9344
proceedings against the defendant or of assisting in the 9345

defendant's defense even if the defendant is provided with a 9346
course of treatment, within ten days after the expiration of the 9347
maximum time for treatment as specified in division (C) of this 9348
section, within ten days after the expiration of the maximum 9349
time for continuing evaluation and treatment as specified in 9350
division (B) (1) (a) of this section, within thirty days after a 9351
defendant's request for a hearing that is made after six months 9352
of treatment, or within thirty days after being advised by the 9353
treating physician or examiner that the defendant is competent 9354
to stand trial, whichever is the earliest, the court shall 9355
conduct another hearing to determine if the defendant is 9356
competent to stand trial and shall do whichever of the following 9357
is applicable: 9358

(1) If the court finds that the defendant is competent to 9359
stand trial, the defendant shall be proceeded against as 9360
provided by law. 9361

(2) If the court finds that the defendant is incompetent 9362
to stand trial, but that there is a substantial probability that 9363
the defendant will become competent to stand trial if the 9364
defendant is provided with a course of treatment, and the 9365
maximum time for treatment as specified in division (C) of this 9366
section has not expired, the court, after consideration of the 9367
examiner's recommendation, shall order that treatment be 9368
continued, may change the facility or program at which the 9369
treatment is to be continued, and shall specify whether the 9370
treatment is to be continued at the same or a different facility 9371
or program. 9372

(3) If the court finds that the defendant is incompetent 9373
to stand trial, if the defendant is charged with an offense 9374
listed in division (C) (1) of this section, and if the court 9375

finds that there is not a substantial probability that the 9376
defendant will become competent to stand trial even if the 9377
defendant is provided with a course of treatment, or if the 9378
maximum time for treatment relative to that offense as specified 9379
in division (C) of this section has expired, further proceedings 9380
shall be as provided in sections 2945.39, 2945.401, and 2945.402 9381
of the Revised Code. 9382

(4) If the court finds that the defendant is incompetent 9383
to stand trial, if the most serious offense with which the 9384
defendant is charged is a misdemeanor or a felony other than a 9385
felony listed in division (C)(1) of this section, and if the 9386
court finds that there is not a substantial probability that the 9387
defendant will become competent to stand trial even if the 9388
defendant is provided with a course of treatment, or if the 9389
maximum time for treatment relative to that offense as specified 9390
in division (C) of this section has expired, the court shall 9391
dismiss the indictment, information, or complaint against the 9392
defendant. A dismissal under this division is not a bar to 9393
further prosecution based on the same conduct. The court shall 9394
discharge the defendant unless the court or prosecutor files an 9395
affidavit in probate court for civil commitment pursuant to 9396
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 9397
civil commitment is filed, the court may detain the defendant 9398
for ten days pending civil commitment. All of the following 9399
provisions apply to persons charged with a misdemeanor or a 9400
felony other than a felony listed in division (C)(1) of this 9401
section who are committed by the probate court subsequent to the 9402
court's or prosecutor's filing of an affidavit for civil 9403
commitment under authority of this division: 9404

(a) The chief clinical officer of the entity, hospital, or 9405
facility, the managing officer of the institution, the director 9406

of the program, or the person to which the defendant is 9407
committed or admitted shall do all of the following: 9408

(i) Notify the prosecutor, in writing, of the discharge of 9409
the defendant, send the notice at least ten days prior to the 9410
discharge unless the discharge is by the probate court, and 9411
state in the notice the date on which the defendant will be 9412
discharged; 9413

(ii) Notify the prosecutor, in writing, when the defendant 9414
is absent without leave or is granted unsupervised, off-grounds 9415
movement, and send this notice promptly after the discovery of 9416
the absence without leave or prior to the granting of the 9417
unsupervised, off-grounds movement, whichever is applicable; 9418

(iii) Notify the prosecutor, in writing, of the change of 9419
the defendant's commitment or admission to voluntary status, 9420
send the notice promptly upon learning of the change to 9421
voluntary status, and state in the notice the date on which the 9422
defendant was committed or admitted on a voluntary status. 9423

(b) Upon receiving notice that the defendant will be 9424
granted unsupervised, off-grounds movement, the prosecutor 9425
either shall re-indict the defendant or promptly notify the 9426
court that the prosecutor does not intend to prosecute the 9427
charges against the defendant. 9428

(I) If a defendant is convicted of a crime and sentenced 9429
to a jail or workhouse, the defendant's sentence shall be 9430
reduced by the total number of days the defendant is confined 9431
for evaluation to determine the defendant's competence to stand 9432
trial or treatment under this section and sections 2945.37 and 9433
2945.371 of the Revised Code or by the total number of days the 9434
defendant is confined for evaluation to determine the 9435

defendant's mental condition at the time of the offense charged. 9436

Sec. 2945.39. (A) If a defendant who is charged with an 9437
offense described in division (C) (1) of section 2945.38 of the 9438
Revised Code is found incompetent to stand trial, after the 9439
expiration of the maximum time for treatment as specified in 9440
division (C) of that section or after the court finds that there 9441
is not a substantial probability that the defendant will become 9442
competent to stand trial even if the defendant is provided with 9443
a course of treatment, one of the following applies: 9444

(1) The court or the prosecutor may file an affidavit in 9445
probate court for civil commitment of the defendant in the 9446
manner provided in Chapter 5122. or 5123. of the Revised Code. 9447
If the court or prosecutor files an affidavit for civil 9448
commitment, the court may detain the defendant for ten days 9449
pending civil commitment. If the probate court commits the 9450
defendant subsequent to the court's or prosecutor's filing of an 9451
affidavit for civil commitment, the chief clinical officer of 9452
the entity, hospital, or facility, the managing officer of the 9453
institution, the director of the program, or the person to which 9454
the defendant is committed or admitted shall send to the 9455
prosecutor the notices described in divisions (H) (4) (a) (i) to 9456
(iii) of section 2945.38 of the Revised Code within the periods 9457
of time and under the circumstances specified in those 9458
divisions. 9459

(2) On the motion of the prosecutor or on its own motion, 9460
the court may retain jurisdiction over the defendant if, at a 9461
hearing, the court finds both of the following by clear and 9462
convincing evidence: 9463

(a) The defendant committed the offense with which the 9464
defendant is charged. 9465

(b) The defendant is a mentally ill person subject to 9466
court order or a ~~mentally retarded~~ person with an intellectual 9467
disability subject to institutionalization by court order. 9468

(B) In making its determination under division (A) (2) of 9469
this section as to whether to retain jurisdiction over the 9470
defendant, the court may consider all relevant evidence, 9471
including, but not limited to, any relevant psychiatric, 9472
psychological, or medical testimony or reports, the acts 9473
constituting the offense charged, and any history of the 9474
defendant that is relevant to the defendant's ability to conform 9475
to the law. 9476

(C) If the court conducts a hearing as described in 9477
division (A) (2) of this section and if the court does not make 9478
both findings described in divisions (A) (2) (a) and (b) of this 9479
section by clear and convincing evidence, the court shall 9480
dismiss the indictment, information, or complaint against the 9481
defendant. Upon the dismissal, the court shall discharge the 9482
defendant unless the court or prosecutor files an affidavit in 9483
probate court for civil commitment of the defendant pursuant to 9484
Chapter 5122. or 5123. of the Revised Code. If the court or 9485
prosecutor files an affidavit for civil commitment, the court 9486
may order that the defendant be detained for up to ten days 9487
pending the civil commitment. If the probate court commits the 9488
defendant subsequent to the court's or prosecutor's filing of an 9489
affidavit for civil commitment, the chief clinical officer of 9490
the entity, hospital, or facility, the managing officer of the 9491
institution, the director of the program, or the person to which 9492
the defendant is committed or admitted shall send to the 9493
prosecutor the notices described in divisions (H) (4) (a) (i) to 9494
(iii) of section 2945.38 of the Revised Code within the periods 9495
of time and under the circumstances specified in those 9496

divisions. A dismissal of charges under this division is not a 9497
bar to further criminal proceedings based on the same conduct. 9498

(D) (1) If the court conducts a hearing as described in 9499
division (A) (2) of this section and if the court makes the 9500
findings described in divisions (A) (2) (a) and (b) of this 9501
section by clear and convincing evidence, the court shall commit 9502
the defendant, if determined to require mental health treatment, 9503
either to the department of mental health and addiction services 9504
for treatment at a hospital, facility, or agency as determined 9505
clinically appropriate by the department of mental health and 9506
addiction services or to another medical or psychiatric 9507
facility, as appropriate. Prior to placing the defendant, the 9508
department of mental health and addiction services shall obtain 9509
court approval for that placement. If the court conducts such a 9510
hearing and if it makes those findings by clear and convincing 9511
evidence, the court shall commit the defendant, if determined to 9512
require treatment for ~~mental retardation~~ an intellectual 9513
disability, to a facility operated by the department of 9514
developmental disabilities, or another facility, as appropriate. 9515
In determining the place of commitment, the court shall consider 9516
the extent to which the person is a danger to the person and to 9517
others, the need for security, and the type of crime involved 9518
and shall order the least restrictive alternative available that 9519
is consistent with public safety and the welfare of the 9520
defendant. In weighing these factors, the court shall give 9521
preference to protecting public safety. 9522

(2) If a court makes a commitment of a defendant under 9523
division (D) (1) of this section, the prosecutor shall send to 9524
the hospital, facility, or agency where the defendant is placed 9525
by the department of mental health and addiction services or to 9526
the defendant's place of commitment all reports of the 9527

defendant's current mental condition and, except as otherwise 9528
provided in this division, any other relevant information, 9529
including, but not limited to, a transcript of the hearing held 9530
pursuant to division (A) (2) of this section, copies of relevant 9531
police reports, and copies of any prior arrest and conviction 9532
records that pertain to the defendant and that the prosecutor 9533
possesses. The prosecutor shall send the reports of the 9534
defendant's current mental condition in every case of 9535
commitment, and, unless the prosecutor determines that the 9536
release of any of the other relevant information to unauthorized 9537
persons would interfere with the effective prosecution of any 9538
person or would create a substantial risk of harm to any person, 9539
the prosecutor also shall send the other relevant information. 9540
Upon admission of a defendant committed under division (D) (1) of 9541
this section, the place of commitment shall send to the board of 9542
alcohol, drug addiction, and mental health services or the 9543
community mental health board serving the county in which the 9544
charges against the defendant were filed a copy of all reports 9545
of the defendant's current mental condition and a copy of the 9546
other relevant information provided by the prosecutor under this 9547
division, including, if provided, a transcript of the hearing 9548
held pursuant to division (A) (2) of this section, the relevant 9549
police reports, and the prior arrest and conviction records that 9550
pertain to the defendant and that the prosecutor possesses. 9551

(3) If a court makes a commitment under division (D) (1) of 9552
this section, all further proceedings shall be in accordance 9553
with sections 2945.401 and 2945.402 of the Revised Code. 9554

Sec. 2945.40. (A) If a person is found not guilty by 9555
reason of insanity, the verdict shall state that finding, and 9556
the trial court shall conduct a full hearing to determine 9557
whether the person is a mentally ill person subject to court 9558

order or a ~~mentally retarded~~ person with an intellectual 9559
disability subject to institutionalization by court order. Prior 9560
to the hearing, if the trial judge believes that there is 9561
probable cause that the person found not guilty by reason of 9562
insanity is a mentally ill person subject to court order or 9563
~~mentally retarded~~ a person with an intellectual disability 9564
subject to institutionalization by court order, the trial judge 9565
may issue a temporary order of detention for that person to 9566
remain in effect for ten court days or until the hearing, 9567
whichever occurs first. 9568

Any person detained pursuant to a temporary order of 9569
detention issued under this division shall be held in a suitable 9570
facility, taking into consideration the place and type of 9571
confinement prior to and during trial. 9572

(B) The court shall hold the hearing under division (A) of 9573
this section to determine whether the person found not guilty by 9574
reason of insanity is a mentally ill person subject to court 9575
order or a ~~mentally retarded~~ person with an intellectual 9576
disability subject to institutionalization by court order within 9577
ten court days after the finding of not guilty by reason of 9578
insanity. Failure to conduct the hearing within the ten-day 9579
period shall cause the immediate discharge of the respondent, 9580
unless the judge grants a continuance for not longer than ten 9581
court days for good cause shown or for any period of time upon 9582
motion of the respondent. 9583

(C) If a person is found not guilty by reason of insanity, 9584
the person has the right to attend all hearings conducted 9585
pursuant to sections 2945.37 to 2945.402 of the Revised Code. At 9586
any hearing conducted pursuant to one of those sections, the 9587
court shall inform the person that the person has all of the 9588

following rights: 9589

(1) The right to be represented by counsel and to have 9590
that counsel provided at public expense if the person is 9591
indigent, with the counsel to be appointed by the court under 9592
Chapter 120. of the Revised Code or under the authority 9593
recognized in division (C) of section 120.06, division (E) of 9594
section 120.16, division (E) of section 120.26, or section 9595
2941.51 of the Revised Code; 9596

(2) The right to have independent expert evaluation and to 9597
have that independent expert evaluation provided at public 9598
expense if the person is indigent; 9599

(3) The right to subpoena witnesses and documents, to 9600
present evidence on the person's behalf, and to cross-examine 9601
witnesses against the person; 9602

(4) The right to testify in the person's own behalf and to 9603
not be compelled to testify; 9604

(5) The right to have copies of any relevant medical or 9605
mental health document in the custody of the state or of any 9606
place of commitment other than a document for which the court 9607
finds that the release to the person of information contained in 9608
the document would create a substantial risk of harm to any 9609
person. 9610

(D) The hearing under division (A) of this section shall 9611
be open to the public, and the court shall conduct the hearing 9612
in accordance with the Rules of Civil Procedure. The court shall 9613
make and maintain a full transcript and record of the hearing 9614
proceedings. The court may consider all relevant evidence, 9615
including, but not limited to, any relevant psychiatric, 9616
psychological, or medical testimony or reports, the acts 9617

constituting the offense in relation to which the person was 9618
found not guilty by reason of insanity, and any history of the 9619
person that is relevant to the person's ability to conform to 9620
the law. 9621

(E) Upon completion of the hearing under division (A) of 9622
this section, if the court finds there is not clear and 9623
convincing evidence that the person is a mentally ill person 9624
subject to court order or a ~~mentally retarded~~ person with an 9625
intellectual disability subject to institutionalization by court 9626
order, the court shall discharge the person, unless a detainer 9627
has been placed upon the person by the department of 9628
rehabilitation and correction, in which case the person shall be 9629
returned to that department. 9630

(F) If, at the hearing under division (A) of this section, 9631
the court finds by clear and convincing evidence that the person 9632
is a mentally ill person subject to court order, the court shall 9633
commit the person either to the department of mental health and 9634
addiction services for treatment in a hospital, facility, or 9635
agency as determined clinically appropriate by the department of 9636
mental health and addiction services or to another medical or 9637
psychiatric facility, as appropriate. Prior to placing the 9638
defendant, the department of mental health and addiction 9639
services shall obtain court approval for that placement. If, at 9640
the hearing under division (A) of this section, the court 9641
determines by clear and convincing evidence that the person 9642
requires treatment for ~~mental retardation~~ an intellectual 9643
disability, it shall commit the person to a facility operated by 9644
the department of developmental disabilities or another 9645
facility, as appropriate. Further proceedings shall be in 9646
accordance with sections 2945.401 and 2945.402 of the Revised 9647
Code. In determining the place of commitment, the court shall 9648

consider the extent to which the person is a danger to the 9649
person and to others, the need for security, and the type of 9650
crime involved and shall order the least restrictive alternative 9651
available that is consistent with public safety and the welfare 9652
of the person. In weighing these factors, the court shall give 9653
preference to protecting public safety. 9654

(G) If a court makes a commitment of a person under 9655
division (F) of this section, the prosecutor shall send to the 9656
hospital, facility, or agency where the person is placed by the 9657
department of mental health and addiction services or to the 9658
defendant's place of commitment all reports of the person's 9659
current mental condition, and, except as otherwise provided in 9660
this division, any other relevant information, including, but 9661
not limited to, a transcript of the hearing held pursuant to 9662
division (A) of this section, copies of relevant police reports, 9663
and copies of any prior arrest and conviction records that 9664
pertain to the person and that the prosecutor possesses. The 9665
prosecutor shall send the reports of the person's current mental 9666
condition in every case of commitment, and, unless the 9667
prosecutor determines that the release of any of the other 9668
relevant information to unauthorized persons would interfere 9669
with the effective prosecution of any person or would create a 9670
substantial risk of harm to any person, the prosecutor also 9671
shall send the other relevant information. Upon admission of a 9672
person committed under division (F) of this section, the place 9673
of commitment shall send to the board of alcohol, drug 9674
addiction, and mental health services or the community mental 9675
health board serving the county in which the charges against the 9676
person were filed a copy of all reports of the person's current 9677
mental condition and a copy of the other relevant information 9678
provided by the prosecutor under this division, including, if 9679

provided, a transcript of the hearing held pursuant to division 9680
(A) of this section, the relevant police reports, and the prior 9681
arrest and conviction records that pertain to the person and 9682
that the prosecutor possesses. 9683

(H) A person who is committed pursuant to this section 9684
shall not voluntarily admit the person or be voluntarily 9685
admitted to a hospital or institution pursuant to section 9686
5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 9687

Sec. 2945.401. (A) A defendant found incompetent to stand 9688
trial and committed pursuant to section 2945.39 of the Revised 9689
Code or a person found not guilty by reason of insanity and 9690
committed pursuant to section 2945.40 of the Revised Code shall 9691
remain subject to the jurisdiction of the trial court pursuant 9692
to that commitment, and to the provisions of this section, until 9693
the final termination of the commitment as described in division 9694
(J)(1) of this section. If the jurisdiction is terminated under 9695
this division because of the final termination of the commitment 9696
resulting from the expiration of the maximum prison term or term 9697
of imprisonment described in division (J)(1)(b) of this section, 9698
the court or prosecutor may file an affidavit for the civil 9699
commitment of the defendant or person pursuant to Chapter 5122. 9700
or 5123. of the Revised Code. 9701

(B) A hearing conducted under any provision of sections 9702
2945.37 to 2945.402 of the Revised Code shall not be conducted 9703
in accordance with Chapters 5122. and 5123. of the Revised Code. 9704
Any person who is committed pursuant to section 2945.39 or 9705
2945.40 of the Revised Code shall not voluntarily admit the 9706
person or be voluntarily admitted to a hospital or institution 9707
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 9708
Revised Code. All other provisions of Chapters 5122. and 5123. 9709

of the Revised Code regarding hospitalization or 9710
institutionalization shall apply to the extent they are not in 9711
conflict with this chapter. A commitment under section 2945.39 9712
or 2945.40 of the Revised Code shall not be terminated and the 9713
conditions of the commitment shall not be changed except as 9714
otherwise provided in division (D) (2) of this section with 9715
respect to a ~~mentally retarded~~ person with an intellectual 9716
disability subject to institutionalization by court order or 9717
except by order of the trial court. 9718

(C) The department of mental health and addiction services 9719
or the institution, facility, or program to which a defendant or 9720
person has been committed under section 2945.39 or 2945.40 of 9721
the Revised Code shall report in writing to the trial court, at 9722
the times specified in this division, as to whether the 9723
defendant or person remains a mentally ill person subject to 9724
court order or a ~~mentally retarded~~ person with an intellectual 9725
disability subject to institutionalization by court order and, 9726
in the case of a defendant committed under section 2945.39 of 9727
the Revised Code, as to whether the defendant remains 9728
incompetent to stand trial. The department, institution, 9729
facility, or program shall make the reports after the initial 9730
six months of treatment and every two years after the initial 9731
report is made. The trial court shall provide copies of the 9732
reports to the prosecutor and to the counsel for the defendant 9733
or person. Within thirty days after its receipt pursuant to this 9734
division of a report from the department, institution, facility, 9735
or program, the trial court shall hold a hearing on the 9736
continued commitment of the defendant or person or on any 9737
changes in the conditions of the commitment of the defendant or 9738
person. The defendant or person may request a change in the 9739
conditions of confinement, and the trial court shall conduct a 9740

hearing on that request if six months or more have elapsed since 9741
the most recent hearing was conducted under this section. 9742

(D) (1) Except as otherwise provided in division (D) (2) of 9743
this section, when a defendant or person has been committed 9744
under section 2945.39 or 2945.40 of the Revised Code, at any 9745
time after evaluating the risks to public safety and the welfare 9746
of the defendant or person, the designee of the department of 9747
mental health and addiction services or the managing officer of 9748
the institution or director of the facility or program to which 9749
the defendant or person is committed may recommend a termination 9750
of the defendant's or person's commitment or a change in the 9751
conditions of the defendant's or person's commitment. 9752

Except as otherwise provided in division (D) (2) of this 9753
section, if the designee of the department of mental health and 9754
addiction services recommends on-grounds unsupervised movement, 9755
off-grounds supervised movement, or nonsecured status for the 9756
defendant or person or termination of the defendant's or 9757
person's commitment, the following provisions apply: 9758

(a) If the department's designee recommends on-grounds 9759
unsupervised movement or off-grounds supervised movement, the 9760
department's designee shall file with the trial court an 9761
application for approval of the movement and shall send a copy 9762
of the application to the prosecutor. Within fifteen days after 9763
receiving the application, the prosecutor may request a hearing 9764
on the application and, if a hearing is requested, shall so 9765
inform the department's designee. If the prosecutor does not 9766
request a hearing within the fifteen-day period, the trial court 9767
shall approve the application by entering its order approving 9768
the requested movement or, within five days after the expiration 9769
of the fifteen-day period, shall set a date for a hearing on the 9770

application. If the prosecutor requests a hearing on the 9771
application within the fifteen-day period, the trial court shall 9772
hold a hearing on the application within thirty days after the 9773
hearing is requested. If the trial court, within five days after 9774
the expiration of the fifteen-day period, sets a date for a 9775
hearing on the application, the trial court shall hold the 9776
hearing within thirty days after setting the hearing date. At 9777
least fifteen days before any hearing is held under this 9778
division, the trial court shall give the prosecutor written 9779
notice of the date, time, and place of the hearing. At the 9780
conclusion of each hearing conducted under this division, the 9781
trial court either shall approve or disapprove the application 9782
and shall enter its order accordingly. 9783

(b) If the department's designee recommends termination of 9784
the defendant's or person's commitment at any time or if the 9785
department's designee recommends the first of any nonsecured 9786
status for the defendant or person, the department's designee 9787
shall send written notice of this recommendation to the trial 9788
court and to the local forensic center. The local forensic 9789
center shall evaluate the committed defendant or person and, 9790
within thirty days after its receipt of the written notice, 9791
shall submit to the trial court and the department's designee a 9792
written report of the evaluation. The trial court shall provide 9793
a copy of the department's designee's written notice and of the 9794
local forensic center's written report to the prosecutor and to 9795
the counsel for the defendant or person. Upon the local forensic 9796
center's submission of the report to the trial court and the 9797
department's designee, all of the following apply: 9798

(i) If the forensic center disagrees with the 9799
recommendation of the department's designee, it shall inform the 9800
department's designee and the trial court of its decision and 9801

the reasons for the decision. The department's designee, after 9802
consideration of the forensic center's decision, shall either 9803
withdraw, proceed with, or modify and proceed with the 9804
recommendation. If the department's designee proceeds with, or 9805
modifies and proceeds with, the recommendation, the department's 9806
designee shall proceed in accordance with division (D) (1) (b) 9807
(iii) of this section. 9808

(ii) If the forensic center agrees with the recommendation 9809
of the department's designee, it shall inform the department's 9810
designee and the trial court of its decision and the reasons for 9811
the decision, and the department's designee shall proceed in 9812
accordance with division (D) (1) (b) (iii) of this section. 9813

(iii) If the forensic center disagrees with the 9814
recommendation of the department's designee and the department's 9815
designee proceeds with, or modifies and proceeds with, the 9816
recommendation or if the forensic center agrees with the 9817
recommendation of the department's designee, the department's 9818
designee shall work with community mental health services 9819
providers, programs, facilities, or boards of alcohol, drug 9820
addiction, and mental health services or community mental health 9821
boards to develop a plan to implement the recommendation. If the 9822
defendant or person is on medication, the plan shall include, 9823
but shall not be limited to, a system to monitor the defendant's 9824
or person's compliance with the prescribed medication treatment 9825
plan. The system shall include a schedule that clearly states 9826
when the defendant or person shall report for a medication 9827
compliance check. The medication compliance checks shall be 9828
based upon the effective duration of the prescribed medication, 9829
taking into account the route by which it is taken, and shall be 9830
scheduled at intervals sufficiently close together to detect a 9831
potential increase in mental illness symptoms that the 9832

medication is intended to prevent. 9833

The department's designee, after consultation with the 9834
board of alcohol, drug addiction, and mental health services or 9835
the community mental health board serving the area, shall send 9836
the recommendation and plan developed under division (D) (1) (b) 9837
(iii) of this section, in writing, to the trial court, the 9838
prosecutor, and the counsel for the committed defendant or 9839
person. The trial court shall conduct a hearing on the 9840
recommendation and plan developed under division (D) (1) (b) (iii) 9841
of this section. Divisions (D) (1) (c) and (d) and (E) to (J) of 9842
this section apply regarding the hearing. 9843

(c) If the department's designee's recommendation is for 9844
nonsecured status or termination of commitment, the prosecutor 9845
may obtain an independent expert evaluation of the defendant's 9846
or person's mental condition, and the trial court may continue 9847
the hearing on the recommendation for a period of not more than 9848
thirty days to permit time for the evaluation. 9849

The prosecutor may introduce the evaluation report or 9850
present other evidence at the hearing in accordance with the 9851
Rules of Evidence. 9852

(d) The trial court shall schedule the hearing on a 9853
department's designee's recommendation for nonsecured status or 9854
termination of commitment and shall give reasonable notice to 9855
the prosecutor and the counsel for the defendant or person. 9856
Unless continued for independent evaluation at the prosecutor's 9857
request or for other good cause, the hearing shall be held 9858
within thirty days after the trial court's receipt of the 9859
recommendation and plan. 9860

(2) (a) Division (D) (1) of this section does not apply to 9861

on-grounds unsupervised movement of a defendant or person who 9862
has been committed under section 2945.39 or 2945.40 of the 9863
Revised Code, who is a ~~mentally retarded~~ person with an 9864
intellectual disability subject to institutionalization by court 9865
order, and who is being provided residential habilitation, care, 9866
and treatment in a facility operated by the department of 9867
developmental disabilities. 9868

(b) If, pursuant to section 2945.39 of the Revised Code, 9869
the trial court commits a defendant who is found incompetent to 9870
stand trial and who is a ~~mentally retarded~~ person with an 9871
intellectual disability subject to institutionalization by court 9872
order, if the defendant is being provided residential 9873
habilitation, care, and treatment in a facility operated by the 9874
department of developmental disabilities, if an individual who 9875
is conducting a survey for the department of health to determine 9876
the facility's compliance with the certification requirements of 9877
the medicaid program cites the defendant's receipt of the 9878
residential habilitation, care, and treatment in the facility as 9879
being inappropriate under the certification requirements, if the 9880
defendant's receipt of the residential habilitation, care, and 9881
treatment in the facility potentially jeopardizes the facility's 9882
continued receipt of federal medicaid moneys, and if as a result 9883
of the citation the chief clinical officer of the facility 9884
determines that the conditions of the defendant's commitment 9885
should be changed, the department of developmental disabilities 9886
may cause the defendant to be removed from the particular 9887
facility and, after evaluating the risks to public safety and 9888
the welfare of the defendant and after determining whether 9889
another type of placement is consistent with the certification 9890
requirements, may place the defendant in another facility that 9891
the department selects as an appropriate facility for the 9892

defendant's continued receipt of residential habilitation, care, 9893
and treatment and that is a no less secure setting than the 9894
facility in which the defendant had been placed at the time of 9895
the citation. Within three days after the defendant's removal 9896
and alternative placement under the circumstances described in 9897
division (D)(2)(b) of this section, the department of 9898
developmental disabilities shall notify the trial court and the 9899
prosecutor in writing of the removal and alternative placement. 9900

The trial court shall set a date for a hearing on the 9901
removal and alternative placement, and the hearing shall be held 9902
within twenty-one days after the trial court's receipt of the 9903
notice from the department of developmental disabilities. At 9904
least ten days before the hearing is held, the trial court shall 9905
give the prosecutor, the department of developmental 9906
disabilities, and the counsel for the defendant written notice 9907
of the date, time, and place of the hearing. At the hearing, the 9908
trial court shall consider the citation issued by the individual 9909
who conducted the survey for the department of health to be 9910
prima-facie evidence of the fact that the defendant's commitment 9911
to the particular facility was inappropriate under the 9912
certification requirements of the medicaid program and 9913
potentially jeopardizes the particular facility's continued 9914
receipt of federal medicaid moneys. At the conclusion of the 9915
hearing, the trial court may approve or disapprove the 9916
defendant's removal and alternative placement. If the trial 9917
court approves the defendant's removal and alternative 9918
placement, the department of developmental disabilities may 9919
continue the defendant's alternative placement. If the trial 9920
court disapproves the defendant's removal and alternative 9921
placement, it shall enter an order modifying the defendant's 9922
removal and alternative placement, but that order shall not 9923

require the department of developmental disabilities to replace 9924
the defendant for purposes of continued residential 9925
habilitation, care, and treatment in the facility associated 9926
with the citation issued by the individual who conducted the 9927
survey for the department of health. 9928

(E) In making a determination under this section regarding 9929
nonsecured status or termination of commitment, the trial court 9930
shall consider all relevant factors, including, but not limited 9931
to, all of the following: 9932

(1) Whether, in the trial court's view, the defendant or 9933
person currently represents a substantial risk of physical harm 9934
to the defendant or person or others; 9935

(2) Psychiatric and medical testimony as to the current 9936
mental and physical condition of the defendant or person; 9937

(3) Whether the defendant or person has insight into the 9938
defendant's or person's condition so that the defendant or 9939
person will continue treatment as prescribed or seek 9940
professional assistance as needed; 9941

(4) The grounds upon which the state relies for the 9942
proposed commitment; 9943

(5) Any past history that is relevant to establish the 9944
defendant's or person's degree of conformity to the laws, rules, 9945
regulations, and values of society; 9946

(6) If there is evidence that the defendant's or person's 9947
mental illness is in a state of remission, the medically 9948
suggested cause and degree of the remission and the probability 9949
that the defendant or person will continue treatment to maintain 9950
the remissive state of the defendant's or person's illness 9951
should the defendant's or person's commitment conditions be 9952

altered. 9953

(F) At any hearing held pursuant to division (C) or (D) (1) 9954
or (2) of this section, the defendant or the person shall have 9955
all the rights of a defendant or person at a commitment hearing 9956
as described in section 2945.40 of the Revised Code. 9957

(G) In a hearing held pursuant to division (C) or (D) (1) 9958
of this section, the prosecutor has the burden of proof as 9959
follows: 9960

(1) For a recommendation of termination of commitment, to 9961
show by clear and convincing evidence that the defendant or 9962
person remains a mentally ill person subject to court order or a 9963
~~mentally retarded person~~ with an intellectual disability subject 9964
to institutionalization by court order; 9965

(2) For a recommendation for a change in the conditions of 9966
the commitment to a less restrictive status, to show by clear 9967
and convincing evidence that the proposed change represents a 9968
threat to public safety or a threat to the safety of any person. 9969

(H) In a hearing held pursuant to division (C) or (D) (1) 9970
or (2) of this section, the prosecutor shall represent the state 9971
or the public interest. 9972

(I) At the conclusion of a hearing conducted under 9973
division (D) (1) of this section regarding a recommendation from 9974
the designee of the department of mental health and addiction 9975
services, managing officer of the institution, or director of a 9976
facility or program, the trial court may approve, disapprove, or 9977
modify the recommendation and shall enter an order accordingly. 9978

(J) (1) A defendant or person who has been committed 9979
pursuant to section 2945.39 or 2945.40 of the Revised Code 9980
continues to be under the jurisdiction of the trial court until 9981

the final termination of the commitment. For purposes of 9982
division (J) of this section, the final termination of a 9983
commitment occurs upon the earlier of one of the following: 9984

(a) The defendant or person no longer is a mentally ill 9985
person subject to court order or a ~~mentally retarded~~ person with 9986
an intellectual disability subject to institutionalization by 9987
court order, as determined by the trial court; 9988

(b) The expiration of the maximum prison term or term of 9989
imprisonment that the defendant or person could have received if 9990
the defendant or person had been convicted of the most serious 9991
offense with which the defendant or person is charged or in 9992
relation to which the defendant or person was found not guilty 9993
by reason of insanity; 9994

(c) The trial court enters an order terminating the 9995
commitment under the circumstances described in division (J) (2) 9996
(a) (ii) of this section. 9997

(2) (a) If a defendant is found incompetent to stand trial 9998
and committed pursuant to section 2945.39 of the Revised Code, 9999
if neither of the circumstances described in divisions (J) (1) (a) 10000
and (b) of this section applies to that defendant, and if a 10001
report filed with the trial court pursuant to division (C) of 10002
this section indicates that the defendant presently is competent 10003
to stand trial or if, at any other time during the period of the 10004
defendant's commitment, the prosecutor, the counsel for the 10005
defendant, or the designee of the department of mental health 10006
and addiction services or the managing officer of the 10007
institution or director of the facility or program to which the 10008
defendant is committed files an application with the trial court 10009
alleging that the defendant presently is competent to stand 10010
trial and requesting a hearing on the competency issue or the 10011

trial court otherwise has reasonable cause to believe that the 10012
defendant presently is competent to stand trial and determines 10013
on its own motion to hold a hearing on the competency issue, the 10014
trial court shall schedule a hearing on the competency of the 10015
defendant to stand trial, shall give the prosecutor, the counsel 10016
for the defendant, and the department's designee or the managing 10017
officer of the institution or the director of the facility to 10018
which the defendant is committed notice of the date, time, and 10019
place of the hearing at least fifteen days before the hearing, 10020
and shall conduct the hearing within thirty days of the filing 10021
of the application or of its own motion. If, at the conclusion 10022
of the hearing, the trial court determines that the defendant 10023
presently is capable of understanding the nature and objective 10024
of the proceedings against the defendant and of assisting in the 10025
defendant's defense, the trial court shall order that the 10026
defendant is competent to stand trial and shall be proceeded 10027
against as provided by law with respect to the applicable 10028
offenses described in division (C)(1) of section 2945.38 of the 10029
Revised Code and shall enter whichever of the following 10030
additional orders is appropriate: 10031

(i) If the trial court determines that the defendant 10032
remains a mentally ill person subject to court order or a 10033
~~mentally retarded~~ person with an intellectual disability subject 10034
to institutionalization by court order, the trial court shall 10035
order that the defendant's commitment to the department of 10036
mental health and addiction services or to an institution, 10037
facility, or program for the treatment of ~~mental retardation~~ 10038
developmental disabilities be continued during the pendency of 10039
the trial on the applicable offenses described in division (C) 10040
(1) of section 2945.38 of the Revised Code. 10041

(ii) If the trial court determines that the defendant no 10042

longer is a mentally ill person subject to court order or a 10043
~~mentally retarded person~~ with an intellectual disability subject 10044
to institutionalization by court order, the trial court shall 10045
order that the defendant's commitment to the department of 10046
mental health and addiction services or to an institution, 10047
facility, or program for the treatment of ~~mental retardation~~ 10048
developmental disabilities shall not be continued during the 10049
pendency of the trial on the applicable offenses described in 10050
division (C) (1) of section 2945.38 of the Revised Code. This 10051
order shall be a final termination of the commitment for 10052
purposes of division (J) (1) (c) of this section. 10053

(b) If, at the conclusion of the hearing described in 10054
division (J) (2) (a) of this section, the trial court determines 10055
that the defendant remains incapable of understanding the nature 10056
and objective of the proceedings against the defendant or of 10057
assisting in the defendant's defense, the trial court shall 10058
order that the defendant continues to be incompetent to stand 10059
trial, that the defendant's commitment to the department of 10060
mental health and addiction services or to an institution, 10061
facility, or program for the treatment of ~~mental retardation~~ 10062
developmental disabilities shall be continued, and that the 10063
defendant remains subject to the jurisdiction of the trial court 10064
pursuant to that commitment, and to the provisions of this 10065
section, until the final termination of the commitment as 10066
described in division (J) (1) of this section. 10067

Sec. 2945.482. (A) As used in this section: 10068

(1) "~~Mentally retarded person~~" and "~~developmentally~~ 10069
~~disabled person~~Developmental disability" ~~have~~ has the same 10070
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 10071

(2) "~~Mentally retarded or developmentally disabled~~" 10072

~~victim~~Victim with a developmental disability" includes a 10073
~~mentally retarded or developmentally disabled person with a~~ 10074
developmental disability who was a victim of a violation 10075
identified in division (B) (1) of this section or an offense of 10076
violence or against whom was directed any conduct that 10077
constitutes, or that is an element of, a violation identified in 10078
division (B) (1) of this section or an offense of violence. 10079

(B) (1) In any proceeding in the prosecution of a charge of 10080
a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 10081
2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 10082
2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised 10083
Code or an offense of violence and in which an alleged victim of 10084
the violation or offense was a ~~mentally retarded or~~ 10085
~~developmentally disabled person with a developmental disability,~~ 10086
the judge of the court in which the prosecution is being 10087
conducted, upon motion of an attorney for the prosecution, shall 10088
order that the testimony of the ~~mentally retarded or~~ 10089
~~developmentally disabled victim with a developmental disability~~ 10090
be taken by deposition. The prosecution also may request that 10091
the deposition be videotaped in accordance with division (B) (2) 10092
of this section. The judge shall notify the ~~mentally retarded or~~ 10093
~~developmentally disabled victim with a developmental disability~~ 10094
whose deposition is to be taken, the prosecution, and the 10095
defense of the date, time, and place for taking the deposition. 10096
The notice shall identify the ~~mentally retarded or~~ 10097
~~developmentally disabled victim with a developmental disability~~ 10098
who is to be examined and shall indicate whether a request that 10099
the deposition be videotaped has been made. The defendant shall 10100
have the right to attend the deposition and the right to be 10101
represented by counsel. Depositions shall be taken in the manner 10102
provided in civil cases, except that the judge shall preside at 10103

the taking of the deposition and shall rule at the time on any 10104
objections of the prosecution or the attorney for the defense. 10105
The prosecution and the attorney for the defense shall have the 10106
right, as at trial, to full examination and cross-examination of 10107
the ~~mentally retarded or developmentally disabled~~ victim with a 10108
developmental disability whose deposition is to be taken. If a 10109
deposition taken under this division is intended to be offered 10110
as evidence in the proceeding, it shall be filed in the court in 10111
which the action is pending and is admissible in the manner 10112
described in division (C) of this section. 10113

If a deposition of a ~~mentally retarded or developmentally~~ 10114
~~disabled~~ victim with a developmental disability taken under this 10115
division is admitted as evidence at the proceeding under 10116
division (C) of this section, the ~~mentally retarded or~~ 10117
~~developmentally disabled~~ victim with a developmental disability 10118
shall not be required to testify in person at the proceeding. 10119

At any time before the conclusion of the proceeding, the 10120
attorney for the defense may file a motion with the judge 10121
requesting that another deposition of the ~~mentally retarded or~~ 10122
~~developmentally disabled~~ victim with a developmental disability 10123
be taken because new evidence material to the defense has been 10124
discovered that the attorney for the defense could not with 10125
reasonable diligence have discovered prior to the taking of the 10126
admitted deposition. If the court orders the taking of another 10127
deposition under this provision, the deposition shall be taken 10128
in accordance with this division. If the admitted deposition was 10129
a videotaped deposition taken in accordance with division (B) (2) 10130
of this section, the new deposition shall be videotaped in 10131
accordance with that division. In other cases, the new 10132
deposition may be videotaped in accordance with that division. 10133

(2) If the prosecution requests that a deposition to be taken under division (B) (2) of this section be videotaped, the judge shall order that the deposition be videotaped in accordance with this division. If a judge issues an order that the deposition be videotaped, the judge shall exclude from the room in which the deposition is to be taken every person except the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the testimony, the judge, one or more interpreters if needed, the attorneys for the prosecution and the defense, any person needed to operate the equipment to be used, one person chosen by the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition, and any person whose presence the judge determines would contribute to the welfare and well-being of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition. The person chosen by the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability shall not be a witness in the proceeding and, both before and during the deposition, shall not discuss the testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability with any other witness in the proceeding. To the extent feasible, any person operating the recording equipment shall be restricted to a room adjacent to the room in which the deposition is being taken, or to a location in the room in which the deposition is being taken that is behind a screen or mirror, so that the person operating the recording equipment can see and hear, but cannot be seen or heard by, the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition during the deposition.

The defendant shall be permitted to observe and hear the

testimony of the ~~mentally retarded or developmentally disabled~~ 10165
victim with a developmental disability giving the deposition on 10166
a monitor, shall be provided with an electronic means of 10167
immediate communication with the defendant's attorney during the 10168
testimony, and shall be restricted to a location from which the 10169
defendant cannot be seen or heard by the ~~mentally retarded or~~ 10170
~~developmentally disabled~~ victim with a developmental disability 10171
giving the deposition, except on a monitor provided for that 10172
purpose. The ~~mentally retarded or developmentally disabled~~ 10173
victim with a developmental disability giving the deposition 10174
shall be provided with a monitor on which the victim can 10175
observe, during the testimony, the defendant. The judge, at the 10176
judge's discretion, may preside at the deposition by electronic 10177
means from outside the room in which the deposition is to be 10178
taken. If the judge presides by electronic means, the judge 10179
shall be provided with monitors on which the judge can see each 10180
person in the room in which the deposition is to be taken and 10181
with an electronic means of communication with each person, and 10182
each person in the room shall be provided with a monitor on 10183
which that person can see the judge and with an electronic means 10184
of communication with the judge. A deposition that is videotaped 10185
under this division shall be taken and filed in the manner 10186
described in division (B) (1) of this section and is admissible 10187
in the manner described in this division and division (C) of 10188
this section, and, if a deposition that is videotaped under this 10189
division is admitted as evidence at the proceeding, the ~~mentally~~ 10190
~~retarded or developmentally disabled~~ victim with a developmental 10191
disability shall not be required to testify in person at the 10192
proceeding. No deposition videotaped under this division shall 10193
be admitted as evidence at any proceeding unless division (C) of 10194
this section is satisfied relative to the deposition and all of 10195
the following apply relative to the recording: 10196

(a) The recording is both aural and visual and is recorded 10197
on film or videotape, or by other electronic means. 10198

(b) The recording is authenticated under the Rules of 10199
Evidence and the Rules of Criminal Procedure as a fair and 10200
accurate representation of what occurred, and the recording is 10201
not altered other than at the direction and under the 10202
supervision of the judge in the proceeding. 10203

(c) Each voice on the recording that is material to the 10204
testimony on the recording or the making of the recording, as 10205
determined by the judge, is identified. 10206

(d) Both the prosecution and the defendant are afforded an 10207
opportunity to view the recording before it is shown in the 10208
proceeding. 10209

(C) (1) At any proceeding in a prosecution in relation to 10210
which a deposition was taken under division (B) of this section, 10211
the deposition or a part of it is admissible in evidence upon 10212
motion of the prosecution if the testimony in the deposition or 10213
the part to be admitted is not excluded by the hearsay rule and 10214
if the deposition or the part to be admitted otherwise is 10215
admissible under the Rules of Evidence. For purposes of this 10216
division, testimony is not excluded by the hearsay rule if the 10217
testimony is not hearsay under Evidence Rule 801; the testimony 10218
is within an exception to the hearsay rule set forth in Evidence 10219
Rule 803; the ~~mentally retarded or developmentally disabled~~ 10220
victim with a developmental disability who gave the testimony is 10221
unavailable as a witness, as defined in Evidence Rule 804, and 10222
the testimony is admissible under that rule; or both of the 10223
following apply: 10224

(a) The defendant had an opportunity and similar motive at 10225

the time of the taking of the deposition to develop the 10226
testimony by direct, cross, or redirect examination. 10227

(b) The judge determines that there is reasonable cause to 10228
believe that, if the ~~mentally retarded or developmentally~~ 10229
~~disabled~~ victim with a developmental disability who gave the 10230
testimony in the deposition were to testify in person at the 10231
proceeding, the ~~mentally retarded or developmentally disabled~~ 10232
victim with a developmental disability would experience serious 10233
emotional trauma as a result of the ~~mentally retarded or~~ 10234
~~developmentally disabled victim's~~ participation of the victim 10235
with a developmental disability at the proceeding. 10236

(2) Objections to receiving in evidence a deposition or a 10237
part of it under division (C) of this section shall be made as 10238
provided in civil actions. 10239

(3) The provisions of divisions (B) and (C) of this 10240
section are in addition to any other provisions of the Revised 10241
Code, the Rules of Criminal Procedure, or the Rules of Evidence 10242
that pertain to the taking or admission of depositions in a 10243
criminal proceeding and do not limit the admissibility under any 10244
of those other provisions of any deposition taken under division 10245
(B) of this section or otherwise taken. 10246

(D) In any proceeding in the prosecution of any charge of 10247
a violation listed in division (B)(1) of this section or an 10248
offense of violence and in which an alleged victim of the 10249
violation or offense was a ~~mentally retarded or developmentally~~ 10250
~~disabled~~ person with a developmental disability, the prosecution 10251
may file a motion with the judge requesting the judge to order 10252
the testimony of the ~~mentally retarded or developmentally~~ 10253
~~disabled~~ victim with a developmental disability to be taken in a 10254
room other than the room in which the proceeding is being 10255

conducted and be televised, by closed circuit equipment, into 10256
the room in which the proceeding is being conducted to be viewed 10257
by the jury, if applicable, the defendant, and any other persons 10258
who are not permitted in the room in which the testimony is to 10259
be taken but who would have been present during the testimony of 10260
the ~~mentally retarded or developmentally disabled~~ victim with a 10261
developmental disability had it been given in the room in which 10262
the proceeding is being conducted. Except for good cause shown, 10263
the prosecution shall file a motion under this division at least 10264
seven days before the date of the proceeding. The judge may 10265
issue the order upon the motion of the prosecution filed under 10266
this section, if the judge determines that the ~~mentally retarded-~~ 10267
~~or developmentally disabled~~ victim with a developmental 10268
disability is unavailable to testify in the room in which the 10269
proceeding is being conducted in the physical presence of the 10270
defendant for one or more of the reasons set forth in division 10271
(F) of this section. If a judge issues an order of that nature, 10272
the judge shall exclude from the room in which the testimony is 10273
to be taken every person except a person described in division 10274
(B) (2) of this section. The judge, at the judge's discretion, 10275
may preside during the giving of the testimony by electronic 10276
means from outside the room in which it is being given, subject 10277
to the limitations set forth in division (B) (2) of this section. 10278
To the extent feasible, any person operating the televising 10279
equipment shall be hidden from the sight and hearing of the 10280
~~mentally retarded or developmentally disabled~~ victim with a 10281
developmental disability giving the testimony, in a manner 10282
similar to that described in division (B) (2) of this section. 10283
The defendant shall be permitted to observe and hear the 10284
testimony of the ~~mentally retarded or developmentally disabled-~~ 10285
victim with a developmental disability giving the testimony on a 10286
monitor, shall be provided with an electronic means of immediate 10287

communication with the defendant's attorney during the 10288
testimony, and shall be restricted to a location from which the 10289
defendant cannot be seen or heard by the ~~mentally retarded or~~ 10290
~~developmentally disabled~~ victim with a developmental disability 10291
giving the testimony, except on a monitor provided for that 10292
purpose. The ~~mentally retarded or developmentally disabled~~ 10293
victim with a developmental disability giving the testimony 10294
shall be provided with a monitor on which the ~~mentally retarded-~~ 10295
~~or developmentally disabled~~ victim with a developmental 10296
disability can observe, during the testimony, the defendant. 10297

(E) In any proceeding in the prosecution of any charge of 10298
a violation listed in division (B) (1) of this section or an 10299
offense of violence and in which an alleged victim of the 10300
violation or offense was a ~~mentally retarded or developmentally-~~ 10301
~~disabled~~ victim with a developmental disability, the prosecution 10302
may file a motion with the judge requesting the judge to order 10303
the testimony of the ~~mentally retarded or developmentally-~~ 10304
~~disabled~~ victim with a developmental disability to be taken 10305
outside of the room in which the proceeding is being conducted 10306
and be recorded for showing in the room in which the proceeding 10307
is being conducted before the judge, the jury, if applicable, 10308
the defendant, and any other persons who would have been present 10309
during the testimony of the ~~mentally retarded or developmentally-~~ 10310
~~disabled~~ victim with a developmental disability had it been 10311
given in the room in which the proceeding is being conducted. 10312
Except for good cause shown, the prosecution shall file a motion 10313
under this division at least seven days before the date of the 10314
proceeding. The judge may issue the order upon the motion of the 10315
prosecution filed under this division, if the judge determines 10316
that the ~~mentally retarded or developmentally disabled~~ victim 10317
with a developmental disability is unavailable to testify in the 10318

room in which the proceeding is being conducted in the physical 10319
presence of the defendant, for one or more of the reasons set 10320
forth in division (F) of this section. If a judge issues an 10321
order of that nature, the judge shall exclude from the room in 10322
which the testimony is to be taken every person except a person 10323
described in division (B) (2) of this section. To the extent 10324
feasible, any person operating the recording equipment shall be 10325
hidden from the sight and hearing of the ~~mentally retarded or~~ 10326
~~developmentally disabled~~ victim with a developmental disability 10327
giving the testimony, in a manner similar to that described in 10328
division (B) (2) of this section. The defendant shall be 10329
permitted to observe and hear the testimony of the ~~mentally~~ 10330
~~retarded or developmentally disabled~~ victim with a developmental 10331
disability who is giving the testimony on a monitor, shall be 10332
provided with an electronic means of immediate communication 10333
with the defendant's attorney during the testimony, and shall be 10334
restricted to a location from which the defendant cannot be seen 10335
or heard by the ~~mentally retarded or developmentally disabled~~ 10336
victim with a developmental disability giving the testimony, 10337
except on a monitor provided for that purpose. The ~~mentally~~ 10338
~~retarded or developmentally disabled~~ victim with a developmental 10339
disability giving the testimony shall be provided with a monitor 10340
on which the victim can observe, during the testimony, the 10341
defendant. No order for the taking of testimony by recording 10342
shall be issued under this division unless the provisions set 10343
forth in divisions (B) (2) (a), (b), (c), and (d) of this section 10344
apply to the recording of the testimony. 10345

(F) For purposes of divisions (D) and (E) of this section, 10346
a judge may order the testimony of a ~~mentally retarded or~~ 10347
~~developmentally disabled~~ victim with a developmental disability 10348
to be taken outside the room in which the proceeding is being 10349

conducted if the judge determines that the ~~mentally retarded or~~ 10350
~~developmentally disabled~~ victim with a developmental disability 10351
is unavailable to testify in the room in the physical presence 10352
of the defendant due to one or more of the following: 10353

(1) The persistent refusal of the ~~mentally retarded or~~ 10354
~~developmentally disabled~~ victim with a developmental disability 10355
to testify despite judicial requests to do so; 10356

(2) The inability of the ~~mentally retarded or~~ 10357
~~developmentally disabled~~ victim with a developmental disability 10358
to communicate about the alleged violation or offense because of 10359
extreme fear, failure of memory, or another similar reason; 10360

(3) The substantial likelihood that the ~~mentally retarded~~ 10361
~~or developmentally disabled~~ victim with a developmental 10362
disability will suffer serious emotional trauma from so 10363
testifying. 10364

(G) (1) If a judge issues an order pursuant to division (D) 10365
or (E) of this section that requires the testimony of a ~~mentally~~ 10366
~~retarded or developmentally disabled~~ victim with a developmental 10367
disability in a criminal proceeding to be taken outside of the 10368
room in which the proceeding is being conducted, the order shall 10369
specifically identify the ~~mentally retarded or developmentally~~ 10370
~~disabled~~ victim with a developmental disability to whose 10371
testimony it applies, the order applies only during the 10372
testimony of the specified ~~mentally retarded or developmentally~~ 10373
~~disabled~~ victim with a developmental disability, and the 10374
~~mentally retarded or developmentally disabled~~ victim with a 10375
developmental disability giving the testimony shall not be 10376
required to testify at the proceeding other than in accordance 10377
with the order. 10378

(2) A judge who makes any determination regarding the 10379
admissibility of a deposition under divisions (B) and (C) of 10380
this section, the videotaping of a deposition under division (B) 10381
(2) of this section, or the taking of testimony outside of the 10382
room in which a proceeding is being conducted under division (D) 10383
or (E) of this section shall enter the determination and 10384
findings on the record in the proceeding. 10385

Sec. 2945.491. (A) As used in this section: 10386

(1) ~~"Mentally retarded person" and "developmentally-~~ 10387
~~disabled person~~Developmental disability" ~~have~~ has the same 10388
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 10389

(2) ~~"Mentally retarded or developmentally disabled-~~ 10390
~~victim~~Victim with a developmental disability" includes a 10391
~~mentally retarded or developmentally disabled person~~ with a 10392
developmental disability who was a victim of a felony violation 10393
identified in division (B)(1) of this section or a felony 10394
offense of violence or against whom was directed any conduct 10395
that constitutes, or that is an element of, a felony violation 10396
identified in division (B)(1) of this section or a felony 10397
offense of violence. 10398

(B) (1) At a trial on a charge of a felony violation of 10399
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 10400
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 10401
2907.323 of the Revised Code or an offense of violence and in 10402
which an alleged victim of the violation or offense was a 10403
~~mentally retarded or developmentally disabled person~~ with a 10404
developmental disability, the court, upon motion of the 10405
prosecutor in the case, may admit videotaped preliminary hearing 10406
testimony of the ~~mentally retarded or developmentally disabled-~~ 10407
~~victim~~ with a developmental disability as evidence at the trial, 10408

in lieu of the ~~mentally retarded or developmentally disabled~~ 10409
victim with a developmental disability appearing as a witness 10410
and testifying at trial, if all of the following apply: 10411

(a) The videotape of the testimony was made at the 10412
preliminary hearing at which probable cause of the violation 10413
charged was found. 10414

(b) The videotape of the testimony was made in accordance 10415
with division (C) of section 2937.11 of the Revised Code. 10416

(c) The testimony in the videotape is not excluded by the 10417
hearsay rule and otherwise is admissible under the Rules of 10418
Evidence. For purposes of this division, testimony is not 10419
excluded by the hearsay rule if the testimony is not hearsay 10420
under Evidence Rule 801, the testimony is within an exception to 10421
the hearsay rule set forth in Evidence Rule 803, the ~~mentally~~ 10422
~~retarded or developmentally disabled~~ victim with a developmental 10423
disability who gave the testimony is unavailable as a witness, 10424
as defined in Evidence Rule 804, and the testimony is admissible 10425
under that rule, or both of the following apply: 10426

(i) The accused had an opportunity and similar motive at 10427
the preliminary hearing to develop the testimony of the ~~mentally~~ 10428
~~retarded or developmentally disabled~~ victim with a developmental 10429
disability by direct, cross, or redirect examination. 10430

(ii) The court determines that there is reasonable cause 10431
to believe that if the ~~mentally retarded or developmentally~~ 10432
~~disabled~~ victim with a developmental disability who gave the 10433
testimony at the preliminary hearing were to testify in person 10434
at the trial, the ~~mentally retarded or developmentally disabled~~ 10435
victim with a developmental disability would experience serious 10436
emotional trauma as a result of the victim's participation at 10437

the trial. 10438

(2) If a ~~mentally retarded or developmentally disabled~~ 10439
victim with a developmental disability of an alleged felony 10440
violation of section 2903.16, 2903.34, 2903.341, 2907.02, 10441
2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 10442
2907.322, or 2907.323 of the Revised Code or an alleged felony 10443
offense of violence testifies at the preliminary hearing in the 10444
case, if the testimony of the ~~mentally retarded or~~ 10445
~~developmentally disabled~~ victim with a developmental disability 10446
at the preliminary hearing was videotaped pursuant to division 10447
(C) of section 2937.11 of the Revised Code, and if the defendant 10448
in the case files a written objection to the use, pursuant to 10449
division (B)(1) of this section, of the videotaped testimony at 10450
the trial, the court, immediately after the filing of the 10451
objection, shall hold a hearing to determine whether the 10452
videotaped testimony of the ~~mentally retarded or developmentally~~ 10453
~~disabled~~ victim with a developmental disability should be 10454
admissible at trial under division (B)(1) of this section and, 10455
if it is admissible, whether the ~~mentally retarded or~~ 10456
~~developmentally disabled~~ victim with a developmental disability 10457
should be required to provide limited additional testimony of 10458
the type described in this division. At the hearing held 10459
pursuant to this division, the defendant and the prosecutor in 10460
the case may present any evidence that is relevant to the issues 10461
to be determined at the hearing, but the ~~mentally retarded or~~ 10462
~~developmentally disabled~~ victim with a developmental disability 10463
shall not be required to testify at the hearing. 10464

After the hearing, the court shall not require the 10465
~~mentally retarded or developmentally disabled~~ victim with a 10466
developmental disability to testify at the trial, unless it 10467
determines that both of the following apply: 10468

(a) That the testimony of the ~~mentally retarded or~~ 10469
~~developmentally disabled~~ victim with a developmental disability 10470
at trial is necessary for one or more of the following reasons: 10471

(i) Evidence that was not available at the time of the 10472
testimony of the ~~mentally retarded or developmentally disabled~~ 10473
victim with a developmental disability at the preliminary 10474
hearing has been discovered. 10475

(ii) The circumstances surrounding the case have changed 10476
sufficiently to necessitate that the ~~mentally retarded or~~ 10477
~~developmentally disabled~~ victim with a developmental disability 10478
testify at the trial. 10479

(b) That the testimony of the ~~mentally retarded or~~ 10480
~~developmentally disabled~~ victim with a developmental disability 10481
at the trial is necessary to protect the right of the defendant 10482
to a fair trial. 10483

The court shall enter its finding and the reasons for it 10484
in the journal. If the court requires the ~~mentally retarded or~~ 10485
~~developmentally disabled~~ victim with a developmental disability 10486
to testify at the trial, the testimony of the victim shall be 10487
limited to the new evidence and changed circumstances, and the 10488
~~mentally retarded or developmentally disabled~~ victim with a 10489
developmental disability shall not otherwise be required to 10490
testify at the trial. The required testimony of the ~~mentally~~ 10491
~~retarded or developmentally disabled~~ victim with a developmental 10492
disability may be given in person or, upon motion of the 10493
prosecution, may be taken by deposition in accordance with 10494
division (B) of section 2945.482 of the Revised Code provided 10495
the deposition is admitted as evidence under division (C) of 10496
that section, may be taken outside of the courtroom and 10497
televised into the courtroom in accordance with division (D) of 10498

that section, or may be taken outside of the courtroom and 10499
recorded for showing in the courtroom in accordance with 10500
division (E) of that section. 10501

(3) If videotaped testimony of a ~~mentally retarded or~~ 10502
~~developmentally disabled~~ victim with a developmental disability 10503
is admitted at trial in accordance with division (B) (1) of this 10504
section, the ~~mentally retarded or developmentally disabled~~ 10505
victim with a developmental disability shall not be compelled in 10506
any way to appear as a witness at the trial, except as provided 10507
in division (B) (2) of this section. 10508

(C) An order issued pursuant to division (B) of this 10509
section shall specifically identify the ~~mentally retarded or~~ 10510
~~developmentally disabled~~ victim with a developmental disability 10511
concerning whose testimony it pertains. The order shall apply 10512
only during the testimony of the ~~mentally retarded or~~ 10513
~~developmentally disabled~~ victim with a developmental disability 10514
it specifically identifies. 10515

Sec. 2949.29. (A) The prosecuting attorney, the convict, 10516
and the convict's counsel shall attend an inquiry commenced as 10517
provided in section 2949.28 of the Revised Code. The prosecuting 10518
attorney and the convict or the convict's counsel may produce, 10519
examine, and cross-examine witnesses, and all findings shall be 10520
in writing signed by the judge. If it is found that the convict 10521
is not insane, the sentence shall be executed at the time 10522
previously appointed, unless that time has passed pending 10523
completion of the inquiry, in which case the judge conducting 10524
the inquiry, if authorized by the supreme court, shall appoint a 10525
time for execution of the sentence to be effective fifteen days 10526
from the date of the entry of the judge's findings in the 10527
inquiry. 10528

(B) If it is found that the convict is insane and if 10529
authorized by the supreme court, the judge shall continue any 10530
stay of execution of the sentence previously issued, order the 10531
convict to be confined in the area at which other convicts 10532
sentenced to death are confined or in a maximum security medical 10533
or psychiatric facility operated by the department of 10534
rehabilitation and correction, and order treatment of the 10535
convict. Thereafter, the court at any time may conduct and, on 10536
motion of the prosecuting attorney, shall conduct a hearing 10537
pursuant to division (A) of this section to continue the inquiry 10538
into the convict's insanity and, as provided in section 2949.28 10539
of the Revised Code, may appoint one or more psychiatrists or 10540
psychologists to make a further examination of the convict and 10541
to submit a report to the court. If the court finds at the 10542
hearing that the convict is not insane and if the time 10543
previously appointed for execution of the sentence has not 10544
passed, the sentence shall be executed at the previously 10545
appointed time. If the court finds at the hearing that the 10546
convict is not insane and if the time previously appointed for 10547
execution of the sentence has passed, the judge who conducts the 10548
hearing, if authorized by the supreme court, shall appoint a new 10549
time for execution of the sentence to be effective fifteen days 10550
from the date of the entry of the judge's findings in the 10551
hearing. 10552

(C) In all proceedings under this section, the convict is 10553
presumed not to be insane, and the court shall find that the 10554
convict is not insane unless the court finds by a preponderance 10555
of the evidence that the convict is insane. 10556

(D) Proceedings for inquiry into the insanity of any 10557
convict sentenced to death shall be exclusively pursuant to this 10558
section, section 2949.28 of the Revised Code, and the Rules of 10559

Evidence. Neither Chapter 5122. or 5123. of the Revised Code nor 10560
any other provision of the Revised Code nor any other rule 10561
concerning mentally ill persons, ~~mentally retarded persons~~ with 10562
intellectual disabilities, or insane persons applies to any 10563
proceeding for inquiry into the insanity of any convict 10564
sentenced to death. 10565

Sec. 2950.01. As used in this chapter, unless the context 10566
clearly requires otherwise: 10567

(A) "Sexually oriented offense" means any of the following 10568
violations or offenses committed by a person, regardless of the 10569
person's age: 10570

(1) A violation of section 2907.02, 2907.03, 2907.05, 10571
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 10572
2907.322, or 2907.323 of the Revised Code; 10573

(2) A violation of section 2907.04 of the Revised Code 10574
when the offender is less than four years older than the other 10575
person with whom the offender engaged in sexual conduct, the 10576
other person did not consent to the sexual conduct, and the 10577
offender previously has not been convicted of or pleaded guilty 10578
to a violation of section 2907.02, 2907.03, or 2907.04 of the 10579
Revised Code or a violation of former section 2907.12 of the 10580
Revised Code; 10581

(3) A violation of section 2907.04 of the Revised Code 10582
when the offender is at least four years older than the other 10583
person with whom the offender engaged in sexual conduct or when 10584
the offender is less than four years older than the other person 10585
with whom the offender engaged in sexual conduct and the 10586
offender previously has been convicted of or pleaded guilty to a 10587
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10588

Code or a violation of former section 2907.12 of the Revised Code;	10589 10590
(4) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;	10591 10592 10593
(5) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;	10594 10595 10596 10597
(6) A violation of division (A) (3) of section 2903.211 of the Revised Code;	10598 10599
(7) A violation of division (A) (1), (2), (3), or (5) of section 2905.01 of the Revised Code when the offense is committed with a sexual motivation;	10600 10601 10602
(8) A violation of division (A) (4) of section 2905.01 of the Revised Code;	10603 10604
(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;	10605 10606 10607 10608
(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B) (5) of section 2919.22 of the Revised Code;	10609 10610 10611 10612
(11) A violation of section 2905.32 of the Revised Code when any of the following applies:	10613 10614
(a) The violation is a violation of division (A) (1) of that section and the offender knowingly recruited, lured,	10615 10616

enticed, isolated, harbored, transported, provided, obtained, or 10617
maintained, or knowingly attempted to recruit, lure, entice, 10618
isolate, harbor, transport, provide, obtain, or maintain, 10619
another person knowing that the person would be compelled to 10620
engage in sexual activity for hire, engage in a performance that 10621
was obscene, sexually oriented, or nudity oriented, or be a 10622
model or participant in the production of material that was 10623
obscene, sexually oriented, or nudity oriented. 10624

(b) The violation is a violation of division (A) (2) of 10625
that section and the offender knowingly recruited, lured, 10626
enticed, isolated, harbored, transported, provided, obtained, or 10627
maintained, or knowingly attempted to recruit, lure, entice, 10628
isolate, harbor, transport, provide, obtain, or maintain a 10629
person who is less than sixteen years of age or is a 10630
~~developmentally disabled person~~ with a developmental disability 10631
whom the offender knows or has reasonable cause to believe is a 10632
~~developmentally disabled person~~ with a developmental disability 10633
for any purpose listed in divisions (A) (2) (a) to (c) of that 10634
section. 10635

(c) The violation is a violation of division (A) (3) of 10636
that section, the offender knowingly recruited, lured, enticed, 10637
isolated, harbored, transported, provided, obtained, or 10638
maintained, or knowingly attempted to recruit, lure, entice, 10639
isolate, harbor, transport, provide, obtain, or maintain a 10640
person who is sixteen or seventeen years of age for any purpose 10641
listed in divisions (A) (2) (a) to (c) of that section, and the 10642
circumstances described in division (A) (5), (6), (7), (8), (9), 10643
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 10644
apply with respect to the offender and the other person. 10645

(12) A violation of any former law of this state, any 10646

existing or former municipal ordinance or law of another state 10647
or the United States, any existing or former law applicable in a 10648
military court or in an Indian tribal court, or any existing or 10649
former law of any nation other than the United States that is or 10650
was substantially equivalent to any offense listed in division 10651
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of 10652
this section; 10653

(13) A violation of division (A) (3) of section 2907.24 of 10654
the Revised Code; 10655

(14) Any attempt to commit, conspiracy to commit, or 10656
complicity in committing any offense listed in division (A) (1), 10657
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 10658
(13) of this section. 10659

(B) (1) "Sex offender" means, subject to division (B) (2) of 10660
this section, a person who is convicted of, pleads guilty to, 10661
has been convicted of, has pleaded guilty to, is adjudicated a 10662
delinquent child for committing, or has been adjudicated a 10663
delinquent child for committing any sexually oriented offense. 10664

(2) "Sex offender" does not include a person who is 10665
convicted of, pleads guilty to, has been convicted of, has 10666
pleaded guilty to, is adjudicated a delinquent child for 10667
committing, or has been adjudicated a delinquent child for 10668
committing a sexually oriented offense if the offense involves 10669
consensual sexual conduct or consensual sexual contact and 10670
either of the following applies: 10671

(a) The victim of the sexually oriented offense was 10672
eighteen years of age or older and at the time of the sexually 10673
oriented offense was not under the custodial authority of the 10674
person who is convicted of, pleads guilty to, has been convicted 10675

of, has pleaded guilty to, is adjudicated a delinquent child for 10676
committing, or has been adjudicated a delinquent child for 10677
committing the sexually oriented offense. 10678

(b) The victim of the offense was thirteen years of age or 10679
older, and the person who is convicted of, pleads guilty to, has 10680
been convicted of, has pleaded guilty to, is adjudicated a 10681
delinquent child for committing, or has been adjudicated a 10682
delinquent child for committing the sexually oriented offense is 10683
not more than four years older than the victim. 10684

(C) "Child-victim oriented offense" means any of the 10685
following violations or offenses committed by a person, 10686
regardless of the person's age, when the victim is under 10687
eighteen years of age and is not a child of the person who 10688
commits the violation: 10689

(1) A violation of division (A) (1), (2), (3), or (5) of 10690
section 2905.01 of the Revised Code when the violation is not 10691
included in division (A) (7) of this section; 10692

(2) A violation of division (A) of section 2905.02, 10693
division (A) of section 2905.03, or division (A) of section 10694
2905.05 of the Revised Code; 10695

(3) A violation of any former law of this state, any 10696
existing or former municipal ordinance or law of another state 10697
or the United States, any existing or former law applicable in a 10698
military court or in an Indian tribal court, or any existing or 10699
former law of any nation other than the United States that is or 10700
was substantially equivalent to any offense listed in division 10701
(C) (1) or (2) of this section; 10702

(4) Any attempt to commit, conspiracy to commit, or 10703
complicity in committing any offense listed in division (C) (1), 10704

(2), or (3) of this section. 10705

(D) "Child-victim offender" means a person who is 10706
convicted of, pleads guilty to, has been convicted of, has 10707
pleaded guilty to, is adjudicated a delinquent child for 10708
committing, or has been adjudicated a delinquent child for 10709
committing any child-victim oriented offense. 10710

(E) "Tier I sex offender/child-victim offender" means any 10711
of the following: 10712

(1) A sex offender who is convicted of, pleads guilty to, 10713
has been convicted of, or has pleaded guilty to any of the 10714
following sexually oriented offenses: 10715

(a) A violation of section 2907.06, 2907.07, 2907.08, 10716
2907.22, or 2907.32 of the Revised Code; 10717

(b) A violation of section 2907.04 of the Revised Code 10718
when the offender is less than four years older than the other 10719
person with whom the offender engaged in sexual conduct, the 10720
other person did not consent to the sexual conduct, and the 10721
offender previously has not been convicted of or pleaded guilty 10722
to a violation of section 2907.02, 2907.03, or 2907.04 of the 10723
Revised Code or a violation of former section 2907.12 of the 10724
Revised Code; 10725

(c) A violation of division (A) (1), (2), (3), or (5) of 10726
section 2907.05 of the Revised Code; 10727

(d) A violation of division (A) (3) of section 2907.323 of 10728
the Revised Code; 10729

(e) A violation of division (A) (3) of section 2903.211, of 10730
division (B) of section 2905.03, or of division (B) of section 10731
2905.05 of the Revised Code; 10732

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E)(1)(a), (b), (c), (d), or (e) of this section; 10733
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(g) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E)(1)(a), (b), (c), (d), (e), or (f) of this section. 10740
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(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F)(2) or (G)(2) of this section. 10743
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(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense. 10748
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(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense. 10754
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(F) "Tier II sex offender/child-victim offender" means any 10761

of the following: 10762

(1) A sex offender who is convicted of, pleads guilty to, 10763
has been convicted of, or has pleaded guilty to any of the 10764
following sexually oriented offenses: 10765

(a) A violation of section 2907.21, 2907.321, or 2907.322 10766
of the Revised Code; 10767

(b) A violation of section 2907.04 of the Revised Code 10768
when the offender is at least four years older than the other 10769
person with whom the offender engaged in sexual conduct, or when 10770
the offender is less than four years older than the other person 10771
with whom the offender engaged in sexual conduct and the 10772
offender previously has been convicted of or pleaded guilty to a 10773
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10774
Code or former section 2907.12 of the Revised Code; 10775

(c) A violation of division (A) (4) of section 2907.05, of 10776
division (A) (3) of section 2907.24, or of division (A) (1) or (2) 10777
of section 2907.323 of the Revised Code; 10778

(d) A violation of division (A) (1), (2), (3), or (5) of 10779
section 2905.01 of the Revised Code when the offense is 10780
committed with a sexual motivation; 10781

(e) A violation of division (A) (4) of section 2905.01 of 10782
the Revised Code when the victim of the offense is eighteen 10783
years of age or older; 10784

(f) A violation of division (B) of section 2905.02 or of 10785
division (B) (5) of section 2919.22 of the Revised Code; 10786

(g) A violation of section 2905.32 of the Revised Code 10787
that is described in division (A) (11) (a), (b), or (c) of this 10788
section; 10789

(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (F) (1) (a), (b), (c), (d), (e), (f), or (g) of this section;

(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (F) (1) (a), (b), (c), (d), (e), (f), (g), or (h) of this section;

(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in division (F) (1), (2), (3), or (4) of this section, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(b) A juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(G) "Tier III sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.02 or 2907.03 of the Revised Code;	10849 10850
(b) A violation of division (B) of section 2907.05 of the Revised Code;	10851 10852
(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;	10853 10854 10855
(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;	10856 10857 10858 10859
(e) A violation of division (A) (4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;	10860 10861 10862
(f) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;	10863 10864 10865 10866
(g) A violation of division (B) of section 2903.03 of the Revised Code;	10867 10868
(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section;	10869 10870 10871 10872 10873 10874 10875
(i) Any attempt to commit, conspiracy to commit, or	10876

complicity in committing any offense listed in division (G) (1) 10877
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 10878

(j) Any sexually oriented offense that is committed after 10879
the sex offender previously has been convicted of, pleaded 10880
guilty to, or been adjudicated a delinquent child for committing 10881
any sexually oriented offense or child-victim oriented offense 10882
for which the offender was classified a tier II sex 10883
offender/child-victim offender or a tier III sex offender/child- 10884
victim offender. 10885

(2) A child-victim offender who is convicted of, pleads 10886
guilty to, has been convicted of, or has pleaded guilty to any 10887
child-victim oriented offense when the child-victim oriented 10888
offense is committed after the child-victim offender previously 10889
has been convicted of, pleaded guilty to, or been adjudicated a 10890
delinquent child for committing any sexually oriented offense or 10891
child-victim oriented offense for which the offender was 10892
classified a tier II sex offender/child-victim offender or a 10893
tier III sex offender/child-victim offender. 10894

(3) A sex offender who is adjudicated a delinquent child 10895
for committing or has been adjudicated a delinquent child for 10896
committing any sexually oriented offense and who a juvenile 10897
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 10898
of the Revised Code, classifies a tier III sex offender/child- 10899
victim offender relative to the offense. 10900

(4) A child-victim offender who is adjudicated a 10901
delinquent child for committing or has been adjudicated a 10902
delinquent child for committing any child-victim oriented 10903
offense and whom a juvenile court, pursuant to section 2152.82, 10904
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 10905
tier III sex offender/child-victim offender relative to the 10906

current offense. 10907

(5) A sex offender or child-victim offender who is not in 10908
any category of tier III sex offender/child-victim offender set 10909
forth in division (G)(1), (2), (3), or (4) of this section, who 10910
prior to January 1, 2008, was convicted of or pleaded guilty to 10911
a sexually oriented offense or child-victim oriented offense or 10912
was adjudicated a delinquent child for committing a sexually 10913
oriented offense or child-victim oriented offense and classified 10914
a juvenile offender registrant, and who prior to that date was 10915
adjudicated a sexual predator or adjudicated a child-victim 10916
predator, unless either of the following applies: 10917

(a) The sex offender or child-victim offender is 10918
reclassified pursuant to section 2950.031 or 2950.032 of the 10919
Revised Code as a tier I sex offender/child-victim offender or a 10920
tier II sex offender/child-victim offender relative to the 10921
offense. 10922

(b) The sex offender or child-victim offender is a 10923
delinquent child, and a juvenile court, pursuant to section 10924
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 10925
classifies the child a tier I sex offender/child-victim offender 10926
or a tier II sex offender/child-victim offender relative to the 10927
offense. 10928

(6) A sex offender who is convicted of, pleads guilty to, 10929
was convicted of, or pleaded guilty to a sexually oriented 10930
offense, if the sexually oriented offense and the circumstances 10931
in which it was committed are such that division (F) of section 10932
2971.03 of the Revised Code automatically classifies the 10933
offender as a tier III sex offender/child-victim offender; 10934

(7) A sex offender or child-victim offender who is 10935

convicted of, pleads guilty to, was convicted of, pleaded guilty 10936
to, is adjudicated a delinquent child for committing, or was 10937
adjudicated a delinquent child for committing a sexually 10938
oriented offense or child-victim offense in another state, in a 10939
federal court, military court, or Indian tribal court, or in a 10940
court in any nation other than the United States if both of the 10941
following apply: 10942

(a) Under the law of the jurisdiction in which the 10943
offender was convicted or pleaded guilty or the delinquent child 10944
was adjudicated, the offender or delinquent child is in a 10945
category substantially equivalent to a category of tier III sex 10946
offender/child-victim offender described in division (G) (1), 10947
(2), (3), (4), (5), or (6) of this section. 10948

(b) Subsequent to the conviction, plea of guilty, or 10949
adjudication in the other jurisdiction, the offender or 10950
delinquent child resides, has temporary domicile, attends school 10951
or an institution of higher education, is employed, or intends 10952
to reside in this state in any manner and for any period of time 10953
that subjects the offender or delinquent child to a duty to 10954
register or provide notice of intent to reside under section 10955
2950.04 or 2950.041 of the Revised Code. 10956

(H) "Confinement" includes, but is not limited to, a 10957
community residential sanction imposed pursuant to section 10958
2929.16 or 2929.26 of the Revised Code. 10959

(I) "Prosecutor" has the same meaning as in section 10960
2935.01 of the Revised Code. 10961

(J) "Supervised release" means a release of an offender 10962
from a prison term, a term of imprisonment, or another type of 10963
confinement that satisfies either of the following conditions: 10964

(1) The release is on parole, a conditional pardon, under a community control sanction, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer. 10965
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(2) The release is any type of release that is not described in division (J) (1) of this section and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer. 10971
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(K) "Sexually violent predator specification," "sexually violent predator," "sexually violent offense," "sexual motivation specification," "designated homicide, assault, or kidnapping offense," and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code. 10976
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(L) "Post-release control sanction" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code. 10981
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(M) "Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is fourteen years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under section 2152.82, 2152.83, 2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a juvenile offender registrant and specifies has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. "Juvenile offender registrant" includes a person who prior to January 1, 2008, was a "juvenile offender 10984
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registrant" under the definition of the term in existence prior 10995
to January 1, 2008, and a person who prior to July 31, 2003, was 10996
a "juvenile sex offender registrant" under the former definition 10997
of that former term. 10998

(N) "Public registry-qualified juvenile offender 10999
registrant" means a person who is adjudicated a delinquent child 11000
and on whom a juvenile court has imposed a serious youthful 11001
offender dispositional sentence under section 2152.13 of the 11002
Revised Code before, on, or after January 1, 2008, and to whom 11003
all of the following apply: 11004

(1) The person is adjudicated a delinquent child for 11005
committing, attempting to commit, conspiring to commit, or 11006
complicity in committing one of the following acts: 11007

(a) A violation of section 2907.02 of the Revised Code, 11008
division (B) of section 2907.05 of the Revised Code, or section 11009
2907.03 of the Revised Code if the victim of the violation was 11010
less than twelve years of age; 11011

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 11012
the Revised Code that was committed with a purpose to gratify 11013
the sexual needs or desires of the child; 11014

(c) A violation of division (B) of section 2903.03 of the 11015
Revised Code. 11016

(2) The person was fourteen, fifteen, sixteen, or 11017
seventeen years of age at the time of committing the act. 11018

(3) A juvenile court judge, pursuant to an order issued 11019
under section 2152.86 of the Revised Code, classifies the person 11020
a juvenile offender registrant, specifies the person has a duty 11021
to comply with sections 2950.04, 2950.05, and 2950.06 of the 11022
Revised Code, and classifies the person a public registry- 11023

qualified juvenile offender registrant, and the classification 11024
of the person as a public registry-qualified juvenile offender 11025
registrant has not been terminated pursuant to division (D) of 11026
section 2152.86 of the Revised Code. 11027

(O) "Secure facility" means any facility that is designed 11028
and operated to ensure that all of its entrances and exits are 11029
locked and under the exclusive control of its staff and to 11030
ensure that, because of that exclusive control, no person who is 11031
institutionalized or confined in the facility may leave the 11032
facility without permission or supervision. 11033

(P) "Out-of-state juvenile offender registrant" means a 11034
person who is adjudicated a delinquent child in a court in 11035
another state, in a federal court, military court, or Indian 11036
tribal court, or in a court in any nation other than the United 11037
States for committing a sexually oriented offense or a child- 11038
victim oriented offense, who on or after January 1, 2002, moves 11039
to and resides in this state or temporarily is domiciled in this 11040
state for more than five days, and who has a duty under section 11041
2950.04 or 2950.041 of the Revised Code to register in this 11042
state and the duty to otherwise comply with that applicable 11043
section and sections 2950.05 and 2950.06 of the Revised Code. 11044
"Out-of-state juvenile offender registrant" includes a person 11045
who prior to January 1, 2008, was an "out-of-state juvenile 11046
offender registrant" under the definition of the term in 11047
existence prior to January 1, 2008, and a person who prior to 11048
July 31, 2003, was an "out-of-state juvenile sex offender 11049
registrant" under the former definition of that former term. 11050

(Q) "Juvenile court judge" includes a magistrate to whom 11051
the juvenile court judge confers duties pursuant to division (A) 11052
(15) of section 2151.23 of the Revised Code. 11053

(R) "Adjudicated a delinquent child for committing a sexually oriented offense" includes a child who receives a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code for committing a sexually oriented offense.

(S) "School" and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(T) "Residential premises" means the building in which a residential unit is located and the grounds upon which that building stands, extending to the perimeter of the property. "Residential premises" includes any type of structure in which a residential unit is located, including, but not limited to, multi-unit buildings and mobile and manufactured homes.

(U) "Residential unit" means a dwelling unit for residential use and occupancy, and includes the structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or two or more persons who maintain a common household. "Residential unit" does not include a halfway house or a community-based correctional facility.

(V) "Multi-unit building" means a building in which is located more than twelve residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described in this division.

(W) "Community control sanction" has the same meaning as 11083
in section 2929.01 of the Revised Code. 11084

(X) "Halfway house" and "community-based correctional 11085
facility" have the same meanings as in section 2929.01 of the 11086
Revised Code. 11087

Sec. 2951.041. (A) (1) If an offender is charged with a 11088
criminal offense, including but not limited to a violation of 11089
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 11090
of the Revised Code, and the court has reason to believe that 11091
drug or alcohol usage by the offender was a factor leading to 11092
the criminal offense with which the offender is charged or that, 11093
at the time of committing that offense, the offender had a 11094
mental illness, was a person with an intellectual disability, or 11095
was a victim of a violation of section 2905.32 of the Revised 11096
Code and that the mental illness, status as a person with 11097
intellectual disability, or fact that the offender was a victim 11098
of a violation of section 2905.32 of the Revised Code was a 11099
factor leading to the offender's criminal behavior, the court 11100
may accept, prior to the entry of a guilty plea, the offender's 11101
request for intervention in lieu of conviction. The request 11102
shall include a statement from the offender as to whether the 11103
offender is alleging that drug or alcohol usage by the offender 11104
was a factor leading to the criminal offense with which the 11105
offender is charged or is alleging that, at the time of 11106
committing that offense, the offender had a mental illness, was 11107
a person with an intellectual disability, or was a victim of a 11108
violation of section 2905.32 of the Revised Code and that the 11109
mental illness, status as a person with an intellectual 11110
disability, or fact that the offender was a victim of a 11111
violation of section 2905.32 of the Revised Code was a factor 11112
leading to the criminal offense with which the offender is 11113

charged. The request also shall include a waiver of the 11114
defendant's right to a speedy trial, the preliminary hearing, 11115
the time period within which the grand jury may consider an 11116
indictment against the offender, and arraignment, unless the 11117
hearing, indictment, or arraignment has already occurred. The 11118
court may reject an offender's request without a hearing. If the 11119
court elects to consider an offender's request, the court shall 11120
conduct a hearing to determine whether the offender is eligible 11121
under this section for intervention in lieu of conviction and 11122
shall stay all criminal proceedings pending the outcome of the 11123
hearing. If the court schedules a hearing, the court shall order 11124
an assessment of the offender for the purpose of determining the 11125
offender's eligibility for intervention in lieu of conviction 11126
and recommending an appropriate intervention plan. 11127

If the offender alleges that drug or alcohol usage by the 11128
offender was a factor leading to the criminal offense with which 11129
the offender is charged, the court may order that the offender 11130
be assessed by a community addiction services provider or a 11131
properly credentialed professional for the purpose of 11132
determining the offender's eligibility for intervention in lieu 11133
of conviction and recommending an appropriate intervention plan. 11134
The community addiction services provider or the properly 11135
credentialed professional shall provide a written assessment of 11136
the offender to the court. 11137

(2) The victim notification provisions of division (C) of 11138
section 2930.06 of the Revised Code apply in relation to any 11139
hearing held under division (A) (1) of this section. 11140

(B) An offender is eligible for intervention in lieu of 11141
conviction if the court finds all of the following: 11142

(1) The offender previously has not been convicted of or 11143

pleaded guilty to a felony offense of violence or previously has 11144
been convicted of or pleaded guilty to any felony that is not an 11145
offense of violence and the prosecuting attorney recommends that 11146
the offender be found eligible for participation in intervention 11147
in lieu of treatment under this section, previously has not been 11148
through intervention in lieu of conviction under this section or 11149
any similar regimen, and is charged with a felony for which the 11150
court, upon conviction, would impose a community control 11151
sanction on the offender under division (B) (2) of section 11152
2929.13 of the Revised Code or with a misdemeanor. 11153

(2) The offense is not a felony of the first, second, or 11154
third degree, is not an offense of violence, is not a violation 11155
of division (A) (1) or (2) of section 2903.06 of the Revised 11156
Code, is not a violation of division (A) (1) of section 2903.08 11157
of the Revised Code, is not a violation of division (A) of 11158
section 4511.19 of the Revised Code or a municipal ordinance 11159
that is substantially similar to that division, and is not an 11160
offense for which a sentencing court is required to impose a 11161
mandatory prison term, a mandatory term of local incarceration, 11162
or a mandatory term of imprisonment in a jail. 11163

(3) The offender is not charged with a violation of 11164
section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not 11165
charged with a violation of section 2925.03 of the Revised Code 11166
that is a felony of the first, second, third, or fourth degree, 11167
and is not charged with a violation of section 2925.11 of the 11168
Revised Code that is a felony of the first, second, or third 11169
degree. 11170

(4) If an offender alleges that drug or alcohol usage by 11171
the offender was a factor leading to the criminal offense with 11172
which the offender is charged, the court has ordered that the 11173

offender be assessed by a community addiction services provider 11174
or a properly credentialed professional for the purpose of 11175
determining the offender's eligibility for intervention in lieu 11176
of conviction and recommending an appropriate intervention plan, 11177
the offender has been assessed by a community addiction services 11178
provider of that nature or a properly credentialed professional 11179
in accordance with the court's order, and the community 11180
addiction services provider or properly credentialed 11181
professional has filed the written assessment of the offender 11182
with the court. 11183

(5) If an offender alleges that, at the time of committing 11184
the criminal offense with which the offender is charged, the 11185
offender had a mental illness, was a person with an intellectual 11186
disability, or was a victim of a violation of section 2905.32 of 11187
the Revised Code and that the mental illness, status as a person 11188
with an intellectual disability, or fact that the offender was a 11189
victim of a violation of section 2905.32 of the Revised Code was 11190
a factor leading to that offense, the offender has been assessed 11191
by a psychiatrist, psychologist, independent social worker, 11192
licensed professional clinical counselor, or independent 11193
marriage and family therapist for the purpose of determining the 11194
offender's eligibility for intervention in lieu of conviction 11195
and recommending an appropriate intervention plan. 11196

(6) The offender's drug usage, alcohol usage, mental 11197
illness, or intellectual disability, or the fact that the 11198
offender was a victim of a violation of section 2905.32 of the 11199
Revised Code, whichever is applicable, was a factor leading to 11200
the criminal offense with which the offender is charged, 11201
intervention in lieu of conviction would not demean the 11202
seriousness of the offense, and intervention would substantially 11203
reduce the likelihood of any future criminal activity. 11204

(7) The alleged victim of the offense was not sixty-five 11205
years of age or older, permanently and totally disabled, under 11206
thirteen years of age, or a peace officer engaged in the 11207
officer's official duties at the time of the alleged offense. 11208

(8) If the offender is charged with a violation of section 11209
2925.24 of the Revised Code, the alleged violation did not 11210
result in physical harm to any person, and the offender 11211
previously has not been treated for drug abuse. 11212

(9) The offender is willing to comply with all terms and 11213
conditions imposed by the court pursuant to division (D) of this 11214
section. 11215

(10) The offender is not charged with an offense that 11216
would result in the offender being disqualified under Chapter 11217
4506. of the Revised Code from operating a commercial motor 11218
vehicle or would subject the offender to any other sanction 11219
under that chapter. 11220

(C) At the conclusion of a hearing held pursuant to 11221
division (A) of this section, the court shall enter its 11222
determination as to whether the offender is eligible for 11223
intervention in lieu of conviction and as to whether to grant 11224
the offender's request. If the court finds under division (B) of 11225
this section that the offender is eligible for intervention in 11226
lieu of conviction and grants the offender's request, the court 11227
shall accept the offender's plea of guilty and waiver of the 11228
defendant's right to a speedy trial, the preliminary hearing, 11229
the time period within which the grand jury may consider an 11230
indictment against the offender, and arraignment, unless the 11231
hearing, indictment, or arraignment has already occurred. In 11232
addition, the court then may stay all criminal proceedings and 11233
order the offender to comply with all terms and conditions 11234

imposed by the court pursuant to division (D) of this section. 11235
If the court finds that the offender is not eligible or does not 11236
grant the offender's request, the criminal proceedings against 11237
the offender shall proceed as if the offender's request for 11238
intervention in lieu of conviction had not been made. 11239

(D) If the court grants an offender's request for 11240
intervention in lieu of conviction, the court shall place the 11241
offender under the general control and supervision of the county 11242
probation department, the adult parole authority, or another 11243
appropriate local probation or court services agency, if one 11244
exists, as if the offender was subject to a community control 11245
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 11246
the Revised Code. The court shall establish an intervention plan 11247
for the offender. The terms and conditions of the intervention 11248
plan shall require the offender, for at least one year from the 11249
date on which the court grants the order of intervention in lieu 11250
of conviction, to abstain from the use of illegal drugs and 11251
alcohol, to participate in treatment and recovery support 11252
services, and to submit to regular random testing for drug and 11253
alcohol use and may include any other treatment terms and 11254
conditions, or terms and conditions similar to community control 11255
sanctions, which may include community service or restitution, 11256
that are ordered by the court. 11257

(E) If the court grants an offender's request for 11258
intervention in lieu of conviction and the court finds that the 11259
offender has successfully completed the intervention plan for 11260
the offender, including the requirement that the offender 11261
abstain from using illegal drugs and alcohol for a period of at 11262
least one year from the date on which the court granted the 11263
order of intervention in lieu of conviction, the requirement 11264
that the offender participate in treatment and recovery support 11265

services, and all other terms and conditions ordered by the 11266
court, the court shall dismiss the proceedings against the 11267
offender. Successful completion of the intervention plan and 11268
period of abstinence under this section shall be without 11269
adjudication of guilt and is not a criminal conviction for 11270
purposes of any disqualification or disability imposed by law 11271
and upon conviction of a crime, and the court may order the 11272
sealing of records related to the offense in question in the 11273
manner provided in sections 2953.31 to 2953.36 of the Revised 11274
Code. 11275

(F) If the court grants an offender's request for 11276
intervention in lieu of conviction and the offender fails to 11277
comply with any term or condition imposed as part of the 11278
intervention plan for the offender, the supervising authority 11279
for the offender promptly shall advise the court of this 11280
failure, and the court shall hold a hearing to determine whether 11281
the offender failed to comply with any term or condition imposed 11282
as part of the plan. If the court determines that the offender 11283
has failed to comply with any of those terms and conditions, it 11284
shall enter a finding of guilty and shall impose an appropriate 11285
sanction under Chapter 2929. of the Revised Code. If the court 11286
sentences the offender to a prison term, the court, after 11287
consulting with the department of rehabilitation and correction 11288
regarding the availability of services, may order continued 11289
court-supervised activity and treatment of the offender during 11290
the prison term and, upon consideration of reports received from 11291
the department concerning the offender's progress in the program 11292
of activity and treatment, may consider judicial release under 11293
section 2929.20 of the Revised Code. 11294

(G) As used in this section: 11295

- (1) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code. 11296
11297
- (2) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 11298
11299
- (3) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section. 11300
11301
- (4) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code. 11302
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- (5) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code. 11304
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- ~~(5)~~ (6) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code. 11306
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- ~~(6)~~ "Person with intellectual disability" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 11308
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- (7) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code. 11312
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- ~~(H) Whenever the term "mentally retarded person" is used in any statute, rule, contract, grant, or other document, the reference shall be deemed to include a "person with intellectual disability," as defined in this section.~~ 11314
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- Sec. 2967.22.** Whenever it is brought to the attention of the adult parole authority or a department of probation that a parolee, person under a community control sanction, person under transitional control, or releasee appears to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, or a ~~mentally retarded person~~ with an 11318
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intellectual disability subject to institutionalization by court 11324
order, as defined in section 5123.01 of the Revised Code, the 11325
parole or probation officer, subject to the approval of the 11326
chief of the adult parole authority, the designee of the chief 11327
of the adult parole authority, or the chief probation officer, 11328
may file an affidavit under section 5122.11 or 5123.71 of the 11329
Revised Code. A parolee, person under a community control 11330
sanction, or releasee who is involuntarily detained under 11331
Chapter 5122. or 5123. of the Revised Code shall receive credit 11332
against the period of parole or community control or the term of 11333
post-release control for the period of involuntary detention. 11334

If a parolee, person under a community control sanction, 11335
person under transitional control, or releasee escapes from an 11336
institution or facility within the department of mental health 11337
and addiction services or the department of developmental 11338
disabilities, the superintendent of the institution immediately 11339
shall notify the chief of the adult parole authority or the 11340
chief probation officer. Notwithstanding the provisions of 11341
section 5122.26 of the Revised Code, the procedure for the 11342
apprehension, detention, and return of the parolee, person under 11343
a community control sanction, person under transitional control, 11344
or releasee is the same as that provided for the apprehension, 11345
detention, and return of persons who escape from institutions 11346
operated by the department of rehabilitation and correction. If 11347
the escaped parolee, person under transitional control, or 11348
releasee is not apprehended and returned to the custody of the 11349
department of mental health and addiction services or the 11350
department of developmental disabilities within ninety days 11351
after the escape, the parolee, person under transitional 11352
control, or releasee shall be discharged from the custody of the 11353
department of mental health and addiction services or the 11354

department of developmental disabilities and returned to the 11355
custody of the department of rehabilitation and correction. If 11356
the escaped person under a community control sanction is not 11357
apprehended and returned to the custody of the department of 11358
mental health and addiction services or the department of 11359
developmental disabilities within ninety days after the escape, 11360
the person under a community control sanction shall be 11361
discharged from the custody of the department of mental health 11362
and addiction services or the department of developmental 11363
disabilities and returned to the custody of the court that 11364
sentenced that person. 11365

Sec. 3107.02. (A) Any minor may be adopted. 11366

(B) An adult may be adopted under any of the following 11367
conditions: 11368

(1) If the adult is totally or permanently disabled; 11369

(2) If the adult is determined to be a ~~mentally retarded~~ 11370
person with an intellectual disability; 11371

(3) If the adult had established a child-foster caregiver, 11372
kinship caregiver, or child-stepparent relationship with the 11373
petitioners as a minor, and the adult consents to the adoption; 11374

(4) If the adult was, at the time of the adult's 11375
eighteenth birthday, in the permanent custody of or in a planned 11376
permanent living arrangement with a public children services 11377
agency or a private child placing agency, and the adult consents 11378
to the adoption; 11379

(5) If the adult is the child of the spouse of the 11380
petitioner, and the adult consents to the adoption. 11381

(C) When proceedings to adopt a minor are initiated by the 11382

filing of a petition, and the eighteenth birthday of the minor 11383
occurs prior to the decision of the court, the court shall 11384
require the person who is to be adopted to submit a written 11385
statement of consent or objection to the adoption. If an 11386
objection is submitted, the petition shall be dismissed, and if 11387
a consent is submitted, the court shall proceed with the case, 11388
and may issue an interlocutory order or final decree of 11389
adoption. 11390

(D) Any physical examination of the individual to be 11391
adopted as part of or in contemplation of a petition to adopt 11392
may be conducted by any health professional authorized by the 11393
Revised Code to perform physical examinations, including a 11394
physician assistant, a clinical nurse specialist, a certified 11395
nurse practitioner, or a certified nurse-midwife. Any written 11396
documentation of the physical examination shall be completed by 11397
the healthcare professional who conducted the examination. 11398

(E) An adult who consents to an adoption pursuant to 11399
division (B)(4) of this section shall provide the court with the 11400
name and contact information of the public children services 11401
agency or private child placing agency that had permanent 11402
custody of or a planned permanent living arrangement with that 11403
adult. The petitioner shall request verification from the agency 11404
as to whether the adult was or was not in the permanent custody 11405
of or in a planned permanent living arrangement with that agency 11406
at the time of the adult's eighteenth birthday and provide the 11407
verification to the court. 11408

(F) As used in this section: 11409

(1) "Developmental disability" has the same meaning as in 11410
section 5123.01 of the Revised Code. 11411

(2) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code.	11412 11413
(2) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.	11414 11415
(3) "Permanent custody" and "planned permanent living arrangement" have the same meanings as in section 2151.011 of the Revised Code.	11416 11417 11418
Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the Revised Code:	11419 11420
(A) "Preschool program" means either of the following:	11421
(1) A child care program for preschool children that is operated by a school district board of education or an eligible nonpublic school.	11422 11423 11424
(2) A child care program for preschool children age three or older that is operated by a county DD <u>board of developmental disabilities</u> or a community school.	11425 11426 11427
(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.	11428 11429
(C) "Parent, guardian, or custodian" means the person or government agency that is or will be responsible for a child's school attendance under section 3321.01 of the Revised Code.	11430 11431 11432
(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of a community school or an eligible nonpublic school.	11433 11434 11435
(E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for supervision of a	11436 11437 11438

preschool program. 11439

(F) "Preschool staff member" means a preschool employee 11440
whose primary responsibility is care, teaching, or supervision 11441
of preschool children. 11442

(G) "Nonteaching employee" means a preschool program or 11443
school child program employee whose primary responsibilities are 11444
duties other than care, teaching, and supervision of preschool 11445
children or school children. 11446

(H) "Eligible nonpublic school" means a nonpublic school 11447
chartered as described in division (B) (8) of section 5104.02 of 11448
the Revised Code or chartered by the state board of education 11449
for any combination of grades one through twelve, regardless of 11450
whether it also offers kindergarten. 11451

(I) ~~"County DD board" means a county board of~~ 11452
~~developmental disabilities.~~ 11453

~~(J)~~ "School child program" means a child care program for 11454
only school children that is operated by a school district board 11455
of education, county ~~DD~~ board of developmental disabilities, 11456
community school, or eligible nonpublic school. 11457

~~(K)~~ (J) "School child" means a child who is enrolled in or 11458
is eligible to be enrolled in a grade of kindergarten or above 11459
but is less than fifteen years old. 11460

~~(L)~~ (K) "School child program staff member" means an 11461
employee whose primary responsibility is the care, teaching, or 11462
supervision of children in a school child program. 11463

~~(M)~~ (L) "Child care" means administering to the needs of 11464
infants, toddlers, preschool children, and school children 11465
outside of school hours by persons other than their parents or 11466

guardians, custodians, or relatives by blood, marriage, or 11467
adoption for any part of the twenty-four-hour day in a place or 11468
residence other than a child's own home. 11469

~~(N)~~ (M) "Child day-care center," "publicly funded child 11470
care," and "school-age child care center" have the same meanings 11471
as in section 5104.01 of the Revised Code. 11472

~~(O)~~ (N) "Community school" means either of the following: 11473

(1) A community school established under Chapter 3314. of 11474
the Revised Code that is sponsored by an entity that is rated 11475
"exemplary" under section 3314.016 of the Revised Code. 11476

(2) A community school established under Chapter 3314. of 11477
the Revised Code that has received, on its most recent report 11478
card, either of the following: 11479

(a) If the school offers any of grade levels four through 11480
twelve, a grade of "C" or better for the overall value-added 11481
progress dimension under division (C) (1) (e) of section 3302.03 11482
of the Revised Code and for the performance index score under 11483
division (C) (1) (b) of section 3302.03 of the Revised Code; 11484

(b) If the school does not offer a grade level higher than 11485
three, a grade of "C" or better for making progress in improving 11486
literacy in grades kindergarten through three under division (C) 11487
(1) (g) of section 3302.03 of the Revised Code. 11488

Sec. 3301.53. (A) The state board of education, in 11489
consultation with the director of job and family services, shall 11490
formulate and prescribe by rule adopted under Chapter 119. of 11491
the Revised Code minimum standards to be applied to preschool 11492
programs operated by school district boards of education, county 11493
~~DD~~ boards of developmental disabilities, community schools, or 11494
eligible nonpublic schools. The rules shall include the 11495

following: 11496

(1) Standards ensuring that the preschool program is 11497
located in a safe and convenient facility that accommodates the 11498
enrollment of the program, is of the quality to support the 11499
growth and development of the children according to the program 11500
objectives, and meets the requirements of section 3301.55 of the 11501
Revised Code; 11502

(2) Standards ensuring that supervision, discipline, and 11503
programs will be administered according to established 11504
objectives and procedures; 11505

(3) Standards ensuring that preschool staff members and 11506
nonteaching employees are recruited, employed, assigned, 11507
evaluated, and provided inservice education without 11508
discrimination on the basis of age, color, national origin, 11509
race, or sex; and that preschool staff members and nonteaching 11510
employees are assigned responsibilities in accordance with 11511
written position descriptions commensurate with their training 11512
and experience; 11513

(4) A requirement that boards of education intending to 11514
establish a preschool program demonstrate a need for a preschool 11515
program prior to establishing the program; 11516

(5) Requirements that children participating in preschool 11517
programs have been immunized to the extent considered 11518
appropriate by the state board to prevent the spread of 11519
communicable disease; 11520

(6) Requirements that the parents of preschool children 11521
complete the emergency medical authorization form specified in 11522
section 3313.712 of the Revised Code. 11523

(B) The state board of education in consultation with the 11524

director of job and family services shall ensure that the rules 11525
adopted by the state board under sections 3301.52 to 3301.58 of 11526
the Revised Code are consistent with and meet or exceed the 11527
requirements of Chapter 5104. of the Revised Code with regard to 11528
child day-care centers. The state board and the director of job 11529
and family services shall review all such rules at least once 11530
every five years. 11531

(C) The state board of education, in consultation with the 11532
director of job and family services, shall adopt rules for 11533
school child programs that are consistent with and meet or 11534
exceed the requirements of the rules adopted for school-age 11535
child care centers under Chapter 5104. of the Revised Code. 11536

Sec. 3301.55. (A) A school district, county ~~DD~~board of 11537
developmental disabilities, community school, or eligible 11538
nonpublic school operating a preschool program shall house the 11539
program in buildings that meet the following requirements: 11540

(1) The building is operated by the district, county 11541
~~DD~~board of developmental disabilities, community school, or 11542
eligible nonpublic school and has been approved by the division 11543
of industrial compliance in the department of commerce or a 11544
certified municipal, township, or county building department for 11545
the purpose of operating a program for preschool children. Any 11546
such structure shall be constructed, equipped, repaired, 11547
altered, and maintained in accordance with applicable provisions 11548
of Chapters 3781. and 3791. and with rules adopted by the board 11549
of building standards under Chapter 3781. of the Revised Code 11550
for the safety and sanitation of structures erected for this 11551
purpose. 11552

(2) The building is in compliance with fire and safety 11553
laws and regulations as evidenced by reports of annual school 11554

fire and safety inspections as conducted by appropriate local 11555
authorities. 11556

(3) The school is in compliance with rules established by 11557
the state board of education regarding school food services. 11558

(4) The facility includes not less than thirty-five square 11559
feet of indoor space for each child in the program. Safe play 11560
space, including both indoor and outdoor play space, totaling 11561
not less than sixty square feet for each child using the space 11562
at any one time, shall be regularly available and scheduled for 11563
use. 11564

(5) First aid facilities and space for temporary placement 11565
or isolation of injured or ill children are provided. 11566

(B) Each school district, county ~~DD~~-board of developmental 11567
disabilities, community school, or eligible nonpublic school 11568
that operates, or proposes to operate, a preschool program shall 11569
submit a building plan including all information specified by 11570
the state board of education to the board not later than the 11571
first day of September of the school year in which the program 11572
is to be initiated. The board shall determine whether the 11573
buildings meet the requirements of this section and section 11574
3301.53 of the Revised Code, and notify the superintendent of 11575
its determination. If the board determines, on the basis of the 11576
building plan or any other information, that the buildings do 11577
not meet those requirements, it shall cause the buildings to be 11578
inspected by the department of education. The department shall 11579
make a report to the superintendent specifying any aspects of 11580
the building that are not in compliance with the requirements of 11581
this section and section 3301.53 of the Revised Code and the 11582
time period that will be allowed the district, county ~~DD~~-board 11583
of developmental disabilities, or school to meet the 11584

requirements. 11585

Sec. 3301.57. (A) For the purpose of improving programs, 11586
facilities, and implementation of the standards promulgated by 11587
the state board of education under section 3301.53 of the 11588
Revised Code, the state department of education shall provide 11589
consultation and technical assistance to school districts, 11590
county ~~DD~~ boards of developmental disabilities, community 11591
schools, and eligible nonpublic schools operating preschool 11592
programs or school child programs, and inservice training to 11593
preschool staff members, school child program staff members, and 11594
nonteaching employees. 11595

(B) The department and the school district board of 11596
education, county ~~DD~~ board of developmental disabilities, 11597
community school, or eligible nonpublic school shall jointly 11598
monitor each preschool program and each school child program. 11599

If the program receives any grant or other funding from 11600
the state or federal government, the department annually shall 11601
monitor all reports on attendance, financial support, and 11602
expenditures according to provisions for use of the funds. 11603

(C) The department of education, at least once during 11604
every twelve-month period of operation of a preschool program or 11605
a licensed school child program, shall inspect the program and 11606
provide a written inspection report to the superintendent of the 11607
school district, county ~~DD~~ board of developmental disabilities, 11608
community school, or eligible nonpublic school. The department 11609
may inspect any program more than once, as considered necessary 11610
by the department, during any twelve-month period of operation. 11611
All inspections may be unannounced. No person shall interfere 11612
with any inspection conducted pursuant to this division or to 11613
the rules adopted pursuant to sections 3301.52 to 3301.59 of the 11614

Revised Code. 11615

Upon receipt of any complaint that a preschool program or 11616
a licensed school child program is out of compliance with the 11617
requirements in sections 3301.52 to 3301.59 of the Revised Code 11618
or the rules adopted under those sections, the department shall 11619
investigate and may inspect the program. 11620

(D) If a preschool program or a licensed school child 11621
program is determined to be out of compliance with the 11622
requirements of sections 3301.52 to 3301.59 of the Revised Code 11623
or the rules adopted under those sections, the department of 11624
education shall notify the appropriate superintendent, county ~~DD-~~ 11625
board of developmental disabilities, community school, or 11626
eligible nonpublic school in writing regarding the nature of the 11627
violation, what must be done to correct the violation, and by 11628
what date the correction must be made. If the correction is not 11629
made by the date established by the department, it may commence 11630
action under Chapter 119. of the Revised Code to close the 11631
program or to revoke the license of the program. If a program 11632
does not comply with an order to cease operation issued in 11633
accordance with Chapter 119. of the Revised Code, the department 11634
shall notify the attorney general, the prosecuting attorney of 11635
the county in which the program is located, or the city 11636
attorney, village solicitor, or other chief legal officer of the 11637
municipal corporation in which the program is located that the 11638
program is operating in violation of sections 3301.52 to 3301.59 11639
of the Revised Code or the rules adopted under those sections 11640
and in violation of an order to cease operation issued in 11641
accordance with Chapter 119. of the Revised Code. Upon receipt 11642
of the notification, the attorney general, prosecuting attorney, 11643
city attorney, village solicitor, or other chief legal officer 11644
shall file a complaint in the court of common pleas of the 11645

county in which the program is located requesting the court to 11646
issue an order enjoining the program from operating. The court 11647
shall grant the requested injunctive relief upon a showing that 11648
the program named in the complaint is operating in violation of 11649
sections 3301.52 to 3301.59 of the Revised Code or the rules 11650
adopted under those sections and in violation of an order to 11651
cease operation issued in accordance with Chapter 119. of the 11652
Revised Code. 11653

(E) The department of education shall prepare an annual 11654
report on inspections conducted under this section. The report 11655
shall include the number of inspections conducted, the number 11656
and types of violations found, and the steps taken to address 11657
the violations. The department shall file the report with the 11658
governor, the president and minority leader of the senate, and 11659
the speaker and minority leader of the house of representatives 11660
on or before the first day of January of each year, beginning in 11661
1999. 11662

Sec. 3301.58. (A) The department of education is 11663
responsible for the licensing of preschool programs and school 11664
child programs and for the enforcement of sections 3301.52 to 11665
3301.59 of the Revised Code and of any rules adopted under those 11666
sections. No school district board of education, county ~~DD~~board 11667
of developmental disabilities, community school, or eligible 11668
nonpublic school shall operate, establish, manage, conduct, or 11669
maintain a preschool program without a license issued under this 11670
section. A school district board of education, county ~~DD~~board 11671
of developmental disabilities, community school, or eligible 11672
nonpublic school may obtain a license under this section for a 11673
school child program. The school district board of education, 11674
county ~~DD~~board of developmental disabilities, community school, 11675
or eligible nonpublic school shall post the license for each 11676

preschool program and licensed school child program it operates, 11677
establishes, manages, conducts, or maintains in a conspicuous 11678
place in the preschool program or licensed school child program 11679
that is accessible to parents, custodians, or guardians and 11680
employees and staff members of the program at all times when the 11681
program is in operation. 11682

(B) Any school district board of education, county ~~DD~~ 11683
board of developmental disabilities, community school, or 11684
eligible nonpublic school that desires to operate, establish, 11685
manage, conduct, or maintain a preschool program shall apply to 11686
the department of education for a license on a form that the 11687
department shall prescribe by rule. Any school district board of 11688
education, county ~~DD~~ board of developmental disabilities, 11689
community school, or eligible nonpublic school that desires to 11690
obtain a license for a school child program shall apply to the 11691
department for a license on a form that the department shall 11692
prescribe by rule. The department shall provide at no charge to 11693
each applicant for a license under this section a copy of the 11694
requirements under sections 3301.52 to 3301.59 of the Revised 11695
Code and any rules adopted under those sections. The department 11696
may establish application fees by rule adopted under Chapter 11697
119. of the Revised Code, and all applicants for a license shall 11698
pay any fee established by the department at the time of making 11699
an application for a license. All fees collected pursuant to 11700
this section shall be paid into the state treasury to the credit 11701
of the general revenue fund. 11702

(C) Upon the filing of an application for a license, the 11703
department of education shall investigate and inspect the 11704
preschool program or school child program to determine the 11705
license capacity for each age category of children of the 11706
program and to determine whether the program complies with 11707

sections 3301.52 to 3301.59 of the Revised Code and any rules 11708
adopted under those sections. When, after investigation and 11709
inspection, the department of education is satisfied that 11710
sections 3301.52 to 3301.59 of the Revised Code and any rules 11711
adopted under those sections are complied with by the applicant, 11712
the department of education shall issue the program a 11713
provisional license as soon as practicable in the form and 11714
manner prescribed by the rules of the department. The 11715
provisional license shall be valid for one year from the date of 11716
issuance unless revoked. 11717

(D) The department of education shall investigate and 11718
inspect a preschool program or school child program that has 11719
been issued a provisional license at least once during operation 11720
under the provisional license. If, after the investigation and 11721
inspection, the department of education determines that the 11722
requirements of sections 3301.52 to 3301.59 of the Revised Code 11723
and any rules adopted under those sections are met by the 11724
provisional licensee, the department of education shall issue 11725
the program a license. The license shall remain valid unless 11726
revoked or the program ceases operations. 11727

(E) The department of education annually shall investigate 11728
and inspect each preschool program or school child program 11729
licensed under division (D) of this section to determine if the 11730
requirements of sections 3301.52 to 3301.59 of the Revised Code 11731
and any rules adopted under those sections are met by the 11732
program, and shall notify the program of the results. 11733

(F) The license or provisional license shall state the 11734
name of the school district board of education, county ~~DD~~board 11735
of developmental disabilities, community school, or eligible 11736
nonpublic school that operates the preschool program or school 11737

child program and the license capacity of the program. 11738

(G) The department of education may revoke the license of 11739
any preschool program or school child program that is not in 11740
compliance with the requirements of sections 3301.52 to 3301.59 11741
of the Revised Code and any rules adopted under those sections. 11742

(H) If the department of education revokes a license, the 11743
department shall not issue a license to the program within two 11744
years from the date of the revocation. All actions of the 11745
department with respect to licensing preschool programs and 11746
school child programs shall be in accordance with Chapter 119. 11747
of the Revised Code. 11748

Sec. 3314.022. The governing authority of any community 11749
school established under this chapter may contract with the 11750
governing authority of another community school, the board of 11751
education of a school district, the governing board of an 11752
educational service center, a county ~~DD~~ board of developmental 11753
disabilities, or the administrative authority of a nonpublic 11754
school for provision of services for any disabled student 11755
enrolled at the school. Any school district board of education 11756
or educational service center governing board shall negotiate 11757
with a community school governing authority that seeks to 11758
contract for the provision of services for a disabled student 11759
under this section in the same manner as it would with the board 11760
of education of a school district that seeks to contract for 11761
such services. 11762

Sec. 3317.02. As used in this chapter: 11763

(A) (1) "Category one career-technical education ADM" means 11764
the enrollment of students during the school year on a full-time 11765
equivalency basis in career-technical education programs 11766

described in division (A) of section 3317.014 of the Revised Code and certified under division (B) (11) or (D) (2) (h) of section 3317.03 of the Revised Code. 11767
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(2) "Category two career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (B) of section 3317.014 of the Revised Code and certified under division (B) (12) or (D) (2) (i) of section 3317.03 of the Revised Code. 11770
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(3) "Category three career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (C) of section 3317.014 of the Revised Code and certified under division (B) (13) or (D) (2) (j) of section 3317.03 of the Revised Code. 11776
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(4) "Category four career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (D) of section 3317.014 of the Revised Code and certified under division (B) (14) or (D) (2) (k) of section 3317.03 of the Revised Code. 11782
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(5) "Category five career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (E) of section 3317.014 of the Revised Code and certified under division (B) (15) or (D) (2) (l) of section 3317.03 of the Revised Code. 11788
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(B) (1) "Category one limited English proficient ADM" means the full-time equivalent number of limited English proficient 11794
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students described in division (A) of section 3317.016 of the Revised Code and certified under division (B) (16) or (D) (2) (m) of section 3317.03 of the Revised Code.

(2) "Category two limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and certified under division (B) (17) or (D) (2) (n) of section 3317.03 of the Revised Code.

(3) "Category three limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (C) of section 3317.016 of the Revised Code and certified under division (B) (18) or (D) (2) (o) of section 3317.03 of the Revised Code.

(C) (1) "Category one special education ADM" means the full-time equivalent number of children with disabilities receiving special education services for the disability specified in division (A) of section 3317.013 of the Revised Code and certified under division (B) (5) or (D) (2) (b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the full-time equivalent number of children with disabilities receiving special education services for those disabilities specified in division (B) of section 3317.013 of the Revised Code and certified under division (B) (6) or (D) (2) (c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the full-time equivalent number of students receiving special education services for those disabilities specified in division (C) of section 3317.013 of the Revised Code, and certified under

division (B) (7) or (D) (2) (d) of section 3317.03 of the Revised Code. 11825
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(4) "Category four special education ADM" means the full-time equivalent number of students receiving special education services for those disabilities specified in division (D) of section 3317.013 of the Revised Code and certified under division (B) (8) or (D) (2) (e) of section 3317.03 of the Revised Code. 11827
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(5) "Category five special education ADM" means the full-time equivalent number of students receiving special education services for the disabilities specified in division (E) of section 3317.013 of the Revised Code and certified under division (B) (9) or (D) (2) (f) of section 3317.03 of the Revised Code. 11833
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(6) "Category six special education ADM" means the full-time equivalent number of students receiving special education services for the disabilities specified in division (F) of section 3317.013 of the Revised Code and certified under division (B) (10) or (D) (2) (g) of section 3317.03 of the Revised Code. 11839
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~~(D) "County DD board" means a county board of developmental disabilities.~~ 11845
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~~(E)~~ "Economically disadvantaged index for a school district" means the square of the quotient of that district's percentage of students in its total ADM who are identified as economically disadvantaged as defined by the department of education, divided by the percentage of students in the statewide total ADM identified as economically disadvantaged. 11847
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For purposes of this calculation: 11853

(1) For a city, local, or exempted village school district, the "statewide total ADM" equals the sum of the total ADM for all city, local, and exempted village school districts combined.

(2) For a joint vocational school district, the "statewide total ADM" equals the sum of the formula ADM for all joint vocational school districts combined.

~~(F)~~(E) (1) "Formula ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the department of education, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A) (3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical education compact.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the enrollment reported and certified under division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section.

~~(G)~~(F) "Formula amount" means \$5,900, for fiscal year 2016, and \$6,000, for fiscal year 2017.

~~(H)~~(G) "FTE basis" means a count of students based on

full-time equivalency, in accordance with rules adopted by the 11883
department of education pursuant to section 3317.03 of the 11884
Revised Code. In adopting its rules under this division, the 11885
department shall provide for counting any student in category 11886
one, two, three, four, five, or six special education ADM or in 11887
category one, two, three, four, or five career technical 11888
education ADM in the same proportion the student is counted in 11889
formula ADM. 11890

~~(I)~~ (H) "Internet- or computer-based community school" has 11891
the same meaning as in section 3314.02 of the Revised Code. 11892

~~(J)~~ (I) "Medically fragile child" means a child to whom 11893
all of the following apply: 11894

(1) The child requires the services of a doctor of 11895
medicine or osteopathic medicine at least once a week due to the 11896
instability of the child's medical condition. 11897

(2) The child requires the services of a registered nurse 11898
on a daily basis. 11899

(3) The child is at risk of institutionalization in a 11900
hospital, skilled nursing facility, or intermediate care 11901
facility for individuals with intellectual disabilities. 11902

~~(K)~~ (J) (1) A child may be identified as having an "other 11903
health impairment-major" if the child's condition meets the 11904
definition of "other health impaired" established in rules 11905
previously adopted by the state board of education and if either 11906
of the following apply: 11907

(a) The child is identified as having a medical condition 11908
that is among those listed by the superintendent of public 11909
instruction as conditions where a substantial majority of cases 11910
fall within the definition of "medically fragile child." 11911

(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (K) (1) (a) or (b) of this section.

~~(L)~~(K) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

~~(M)~~(L) "Preschool scholarship ADM" means the number of preschool children with disabilities certified under division (B) (3) (h) of section 3317.03 of the Revised Code.

~~(N)~~(M) "Related services" includes:

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B) (3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(2) Speech and language services provided to any student

with a disability, including any student whose primary or only disability is a speech and language disability; 11941
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(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services; 11943
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(4) Any service included in units funded under former division (O) (1) of section 3317.024 of the Revised Code; 11946
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(5) Any other related service needed by children with disabilities in accordance with their individualized education programs. 11948
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~~(O)~~ (N) "School district," unless otherwise specified, means city, local, and exempted village school districts. 11951
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~~(P)~~ (O) "State education aid" has the same meaning as in section 5751.20 of the Revised Code. 11953
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~~(Q)~~ (P) "State share index" means the state share index calculated for a district under section 3317.017 of the Revised Code. 11955
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~~(R)~~ (Q) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property. 11958
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~~(S)~~ (R) (1) For purposes of section 3317.017 of the Revised Code, "three-year average valuation" means the average of total taxable value for tax years 2012, 2013, and 2014. 11963
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(2) For purposes of section 3317.018 of the Revised Code, "three-year average valuation" means the following: 11966
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(a) For fiscal year 2016, the average of total taxable value for tax years 2013, 2014, and 2015; 11968
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(b) For fiscal year 2017, the average of total taxable value for tax years 2014, 2015, and 2016. 11970
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(3) For purposes of sections 3317.0217, 3317.0218, and 3317.16 of the Revised Code, "three-year average valuation" means the following: 11972
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(a) For fiscal year 2016, the average of total taxable value for tax years 2012, 2013, and 2014; 11975
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(b) For fiscal year 2017, the average of total taxable value for tax years 2013, 2014, and 2015. 11977
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~~(T)~~(S) "Total ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section. 11979
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~~(U)~~(T) "Total special education ADM" means the sum of categories one through six special education ADM. 11984
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~~(V)~~(U) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A) (1) and (2) of section 3317.021 of the Revised Code. 11986
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Sec. 3317.024. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education: 11990
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(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such 11993
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district and for capital improvements for such schools. Such 11996
amounts shall be determined on the basis of standards adopted by 11997
the state board of education. However, for fiscal years 2012 and 11998
2013, an island district shall receive the lesser of its actual 11999
cost of operation, as certified to the department of education, 12000
or ninety-three per cent of the amount the district received in 12001
state operating funding for fiscal year 2011. If an island 12002
district received no funding for fiscal year 2011, it shall 12003
receive no funding for either of fiscal year 2012 or 2013. 12004

(B) An amount for each school district required to pay 12005
tuition for a child in an institution maintained by the 12006
department of youth services pursuant to section 3317.082 of the 12007
Revised Code, provided the child was not included in the 12008
calculation of the district's formula ADM, as that term is 12009
defined in section 3317.02 of the Revised Code, for the 12010
preceding school year. 12011

(C) An amount for the approved cost of transporting 12012
eligible pupils with disabilities attending a special education 12013
program approved by the department of education whom it is 12014
impossible or impractical to transport by regular school bus in 12015
the course of regular route transportation provided by the 12016
school district or educational service center. No district or 12017
service center is eligible to receive a payment under this 12018
division for the cost of transporting any pupil whom it 12019
transports by regular school bus and who is included in the 12020
district's transportation ADM. The state board of education 12021
shall establish standards and guidelines for use by the 12022
department of education in determining the approved cost of such 12023
transportation for each district or service center. 12024

(D) An amount to each school district, including each 12025

cooperative education school district, pursuant to section 12026
3313.81 of the Revised Code to assist in providing free lunches 12027
to needy children. The amounts shall be determined on the basis 12028
of rules adopted by the state board of education. 12029

(E) An amount to each school district, for each pupil 12030
attending a chartered nonpublic elementary or high school within 12031
the district. The amount shall equal the amount appropriated for 12032
the implementation of section 3317.06 of the Revised Code 12033
divided by the average daily membership in grades kindergarten 12034
through twelve in nonpublic elementary and high schools within 12035
the state as determined as of the last day of October of each 12036
school year. 12037

(F) An amount for each county ~~DD~~ board of developmental 12038
disabilities, distributed on the basis of standards adopted by 12039
the state board of education, for the approved cost of 12040
transportation required for children attending special education 12041
programs operated by the county ~~DD~~ board under section 3323.09 12042
of the Revised Code; 12043

(G) An amount to each institution defined under section 12044
3317.082 of the Revised Code providing elementary or secondary 12045
education to children other than children receiving special 12046
education under section 3323.091 of the Revised Code. This 12047
amount for any institution in any fiscal year shall equal the 12048
total of all tuition amounts required to be paid to the 12049
institution under division (A) (1) of section 3317.082 of the 12050
Revised Code. 12051

The state board of education or any other board of 12052
education or governing board may provide for any resident of a 12053
district or educational service center territory any educational 12054
service for which funds are made available to the board by the 12055

United States under the authority of public law, whether such 12056
funds come directly or indirectly from the United States or any 12057
agency or department thereof or through the state or any agency, 12058
department, or political subdivision thereof. 12059

Sec. 3317.03. (A) The superintendent of each city, local, 12060
and exempted village school district shall report to the state 12061
board of education as of the last day of October, March, and 12062
June of each year the enrollment of students receiving services 12063
from schools under the superintendent's supervision, and the 12064
numbers of other students entitled to attend school in the 12065
district under section 3313.64 or 3313.65 of the Revised Code 12066
the superintendent is required to report under this section, so 12067
that the department of education can calculate the district's 12068
formula ADM, total ADM, category one through five career- 12069
technical education ADM, category one through three limited 12070
English proficient ADM, category one through six special 12071
education ADM, preschool scholarship ADM, transportation ADM, 12072
and, for purposes of provisions of law outside of Chapter 3317. 12073
of the Revised Code, average daily membership. 12074

(1) The enrollment reported by the superintendent during 12075
the reporting period shall consist of the number of students in 12076
grades kindergarten through twelve receiving any educational 12077
services from the district, except that the following categories 12078
of students shall not be included in the determination: 12079

(a) Students enrolled in adult education classes; 12080

(b) Adjacent or other district students enrolled in the 12081
district under an open enrollment policy pursuant to section 12082
3313.98 of the Revised Code; 12083

(c) Students receiving services in the district pursuant 12084

to a compact, cooperative education agreement, or a contract, 12085
but who are entitled to attend school in another district 12086
pursuant to section 3313.64 or 3313.65 of the Revised Code; 12087

(d) Students for whom tuition is payable pursuant to 12088
sections 3317.081 and 3323.141 of the Revised Code; 12089

(e) Students receiving services in the district through a 12090
scholarship awarded under either section 3310.41 or sections 12091
3310.51 to 3310.64 of the Revised Code. 12092

When reporting students under division (A) (1) of this 12093
section, the superintendent also shall report the district where 12094
each student is entitled to attend school pursuant to sections 12095
3313.64 and 3313.65 of the Revised Code. 12096

(2) The department of education shall compile a list of 12097
all students reported to be enrolled in a district under 12098
division (A) (1) of this section and of the students entitled to 12099
attend school in the district pursuant to section 3313.64 or 12100
3313.65 of the Revised Code on an FTE basis but receiving 12101
educational services in grades kindergarten through twelve from 12102
one or more of the following entities: 12103

(a) A community school pursuant to Chapter 3314. of the 12104
Revised Code, including any participation in a college pursuant 12105
to Chapter 3365. of the Revised Code while enrolled in such 12106
community school; 12107

(b) An alternative school pursuant to sections 3313.974 to 12108
3313.979 of the Revised Code as described in division (I) (2) (a) 12109
or (b) of this section; 12110

(c) A college pursuant to Chapter 3365. of the Revised 12111
Code, except when the student is enrolled in the college while 12112
also enrolled in a community school pursuant to Chapter 3314., a 12113

science, technology, engineering, and mathematics school	12114
established under Chapter 3326., or a college-preparatory	12115
boarding school established under Chapter 3328. of the Revised	12116
Code;	12117
(d) An adjacent or other school district under an open	12118
enrollment policy adopted pursuant to section 3313.98 of the	12119
Revised Code;	12120
(e) An educational service center or cooperative education	12121
district;	12122
(f) Another school district under a cooperative education	12123
agreement, compact, or contract;	12124
(g) A chartered nonpublic school with a scholarship paid	12125
under section 3310.08 of the Revised Code, if the students	12126
qualified for the scholarship under section 3310.03 of the	12127
Revised Code;	12128
(h) An alternative public provider or a registered private	12129
provider with a scholarship awarded under either section 3310.41	12130
or sections 3310.51 to 3310.64 of the Revised Code.	12131
As used in this section, "alternative public provider" and	12132
"registered private provider" have the same meanings as in	12133
section 3310.41 or 3310.51 of the Revised Code, as applicable.	12134
(i) A science, technology, engineering, and mathematics	12135
school established under Chapter 3326. of the Revised Code,	12136
including any participation in a college pursuant to Chapter	12137
3365. of the Revised Code while enrolled in the school;	12138
(j) A college-preparatory boarding school established	12139
under Chapter 3328. of the Revised Code, including any	12140
participation in a college pursuant to Chapter 3365. of the	12141

Revised Code while enrolled in the school. 12142

(3) The department also shall compile a list of the 12143
students entitled to attend school in the district under section 12144
3313.64 or 3313.65 of the Revised Code who are enrolled in a 12145
joint vocational school district or under a career-technical 12146
education compact, excluding any students so entitled to attend 12147
school in the district who are enrolled in another school 12148
district through an open enrollment policy as reported under 12149
division (A) (2) (d) of this section and then enroll in a joint 12150
vocational school district or under a career-technical education 12151
compact. 12152

The department shall provide each city, local, and 12153
exempted village school district with an opportunity to review 12154
the list of students compiled under divisions (A) (2) and (3) of 12155
this section to ensure that the students reported accurately 12156
reflect the enrollment of students in the district. 12157

(B) To enable the department of education to obtain the 12158
data needed to complete the calculation of payments pursuant to 12159
this chapter, each superintendent shall certify from the reports 12160
provided by the department under division (A) of this section 12161
all of the following: 12162

(1) The total student enrollment in regular learning day 12163
classes included in the report under division (A) (1) or (2) of 12164
this section for each of the individual grades kindergarten 12165
through twelve in schools under the superintendent's 12166
supervision; 12167

(2) The unduplicated count of the number of preschool 12168
children with disabilities enrolled in the district for whom the 12169
district is eligible to receive funding under section 3317.0213 12170

of the Revised Code adjusted for the portion of the year each child is so enrolled, in accordance with the disability categories prescribed in section 3317.013 of the Revised Code; 12171
12172
12173

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are: 12174
12175
12176

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I) (2) (a) or (b) of this section; 12177
12178
12179

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code, a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code; 12180
12181
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(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code; 12187
12188

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school; 12189
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12192
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(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school; 12195
12196
12197
12198

(f) Enrolled in a chartered nonpublic school with a 12199

scholarship paid under section 3310.08 of the Revised Code and	12200
who qualified for the scholarship under section 3310.03 of the	12201
Revised Code;	12202
(g) Enrolled in kindergarten through grade twelve in an	12203
alternative public provider or a registered private provider	12204
with a scholarship awarded under section 3310.41 of the Revised	12205
Code;	12206
(h) Enrolled as a preschool child with a disability in an	12207
alternative public provider or a registered private provider	12208
with a scholarship awarded under section 3310.41 of the Revised	12209
Code;	12210
(i) Participating in a program operated by a county DD-	12211
<u>board of developmental disabilities</u> or a state institution;	12212
(j) Enrolled in a science, technology, engineering, and	12213
mathematics school established under Chapter 3326. of the	12214
Revised Code, including any participation in a college pursuant	12215
to Chapter 3365. of the Revised Code while enrolled in the	12216
school;	12217
(k) Enrolled in a college-preparatory boarding school	12218
established under Chapter 3328. of the Revised Code, including	12219
any participation in a college pursuant to Chapter 3365. of the	12220
Revised Code while enrolled in the school;	12221
(l) Enrolled in an alternative public provider or a	12222
registered private provider with a scholarship awarded under	12223
sections 3310.51 to 3310.64 of the Revised Code.	12224
(4) The total enrollment of pupils in joint vocational	12225
schools;	12226
(5) The combined enrollment of children with disabilities	12227

reported under division (A) (1) or (2) of this section receiving 12228
special education services for the category one disability 12229
described in division (A) of section 3317.013 of the Revised 12230
Code, including children attending a special education program 12231
operated by an alternative public provider or a registered 12232
private provider with a scholarship awarded under sections 12233
3310.51 to 3310.64 of the Revised Code; 12234

(6) The combined enrollment of children with disabilities 12235
reported under division (A) (1) or (2) of this section receiving 12236
special education services for category two disabilities 12237
described in division (B) of section 3317.013 of the Revised 12238
Code, including children attending a special education program 12239
operated by an alternative public provider or a registered 12240
private provider with a scholarship awarded under sections 12241
3310.51 to 3310.64 of the Revised Code; 12242

(7) The combined enrollment of children with disabilities 12243
reported under division (A) (1) or (2) of this section receiving 12244
special education services for category three disabilities 12245
described in division (C) of section 3317.013 of the Revised 12246
Code, including children attending a special education program 12247
operated by an alternative public provider or a registered 12248
private provider with a scholarship awarded under sections 12249
3310.51 to 3310.64 of the Revised Code; 12250

(8) The combined enrollment of children with disabilities 12251
reported under division (A) (1) or (2) of this section receiving 12252
special education services for category four disabilities 12253
described in division (D) of section 3317.013 of the Revised 12254
Code, including children attending a special education program 12255
operated by an alternative public provider or a registered 12256
private provider with a scholarship awarded under sections 12257

3310.51 to 3310.64 of the Revised Code;	12258
(9) The combined enrollment of children with disabilities reported under division (A) (1) or (2) of this section receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;	12259 12260 12261 12262 12263 12264 12265 12266
(10) The combined enrollment of children with disabilities reported under division (A) (1) or (2) and under division (B) (3) (h) of this section receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code;	12267 12268 12269 12270 12271 12272 12273 12274 12275
(11) The enrollment of pupils reported under division (A) (1) or (2) of this section on a full-time equivalency basis in category one career-technical education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) <u>(G)</u> of section 3317.02 of the Revised Code and division (C) (3) of this section;	12276 12277 12278 12279 12280 12281 12282 12283 12284 12285
(12) The enrollment of pupils reported under division (A) (1) or (2) of this section on a full-time equivalency basis in	12286 12287

category two career-technical education programs or services, 12288
described in division (B) of section 3317.014 of the Revised 12289
Code, operated by the school district or another school district 12290
that is a member of the district's career-technical planning 12291
district, other than a joint vocational school district, or by 12292
an educational service center, notwithstanding division ~~(H)~~(G) 12293
of section 3317.02 of the Revised Code and division (C) (3) of 12294
this section; 12295

(13) The enrollment of pupils reported under division (A) 12296
(1) or (2) of this section on a full-time equivalency basis in 12297
category three career-technical education programs or services, 12298
described in division (C) of section 3317.014 of the Revised 12299
Code, operated by the school district or another school district 12300
that is a member of the district's career-technical planning 12301
district, other than a joint vocational school district, or by 12302
an educational service center, notwithstanding division ~~(H)~~(G) 12303
of section 3317.02 of the Revised Code and division (C) (3) of 12304
this section; 12305

(14) The enrollment of pupils reported under division (A) 12306
(1) or (2) of this section on a full-time equivalency basis in 12307
category four career-technical education programs or services, 12308
described in division (D) of section 3317.014 of the Revised 12309
Code, operated by the school district or another school district 12310
that is a member of the district's career-technical planning 12311
district, other than a joint vocational school district, or by 12312
an educational service center, notwithstanding division ~~(H)~~(G) 12313
of section 3317.02 of the Revised Code and division (C) (3) of 12314
this section; 12315

(15) The enrollment of pupils reported under division (A) 12316
(1) or (2) of this section on a full-time equivalency basis in 12317

category five career-technical education programs or services, 12318
described in division (E) of section 3317.014 of the Revised 12319
Code, operated by the school district or another school district 12320
that is a member of the district's career-technical planning 12321
district, other than a joint vocational school district, or by 12322
an educational service center, notwithstanding division ~~(H)~~(G) 12323
of section 3317.02 of the Revised Code and division (C) (3) of 12324
this section; 12325

(16) The enrollment of pupils reported under division (A) 12326
(1) or (2) of this section who are limited English proficient 12327
students described in division (A) of section 3317.016 of the 12328
Revised Code, excluding any student reported under division (B) 12329
(3) (e) of this section as enrolled in an internet- or computer- 12330
based community school; 12331

(17) The enrollment of pupils reported under division (A) 12332
(1) or (2) of this section who are limited English proficient 12333
students described in division (B) of section 3317.016 of the 12334
Revised Code, excluding any student reported under division (B) 12335
(3) (e) of this section as enrolled in an internet- or computer- 12336
based community school; 12337

(18) The enrollment of pupils reported under division (A) 12338
(1) or (2) of this section who are limited English proficient 12339
students described in division (C) of section 3317.016 of the 12340
Revised Code, excluding any student reported under division (B) 12341
(3) (e) of this section as enrolled in an internet- or computer- 12342
based community school; 12343

(19) The average number of children transported during the 12344
reporting period by the school district on board-owned or 12345
contractor-owned and -operated buses, reported in accordance 12346
with rules adopted by the department of education; 12347

(20) (a) The number of children, other than preschool 12348
children with disabilities, the district placed with a county ~~DD-~~ 12349
board of developmental disabilities in fiscal year 1998. 12350
Division (B) (20) (a) of this section does not apply after fiscal 12351
year 2013. 12352

(b) The number of children with disabilities, other than 12353
preschool children with disabilities, placed with a county ~~DD-~~ 12354
board of developmental disabilities in the current fiscal year 12355
to receive special education services for the category one 12356
disability described in division (A) of section 3317.013 of the 12357
Revised Code; 12358

(c) The number of children with disabilities, other than 12359
preschool children with disabilities, placed with a county ~~DD-~~ 12360
board of developmental disabilities in the current fiscal year 12361
to receive special education services for category two 12362
disabilities described in division (B) of section 3317.013 of 12363
the Revised Code; 12364

(d) The number of children with disabilities, other than 12365
preschool children with disabilities, placed with a county ~~DD-~~ 12366
board of developmental disabilities in the current fiscal year 12367
to receive special education services for category three 12368
disabilities described in division (C) of section 3317.013 of 12369
the Revised Code; 12370

(e) The number of children with disabilities, other than 12371
preschool children with disabilities, placed with a county ~~DD-~~ 12372
board of developmental disabilities in the current fiscal year 12373
to receive special education services for category four 12374
disabilities described in division (D) of section 3317.013 of 12375
the Revised Code; 12376

(f) The number of children with disabilities, other than 12377
preschool children with disabilities, placed with a county ~~DD-~~ 12378
board of developmental disabilities in the current fiscal year 12379
to receive special education services for the category five 12380
disabilities described in division (E) of section 3317.013 of 12381
the Revised Code; 12382

(g) The number of children with disabilities, other than 12383
preschool children with disabilities, placed with a county ~~DD-~~ 12384
board of developmental disabilities in the current fiscal year 12385
to receive special education services for category six 12386
disabilities described in division (F) of section 3317.013 of 12387
the Revised Code. 12388

(21) The enrollment of students who are economically 12389
disadvantaged, as defined by the department, excluding any 12390
student reported under division (B) (3) (e) of this section as 12391
enrolled in an internet- or computer-based community school. A 12392
student shall not be categorically excluded from the number 12393
reported under division (B) (21) of this section based on 12394
anything other than family income. 12395

(C) (1) The state board of education shall adopt rules 12396
necessary for implementing divisions (A), (B), and (D) of this 12397
section. 12398

(2) A student enrolled in a community school established 12399
under Chapter 3314., a science, technology, engineering, and 12400
mathematics school established under Chapter 3326., or a 12401
college-preparatory boarding school established under Chapter 12402
3328. of the Revised Code shall be counted in the formula ADM 12403
and, if applicable, the category one, two, three, four, five, or 12404
six special education ADM of the school district in which the 12405
student is entitled to attend school under section 3313.64 or 12406

3313.65 of the Revised Code for the same proportion of the 12407
school year that the student is counted in the enrollment of the 12408
community school, the science, technology, engineering, and 12409
mathematics school, or the college-preparatory boarding school 12410
for purposes of section 3314.08, 3326.33, or 3328.24 of the 12411
Revised Code. Notwithstanding the enrollment of students 12412
certified pursuant to division (B)(3)(d), (e), (j), or (k) of 12413
this section, the department may adjust the formula ADM of a 12414
school district to account for students entitled to attend 12415
school in the district under section 3313.64 or 3313.65 of the 12416
Revised Code who are enrolled in a community school, a science, 12417
technology, engineering, and mathematics school, or a college- 12418
preparatory boarding school for only a portion of the school 12419
year. 12420

(3) No child shall be counted as more than a total of one 12421
child in the sum of the enrollment of students of a school 12422
district under division (A), divisions (B)(1) to (22), or 12423
division (D) of this section, except as follows: 12424

(a) A child with a disability described in section 12425
3317.013 of the Revised Code may be counted both in formula ADM 12426
and in category one, two, three, four, five, or six special 12427
education ADM and, if applicable, in category one, two, three, 12428
four, or five career-technical education ADM. As provided in 12429
division ~~(H)~~ (G) of section 3317.02 of the Revised Code, such a 12430
child shall be counted in category one, two, three, four, five, 12431
or six special education ADM in the same proportion that the 12432
child is counted in formula ADM. 12433

(b) A child enrolled in career-technical education 12434
programs or classes described in section 3317.014 of the Revised 12435
Code may be counted both in formula ADM and category one, two, 12436

three, four, or five career-technical education ADM and, if 12437
applicable, in category one, two, three, four, five, or six 12438
special education ADM. Such a child shall be counted in category 12439
one, two, three, four, or five career-technical education ADM in 12440
the same proportion as the percentage of time that the child 12441
spends in the career-technical education programs or classes. 12442

(4) Based on the information reported under this section, 12443
the department of education shall determine the total student 12444
count, as defined in section 3301.011 of the Revised Code, for 12445
each school district. 12446

(D) (1) The superintendent of each joint vocational school 12447
district shall report and certify to the superintendent of 12448
public instruction as of the last day of October, March, and 12449
June of each year the enrollment of students receiving services 12450
from schools under the superintendent's supervision so that the 12451
department can calculate the district's formula ADM, total ADM, 12452
category one through five career-technical education ADM, 12453
category one through three limited English proficient ADM, 12454
category one through six special education ADM, and for purposes 12455
of provisions of law outside of Chapter 3317. of the Revised 12456
Code, average daily membership. 12457

The enrollment reported and certified by the 12458
superintendent, except as otherwise provided in this division, 12459
shall consist of the the number of students in grades six 12460
through twelve receiving any educational services from the 12461
district, except that the following categories of students shall 12462
not be included in the determination: 12463

(a) Students enrolled in adult education classes; 12464

(b) Adjacent or other district joint vocational students 12465

enrolled in the district under an open enrollment policy	12466
pursuant to section 3313.98 of the Revised Code;	12467
(c) Students receiving services in the district pursuant	12468
to a compact, cooperative education agreement, or a contract,	12469
but who are entitled to attend school in a city, local, or	12470
exempted village school district whose territory is not part of	12471
the territory of the joint vocational district;	12472
(d) Students for whom tuition is payable pursuant to	12473
sections 3317.081 and 3323.141 of the Revised Code.	12474
(2) To enable the department of education to obtain the	12475
data needed to complete the calculation of payments pursuant to	12476
this chapter, each superintendent shall certify from the report	12477
provided under division (D)(1) of this section the enrollment	12478
for each of the following categories of students:	12479
(a) Students enrolled in each individual grade included in	12480
the joint vocational district schools;	12481
(b) Children with disabilities receiving special education	12482
services for the category one disability described in division	12483
(A) of section 3317.013 of the Revised Code;	12484
(c) Children with disabilities receiving special education	12485
services for the category two disabilities described in division	12486
(B) of section 3317.013 of the Revised Code;	12487
(d) Children with disabilities receiving special education	12488
services for category three disabilities described in division	12489
(C) of section 3317.013 of the Revised Code;	12490
(e) Children with disabilities receiving special education	12491
services for category four disabilities described in division	12492
(D) of section 3317.013 of the Revised Code;	12493

(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;	12494 12495 12496
(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;	12497 12498 12499
(h) Students receiving category one career-technical education services, described in division (A) of section 3317.014 of the Revised Code;	12500 12501 12502
(i) Students receiving category two career-technical education services, described in division (B) of section 3317.014 of the Revised Code;	12503 12504 12505
(j) Students receiving category three career-technical education services, described in division (C) of section 3317.014 of the Revised Code;	12506 12507 12508
(k) Students receiving category four career-technical education services, described in division (D) of section 3317.014 of the Revised Code;	12509 12510 12511
(l) Students receiving category five career-technical education services, described in division (E) of section 3317.014 of the Revised Code;	12512 12513 12514
(m) Limited English proficient students described in division (A) of section 3317.016 of the Revised Code;	12515 12516
(n) Limited English proficient students described in division (B) of section 3317.016 of the Revised Code;	12517 12518
(o) Limited English proficient students described in division (C) of section 3317.016 of the Revised Code;	12519 12520

(p) Students who are economically disadvantaged, as 12521
defined by the department. A student shall not be categorically 12522
excluded from the number reported under division (D) (2) (p) of 12523
this section based on anything other than family income. 12524

The superintendent of each joint vocational school 12525
district shall also indicate the city, local, or exempted 12526
village school district in which each joint vocational district 12527
pupil is entitled to attend school pursuant to section 3313.64 12528
or 3313.65 of the Revised Code. 12529

(E) In each school of each city, local, exempted village, 12530
joint vocational, and cooperative education school district 12531
there shall be maintained a record of school enrollment, which 12532
record shall accurately show, for each day the school is in 12533
session, the actual enrollment in regular day classes. For the 12534
purpose of determining the enrollment of students, the 12535
enrollment figure of any school shall not include any pupils 12536
except those pupils described by division (A) of this section. 12537
The record of enrollment for each school shall be maintained in 12538
such manner that no pupil shall be counted as enrolled prior to 12539
the actual date of entry in the school and also in such manner 12540
that where for any cause a pupil permanently withdraws from the 12541
school that pupil shall not be counted as enrolled from and 12542
after the date of such withdrawal. There shall not be included 12543
in the enrollment of any school any of the following: 12544

(1) Any pupil who has graduated from the twelfth grade of 12545
a public or nonpublic high school; 12546

(2) Any pupil who is not a resident of the state; 12547

(3) Any pupil who was enrolled in the schools of the 12548
district during the previous school year when assessments were 12549

administered under section 3301.0711 of the Revised Code but did 12550
not take one or more of the assessments required by that section 12551
and was not excused pursuant to division (C) (1) or (3) of that 12552
section; 12553

(4) Any pupil who has attained the age of twenty-two 12554
years, except for veterans of the armed services whose 12555
attendance was interrupted before completing the recognized 12556
twelve-year course of the public schools by reason of induction 12557
or enlistment in the armed forces and who apply for reenrollment 12558
in the public school system of their residence not later than 12559
four years after termination of war or their honorable 12560
discharge; 12561

(5) Any pupil who has a high school equivalence diploma as 12562
defined in section 5107.40 of the Revised Code. 12563

If, however, any veteran described by division (E) (4) of 12564
this section elects to enroll in special courses organized for 12565
veterans for whom tuition is paid under the provisions of 12566
federal laws, or otherwise, that veteran shall not be included 12567
in the enrollment of students determined under this section. 12568

Notwithstanding division (E) (3) of this section, the 12569
enrollment of any school may include a pupil who did not take an 12570
assessment required by section 3301.0711 of the Revised Code if 12571
the superintendent of public instruction grants a waiver from 12572
the requirement to take the assessment to the specific pupil and 12573
a parent is not paying tuition for the pupil pursuant to section 12574
3313.6410 of the Revised Code. The superintendent may grant such 12575
a waiver only for good cause in accordance with rules adopted by 12576
the state board of education. 12577

The formula ADM, total ADM, category one through five 12578

career-technical education ADM, category one through three 12579
limited English proficient ADM, category one through six special 12580
education ADM, preschool scholarship ADM, transportation ADM, 12581
and, for purposes of provisions of law outside of Chapter 3317. 12582
of the Revised Code, average daily membership of any school 12583
district shall be determined in accordance with rules adopted by 12584
the state board of education. 12585

(F) (1) If a student attending a community school under 12586
Chapter 3314., a science, technology, engineering, and 12587
mathematics school established under Chapter 3326., or a 12588
college-preparatory boarding school established under Chapter 12589
3328. of the Revised Code is not included in the formula ADM 12590
calculated for the school district in which the student is 12591
entitled to attend school under section 3313.64 or 3313.65 of 12592
the Revised Code, the department of education shall adjust the 12593
formula ADM of that school district to include the student in 12594
accordance with division (C) (2) of this section, and shall 12595
recalculate the school district's payments under this chapter 12596
for the entire fiscal year on the basis of that adjusted formula 12597
ADM. 12598

(2) If a student awarded an educational choice scholarship 12599
is not included in the formula ADM of the school district from 12600
which the department deducts funds for the scholarship under 12601
section 3310.08 of the Revised Code, the department shall adjust 12602
the formula ADM of that school district to include the student 12603
to the extent necessary to account for the deduction, and shall 12604
recalculate the school district's payments under this chapter 12605
for the entire fiscal year on the basis of that adjusted formula 12606
ADM. 12607

(3) If a student awarded a scholarship under the Jon 12608

Peterson special needs scholarship program is not included in 12609
the formula ADM of the school district from which the department 12610
deducts funds for the scholarship under section 3310.55 of the 12611
Revised Code, the department shall adjust the formula ADM of 12612
that school district to include the student to the extent 12613
necessary to account for the deduction, and shall recalculate 12614
the school district's payments under this chapter for the entire 12615
fiscal year on the basis of that adjusted formula ADM. 12616

(G) (1) (a) The superintendent of an institution operating a 12617
special education program pursuant to section 3323.091 of the 12618
Revised Code shall, for the programs under such superintendent's 12619
supervision, certify to the state board of education, in the 12620
manner prescribed by the superintendent of public instruction, 12621
both of the following: 12622

(i) The unduplicated count of the number of all children 12623
with disabilities other than preschool children with 12624
disabilities receiving services at the institution for each 12625
category of disability described in divisions (A) to (F) of 12626
section 3317.013 of the Revised Code adjusted for the portion of 12627
the year each child is so enrolled; 12628

(ii) The unduplicated count of the number of all preschool 12629
children with disabilities in classes or programs for whom the 12630
district is eligible to receive funding under section 3317.0213 12631
of the Revised Code adjusted for the portion of the year each 12632
child is so enrolled, reported according to the categories 12633
prescribed in section 3317.013 of the Revised Code. 12634

(b) The superintendent of an institution with career- 12635
technical education units approved under section 3317.05 of the 12636
Revised Code shall, for the units under the superintendent's 12637
supervision, certify to the state board of education the 12638

enrollment in those units, in the manner prescribed by the 12639
superintendent of public instruction. 12640

(2) The superintendent of each county ~~DD~~-board of 12641
developmental disabilities that maintains special education 12642
classes under section 3317.20 of the Revised Code or provides 12643
services to preschool children with disabilities pursuant to an 12644
agreement between the ~~DD~~-county board and the appropriate school 12645
district shall do both of the following: 12646

(a) Certify to the state board, in the manner prescribed 12647
by the board, the enrollment in classes under section 3317.20 of 12648
the Revised Code for each school district that has placed 12649
children in the classes; 12650

(b) Certify to the state board, in the manner prescribed 12651
by the board, the unduplicated count of the number of all 12652
preschool children with disabilities enrolled in classes for 12653
which the DD board is eligible to receive funding under section 12654
3317.0213 of the Revised Code adjusted for the portion of the 12655
year each child is so enrolled, reported according to the 12656
categories prescribed in section 3317.013 of the Revised Code, 12657
and the number of those classes. 12658

(H) Except as provided in division (I) of this section, 12659
when any city, local, or exempted village school district 12660
provides instruction for a nonresident pupil whose attendance is 12661
unauthorized attendance as defined in section 3327.06 of the 12662
Revised Code, that pupil's enrollment shall not be included in 12663
that district's enrollment figure used in calculating the 12664
district's payments under this chapter. The reporting official 12665
shall report separately the enrollment of all pupils whose 12666
attendance in the district is unauthorized attendance, and the 12667
enrollment of each such pupil shall be credited to the school 12668

district in which the pupil is entitled to attend school under 12669
division (B) of section 3313.64 or section 3313.65 of the 12670
Revised Code as determined by the department of education. 12671

(I) (1) A city, local, exempted village, or joint 12672
vocational school district admitting a scholarship student of a 12673
pilot project district pursuant to division (C) of section 12674
3313.976 of the Revised Code may count such student in its 12675
enrollment. 12676

(2) In any year for which funds are appropriated for pilot 12677
project scholarship programs, a school district implementing a 12678
state-sponsored pilot project scholarship program that year 12679
pursuant to sections 3313.974 to 3313.979 of the Revised Code 12680
may count in its enrollment: 12681

(a) All children residing in the district and utilizing a 12682
scholarship to attend kindergarten in any alternative school, as 12683
defined in section 3313.974 of the Revised Code; 12684

(b) All children who were enrolled in the district in the 12685
preceding year who are utilizing a scholarship to attend an 12686
alternative school. 12687

(J) The superintendent of each cooperative education 12688
school district shall certify to the superintendent of public 12689
instruction, in a manner prescribed by the state board of 12690
education, the applicable enrollments for all students in the 12691
cooperative education district, also indicating the city, local, 12692
or exempted village district where each pupil is entitled to 12693
attend school under section 3313.64 or 3313.65 of the Revised 12694
Code. 12695

(K) If the superintendent of public instruction determines 12696
that a component of the enrollment certified or reported by a 12697

district superintendent, or other reporting entity, is not 12698
correct, the superintendent of public instruction may order that 12699
the formula ADM used for the purposes of payments under any 12700
section of Title XXXIII of the Revised Code be adjusted in the 12701
amount of the error. 12702

Sec. 3317.032. Each city, local, exempted village, and 12703
cooperative education school district, each educational service 12704
center, each county ~~DD~~-board of developmental disabilities, and 12705
each institution operating a special education program pursuant 12706
to section 3323.091 of the Revised Code shall, in accordance 12707
with procedures adopted by the state board of education, 12708
maintain a record of district membership of all preschool 12709
children with disabilities who are served by a special education 12710
program. 12711

Sec. 3317.07. If the department of education determines 12712
that a county ~~DD~~-board of developmental disabilities no longer 12713
needs a school bus because the board no longer transports 12714
children to a special education program operated by the board, 12715
or if the department determines that a school district no longer 12716
needs a school bus to transport pupils to a nonpublic school or 12717
special education program, the department may reassign a bus 12718
that was funded with payments provided pursuant to the version 12719
of this section in effect prior to the effective date of this 12720
amendment for the purpose of transporting such pupils. The 12721
department may reassign a bus to a county ~~DD~~-board of 12722
developmental disabilities or school district that transports 12723
children to a special education program designated in the 12724
children's individualized education ~~plans~~programs, or to a 12725
school district that transports pupils to a nonpublic school, 12726
and needs an additional school bus. 12727

Sec. 3317.15. (A) As used in this section, "child with a disability" has the same meaning as in section 3323.01 of the Revised Code. 12728
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(B) Each city, exempted village, local, and joint vocational school district shall continue to comply with all requirements of federal statutes and regulations, the Revised Code, and rules adopted by the state board of education governing education of children with disabilities, including, but not limited to, requirements that children with disabilities be served by appropriately licensed or certificated education personnel. 12731
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(C) Each city, exempted village, local, and joint vocational school district shall consult with the educational service center serving the county in which the school district is located and, if it elects to participate pursuant to section 5126.04 of the Revised Code, the county ~~DD~~-board of developmental disabilities of that county, in providing services that serve the best interests of children with disabilities. 12739
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(D) Each school district shall annually provide documentation to the department of education that it employs the appropriate number of licensed or certificated personnel to serve the district's students with disabilities. 12746
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(E) The department annually shall audit a sample of school districts to ensure that children with disabilities are being appropriately reported. 12750
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(F) Each school district shall provide speech-language pathology services at a ratio of one speech-language pathologist per two thousand students receiving any educational services from the district other than adult education. Each district 12753
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shall provide school psychological services at a ratio of one 12757
school psychologist per two thousand five hundred students 12758
receiving any educational services from the district other than 12759
adult education. A district may obtain the services of speech- 12760
language pathologists and school psychologists by any means 12761
permitted by law, including contracting with an educational 12762
service center. If, however, a district is unable to obtain the 12763
services of the required number of speech-language pathologists 12764
or school psychologists, the district may request from the 12765
superintendent of public instruction, and the superintendent may 12766
grant, a waiver of this provision for a period of time 12767
established by the superintendent. 12768

Sec. 3317.20. This section does not apply to preschool 12769
children with disabilities. 12770

(A) As used in this section: 12771

(1) "Applicable special education amount" means the amount 12772
specified in section 3317.013 of the Revised Code for a 12773
disability described in that section. 12774

(2) "Child's school district" means the school district in 12775
which a child is entitled to attend school pursuant to section 12776
3313.64 or 3313.65 of the Revised Code. 12777

(3) "State share index" means the state share index of the 12778
child's school district. 12779

(B) The department shall annually pay each county ~~DD~~-board 12780
of developmental disabilities for each child with a disability, 12781
other than a preschool child with a disability, for whom the 12782
county ~~DD~~-board provides special education and related services 12783
an amount equal to the formula amount + (state share index X the 12784
applicable special education amount). 12785

(C) Each county ~~DD~~-board of developmental disabilities 12786
shall report to the department, in the manner specified by the 12787
department, the name of each child for whom the county ~~DD~~-board 12788
of developmental disabilities provides special education and 12789
related services and the child's school district. 12790

(D) (1) For the purpose of verifying the accuracy of the 12791
payments under this section, the department may request from 12792
either of the following entities the data verification code 12793
assigned under division (D) (2) of section 3301.0714 of the 12794
Revised Code to any child who is placed with a county ~~DD~~-board 12795
of developmental disabilities: 12796

(a) The child's school district; 12797

(b) The independent contractor engaged to create and 12798
maintain data verification codes. 12799

(2) Upon a request by the department under division (D) (1) 12800
of this section for the data verification code of a child, the 12801
child's school district shall submit that code to the department 12802
in the manner specified by the department. If the child has not 12803
been assigned a code, the district shall assign a code to that 12804
child and submit the code to the department by a date specified 12805
by the department. If the district does not assign a code to the 12806
child by the specified date, the department shall assign a code 12807
to the child. 12808

The department annually shall submit to each school 12809
district the name and data verification code of each child 12810
residing in the district for whom the department has assigned a 12811
code under this division. 12812

(3) The department shall not release any data verification 12813
code that it receives under division (D) of this section to any 12814

person except as provided by law. 12815

(E) Any document relative to special education and related 12816
services provided by a county ~~DD~~ board of developmental 12817
disabilities that the department holds in its files that 12818
contains both a student's name or other personally identifiable 12819
information and the student's data verification code shall not 12820
be a public record under section 149.43 of the Revised Code. 12821

Sec. 3323.01. As used in this chapter: 12822

(A) "Child with a disability" means a child who is at 12823
least three years of age and less than twenty-two years of age; 12824
who has ~~mental retardation~~ an intellectual disability, a hearing 12825
impairment (including deafness), a speech or language 12826
impairment, a visual impairment (including blindness), a serious 12827
emotional disturbance, an orthopedic impairment, autism, 12828
traumatic brain injury, an other health impairment, a specific 12829
learning disability (including dyslexia), deaf-blindness, or 12830
multiple disabilities; and who, by reason thereof, needs special 12831
education and related services. 12832

A "child with a disability" may include a child who is at 12833
least three years of age and less than six years of age; who is 12834
experiencing developmental delays, as defined by standards 12835
adopted by the state board of education and as measured by 12836
appropriate diagnostic instruments and procedures in one or more 12837
of the following areas: physical development, cognitive 12838
development, communication development, social or emotional 12839
development, or adaptive development; and who, by reason 12840
thereof, needs special education and related services. 12841

(B) ~~"County DD board" means a county board of~~ 12842
~~developmental disabilities.~~ 12843

~~(C)~~—"Free appropriate public education" means special 12844
education and related services that meet all of the following: 12845

(1) Are provided at public expense, under public 12846
supervision and direction, and without charge; 12847

(2) Meet the standards of the state board of education; 12848

(3) Include an appropriate preschool, elementary, or 12849
secondary education as otherwise provided by the law of this 12850
state; 12851

(4) Are provided for each child with a disability in 12852
conformity with the child's individualized education program. 12853

~~(D)~~(C) "Homeless children" means "homeless children and 12854
youths" as defined in section 725 of the "McKinney-Vento 12855
Homeless Assistance Act," 42 U.S.C. 11434a. 12856

~~(E)~~(D) "Individualized education program" or "IEP" means 12857
the written statement described in section 3323.011 of the 12858
Revised Code. 12859

~~(F)~~(E) "Individualized education program team" or "IEP 12860
team" means a group of individuals composed of: 12861

(1) The parents of a child with a disability; 12862

(2) At least one regular education teacher of the child, 12863
if the child is or may be participating in the regular education 12864
environment; 12865

(3) At least one special education teacher, or where 12866
appropriate, at least one special education provider of the 12867
child; 12868

(4) A representative of the school district who meets all 12869
of the following: 12870

- (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; 12871
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- (b) Is knowledgeable about the general education curriculum; 12874
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- (c) Is knowledgeable about the availability of resources of the school district. 12876
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- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team as described in divisions ~~(F)~~(E) (2) to (4) of this section; 12878
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- (6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; 12881
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- (7) Whenever appropriate, the child with a disability. 12885
- ~~(G)~~(F) "Instruction in braille reading and writing" means the teaching of the system of reading and writing through touch commonly known as standard English braille. 12886
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- ~~(H)~~(G) "Other educational agency" means a department, division, bureau, office, institution, board, commission, committee, authority, or other state or local agency, which is not a city, local, or exempted village school district or an agency administered by the department of developmental disabilities, that provides or seeks to provide special education or related services to children with disabilities. The term "other educational agency" includes a joint vocational school district. 12889
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- ~~(I)~~(H) "Parent" of a child with a disability, except as 12898

used in sections 3323.09 and 3323.141 of the Revised Code, 12899
means: 12900

(1) A natural or adoptive parent of a child but not a 12901
foster parent of a child; 12902

(2) A guardian, but not the state if the child is a ward 12903
of the state; 12904

(3) An individual acting in the place of a natural or 12905
adoptive parent, including a grandparent, stepparent, or other 12906
relative, with whom the child lives, or an individual who is 12907
legally responsible for the child's welfare; 12908

(4) An individual assigned to be a surrogate parent, 12909
provided the individual is not prohibited by this chapter from 12910
serving as a surrogate parent for a child. 12911

~~(J)~~-(I) "Preschool child with a disability" means a child 12912
with a disability who is at least three years of age but is not 12913
of compulsory school age, as defined under section 3321.01 of 12914
the Revised Code, and who is not currently enrolled in 12915
kindergarten. 12916

~~(K)~~-(J) "Related services" means transportation, and such 12917
developmental, corrective, and other supportive services 12918
(including speech-language pathology and audiology services, 12919
interpreting services, psychological services, physical and 12920
occupational therapy, recreation, including therapeutic 12921
recreation, school nurse services designed to enable a child 12922
with a disability to receive a free appropriate public education 12923
as described in the individualized education program of the 12924
child, counseling services, including rehabilitation counseling, 12925
orientation and mobility services, school health services, 12926
social work services in schools, and parent counseling and 12927

training, and medical services, except that such medical 12928
services shall be for diagnostic and evaluation purposes only) 12929
as may be required to assist a child with a disability to 12930
benefit from special education, and includes the early 12931
identification and assessment of disabling conditions in 12932
children. "Related services" does not include a medical device 12933
that is surgically implanted, or the replacement of such device. 12934

~~(L)~~(K) "School district" means a city, local, or exempted 12935
village school district. 12936

~~(M)~~(L) "School district of residence," as used in 12937
sections 3323.09, 3323.091, 3323.13, and 3323.14 of the Revised 12938
Code, means: 12939

(1) The school district in which the child's natural or 12940
adoptive parents reside; 12941

(2) If the school district specified in division ~~(M)~~(L) (1) 12942
of this section cannot be determined, the last school district 12943
in which the child's natural or adoptive parents are known to 12944
have resided if the parents' whereabouts are unknown; 12945

(3) If the school district specified in division (M) (2) of 12946
this section cannot be determined, the school district 12947
determined under section 2151.362 of the Revised Code, or if no 12948
district has been so determined, the school district as 12949
determined by the probate court of the county in which the child 12950
resides. 12951

(4) Notwithstanding divisions (M) (1) to (3) of this 12952
section, if a school district is required by section 3313.65 of 12953
the Revised Code to pay tuition for a child, that district shall 12954
be the child's school district of residence. 12955

~~(N)~~(M) "Special education" means specially designed 12956

instruction, at no cost to parents, to meet the unique needs of 12957
a child with a disability. "Special education" includes 12958
instruction conducted in the classroom, in the home, in 12959
hospitals and institutions, and in other settings, including an 12960
early childhood education setting, and instruction in physical 12961
education. 12962

~~(O)~~ (N) "Student with a visual impairment" means any 12963
person who is less than twenty-two years of age and who has a 12964
visual impairment as that term is defined in this section. 12965

~~(P)~~ (O) "Transition services" means a coordinated set of 12966
activities for a child with a disability that meet all of the 12967
following: 12968

(1) Is designed to be within a results-oriented process, 12969
that is focused on improving the academic and functional 12970
achievement of the child with a disability to facilitate the 12971
child's movement from school to post-school activities, 12972
including post-secondary education; vocational education; 12973
integrated employment (including supported employment); 12974
continuing and adult education; adult services; independent 12975
living; or community participation; 12976

(2) Is based on the individual child's needs, taking into 12977
account the child's strengths, preferences, and interests; 12978

(3) Includes instruction, related services, community 12979
experiences, the development of employment and other post-school 12980
adult living objectives, and, when appropriate, acquisition of 12981
daily living skills and functional vocational evaluation. 12982

"Transition services" for children with disabilities may 12983
be special education, if provided as specially designed 12984
instruction, or may be a related service, if required to assist 12985

a child with a disability to benefit from special education. 12986

~~(Q)~~(P) "Visual impairment" for any individual means that 12987
one of the following applies to the individual: 12988

(1) The individual has a visual acuity of 20/200 or less 12989
in the better eye with correcting lenses or has a limited field 12990
of vision in the better eye such that the widest diameter 12991
subtends an angular distance of no greater than twenty degrees. 12992

(2) The individual has a medically indicated expectation 12993
of meeting the requirements of division ~~(Q)~~(P) (1) of this 12994
section over a period of time. 12995

(3) The individual has a medically diagnosed and medically 12996
uncorrectable limitation in visual functioning that adversely 12997
affects the individual's ability to read and write standard 12998
print at levels expected of the individual's peers of comparable 12999
ability and grade level. 13000

~~(R)~~(Q) "Ward of the state" has the same meaning as in 13001
section 602(36) of the "Individuals with Disabilities Education 13002
Improvement Act of 2004," 20 U.S.C. 1401(36). 13003

Sec. 3323.02. As used in this section, "IDEIA" means the 13004
"Individuals with Disabilities Education Improvement Act of 13005
2004," Pub. L. No. 108-446. 13006

It is the purpose of this chapter to ensure that all 13007
children with disabilities residing in this state who are at 13008
least three years of age and less than twenty-two years of age, 13009
including children with disabilities who have been suspended or 13010
expelled from school, have available to them a free appropriate 13011
public education. No school district, county ~~DD~~board_of 13012
developmental disabilities, or other educational agency shall 13013
receive state or federal funds for special education and related 13014

services unless those services for children with disabilities 13015
are provided in accordance with IDEIA and related provisions of 13016
the Code of Federal Regulations, the provisions of this chapter, 13017
rules and standards adopted by the state board of education, and 13018
any procedures or guidelines issued by the superintendent of 13019
public instruction. Any options or discretion provided to the 13020
state by IDEIA may be exercised in state law or in rules or 13021
standards adopted by the state board of education. 13022

The state board of education shall establish rules or 13023
standards for the provision of special education and related 13024
services for all children with disabilities who are at least 13025
three years of age and less than twenty-two years of age 13026
residing in the state, regardless of the severity of their 13027
disabilities, including children with disabilities who have been 13028
suspended or expelled from school. The state law and the rules 13029
or standards of the state board of education may impose 13030
requirements that are not required by IDEIA or related 13031
provisions of the Code of Federal Regulations. The school 13032
district of residence is responsible, in all instances, for 13033
ensuring that the requirements of Part B of IDEIA are met for 13034
every eligible child in its jurisdiction, regardless of whether 13035
services are provided by another school district, other 13036
educational agency, or other agency, department, or entity, 13037
unless IDEIA or related provisions of the Code of Federal 13038
Regulations, another section of this chapter, or a rule adopted 13039
by the state board of education specifies that another school 13040
district, other educational agency, or other agency, department, 13041
or entity is responsible for ensuring compliance with Part B of 13042
IDEIA. 13043

Notwithstanding division (A) (4) of section 3301.53 of the 13044
Revised Code and any rules adopted pursuant to that section and 13045

division (A) of section 3313.646 of the Revised Code, a board of education of a school district may provide special education and related services for preschool children with disabilities in accordance with this chapter and section 3301.52, divisions (A) (1) to (3) and (A) (5) and (6) of section 3301.53, and sections 3301.54 to 3301.59 of the Revised Code.

The superintendent of public instruction may require any state or local agency to provide documentation that special education and related services for children with disabilities provided by the agency are in compliance with the requirements of this chapter.

Not later than the first day of February of each year the superintendent of public instruction shall furnish the chairpersons of the education committees of the house of representatives and the senate with a report on the status of implementation of special education and related services for children with disabilities required by this chapter. The report shall include but shall not be limited to the following items: the most recent available figures on the number of children identified as children with disabilities and the number of identified children receiving special education and related services. The information contained in these reports shall be public information.

Sec. 3323.021. As used in this section, "participating county ~~DD~~ board of developmental disabilities" means a county board of developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code.

(A) When a school district, educational service center, or

participating county ~~DD~~board of developmental disabilities 13076
enters into an agreement or contract with another school 13077
district, educational service center, or participating county 13078
~~DD~~board of developmental disabilities to provide educational 13079
services to a disabled child during a school year, both of the 13080
following shall apply: 13081

(1) Beginning with fiscal year 1999, if the provider of 13082
the services intends to increase the amount it charges for some 13083
or all of those services during the next school year or if the 13084
provider intends to cease offering all or part of those services 13085
during the next school year, the provider shall notify the 13086
entity for which the services are provided of these intended 13087
changes no later than the first day of March of the current 13088
fiscal year. 13089

(2) Beginning with fiscal year 1999, if the entity for 13090
which services are provided intends to cease obtaining those 13091
services from the provider for the next school year or intends 13092
to change the type or amount of services it obtains from the 13093
provider for the next school year, the entity shall notify the 13094
service provider of these intended changes no later than the 13095
first day of March of the current fiscal year. 13096

(B) School districts, educational service centers, 13097
participating county ~~DD~~boards of developmental disabilities, 13098
and other applicable governmental entities shall collaborate 13099
where possible to maximize federal sources of revenue to provide 13100
additional funds for special education related services for 13101
disabled children. Annually, each school district shall report 13102
to the department of education any amounts of such federal 13103
revenue the district received. 13104

(C) The state board of education, the department of 13105

developmental disabilities, and the department of medicaid shall 13106
develop working agreements for pursuing additional funds for 13107
services for disabled children. 13108

Sec. 3323.03. The state board of education shall, in 13109
consultation with the department of health, the department of 13110
mental health and addiction services, and the department of 13111
developmental disabilities, establish standards and procedures 13112
for the identification, location, and evaluation of all children 13113
with disabilities residing in the state, including children with 13114
disabilities who are homeless children or are wards of the state 13115
and children with disabilities attending nonpublic schools, 13116
regardless of the severity of their disabilities, and who are in 13117
need of special education and related services. The state board 13118
shall develop and implement a practical method to determine 13119
which children with disabilities are currently receiving needed 13120
special education and related services. 13121

In conducting the evaluation, the board of education of 13122
each school district shall use a variety of assessment tools and 13123
strategies to gather relevant functional, developmental, and 13124
academic information about the child, including information 13125
provided by the child's parent. The board of education of each 13126
school district, in consultation with the county ~~DD~~board of 13127
developmental disabilities, the county family and children first 13128
council, and the board of alcohol, drug addiction, and mental 13129
health services of each county in which the school district has 13130
territory, shall identify, locate, and evaluate all children 13131
with disabilities residing within the district to determine 13132
which children with disabilities are not receiving appropriate 13133
special education and related services. In addition, the board 13134
of education of each school district, in consultation with such 13135
county boards or council, shall identify, locate, and evaluate 13136

all children with disabilities who are enrolled by their parents 13137
in nonpublic elementary and secondary schools located within the 13138
public school district, without regard to where those children 13139
reside in accordance with rules of the state board of education 13140
or guidelines of the superintendent of public instruction. 13141

Each county ~~DD~~ board of developmental disabilities, county 13142
family and children first council, and board of alcohol, drug 13143
addiction, and mental health services and the board's or 13144
council's contract agencies may transmit to boards of education 13145
the names and addresses of children with disabilities who are 13146
not receiving appropriate special education and related 13147
services. 13148

Sec. 3323.04. The state board of education, in 13149
consultation with the department of mental health and addiction 13150
services and the department of developmental disabilities, shall 13151
establish procedures and standards for the development of 13152
individualized education programs for children with 13153
disabilities. 13154

The state board shall require the board of education of 13155
each school district to develop an individualized education 13156
program for each child with a disability who is at least three 13157
years of age and less than twenty-two years of age residing in 13158
the district in a manner that is in accordance with rules of the 13159
state board. 13160

Prior to the placement of a child with a disability in a 13161
program operated under section 3323.09 of the Revised Code, the 13162
district board of education shall consult the county ~~DD~~ board of 13163
developmental disabilities of the county in which the child 13164
resides regarding the proposed placement. 13165

A child with a disability enrolled in a nonpublic school 13166
or facility shall be provided special education and related 13167
services, in accordance with an individualized education 13168
program, at no cost for those services, if the child is placed 13169
in, or referred to, that nonpublic school or facility by the 13170
department of education or a school district. 13171

The IEP team shall review the individualized education 13172
program of each child with a disability periodically, but at 13173
least annually, to determine whether the annual goals for the 13174
child are being achieved, and shall revise the individualized 13175
education program as appropriate. 13176

The state board shall establish procedures and standards 13177
to assure that to the maximum extent appropriate, children with 13178
disabilities, including children in public or private 13179
institutions or other care facilities, shall be educated with 13180
children who are not disabled. Special classes, separate 13181
schools, or other removal of children with disabilities from the 13182
regular educational environment shall be used only when the 13183
nature or severity of a child's disability is such that 13184
education in regular classes with supplementary aids and 13185
services cannot be achieved satisfactorily. 13186

If an agency directly affected by a placement decision 13187
objects to such decision, an impartial hearing officer, 13188
appointed by the department of education from a list prepared by 13189
the department, shall conduct a hearing to review the placement 13190
decision. The agencies that are parties to a hearing shall 13191
divide the costs of such hearing equally. The decision of the 13192
hearing officer shall be final, except that any party to the 13193
hearing who is aggrieved by the findings or the decision of the 13194
hearing officer may appeal the findings or decision in 13195

accordance with division (H) of section 3323.05 of the Revised Code or the parent of any child affected by such decision may present a complaint in accordance with that section.

Sec. 3323.05. The state board of education shall establish procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards under this chapter with respect to a free appropriate public education.

The procedures shall include, but need not be limited to:

(A) An opportunity for the parents of a child with a disability to examine all records related to the child and to participate in meetings with respect to identification, evaluation, and educational placement of the child, and to obtain an independent educational evaluation of the child;

(B) Procedures to protect the rights of the child whenever the parents of the child are not known, an agency after making reasonable efforts cannot find the parents, or the child is a ward of the state, including the assignment of an individual to act as a surrogate for the parents made by the school district or other educational agency responsible for educating the child or by the court with jurisdiction over the child's custody. Such assignment shall be made in accordance with section 3323.051 of the Revised Code.

(C) Prior written notice to the child's parents of a school district's proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate education for the child. The procedures established under this division shall:

(1) Be designed to ensure that the written prior notice is in the native language of the parents, unless it clearly is not

feasible to do so.	13225
(2) Specify that the prior written notice shall include:	13226
(a) A description of the action proposed or refused by the district;	13227 13228
(b) An explanation of why the district proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;	13229 13230 13231 13232
(c) A statement that the parents of a child with a disability have protection under the procedural safeguards and, if the notice is not in regard to an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;	13233 13234 13235 13236 13237
(d) Sources for parents to contact to obtain assistance in understanding the provisions of Part B of the "Individuals with Disabilities Education Improvement Act of 2004";	13238 13239 13240
(e) A description of other options considered by the IEP team and the reason why those options were rejected;	13241 13242
(f) A description of the factors that are relevant to the agency's proposal or refusal.	13243 13244
(D) An opportunity for the child's parents to present complaints to the superintendent of the child's school district of residence with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education under this chapter.	13245 13246 13247 13248 13249 13250
Within twenty school days after receipt of a complaint,	13251
the district superintendent or the superintendent's designee,	13252

without undue delay and at a time and place convenient to all 13253
parties, shall review the case, may conduct an administrative 13254
review, and shall notify all parties in writing of the 13255
superintendent's or designee's decision. Where the child is 13256
placed in a program operated by a county ~~DD~~-board of 13257
developmental disabilities or other educational agency, the 13258
superintendent shall consult with the administrator of that 13259
~~county DD~~-board or agency. 13260

Any party aggrieved by the decision of the district 13261
superintendent or the superintendent's designee may file a 13262
complaint with the state board as provided under division (E) of 13263
this section, request mediation as provided under division (F) 13264
of this section, or present a due process complaint notice and 13265
request for a due process hearing in writing to the 13266
superintendent of the district, with a copy to the state board, 13267
as provided under division (G) of this section. 13268

(E) An opportunity for a party to file a complaint with 13269
the state board of education with respect to the identification, 13270
evaluation, or educational placement of the child, or the 13271
provision of a free appropriate public education to such child. 13272
The department of education shall review and, where appropriate, 13273
investigate the complaint and issue findings. 13274

(F) An opportunity for parents and a school district to 13275
resolve through mediation disputes involving any matter. 13276

(1) The procedures established under this section shall 13277
ensure that the mediation process is voluntary on the part of 13278
the parties, is not used to deny or delay a parent's right to a 13279
due process hearing or to deny any other rights afforded under 13280
this chapter, and is conducted by a qualified and impartial 13281
mediator who is trained in effective mediation techniques. 13282

(2) A school district may establish procedures to offer to 13283
parents and schools that choose not to use the mediation 13284
process, an opportunity to meet, at a time and location 13285
convenient to the parents, with a disinterested party to 13286
encourage the use, and explain the benefits, of the mediation 13287
process to the parents. The disinterested party shall be an 13288
individual who is under contract with a parent training and 13289
information center or community parent resource center in the 13290
state or is under contract with an appropriate alternative 13291
dispute resolution entity. 13292

(3) The department shall maintain a list of individuals 13293
who are qualified mediators and knowledgeable in laws and 13294
regulations relating to the provision of special education and 13295
related services. 13296

(4) The department shall bear the cost of the mediation 13297
process, including the costs of meetings described in division 13298
(F) (2) of this section. 13299

(5) Each session in the mediation process shall be 13300
scheduled in a timely manner and shall be held in a location 13301
that is convenient to the parties to the dispute. 13302

(6) Discussions that occur during the mediation process 13303
shall be confidential and shall not be used as evidence in any 13304
subsequent due process hearing or civil proceeding. 13305

(7) In the case that a resolution is reached to resolve 13306
the complaint through the mediation process, the parties shall 13307
execute a legally binding agreement that sets forth the 13308
resolution and that: 13309

(a) States that all discussions that occurred during the 13310
mediation process shall be confidential and shall not be used as 13311

evidence in any subsequent due process hearing or civil proceeding; 13312
13313

(b) Is signed by both the parent and a representative for the school district who has the authority to bind the district; 13314
13315

(c) Is enforceable in any state court of competent jurisdiction or in a district court of the United States. 13316
13317

(G) (1) An opportunity for parents or a school district to present a due process complaint and request for a due process hearing to the superintendent of the school district of the child's residence with respect to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. 13318
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The party presenting the due process complaint and request for a due process hearing shall provide due process complaint notice to the other party and forward a copy of the notice to the state board. The due process complaint notice shall include: 13324
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13327

(a) The name of the child, the address of the residence of the child, or the available contact information in the case of a homeless child, and the name of the school the child is attending; 13328
13329
13330
13331

(b) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem; 13332
13333
13334

(c) A proposed resolution of the problem to the extent known and available to the party at the time. 13335
13336

A party shall not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirement for filing a due process complaint notice. 13337
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13339
13340

A due process hearing shall be conducted by an impartial hearing officer in accordance with standards and procedures adopted by the state board. A hearing officer shall not be an employee of the state board or any agency involved in the education or care of the child or a person having a personal or professional interest that conflicts with the person's objectivity in the hearing. A hearing officer shall possess knowledge of, and the ability to understand, the provisions of the "Individuals with Disabilities Education Improvement Act of 2004," federal and state regulations pertaining to that act, and legal interpretations of that act by federal and state courts; possess the knowledge and ability to conduct hearings in accordance with appropriate standard legal practice; and possess the knowledge and ability to render and write decisions in accordance with appropriate standard legal practice. The due process requirements of section 615 of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1415, apply to due process complaint notices and requests for due process hearings and to due process hearings held under division (G) of this section, including, but not limited to, timelines for requesting hearings, requirements for sufficient complaint notices, resolution sessions, and sufficiency and hearing decisions.

(2) Discussions that occur during a resolution session shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding. If a resolution to the dispute is reached at a resolution session, the parties must execute a legally binding written settlement agreement which shall state that all discussions that occurred during the resolution process shall be confidential and shall not be used as evidence in any subsequent due process hearing or

civil proceeding. 13372

(3) A party to a hearing under division (G) of this 13373
section shall be accorded: 13374

(a) The right to be accompanied and advised by counsel and 13375
by individuals with special knowledge or training with respect 13376
to the problems of children with disabilities; 13377

(b) The right to present evidence and confront, cross- 13378
examine, and compel the attendance of witnesses; 13379

(c) The right to a written or electronic verbatim record 13380
of the hearing; 13381

(d) The right to written findings of fact and decisions, 13382
which findings of fact and decisions shall be made available to 13383
the public consistent with the requirements relating to the 13384
confidentiality of personally identifiable data, information, 13385
and records collected and maintained by state educational 13386
agencies and local educational agencies; and shall be 13387
transmitted to the advisory panel established and maintained by 13388
the department for the purpose of providing policy guidance with 13389
respect to special education and related services for children 13390
with disabilities in the state. 13391

(H) An opportunity for any party aggrieved by the findings 13392
and decision rendered in a hearing under division (G) of this 13393
section to appeal within forty-five days of notification of the 13394
decision to the state board, which shall appoint a state level 13395
officer who shall review the case and issue a final order. The 13396
state level officer shall be appointed and shall review the case 13397
in accordance with standards and procedures adopted by the state 13398
board. 13399

Any party aggrieved by the final order of the state level 13400

officer may appeal the final order, in accordance with Chapter 13401
119. of the Revised Code, within forty-five days after 13402
notification of the order to the court of common pleas of the 13403
county in which the child's school district of residence is 13404
located, or to a district court of the United States within 13405
ninety days after the date of the decision of the state level 13406
review officer, as provided in section 615(i)(2) of the 13407
"Individuals with Disabilities Education Improvement Act of 13408
2004," 20 U.S.C. 1415(i)(2). 13409

Sec. 3323.09. (A) As used in this section: 13410

(1) "Home" has the meaning given in section 3313.64 of the 13411
Revised Code. 13412

(2) "Preschool child" means a child who is at least age 13413
three but under age six on the thirtieth day of September of an 13414
academic year. 13415

(B) Each county ~~DD~~ board of developmental disabilities 13416
shall establish special education programs for all children with 13417
disabilities who in accordance with section 3323.04 of the 13418
Revised Code have been placed in special education programs 13419
operated by the county board and for preschool children who are 13420
developmentally delayed or at risk of being developmentally 13421
delayed. The board annually shall submit to the department of 13422
education a plan for the provision of these programs. The 13423
superintendent of public instruction shall review the plan and 13424
approve or modify it in accordance with rules adopted by the 13425
state board of education under section 3301.07 of the Revised 13426
Code. The superintendent of public instruction shall compile the 13427
plans submitted by county boards and shall submit a 13428
comprehensive plan to the state board. 13429

A county ~~DD~~board of developmental disabilities may 13430
combine transportation for children enrolled in classes funded 13431
under sections 3317.0213 or 3317.20 with transportation for 13432
children and adults enrolled in programs and services offered by 13433
the board under Chapter 5126. of the Revised Code. 13434

(C) A county ~~DD~~board of developmental disabilities that 13435
during the school year provided special education pursuant to 13436
this section for any child with mental disabilities under 13437
twenty-two years of age shall prepare and submit the following 13438
reports and statements: 13439

(1) The board shall prepare a statement for each child who 13440
at the time of receiving such special education was a resident 13441
of a home and was not in the legal or permanent custody of an 13442
Ohio resident or a government agency in this state, and whose 13443
natural or adoptive parents are not known to have been residents 13444
of this state subsequent to the child's birth. The statement 13445
shall contain the child's name, the name of the child's school 13446
district of residence, the name of the county board providing 13447
the special education, and the number of months, including any 13448
fraction of a month, it was provided. Not later than the 13449
thirtieth day of June, the board shall forward a certified copy 13450
of such statement to both the director of developmental 13451
disabilities and to the home. 13452

Within thirty days after its receipt of a statement, the 13453
home shall pay tuition to the county board computed in the 13454
manner prescribed by section 3323.141 of the Revised Code. 13455

(2) The board shall prepare a report for each school 13456
district that is the school district of residence of one or more 13457
of such children for whom statements are not required by 13458
division (C) (1) of this section. The report shall contain the 13459

name of the county board providing special education, the name 13460
of each child receiving special education, the number of months, 13461
including fractions of a month, that the child received it, and 13462
the name of the child's school district of residence. Not later 13463
than the thirtieth day of June, the board shall forward 13464
certified copies of each report to the school district named in 13465
the report, the superintendent of public instruction, and the 13466
director of developmental disabilities. 13467

Sec. 3323.091. (A) The department of mental health and 13468
addiction services, the department of developmental 13469
disabilities, the department of youth services, and the 13470
department of rehabilitation and correction shall establish and 13471
maintain special education programs for children with 13472
disabilities in institutions under their jurisdiction according 13473
to standards adopted by the state board of education. 13474

(B) The superintendent of each state institution required 13475
to provide services under division (A) of this section may apply 13476
to the department of education for special education and related 13477
services funding for children with disabilities other than 13478
preschool children with disabilities, calculated in accordance 13479
with section 3317.201 of the Revised Code. 13480

Each county ~~DD~~ board of developmental disabilities 13481
providing special education for children with disabilities other 13482
than preschool children with disabilities may apply to the 13483
department of education for opportunity funds and special 13484
education and related services funding calculated in accordance 13485
with section 3317.20 of the Revised Code. 13486

(C) In addition to the authorization to apply for state 13487
funding described in division (B) of this section, each state 13488
institution required to provide services under division (A) of 13489

this section is entitled to tuition payments calculated in the 13490
manner described in division (C) of this section. 13491

On or before the thirtieth day of June of each year, the 13492
superintendent of each institution that during the school year 13493
provided special education pursuant to this section shall 13494
prepare a statement for each child with a disability under 13495
twenty-two years of age who has received special education. The 13496
statement shall contain the child's data verification code 13497
assigned pursuant to division (D) (2) of section 3301.0714 of the 13498
Revised Code and the name of the child's school district of 13499
residence. Within sixty days after receipt of such statement, 13500
the department of education shall perform one of the following: 13501

(1) For any child except a preschool child with a 13502
disability described in division (C) (2) of this section, pay to 13503
the institution submitting the statement an amount equal to the 13504
tuition calculated under division (A) of section 3317.08 of the 13505
Revised Code for the period covered by the statement, and deduct 13506
the same from the amount of state funds, if any, payable under 13507
Chapter 3317. of the Revised Code, to the child's school 13508
district of residence or, if the amount of such state funds is 13509
insufficient, require the child's school district of residence 13510
to pay the institution submitting the statement an amount equal 13511
to the amount determined under this division. 13512

(2) For any preschool child with a disability, perform the 13513
following: 13514

(a) Pay to the institution submitting the statement an 13515
amount equal to the tuition calculated under division (B) of 13516
section 3317.08 of the Revised Code for the period covered by 13517
the statement, except that in calculating the tuition under that 13518
section the operating expenses of the institution submitting the 13519

statement under this section shall be used instead of the 13520
operating expenses of the school district of residence; 13521

(b) Deduct from the amount of state funds, if any, payable 13522
under Chapter 3317. of the Revised Code to the child's school 13523
district of residence an amount equal to the amount paid under 13524
division (C) (2) (a) of this section. 13525

Sec. 3323.12. The board of education of a school district 13526
shall provide home instruction for children with disabilities 13527
who are at least three years of age and less than twenty-two 13528
years of age and who are unable to attend school, even with the 13529
help of special transportation. The board may arrange for the 13530
provision of home instruction for a child by a cooperative 13531
agreement or contract with a county ~~DD~~board of developmental 13532
disabilities or other educational agency. For the purposes of 13533
determining formula ADM under section 3317.03 of the Revised 13534
Code, five hours of home instruction shall be equivalent to 13535
attendance for five school days. 13536

Sec. 3323.141. (A) When a child who is not in the legal or 13537
permanent custody of an Ohio resident or a government agency in 13538
this state and whose natural or adoptive parents are not known 13539
to have been residents of this state subsequent to the child's 13540
birth is a resident of a home as defined in section 3313.64 of 13541
the Revised Code and receives special education and related 13542
services from a school district or county ~~DD~~board of 13543
developmental disabilities, the home shall pay tuition to the 13544
board providing the special education. 13545

(B) In the case of a child described in division (A) of 13546
this section who receives special education and related services 13547
from a school district, tuition shall be the amount determined 13548
under division (B) (1) or (2) of this section. 13549

(1) For a child other than a child described in division 13550
(B) (2) of this section the tuition shall be an amount equal to 13551
the sum of the following: 13552

(a) Tuition as determined in the manner provided for by 13553
division (B) of section 3317.081 of the Revised Code for the 13554
district that provides the special education; 13555

(b) Such excess cost as is determined by using a formula 13556
established by rule of the department of education. The excess 13557
cost computed in this section shall not be used as excess cost 13558
computed under section 3323.14 of the Revised Code. 13559

(2) For a child who is a preschool child with a 13560
disability, the tuition shall be computed as follows: 13561

(a) Determine the amount of the tuition of the district 13562
providing the education for the child as calculated under 13563
division (B) of section 3317.08 of the Revised Code; 13564

(b) For each type of special education service included in 13565
the computation of the amount of tuition under division (B) (2) 13566
(a) of this section, divide the amount determined for that 13567
computation under division (B) (2) of section 3317.08 of the 13568
Revised Code by the total number of preschool children with 13569
disabilities used for that computation under division (B) (3) of 13570
section 3317.08 of the Revised Code; 13571

(c) Determine the sum of the quotients obtained under 13572
division (B) (2) (b) of this section; 13573

(d) Determine the sum of the amounts determined under 13574
divisions (B) (2) (a) and (c) of this section. 13575

(C) In the case of a child described in division (A) of 13576
this section who receives special education and related services 13577

from a county ~~DD~~board of developmental disabilities, tuition 13578
shall be the amount determined under division (C) (1) or (2) of 13579
this section. 13580

(1) For a child other than a child described in division 13581
(C) (2) of this section, the tuition shall be an amount equal to 13582
such board's per capita cost of providing special education and 13583
related services for children at least three but less than 13584
twenty-two years of age as determined by using a formula 13585
established by rule of the department of developmental 13586
disabilities. 13587

(2) For a child who is a preschool child with a 13588
disability, the tuition shall equal the sum of the amounts of 13589
each such board's per capita cost of providing each of the 13590
special education or related service that the child receives. 13591
The calculation of tuition shall be made by using a formula 13592
established by rule of the department of developmental 13593
disabilities. The formula for the calculation of per capita 13594
costs under division (C) (2) of this section shall be based only 13595
on each such ~~DD~~county board's cost of providing each type of 13596
special education or related service to preschool children with 13597
disabilities. 13598

(D) If a home fails to pay the tuition required under this 13599
section, the board of education or county ~~DD~~board of 13600
developmental disabilities providing the education may recover 13601
in a civil action the tuition and the expenses incurred in 13602
prosecuting the action, including court costs and reasonable 13603
attorney's fees. If the prosecuting attorney or city director of 13604
law represents the board in such action, costs and reasonable 13605
attorney's fees awarded by the court, based upon the time spent 13606
preparing and presenting the case by the prosecuting attorney, 13607

director, or a designee of either, shall be deposited in the 13608
county or city general fund. 13609

Sec. 3323.142. As used in this section, "per pupil amount" 13610
for a preschool child with a disability included in such an 13611
approved unit means the amount determined by dividing the amount 13612
received for the classroom unit in which the child has been 13613
placed by the number of children in the unit. For any other 13614
child, "per pupil amount" means the amount paid for the child 13615
under section 3317.20 of the Revised Code. 13616

When a school district places or has placed a child with a 13617
county ~~DD~~board of developmental disabilities for special 13618
education, but another district is responsible for tuition under 13619
section 3313.64 or 3313.65 of the Revised Code and the child is 13620
not a resident of the territory served by the county ~~DD~~board of
developmental disabilities, the board may charge the district 13621
responsible for tuition with the educational costs in excess of 13622
the per pupil amount received by the board under Chapter 3317. 13623
of the Revised Code. The amount of the excess cost shall be 13624
determined by the formula established by rule of the department 13625
of education under section 3323.14 of the Revised Code, and the 13626
payment for such excess cost shall be made by the school 13627
district directly to the county ~~DD~~board of developmental
disabilities. 13628
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A school district board of education and the county 13631
~~DD~~board of developmental disabilities that serves the school 13632
district may negotiate and contract, at or after the time of 13633
placement, for payments by the board of education to the county 13634
~~DD~~board for additional services provided to a child placed with 13635
the county ~~DD~~board and whose individualized education program 13636
established pursuant to section 3323.08 of the Revised Code 13637

requires additional services that are not routinely provided 13638
children in the county ~~DD~~-board's program but are necessary to 13639
maintain the child's enrollment and participation in the 13640
program. Additional services may include, but are not limited 13641
to, specialized supplies and equipment for the benefit of the 13642
child and instruction, training, or assistance provided by staff 13643
members other than staff members for which funding is received 13644
under Chapter 3317. of the Revised Code. 13645

Sec. 3701.881. (A) As used in this section: 13646

(1) "Applicant" means a person who is under final 13647
consideration for employment with a home health agency in a 13648
full-time, part-time, or temporary position that involves 13649
providing direct care to an individual or is referred to a home 13650
health agency by an employment service for such a position. 13651

(2) "Community-based long-term care provider" means a 13652
provider as defined in section 173.39 of the Revised Code. 13653

(3) "Community-based long-term care subcontractor" means a 13654
subcontractor as defined in section 173.38 of the Revised Code. 13655

(4) "Criminal records check" has the same meaning as in 13656
section 109.572 of the Revised Code. 13657

(5) "Direct care" means any of the following: 13658

(a) Any service identified in divisions (A) (8) (a) to (f) 13659
of this section that is provided in a patient's place of 13660
residence used as the patient's home; 13661

(b) Any activity that requires the person performing the 13662
activity to be routinely alone with a patient or to routinely 13663
have access to a patient's personal property or financial 13664
documents regarding a patient; 13665

(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.

(6) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(7) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.

(8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

- (a) Skilled nursing care;
- (b) Physical therapy;
- (c) Speech-language pathology;
- (d) Occupational therapy;
- (e) Medical social services;
- (f) Home health aide services.

(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:

- (a) Hands-on bathing or assistance with a tub bath or shower;

(b) Assistance with dressing, ambulation, and toileting;	13693
(c) Catheter care but not insertion;	13694
(d) Meal preparation and feeding.	13695
(10) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	13696 13697 13698
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	13699 13700 13701
(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	13702 13703
(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	13704 13705 13706
(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	13707 13708
(15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	13709 13710
(16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	13711 13712 13713
(17) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.	13714 13715
(18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.	13716 13717
(B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves	13718 13719

providing direct care to an individual if any of the following 13720
apply: 13721

(1) A review of the databases listed in division (D) of 13722
this section reveals any of the following: 13723

(a) That the applicant or employee is included in one or 13724
more of the databases listed in divisions (D) (1) to (5) of this 13725
section; 13726

(b) That there is in the state nurse aide registry 13727
established under section 3721.32 of the Revised Code a 13728
statement detailing findings by the director of health that the 13729
applicant or employee neglected or abused a long-term care 13730
facility or residential care facility resident or 13731
misappropriated property of such a resident; 13732

(c) That the applicant or employee is included in one or 13733
more of the databases, if any, specified in rules adopted under 13734
this section and the rules prohibit the home health agency from 13735
employing an applicant or continuing to employ an employee 13736
included in such a database in a position that involves 13737
providing direct care to an individual. 13738

(2) After the applicant or employee is provided, pursuant 13739
to division (E) (2) (a) of this section, a copy of the form 13740
prescribed pursuant to division (C) (1) of section 109.572 of the 13741
Revised Code and the standard impression sheet prescribed 13742
pursuant to division (C) (2) of that section, the applicant or 13743
employee fails to complete the form or provide the applicant's 13744
or employee's fingerprint impressions on the standard impression 13745
sheet. 13746

(3) Except as provided in rules adopted under this 13747
section, the applicant or employee is found by a criminal 13748

records check required by this section to have been convicted 13749
of, pleaded guilty to, or been found eligible for intervention 13750
in lieu of conviction for a disqualifying offense. 13751

(C) Except as provided by division (F) of this section, 13752
the chief administrator of a home health agency shall inform 13753
each applicant of both of the following at the time of the 13754
applicant's initial application for employment or referral to 13755
the home health agency by an employment service for a position 13756
that involves providing direct care to an individual: 13757

(1) That a review of the databases listed in division (D) 13758
of this section will be conducted to determine whether the home 13759
health agency is prohibited by division (B) (1) of this section 13760
from employing the applicant in the position; 13761

(2) That, unless the database review reveals that the 13762
applicant may not be employed in the position, a criminal 13763
records check of the applicant will be conducted and the 13764
applicant is required to provide a set of the applicant's 13765
fingerprint impressions as part of the criminal records check. 13766

(D) As a condition of employing any applicant in a 13767
position that involves providing direct care to an individual, 13768
the chief administrator of a home health agency shall conduct a 13769
database review of the applicant in accordance with rules 13770
adopted under this section. If rules adopted under this section 13771
so require, the chief administrator of a home health agency 13772
shall conduct a database review of an employee in accordance 13773
with the rules as a condition of continuing to employ the 13774
employee in a position that involves providing direct care to an 13775
individual. However, the chief administrator is not required to 13776
conduct a database review of an applicant or employee if 13777
division (F) of this section applies. A database review shall 13778

determine whether the applicant or employee is included in any 13779
of the following: 13780

(1) The excluded parties list system that is maintained by 13781
the United States general services administration pursuant to 13782
subpart 9.4 of the federal acquisition regulation and available 13783
at the federal web site known as the system for award 13784
management; 13785

(2) The list of excluded individuals and entities 13786
maintained by the office of inspector general in the United 13787
States department of health and human services pursuant to the 13788
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 13789
and 1320c-5; 13790

(3) The registry of ~~MR/DD~~ developmental disabilities 13791
employees established under section 5123.52 of the Revised Code; 13792

(4) The internet-based sex offender and child-victim 13793
offender database established under division (A) (11) of section 13794
2950.13 of the Revised Code; 13795

(5) The internet-based database of inmates established 13796
under section 5120.66 of the Revised Code; 13797

(6) The state nurse aide registry established under 13798
section 3721.32 of the Revised Code; 13799

(7) Any other database, if any, specified in rules adopted 13800
under this section. 13801

(E) (1) As a condition of employing any applicant in a 13802
position that involves providing direct care to an individual, 13803
the chief administrator of a home health agency shall request 13804
the superintendent of the bureau of criminal identification and 13805
investigation to conduct a criminal records check of the 13806

applicant. If rules adopted under this section so require, the 13807
chief administrator of a home health agency shall request the 13808
superintendent to conduct a criminal records check of an 13809
employee at times specified in the rules as a condition of 13810
continuing to employ the employee in a position that involves 13811
providing direct care to an individual. However, the chief 13812
administrator is not required to request the criminal records 13813
check of the applicant or the employee if division (F) of this 13814
section applies or the home health agency is prohibited by 13815
division (B)(1) of this section from employing the applicant or 13816
continuing to employ the employee in a position that involves 13817
providing direct care to an individual. If an applicant or 13818
employee for whom a criminal records check request is required 13819
by this section does not present proof of having been a resident 13820
of this state for the five-year period immediately prior to the 13821
date upon which the criminal records check is requested or does 13822
not provide evidence that within that five-year period the 13823
superintendent has requested information about the applicant 13824
from the federal bureau of investigation in a criminal records 13825
check, the chief administrator shall request that the 13826
superintendent obtain information from the federal bureau of 13827
investigation as a part of the criminal records check. Even if 13828
an applicant or employee for whom a criminal records check 13829
request is required by this section presents proof that the 13830
applicant or employee has been a resident of this state for that 13831
five-year period, the chief administrator may request that the 13832
superintendent include information from the federal bureau of 13833
investigation in the criminal records check. 13834

(2) The chief administrator shall do all of the following: 13835

(a) Provide to each applicant and employee for whom a 13836
criminal records check request is required by this section a 13837

copy of the form prescribed pursuant to division (C) (1) of 13838
section 109.572 of the Revised Code and a standard impression 13839
sheet prescribed pursuant to division (C) (2) of that section; 13840

(b) Obtain the completed form and standard impression 13841
sheet from each applicant and employee; 13842

(c) Forward the completed form and standard impression 13843
sheet to the superintendent at the time the chief administrator 13844
requests the criminal records check. 13845

(3) A home health agency shall pay to the bureau of 13846
criminal identification and investigation the fee prescribed 13847
pursuant to division (C) (3) of section 109.572 of the Revised 13848
Code for each criminal records check the agency requests under 13849
this section. A home health agency may charge an applicant a fee 13850
not exceeding the amount the agency pays to the bureau under 13851
this section if both of the following apply: 13852

(a) The home health agency notifies the applicant at the 13853
time of initial application for employment of the amount of the 13854
fee and that, unless the fee is paid, the applicant will not be 13855
considered for employment. 13856

(b) The medicaid program does not reimburse the home 13857
health agency for the fee it pays to the bureau under this 13858
section. 13859

(F) Divisions (C) to (E) of this section do not apply with 13860
regard to an applicant or employee if the applicant or employee 13861
is referred to a home health agency by an employment service 13862
that supplies full-time, part-time, or temporary staff for 13863
positions that involve providing direct care to an individual 13864
and both of the following apply: 13865

(1) The chief administrator of the home health agency 13866

receives from the employment service confirmation that a review 13867
of the databases listed in division (D) of this section was 13868
conducted with regard to the applicant or employee. 13869

(2) The chief administrator of the home health agency 13870
receives from the employment service, applicant, or employee a 13871
report of the results of a criminal records check of the 13872
applicant or employee that has been conducted by the 13873
superintendent within the one-year period immediately preceding 13874
the following: 13875

(a) In the case of an applicant, the date of the 13876
applicant's referral by the employment service to the home 13877
health agency; 13878

(b) In the case of an employee, the date by which the home 13879
health agency would otherwise have to request a criminal records 13880
check of the employee under division (E) of this section. 13881

(G) (1) A home health agency may employ conditionally an 13882
applicant for whom a criminal records check request is required 13883
by this section before obtaining the results of the criminal 13884
records check if the agency is not prohibited by division (B) of 13885
this section from employing the applicant in a position that 13886
involves providing direct care to an individual and either of 13887
the following applies: 13888

(a) The chief administrator of the home health agency 13889
requests the criminal records check in accordance with division 13890
(E) of this section not later than five business days after the 13891
applicant begins conditional employment. 13892

(b) The applicant is referred to the home health agency by 13893
an employment service, the employment service or the applicant 13894
provides the chief administrator of the agency a letter that is 13895

on the letterhead of the employment service, the letter is dated 13896
and signed by a supervisor or another designated official of the 13897
employment service, and the letter states all of the following: 13898

(i) That the employment service has requested the 13899
superintendent to conduct a criminal records check regarding the 13900
applicant; 13901

(ii) That the requested criminal records check is to 13902
include a determination of whether the applicant has been 13903
convicted of, pleaded guilty to, or been found eligible for 13904
intervention in lieu of conviction for a disqualifying offense; 13905

(iii) That the employment service has not received the 13906
results of the criminal records check as of the date set forth 13907
on the letter; 13908

(iv) That the employment service promptly will send a copy 13909
of the results of the criminal records check to the chief 13910
administrator of the home health agency when the employment 13911
service receives the results. 13912

(2) If a home health agency employs an applicant 13913
conditionally pursuant to division (G) (1) (b) of this section, 13914
the employment service, on its receipt of the results of the 13915
criminal records check, promptly shall send a copy of the 13916
results to the chief administrator of the agency. 13917

(3) A home health agency that employs an applicant 13918
conditionally pursuant to division (G) (1) (a) or (b) of this 13919
section shall terminate the applicant's employment if the 13920
results of the criminal records check, other than the results of 13921
any request for information from the federal bureau of 13922
investigation, are not obtained within the period ending sixty 13923
days after the date the request for the criminal records check 13924

is made. Regardless of when the results of the criminal records 13925
check are obtained, if the results indicate that the applicant 13926
has been convicted of, pleaded guilty to, or been found eligible 13927
for intervention in lieu of conviction for a disqualifying 13928
offense, the home health agency shall terminate the applicant's 13929
employment unless circumstances specified in rules adopted under 13930
this section that permit the agency to employ the applicant 13931
exist and the agency chooses to employ the applicant. 13932
Termination of employment under this division shall be 13933
considered just cause for discharge for purposes of division (D) 13934
(2) of section 4141.29 of the Revised Code if the applicant 13935
makes any attempt to deceive the home health agency about the 13936
applicant's criminal record. 13937

(H) The report of any criminal records check conducted by 13938
the bureau of criminal identification and investigation in 13939
accordance with section 109.572 of the Revised Code and pursuant 13940
to a request made under this section is not a public record for 13941
the purposes of section 149.43 of the Revised Code and shall not 13942
be made available to any person other than the following: 13943

(1) The applicant or employee who is the subject of the 13944
criminal records check or the applicant's or employee's 13945
representative; 13946

(2) The home health agency requesting the criminal records 13947
check or its representative; 13948

(3) The administrator of any other facility, agency, or 13949
program that provides direct care to individuals that is owned 13950
or operated by the same entity that owns or operates the home 13951
health agency that requested the criminal records check; 13952

(4) The employment service that requested the criminal 13953

records check; 13954

(5) The director of health and the staff of the department 13955
of health who monitor a home health agency's compliance with 13956
this section; 13957

(6) The director of aging or the director's designee if 13958
either of the following apply: 13959

(a) In the case of a criminal records check requested by a 13960
home health agency, the home health agency also is a community- 13961
based long-term care provider or community-based long-term care 13962
subcontractor; 13963

(b) In the case of a criminal records check requested by 13964
an employment service, the employment service makes the request 13965
for an applicant or employee the employment service refers to a 13966
home health agency that also is a community-based long-term care 13967
provider or community-based long-term care subcontractor. 13968

(7) The medicaid director and the staff of the department 13969
of medicaid who are involved in the administration of the 13970
medicaid program if either of the following apply: 13971

(a) In the case of a criminal records check requested by a 13972
home health agency, the home health agency also is a waiver 13973
agency; 13974

(b) In the case of a criminal records check requested by 13975
an employment service, the employment service makes the request 13976
for an applicant or employee the employment service refers to a 13977
home health agency that also is a waiver agency. 13978

(8) Any court, hearing officer, or other necessary 13979
individual involved in a case dealing with any of the following: 13980

(a) A denial of employment of the applicant or employee; 13981

(b) Employment or unemployment benefits of the applicant	13982
or employee;	13983
(c) A civil or criminal action regarding the medicaid	13984
program.	13985
(I) In a tort or other civil action for damages that is	13986
brought as the result of an injury, death, or loss to person or	13987
property caused by an applicant or employee who a home health	13988
agency employs in a position that involves providing direct care	13989
to an individual, all of the following shall apply:	13990
(1) If the home health agency employed the applicant or	13991
employee in good faith and reasonable reliance on the report of	13992
a criminal records check requested under this section, the	13993
agency shall not be found negligent solely because of its	13994
reliance on the report, even if the information in the report is	13995
determined later to have been incomplete or inaccurate.	13996
(2) If the home health agency employed the applicant in	13997
good faith on a conditional basis pursuant to division (G) of	13998
this section, the agency shall not be found negligent solely	13999
because it employed the applicant prior to receiving the report	14000
of a criminal records check requested under this section.	14001
(3) If the home health agency in good faith employed the	14002
applicant or employee according to the personal character	14003
standards established in rules adopted under this section, the	14004
agency shall not be found negligent solely because the applicant	14005
or employee had been convicted of, pleaded guilty to, or been	14006
found eligible for intervention in lieu of conviction for a	14007
disqualifying offense.	14008
(J) The director of health shall adopt rules in accordance	14009
with Chapter 119. of the Revised Code to implement this section.	14010

- (1) The rules may do the following: 14011
- (a) Require employees to undergo database reviews and 14012
criminal records checks under this section; 14013
- (b) If the rules require employees to undergo database 14014
reviews and criminal records checks under this section, exempt 14015
one or more classes of employees from the requirements; 14016
- (c) For the purpose of division (D)(7) of this section, 14017
specify other databases that are to be checked as part of a 14018
database review conducted under this section. 14019
- (2) The rules shall specify all of the following: 14020
- (a) The procedures for conducting database reviews under 14021
this section; 14022
- (b) If the rules require employees to undergo database 14023
reviews and criminal records checks under this section, the 14024
times at which the database reviews and criminal records checks 14025
are to be conducted; 14026
- (c) If the rules specify other databases to be checked as 14027
part of the database reviews, the circumstances under which a 14028
home health agency is prohibited from employing an applicant or 14029
continuing to employ an employee who is found by a database 14030
review to be included in one or more of those databases; 14031
- (d) Circumstances under which a home health agency may 14032
employ an applicant or employee who is found by a criminal 14033
records check required by this section to have been convicted 14034
of, pleaded guilty to, or been found eligible for intervention 14035
in lieu of conviction for a disqualifying offense but meets 14036
personal character standards. 14037
- Sec. 3707.20.** No person, who is suffering from a 14038

contagious or infectious disease, or who has been exposed to a 14039
contagious or infectious disease, may be sent or admitted to a 14040
prison; jail; workhouse; infirmary; children's home; state 14041
hospital or institution for the blind, the mentally ill, or ~~the~~ 14042
~~mentally retarded, or a~~ persons with developmental disabilities; 14043
school for the blind or deaf; or other state or county 14044
benevolent institution without first making known the facts 14045
concerning the illness or exposure to the superintendent or 14046
other person in charge thereof. When a dangerous, contagious, or 14047
infectious disease is in a jail or prison and a prisoner in the 14048
jail or prison exposed to the disease is sentenced to a state 14049
correctional institution, the prisoner shall be confined and 14050
isolated in the jail or prison or other proper place, upon the 14051
order of the proper court, for any time that is necessary to 14052
establish the fact that ~~he~~ the prisoner has not contracted the 14053
disease. 14054

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 14055
and 3721.99 of the Revised Code: 14056

(1) (a) "Home" means an institution, residence, or facility 14057
that provides, for a period of more than twenty-four hours, 14058
whether for a consideration or not, accommodations to three or 14059
more unrelated individuals who are dependent upon the services 14060
of others, including a nursing home, residential care facility, 14061
home for the aging, and a veterans' home operated under Chapter 14062
5907. of the Revised Code. 14063

(b) "Home" also means both of the following: 14064

(i) Any facility that a person, as defined in section 14065
3702.51 of the Revised Code, proposes for certification as a 14066
skilled nursing facility or nursing facility under Title XVIII 14067
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 14068

U.S.C.A. 301, as amended, and for which a certificate of need, 14069
other than a certificate to recategorize hospital beds as 14070
described in section 3702.521 of the Revised Code or division 14071
(R) (7) (d) of the version of section 3702.51 of the Revised Code 14072
in effect immediately prior to April 20, 1995, has been granted 14073
to the person under sections 3702.51 to 3702.62 of the Revised 14074
Code after August 5, 1989; 14075

(ii) A county home or district home that is or has been 14076
licensed as a residential care facility. 14077

(c) "Home" does not mean any of the following: 14078

(i) Except as provided in division (A) (1) (b) of this 14079
section, a public hospital or hospital as defined in section 14080
3701.01 or 5122.01 of the Revised Code; 14081

(ii) A residential facility as defined in section 5119.34 14082
of the Revised Code; 14083

(iii) A residential facility as defined in section 5123.19 14084
of the Revised Code; 14085

(iv) A community addiction services provider as defined in 14086
section 5119.01 of the Revised Code; 14087

(v) A facility licensed to provide methadone treatment 14088
under section 5119.391 of the Revised Code; 14089

(vi) A facility providing services under contract with the 14090
department of developmental disabilities under section 5123.18 14091
of the Revised Code; 14092

(vii) A facility operated by a hospice care program 14093
licensed under section 3712.04 of the Revised Code that is used 14094
exclusively for care of hospice patients; 14095

- (viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients; 14096
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- (ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order; 14099
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- (x) A county home or district home that has never been licensed as a residential care facility. 14107
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- (2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle. 14109
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- (3) "Mental impairment" does not mean mental illness, as defined in section 5122.01 of the Revised Code, or ~~mental retardation~~ developmental disability, as defined in section 5123.01 of the Revised Code. 14114
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- (4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following: 14118
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- (a) Irrigations, catheterizations, application of 14124

dressings, and supervision of special diets;	14125
(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;	14126 14127 14128 14129
(c) Special procedures contributing to rehabilitation;	14130
(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;	14131 14132 14133 14134
(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.	14135 14136 14137
(5) (a) "Personal care services" means services including, but not limited to, the following:	14138 14139
(i) Assisting residents with activities of daily living;	14140
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	14141 14142 14143
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.	14144 14145 14146 14147
(b) "Personal care services" does not include "skilled nursing care" as defined in division (A) (4) of this section. A facility need not provide more than one of the services listed in division (A) (5) (a) of this section to be considered to be providing personal care services.	14148 14149 14150 14151 14152

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home

or district home operated under Chapter 5155. of the Revised Code. 14182
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(B) The director of health may further classify homes. For 14184
the purposes of this chapter, any residence, institution, hotel, 14185
congregate housing project, or similar facility that meets the 14186
definition of a home under this section is such a home 14187
regardless of how the facility holds itself out to the public. 14188

(C) For purposes of this chapter, personal care services 14189
or skilled nursing care shall be considered to be provided by a 14190
facility if they are provided by a person employed by or 14191
associated with the facility or by another person pursuant to an 14192
agreement to which neither the resident who receives the 14193
services nor the resident's sponsor is a party. 14194

(D) Nothing in division (A) (4) of this section shall be 14195
construed to permit skilled nursing care to be imposed on an 14196
individual who does not require skilled nursing care. 14197

Nothing in division (A) (5) of this section shall be 14198
construed to permit personal care services to be imposed on an 14199
individual who is capable of performing the activity in question 14200
without assistance. 14201

(E) Division (A) (1) (c) (ix) of this section does not 14202
prohibit a facility, infirmary, or other entity described in 14203
that division from seeking licensure under sections 3721.01 to 14204
3721.09 of the Revised Code or certification under Title XVIII 14205
or XIX of the "Social Security Act." However, such a facility, 14206
infirmary, or entity that applies for licensure or certification 14207
must meet the requirements of those sections or titles and the 14208
rules adopted under them and obtain a certificate of need from 14209
the director of health under section 3702.52 of the Revised 14210

Code. 14211

(F) Nothing in this chapter, or rules adopted pursuant to 14212
it, shall be construed as authorizing the supervision, 14213
regulation, or control of the spiritual care or treatment of 14214
residents or patients in any home who rely upon treatment by 14215
prayer or spiritual means in accordance with the creed or tenets 14216
of any recognized church or religious denomination. 14217

Sec. 3763.06. As used in this section, "incompetent 14218
person" means a person who is so mentally impaired, as a result 14219
of a mental or physical illness or disability, ~~or mental-~~ 14220
~~retardation~~ as a result of an intellectual disability, or as a 14221
result of chronic substance abuse, that the person is incapable 14222
of taking proper care of the person's self or property or fails 14223
to provide for the person's family or other persons for whom the 14224
person is charged by law to provide. 14225

The property, both real and personal, of a defendant 14226
against whom a judgment is rendered under sections 3763.01 to 14227
3763.08 of the Revised Code, for fines, costs, or to recover 14228
money or any other thing of value, lost or paid, shall be liable 14229
therefor without exemption, and such judgment shall be a lien 14230
thereon until paid. If the owner of the building in which the 14231
money was lost knowingly permits it to be used for gaming 14232
purposes, such building, and the real estate upon which it 14233
stands, shall be liable therefor in a like manner. The guardian 14234
or trustee of a minor or incompetent person, permitting property 14235
under the guardian's or trustee's charge to be used for gaming 14236
purposes and to become liable on account thereof, shall be 14237
liable to the guardian's or trustee's ward for such amount. 14238

Sec. 3791.031. (A) As used in this section, "place of 14239
public assembly" means: 14240

(1) Enclosed theatres, except the lobby; opera houses; 14241
auditoriums; classrooms; elevators; rooms in which persons are 14242
confined as a matter of health care, including but not limited 14243
to a hospital room and a room in a residential care facility 14244
serving as the residence of a person living in such residential 14245
care facility; 14246

(2) All buildings and other enclosed structures owned by 14247
the state, its agencies, or political subdivisions, including 14248
but not limited to hospitals and state institutions for ~~the~~ 14249
~~mentally retarded and the~~ mentally ill and persons with 14250
developmental disabilities; university and college buildings, 14251
except rooms within those buildings used primarily as the 14252
residences of students or other persons affiliated with the 14253
university or college; office buildings; libraries; museums; and 14254
vehicles used in public transportation. That portion of a 14255
building or other enclosed structure that is owned by the state, 14256
a state agency, or a political subdivision and that is used 14257
primarily as a food service establishment is not a place of 14258
public assembly. 14259

(3) Each portion of a building or enclosed structure that 14260
is not included in division (A) (1) or (2) of this section is a 14261
place of public assembly if it has a seating capacity of fifty 14262
or more persons and is available to the public. Restaurants, 14263
food service establishments, dining rooms, cafes, cafeterias, or 14264
other rooms used primarily for the service of food, as well as 14265
bowling alleys and places licensed by the division of liquor 14266
control to sell intoxicating beverages for consumption on the 14267
premises, are not places of public assembly. 14268

(B) For the purpose of separating persons who smoke from 14269
persons who do not smoke for the comfort and health of persons 14270

not smoking, in every place of public assembly there shall be an 14271
area where smoking is not permitted, which shall be designated a 14272
no smoking area; provided that, no more than one-half of the 14273
rooms in any health care facility in which persons are confined 14274
as a matter of health care may be designated as smoking areas in 14275
their entirety. The designation shall be made before the place 14276
of public assembly is made available to the public. In places 14277
included in division (A)(1) of this section, the local fire 14278
authority having jurisdiction shall designate the no smoking 14279
area. In places included in division (A)(2) of this section that 14280
are owned by the state or its agencies, except the capitol 14281
square, the director of administrative services shall designate 14282
the area, and if the place is owned by a political subdivision, 14283
its legislative authority shall designate an officer who shall 14284
designate the area. The house rules committee shall designate 14285
the no smoking areas in all capitol square spaces used by the 14286
house of representatives; the senate rules committee shall 14287
designate the no smoking areas in all capitol square spaces used 14288
by the senate and the legislative service commission; the 14289
capitol square review and advisory board shall designate the no 14290
smoking areas in all other spaces in the capitol square. In 14291
places included in division (A)(3) of this section, the person 14292
having control of the operations of the place of public assembly 14293
shall designate the no smoking area. In places included in 14294
division (A)(2) of this section which are also included in 14295
division (A)(1) of this section, the officer who has authority 14296
to designate the area in places in division (A)(2) of this 14297
section shall designate the no smoking area. A no smoking area 14298
may include the entire place of public assembly. Designations 14299
shall be made by the placement of signs that are clearly visible 14300
and that state "no smoking." No person shall remove signs from 14301
areas designated as no smoking areas. 14302

(C) This section does not affect or modify the prohibition 14303
contained in division (B) of section 3313.751 of the Revised 14304
Code. 14305

(D) No person shall smoke in any area designated as a no 14306
smoking area in accordance with division (B) of this section. 14307

(E) Whoever violates this section is guilty of a minor 14308
misdemeanor. 14309

Sec. 3923.24. (A) Notwithstanding section 3901.71 of the 14310
Revised Code, every certificate furnished by an insurer in 14311
connection with, or pursuant to any provision of, any group 14312
sickness and accident insurance policy delivered, issued for 14313
delivery, renewed, or used in this state on or after January 1, 14314
1972, every policy of sickness and accident insurance delivered, 14315
issued for delivery, renewed, or used in this state on or after 14316
January 1, 1972, and every multiple employer welfare arrangement 14317
offering an insurance program, which provides that coverage of 14318
an unmarried dependent child of a parent or legal guardian will 14319
terminate upon attainment of the limiting age for dependent 14320
children specified in the contract shall also provide in 14321
substance both of the following: 14322

(1) Once an unmarried child has attained the limiting age 14323
for dependent children, as provided in the policy, upon the 14324
request of the insured, the insurer shall offer to cover the 14325
unmarried child until the child attains twenty-six years of age 14326
if all of the following are true: 14327

(a) The child is the natural child, stepchild, or adopted 14328
child of the insured. 14329

(b) The child is a resident of this state or a full-time 14330
student at an accredited public or private institution of higher 14331

education. 14332

(c) The child is not employed by an employer that offers 14333
any health benefit plan under which the child is eligible for 14334
coverage. 14335

(d) The child is not eligible for the medicaid program or 14336
the medicare program. 14337

(2) That attainment of the limiting age for dependent 14338
children shall not operate to terminate the coverage of a 14339
dependent child if the child is and continues to be both of the 14340
following: 14341

(a) Incapable of self-sustaining employment by reason of 14342
~~mental retardation~~ an intellectual disability or physical 14343
handicap; 14344

(b) Primarily dependent upon the policyholder or 14345
certificate holder for support and maintenance. 14346

(B) Proof of such incapacity and dependence for purposes 14347
of division (A) (2) of this section shall be furnished by the 14348
policyholder or by the certificate holder to the insurer within 14349
thirty-one days of the child's attainment of the limiting age. 14350
Upon request, but not more frequently than annually after the 14351
two-year period following the child's attainment of the limiting 14352
age, the insurer may require proof satisfactory to it of the 14353
continuance of such incapacity and dependency. 14354

(C) Nothing in this section shall require an insurer to 14355
cover a dependent child who ~~is mentally retarded or physically~~ 14356
~~handicapped~~ has an intellectual disability or physical handicap 14357
if the contract is underwritten on evidence of insurability 14358
based on health factors set forth in the application, or if such 14359
dependent child does not satisfy the conditions of the contract 14360

as to any requirement for evidence of insurability or other 14361
provision of the contract, satisfaction of which is required for 14362
coverage thereunder to take effect. In any such case, the terms 14363
of the contract shall apply with regard to the coverage or 14364
exclusion of the dependent from such coverage. Nothing in this 14365
section shall apply to accidental death or dismemberment 14366
benefits provided by any such policy of sickness and accident 14367
insurance. 14368

(D) Nothing in this section shall do any of the following: 14369

(1) Require that any policy offer coverage for dependent 14370
children or provide coverage for an unmarried dependent child's 14371
children as dependents on the policy; 14372

(2) Require an employer to pay for any part of the premium 14373
for an unmarried dependent child that has attained the limiting 14374
age for dependents, as provided in the policy; 14375

(3) Require an employer to offer health insurance coverage 14376
to the dependents of any employee. 14377

(E) This section does not apply to any policies or 14378
certificates covering only accident, credit, dental, disability 14379
income, long-term care, hospital indemnity, medicare supplement, 14380
specified disease, or vision care; coverage under a one-time- 14381
limited-duration policy that is less than twelve months; 14382
coverage issued as a supplement to liability insurance; 14383
insurance arising out of a workers' compensation or similar law; 14384
automobile medical-payment insurance; or insurance under which 14385
benefits are payable with or without regard to fault and that is 14386
statutorily required to be contained in any liability insurance 14387
policy or equivalent self-insurance. 14388

(F) As used in this section, "health benefit plan" has the 14389

same meaning as in section 3924.01 of the Revised Code and also 14390
includes both of the following: 14391

(1) A public employee benefit plan; 14392

(2) A health benefit plan as regulated under the "Employee 14393
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 14394

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the 14395
Revised Code, any public employee benefit plan that provides 14396
that coverage of an unmarried dependent child will terminate 14397
upon attainment of the limiting age for dependent children 14398
specified in the plan shall also provide in substance both of 14399
the following: 14400

(1) Once an unmarried child has attained the limiting age 14401
for dependent children, as provided in the plan, upon the 14402
request of the employee, the public employee benefit plan shall 14403
offer to cover the unmarried child until the child attains 14404
twenty-six years of age if all of the following are true: 14405

(a) The child is the natural child, stepchild, or adopted 14406
child of the employee. 14407

(b) The child is a resident of this state or a full-time 14408
student at an accredited public or private institution of higher 14409
education. 14410

(c) The child is not employed by an employer that offers 14411
any health benefit plan under which the child is eligible for 14412
coverage. 14413

(d) The child is not eligible for the medicaid program or 14414
the medicare program. 14415

(2) That attainment of the limiting age for dependent 14416
children shall not operate to terminate the coverage of a 14417

dependent child if the child is and continues to be both of the 14418
following: 14419

(a) Incapable of self-sustaining employment by reason of 14420
~~mental retardation~~ an intellectual disability or physical 14421
handicap; 14422

(b) Primarily dependent upon the plan member for support 14423
and maintenance. 14424

(B) Proof of incapacity and dependence for purposes of 14425
division (A) (2) of this section shall be furnished to the public 14426
employee benefit plan within thirty-one days of the child's 14427
attainment of the limiting age. Upon request, but not more 14428
frequently than annually, the public employee benefit plan may 14429
require proof satisfactory to it of the continuance of such 14430
incapacity and dependency. 14431

(C) Nothing in this section shall do any of the following: 14432

(1) Require that any public employee benefit plan offer 14433
coverage for dependent children or provide coverage for an 14434
unmarried dependent child's children as dependents on the public 14435
employee benefit plan; 14436

(2) Require an employer to pay for any part of the premium 14437
for an unmarried dependent child that has attained the limiting 14438
age for dependents, as provided in the plan; 14439

(3) Require an employer to offer health insurance coverage 14440
to the dependents of any employee. 14441

(D) This section does not apply to any public employee 14442
benefit plan covering only accident, credit, dental, disability 14443
income, long-term care, hospital indemnity, medicare supplement, 14444
specified disease, or vision care; coverage under a one-time- 14445

limited-duration policy that is less than twelve months; 14446
coverage issued as a supplement to liability insurance; 14447
insurance arising out of a workers' compensation or similar law; 14448
automobile medical-payment insurance; or insurance under which 14449
benefits are payable with or without regard to fault and which 14450
is statutorily required to be contained in any liability 14451
insurance policy or equivalent self-insurance. 14452

(E) As used in this section, "health benefit plan" has the 14453
same meaning as in section 3924.01 of the Revised Code and also 14454
includes both of the following: 14455

(1) A public employee benefit plan; 14456

(2) A health benefit plan as regulated under the "Employee 14457
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 14458

Sec. 4112.01. (A) As used in this chapter: 14459

(1) "Person" includes one or more individuals, 14460
partnerships, associations, organizations, corporations, legal 14461
representatives, trustees, trustees in bankruptcy, receivers, 14462
and other organized groups of persons. "Person" also includes, 14463
but is not limited to, any owner, lessor, assignor, builder, 14464
manager, broker, salesperson, appraiser, agent, employee, 14465
lending institution, and the state and all political 14466
subdivisions, authorities, agencies, boards, and commissions of 14467
the state. 14468

(2) "Employer" includes the state, any political 14469
subdivision of the state, any person employing four or more 14470
persons within the state, and any person acting directly or 14471
indirectly in the interest of an employer. 14472

(3) "Employee" means an individual employed by any 14473
employer but does not include any individual employed in the 14474

domestic service of any person.	14475
(4) "Labor organization" includes any organization that	14476
exists, in whole or in part, for the purpose of collective	14477
bargaining or of dealing with employers concerning grievances,	14478
terms or conditions of employment, or other mutual aid or	14479
protection in relation to employment.	14480
(5) "Employment agency" includes any person regularly	14481
undertaking, with or without compensation, to procure	14482
opportunities to work or to procure, recruit, refer, or place	14483
employees.	14484
(6) "Commission" means the Ohio civil rights commission	14485
created by section 4112.03 of the Revised Code.	14486
(7) "Discriminate" includes segregate or separate.	14487
(8) "Unlawful discriminatory practice" means any act	14488
prohibited by section 4112.02, 4112.021, or 4112.022 of the	14489
Revised Code.	14490
(9) "Place of public accommodation" means any inn,	14491
restaurant, eating house, barbershop, public conveyance by air,	14492
land, or water, theater, store, other place for the sale of	14493
merchandise, or any other place of public accommodation or	14494
amusement of which the accommodations, advantages, facilities,	14495
or privileges are available to the public.	14496
(10) "Housing accommodations" includes any building or	14497
structure, or portion of a building or structure, that is used	14498
or occupied or is intended, arranged, or designed to be used or	14499
occupied as the home residence, dwelling, dwelling unit, or	14500
sleeping place of one or more individuals, groups, or families	14501
whether or not living independently of each other; and any	14502
vacant land offered for sale or lease. "Housing accommodations"	14503

also includes any housing accommodations held or offered for 14504
sale or rent by a real estate broker, salesperson, or agent, by 14505
any other person pursuant to authorization of the owner, by the 14506
owner, or by the owner's legal representative. 14507

(11) "Restrictive covenant" means any specification 14508
limiting the transfer, rental, lease, or other use of any 14509
housing accommodations because of race, color, religion, sex, 14510
military status, familial status, national origin, disability, 14511
or ancestry, or any limitation based upon affiliation with or 14512
approval by any person, directly or indirectly, employing race, 14513
color, religion, sex, military status, familial status, national 14514
origin, disability, or ancestry as a condition of affiliation or 14515
approval. 14516

(12) "Burial lot" means any lot for the burial of deceased 14517
persons within any public burial ground or cemetery, including, 14518
but not limited to, cemeteries owned and operated by municipal 14519
corporations, townships, or companies or associations 14520
incorporated for cemetery purposes. 14521

(13) "Disability" means a physical or mental impairment 14522
that substantially limits one or more major life activities, 14523
including the functions of caring for one's self, performing 14524
manual tasks, walking, seeing, hearing, speaking, breathing, 14525
learning, and working; a record of a physical or mental 14526
impairment; or being regarded as having a physical or mental 14527
impairment. 14528

(14) Except as otherwise provided in section 4112.021 of 14529
the Revised Code, "age" means at least forty years old. 14530

(15) "Familial status" means either of the following: 14531

(a) One or more individuals who are under eighteen years 14532

of age and who are domiciled with a parent or guardian having 14533
legal custody of the individual or domiciled, with the written 14534
permission of the parent or guardian having legal custody, with 14535
a designee of the parent or guardian; 14536

(b) Any person who is pregnant or in the process of 14537
securing legal custody of any individual who is under eighteen 14538
years of age. 14539

(16) (a) Except as provided in division (A) (16) (b) of this 14540
section, "physical or mental impairment" includes any of the 14541
following: 14542

(i) Any physiological disorder or condition, cosmetic 14543
disfigurement, or anatomical loss affecting one or more of the 14544
following body systems: neurological; musculoskeletal; special 14545
sense organs; respiratory, including speech organs; 14546
cardiovascular; reproductive; digestive; genito-urinary; hemic 14547
and lymphatic; skin; and endocrine; 14548

(ii) Any mental or psychological disorder, including, but 14549
not limited to, ~~mental retardation~~ intellectual disability, 14550
organic brain syndrome, emotional or mental illness, and 14551
specific learning disabilities; 14552

(iii) Diseases and conditions, including, but not limited 14553
to, orthopedic, visual, speech, and hearing impairments, 14554
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 14555
sclerosis, cancer, heart disease, diabetes, human 14556
immunodeficiency virus infection, ~~mental retardation~~ 14557
intellectual disability, emotional illness, drug addiction, and 14558
alcoholism. 14559

(b) "Physical or mental impairment" does not include any 14560
of the following: 14561

(i) Homosexuality and bisexuality;	14562
(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	14563 14564 14565 14566
(iii) Compulsive gambling, kleptomania, or pyromania;	14567
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	14568 14569 14570
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	14571 14572
(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.	14573 14574 14575 14576 14577 14578
(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.	14579 14580 14581
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	14582 14583
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	14584 14585
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	14586 14587 14588

(23) "Aggrieved person" includes both of the following: 14589

(a) Any person who claims to have been injured by any 14590
unlawful discriminatory practice described in division (H) of 14591
section 4112.02 of the Revised Code; 14592

(b) Any person who believes that the person will be 14593
injured by, any unlawful discriminatory practice described in 14594
division (H) of section 4112.02 of the Revised Code that is 14595
about to occur. 14596

(B) For the purposes of divisions (A) to (F) of section 14597
4112.02 of the Revised Code, the terms "because of sex" and "on 14598
the basis of sex" include, but are not limited to, because of or 14599
on the basis of pregnancy, any illness arising out of and 14600
occurring during the course of a pregnancy, childbirth, or 14601
related medical conditions. Women affected by pregnancy, 14602
childbirth, or related medical conditions shall be treated the 14603
same for all employment-related purposes, including receipt of 14604
benefits under fringe benefit programs, as other persons not so 14605
affected but similar in their ability or inability to work, and 14606
nothing in division (B) of section 4111.17 of the Revised Code 14607
shall be interpreted to permit otherwise. This division shall 14608
not be construed to require an employer to pay for health 14609
insurance benefits for abortion, except where the life of the 14610
mother would be endangered if the fetus were carried to term or 14611
except where medical complications have arisen from the 14612
abortion, provided that nothing in this division precludes an 14613
employer from providing abortion benefits or otherwise affects 14614
bargaining agreements in regard to abortion. 14615

Sec. 4303.272. As used in this section, "incompetent 14616
person" means a person who is so mentally impaired, as a result 14617
of a mental or physical illness or disability, ~~or mental~~ 14618

~~retardation as a result of an intellectual disability,~~ or as a 14619
result of chronic substance abuse, that the person is incapable 14620
of taking proper care of the person's self or property or fails 14621
to provide for the person's family or other persons for whom the 14622
person is charged by law to provide. 14623

Any permit holder whose permit premises are destroyed or 14624
made unusable for any cause, or whose tenancy is terminated for 14625
any cause, shall deliver the permit holder's permit to the 14626
division of liquor control for safekeeping until such time as 14627
the original permit premises are made available for occupancy or 14628
new premises are secured by the permit holder or until new 14629
premises are secured by the permit holder outside the precinct 14630
affected by a local option election. 14631

Unless the permit is to be cancelled as the result of a 14632
local option election held pursuant to section 4301.352 of the 14633
Revised Code, a permit holder whose permit is to be restricted 14634
or cancelled as the result of a local option election pursuant 14635
to sections 4301.32 to 4301.41 and 4305.14 of the Revised Code 14636
may, within the thirty-day period after the certification of the 14637
results of the election to the division, deliver the permit to 14638
the division for safekeeping subject to the renewal and transfer 14639
provision of this section. A permit holder whose permit is to be 14640
cancelled as the result of a local option election held pursuant 14641
to section 4301.352 of the Revised Code is not entitled to 14642
deliver the permit to the division for safekeeping. 14643

If, as the result of the election, the use of a permit is 14644
made wholly unlawful and the permit holder does not deliver or 14645
is not entitled to deliver the permit to the division for 14646
safekeeping as provided in this section, the division shall 14647
forthwith cancel and pick up the permit. 14648

During the period of time that a permit is held in 14649
safekeeping by the division, the permit holder shall be allowed 14650
to transfer the permit to other premises, subject to the 14651
provisions of Chapters 4301. and 4303. of the Revised Code. 14652

If the expiration date of a permit occurs during the time 14653
it is held in safekeeping, the permit shall be renewed by the 14654
division if the permit holder complies with the other provisions 14655
of Chapters 4301. and 4303. of the Revised Code, pertaining to 14656
the renewal of a permit. The division shall issue and then 14657
retain the renewed permit until the original permit premises 14658
become available for occupancy by the permit holder or until the 14659
permit holder secures other premises. The division shall return 14660
to the permit holder a permit renewed while in safekeeping when 14661
the original permit premises are made available for occupancy or 14662
new permit premises are secured by the permit holder, if the 14663
premises meet the requirements of Chapters 4301. and 4303. of 14664
the Revised Code. 14665

A permit renewed while in safekeeping shall be considered 14666
in full force and effect and may be transferred by the division. 14667

Should the permit holder be adjudged an incompetent person 14668
or die while the permit holder's permit is in safekeeping, the 14669
permit shall be transferred, upon application, by the division 14670
to the guardian, administrator, executor, or other fiduciary of 14671
the permit holder who shall have the same rights to the 14672
transfer, return, and renewal of the permit as is provided in 14673
this section for the permit holder. 14674

A permit held in safekeeping shall not be renewed more 14675
than once while so held, unless the building from which the 14676
permit was taken for safekeeping or the building to which the 14677
permit is to be transferred is under construction or 14678

reconstruction, in which event the permit shall be held in 14679
safekeeping and shall, upon the application of the permit 14680
holder, be renewed at each expiration date until the 14681
construction or reconstruction of the building is completed. 14682

Sec. 4399.05. As used in this section, "incompetent 14683
person" means a person who is so mentally impaired, as a result 14684
of a mental or physical illness or disability, ~~or mental~~ 14685
~~retardation as a result of an intellectual disability,~~ or as a 14686
result of chronic substance abuse, that the person is incapable 14687
of taking proper care of the person's self or property or fails 14688
to provide for the person's family or other persons for whom the 14689
person is charged by law to provide. 14690

If a person rents or leases to another a building or 14691
premises to be used or occupied, in whole or in part, for the 14692
sale of intoxicating liquors, or permits such building or 14693
premises to be so used or occupied, such building or premises 14694
shall be liable for and may be sold to pay all fines, costs, and 14695
damages assessed against a person occupying them. Proceedings 14696
may be had to subject them to the payment of such fine and costs 14697
assessed or judgment recovered, or part remaining unpaid, either 14698
before or after execution issues against the property of the 14699
person against whom such fine and costs or judgment have been 14700
adjudged or assessed. When execution issues against the property 14701
leased or rented, the officer shall proceed to satisfy it out of 14702
the building or premises so leased or occupied. 14703

If such building or premises belong to a minor or 14704
incompetent person, the guardian having control thereof shall be 14705
liable and account to the guardian's ward for all damages on 14706
account of such use and occupation, and the liabilities for such 14707
fines, costs, and damages. 14708

Sec. 4723.071. (A) As used in this section, "health- 14709
related activities," "~~MR/DD~~developmental disabilities 14710
personnel," "prescribed medication," and "tube feeding" have the 14711
same meanings as in section 5123.41 of the Revised Code. 14712

(B) The board of nursing shall adopt rules as it considers 14713
necessary to govern nursing delegation as it applies to ~~MR/DD~~ 14714
developmental disabilities personnel who administer prescribed 14715
medications, perform health-related activities, and perform tube 14716
feedings pursuant to the authority granted under section 5123.42 14717
of the Revised Code. The board shall not establish in the rules 14718
any requirement that is inconsistent with the authority of ~~MR/DD~~ 14719
developmental disabilities personnel granted under that section. 14720
The rules shall be adopted in accordance with Chapter 119. of 14721
the Revised Code. 14722

(C) The board of nursing may accept complaints from any 14723
person or government entity regarding the performance or 14724
qualifications of ~~MR/DD~~developmental disabilities personnel who 14725
administer prescribed medications, perform health-related 14726
activities, and perform tube feedings pursuant to the authority 14727
granted under section 5123.42 of the Revised Code. The board 14728
shall refer all complaints received to the department of 14729
developmental disabilities. The board may participate in an 14730
investigation of a complaint being conducted by the department 14731
under section 5123.421 of the Revised Code. 14732

Sec. 4757.41. (A) This chapter shall not apply to the 14733
following: 14734

(1) A person certified by the state board of education 14735
under Chapter 3319. of the Revised Code while performing any 14736
services within the person's scope of employment by a board of 14737
education or by a private school meeting the standards 14738

prescribed by the state board of education under division (D) of 14739
section 3301.07 of the Revised Code or in a program operated 14740
under Chapter 5126. of the Revised Code for training individuals 14741
with ~~mental retardation or other~~ developmental disabilities; 14742

(2) Psychologists or school psychologists licensed under 14743
Chapter 4732. of the Revised Code; 14744

(3) Members of other professions licensed, certified, or 14745
registered by this state while performing services within the 14746
recognized scope, standards, and ethics of their respective 14747
professions; 14748

(4) Rabbis, priests, Christian science practitioners, 14749
clergy, or members of religious orders and other individuals 14750
participating with them in pastoral counseling when the 14751
counseling activities are within the scope of the performance of 14752
their regular or specialized ministerial duties and are 14753
performed under the auspices or sponsorship of an established 14754
and legally cognizable church, denomination, or sect or an 14755
integrated auxiliary of a church as defined in federal tax 14756
regulations, paragraph (g) (5) of 26 C.F.R. 1.6033-2 (1995), and 14757
when the individual rendering the service remains accountable to 14758
the established authority of that church, denomination, sect, or 14759
integrated auxiliary; 14760

(5) Any person who is not licensed under this chapter as a 14761
licensed professional clinical counselor, licensed professional 14762
counselor, independent social worker, or social worker and is 14763
employed in the civil service as defined in section 124.01 of 14764
the Revised Code while engaging in professional counseling or 14765
social work as a civil service employee, if on ~~the effective~~ 14766
~~date of this amendment~~ July 10, 2014, the person has at least 14767
two years of service in that capacity; 14768

- (6) A student in an accredited educational institution while carrying out activities that are part of the student's prescribed course of study if the activities are supervised as required by the educational institution and if the student does not hold herself or himself out as a person licensed or registered under this chapter; 14769
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- (7) Individuals who hold a license or certificate under Chapter 4758. of the Revised Code who are acting within the scope of their license or certificate as members of the profession of chemical dependency counseling or alcohol and other drug prevention services; 14775
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- (8) Any person employed by the American red cross while engaging in activities relating to services for military families and veterans and disaster relief, as described in the "American National Red Cross Act," 33 Stat. 599 (1905), 36 U.S.C.A. 1, as amended; 14780
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- (9) Members of labor organizations who hold union counselor certificates while performing services in their official capacity as union counselors; 14785
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- (10) Any person employed in a hospital as defined in section 3727.01 of the Revised Code or in a nursing home as defined in section 3721.01 of the Revised Code while providing as a hospital employee or nursing home employee, respectively, social services other than counseling and the use of psychosocial interventions and social psychotherapy; 14788
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- (11) A vocational rehabilitation professional who is providing rehabilitation services to individuals under section 3304.17 of the Revised Code, or holds certification by the commission on rehabilitation counselor certification and is 14794
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providing rehabilitation counseling services consistent with the 14798
commission's standards; 14799

(12) A caseworker not licensed under this chapter as an 14800
independent social worker or social worker who is employed by a 14801
public children services agency under section 5153.112 of the 14802
Revised Code. 14803

(B) Divisions (A) (5) and (10) of this section do not 14804
prevent a person described in those divisions from obtaining a 14805
license or certificate of registration under this chapter. 14806

(C) Except as provided in divisions (A) and (D) of this 14807
section, no employee in the service of the state, including 14808
public employees as defined by Chapter 4117. of the Revised 14809
Code, shall engage in the practice of professional counseling, 14810
social work, or marriage and family therapy without the 14811
appropriate license issued by the board. Failure to comply with 14812
this division constitutes nonfeasance under section 124.34 of 14813
the Revised Code or just cause under a collective bargaining 14814
agreement. Nothing in this division restricts the director of 14815
administrative services from developing new classifications 14816
related to this division or from reassigning affected employees 14817
to appropriate classifications based on the employee's duties 14818
and qualifications. 14819

(D) Except as provided in division (A) of this section, an 14820
employee who was engaged in the practice of professional 14821
counseling, social work, or marriage and family therapy in the 14822
service of the state prior to ~~the effective date of this~~ 14823
~~amendment~~ July 10, 2014, including public employees as defined 14824
by Chapter 4117. of the Revised Code, shall comply with division 14825
(C) of this section within two years after ~~the effective date of~~ 14826
~~this amendment~~ July 10, 2014. Any such employee who fails to 14827

comply shall be removed from employment. 14828

(E) Nothing in this chapter prevents a public children 14829
services agency from employing as a caseworker a person not 14830
licensed under this chapter as an independent social worker or 14831
social worker who has the qualifications specified in section 14832
5153.112 of the Revised Code. 14833

Sec. 4971.16. As used in this section, "incompetent 14834
person" means a person who is so mentally impaired, as a result 14835
of a mental or physical illness or disability, ~~or mental~~ 14836
~~retardation~~ as a result of an intellectual disability, or as a 14837
result of chronic substance abuse, that the person is incapable 14838
of taking proper care of the person's self or property or fails 14839
to provide for the person's family or other persons for whom the 14840
person is charged by law to provide. 14841

Persons in interest who fail to become parties to the 14842
agreement within the four-month period referred to in section 14843
4971.14 of the Revised Code are entitled to the same rights, 14844
interest, estate, remedy, liens, and action, and none other, 14845
which parties in interest of like class and amount who signed 14846
the agreement obtained by and under it. If a person in interest 14847
fails for six years after the publication of the notice 14848
mentioned in such section to apply at the principal office of 14849
the company, either in person or by proxy, to become a party in 14850
interest in the agreement, such person, unless an infant or 14851
incompetent person, shall be barred of all interest, claim, 14852
right, or action under the agreement or otherwise. In case of 14853
such disability such rights shall be extended for two years 14854
after the termination of the disability. 14855

Sec. 5101.46. (A) As used in this section: 14856

- (1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 14857
14858
- (2) "Respective local agency" means, with respect to the 14859
department of job and family services, a county department of 14860
job and family services; with respect to the department of 14861
mental health and addiction services, a board of alcohol, drug 14862
addiction, and mental health services; and with respect to the 14863
department of developmental disabilities, a county board of 14864
developmental disabilities. 14865
- (3) "Federal poverty guidelines" means the poverty 14866
guidelines as revised annually by the United States department 14867
of health and human services in accordance with section 673(2) 14868
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 14869
511, 42 U.S.C.A. 9902, as amended, for a family size equal to 14870
the size of the family of the person whose income is being 14871
determined. 14872
- (B) The departments of job and family services, mental 14873
health, and developmental disabilities, with their respective 14874
local agencies, shall administer the provision of social 14875
services funded through grants made under Title XX. The social 14876
services furnished with Title XX funds shall be directed at the 14877
following goals: 14878
- (1) Achieving or maintaining economic self-support to 14879
prevent, reduce, or eliminate dependency; 14880
- (2) Achieving or maintaining self-sufficiency, including 14881
reduction or prevention of dependency; 14882
- (3) Preventing or remedying neglect, abuse, or 14883
exploitation of children and adults unable to protect their own 14884
interests, or preserving, rehabilitating, or reuniting families; 14885

- (4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; 14886
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- (5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions. 14889
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14891
- (C) (1) All federal funds received under Title XX shall be appropriated as follows: 14892
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- (a) Seventy-two and one-half per cent to the department of job and family services; 14894
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- (b) Twelve and ninety-three one-hundredths per cent to the department of mental health and addiction services; 14896
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- (c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities. 14898
14899
- (2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies: 14900
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- (a) The total population of the area that is served by the respective local agency; 14906
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- (b) The percentage of the population in the area served that falls below the federal poverty guidelines; 14908
14909
- (c) The respective local agency's history of and ability to utilize Title XX funds. 14910
14911
- (3) Each of the state departments shall expend for state 14912

administrative costs not more than three per cent of the Title 14913
XX funds appropriated to the department. 14914

Each state department shall establish for each of its 14915
respective local agencies the maximum percentage of the Title XX 14916
funds distributed to the respective local agency that the 14917
respective local agency may expend for local administrative 14918
costs. The percentage shall be established by rule and shall 14919
comply with federal law governing the use of Title XX funds. The 14920
rules shall be adopted in accordance with section 111.15 of the 14921
Revised Code as if they were internal management rules. 14922

(4) The department of job and family services shall expend 14923
for the training of the following not more than two per cent of 14924
the Title XX funds appropriated to the department: 14925

(a) Employees of county departments of job and family 14926
services; 14927

(b) Providers of services under contract with the state 14928
departments' respective local agencies; 14929

(c) Employees of a public children services agency 14930
directly engaged in providing Title XX services. 14931

(5) Title XX funds distributed for the purpose of 14932
providing family planning services shall be distributed by the 14933
respective local agencies according to the same order of 14934
priority that applies to the department of job and family 14935
services under section 5101.101 of the Revised Code. 14936

(D) The department of job and family services shall 14937
prepare an annual comprehensive Title XX social services plan on 14938
the intended use of Title XX funds. The department shall develop 14939
a method for obtaining public comment during the development of 14940
the plan and following its completion. 14941

For each federal fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and addiction services and developmental disabilities shall prepare and submit to the department of job and family services the portions of each annual plan and report that apply to services for mental health and ~~mental retardation and~~ developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of annual plans and reports.

(E) Each county department of job and family services shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their 14972
respective local agencies may require that an entity under 14973
contract to provide social services with Title XX funds submit 14974
to an audit on the basis of alleged misuse or improper 14975
accounting of funds. If an audit is required, the social 14976
services provider shall reimburse the state department or 14977
respective local agency for the cost it incurred in conducting 14978
the audit or having the audit conducted. 14979

If an audit demonstrates that a social services provider 14980
is responsible for one or more adverse findings, the provider 14981
shall reimburse the appropriate state department or its 14982
respective local agency the amount of the adverse findings. The 14983
amount shall not be reimbursed with Title XX funds received 14984
under this section. The three state departments and their 14985
respective local agencies may terminate or refuse to enter into 14986
a Title XX contract with a social services provider if there are 14987
adverse findings in an audit that are the responsibility of the 14988
provider. 14989

(G) Except with respect to the matters for which each of 14990
the state departments must adopt rules under division (C) (3) of 14991
this section, the department of job and family services may 14992
adopt any rules it considers necessary to implement and carry 14993
out the purposes of this section. Rules governing financial and 14994
operational matters of the department or matters between the 14995
department and county departments of job and family services 14996
shall be adopted as internal management rules in accordance with 14997
section 111.15 of the Revised Code. Rules governing eligibility 14998
for services, program participation, and other matters 14999
pertaining to applicants and participants shall be adopted in 15000
accordance with Chapter 119. of the Revised Code. 15001

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of	15002
the Revised Code:	15003
(A) (1) "Association" or "institution" includes all of the	15004
following:	15005
(a) Any incorporated or unincorporated organization,	15006
society, association, or agency, public or private, that	15007
receives or cares for children for two or more consecutive	15008
weeks;	15009
(b) Any individual, including the operator of a foster	15010
home, who, for hire, gain, or reward, receives or cares for	15011
children for two or more consecutive weeks, unless the	15012
individual is related to them by blood or marriage;	15013
(c) Any individual not in the regular employ of a court,	15014
or of an institution or association certified in accordance with	15015
section 5103.03 of the Revised Code, who in any manner becomes a	15016
party to the placing of children in foster homes, unless the	15017
individual is related to such children by blood or marriage or	15018
is the appointed guardian of such children.	15019
(2) "Association" or "institution" does not include any of	15020
the following:	15021
(a) Any organization, society, association, school,	15022
agency, child guidance center, detention or rehabilitation	15023
facility, or children's clinic licensed, regulated, approved,	15024
operated under the direction of, or otherwise certified by the	15025
department of education, a local board of education, the	15026
department of youth services, the department of mental health	15027
and addiction services, or the department of developmental	15028
disabilities;	15029
(b) Any individual who provides care for only a single-	15030

family group, placed there by their parents or other relative	15031
having custody;	15032
(c) A private, nonprofit therapeutic wilderness camp.	15033
(B) "Family foster home" means a foster home that is not a	15034
specialized foster home.	15035
(C) "Foster caregiver" means a person holding a valid	15036
foster home certificate issued under section 5103.03 of the	15037
Revised Code.	15038
(D) "Foster home" means a private residence in which	15039
children are received apart from their parents, guardian, or	15040
legal custodian, by an individual reimbursed for providing the	15041
children nonsecure care, supervision, or training twenty-four	15042
hours a day. "Foster home" does not include care provided for a	15043
child in the home of a person other than the child's parent,	15044
guardian, or legal custodian while the parent, guardian, or	15045
legal custodian is temporarily away. Family foster homes and	15046
specialized foster homes are types of foster homes.	15047
(E) "Medically fragile foster home" means a foster home	15048
that provides specialized medical services designed to meet the	15049
needs of children with intensive health care needs who meet all	15050
of the following criteria:	15051
(1) Under rules adopted by the medicaid director governing	15052
medicaid payments for long-term care services, the children	15053
require a skilled level of care.	15054
(2) The children require the services of a doctor of	15055
medicine or osteopathic medicine at least once a week due to the	15056
instability of their medical conditions.	15057
(3) The children require the services of a registered	15058

nurse on a daily basis. 15059

(4) The children are at risk of institutionalization in a 15060
hospital, skilled nursing facility, or intermediate care 15061
facility for individuals with intellectual disabilities. 15062

(F) "Private, nonprofit therapeutic wilderness camp" means 15063
a structured, alternative residential setting for children who 15064
are experiencing emotional, behavioral, moral, social, or 15065
learning difficulties at home or school in which all of the 15066
following are the case: 15067

(1) The children spend the majority of their time, 15068
including overnight, either outdoors or in a primitive 15069
structure. 15070

(2) The children have been placed there by their parents 15071
or another relative having custody. 15072

(3) The camp accepts no public funds for use in its 15073
operations. 15074

(G) "Recommending agency" means a public children services 15075
agency, private child placing agency, or private noncustodial 15076
agency that recommends that the department of job and family 15077
services take any of the following actions under section 5103.03 15078
of the Revised Code regarding a foster home: 15079

(1) Issue a certificate; 15080

(2) Deny a certificate; 15081

(3) Renew a certificate; 15082

(4) Deny renewal of a certificate; 15083

(5) Revoke a certificate. 15084

(H) "Specialized foster home" means a medically fragile 15085

foster home or a treatment foster home. 15086

(I) "Treatment foster home" means a foster home that 15087
incorporates special rehabilitative services designed to treat 15088
the specific needs of the children received in the foster home 15089
and that receives and cares for children who are emotionally or 15090
behaviorally disturbed, who are chemically dependent, ~~mentally-~~ 15091
~~retarded, developmentally disabled~~who have developmental 15092
disabilities, or who otherwise have exceptional needs. 15093

Sec. 5119.44. As used in this section, "free clinic" has 15094
the same meaning as in section 2305.2341 of the Revised Code. 15095

(A) The department of mental health and addiction services 15096
may provide certain goods and services for the department of 15097
mental health and addiction services, the department of 15098
developmental disabilities, the department of rehabilitation and 15099
correction, the department of youth services, and other state, 15100
county, or municipal agencies requesting such goods and services 15101
when the department of mental health and addiction services 15102
determines that it is in the public interest, and considers it 15103
advisable, to provide these goods and services. The department 15104
of mental health and addiction services also may provide goods 15105
and services to agencies operated by the United States 15106
government and to public or private nonprofit agencies, other 15107
than free clinics, that are funded in whole or in part by the 15108
state if the public or private nonprofit agencies are designated 15109
for participation in this program by the director of mental 15110
health and addiction services for community addiction services 15111
providers and community mental health services providers, the 15112
director of developmental disabilities for community ~~mental-~~ 15113
~~retardation and~~ developmental disabilities agencies, the 15114
director of rehabilitation and correction for community 15115

rehabilitation and correction agencies, or the director of youth services for community youth services agencies. 15116
15117

Designated community agencies or services providers shall 15118
receive goods and services through the department of mental 15119
health and addiction services only in those cases where the 15120
designating state agency certifies that providing such goods and 15121
services to the agency or services provider will conserve public 15122
resources to the benefit of the public and where the provision 15123
of such goods and services is considered feasible by the 15124
department of mental health and addiction services. 15125

(B) The department of mental health and addiction services 15126
may permit free clinics to purchase certain goods and services 15127
to the extent the purchases fall within the exemption to the 15128
Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to 15129
nonprofit institutions, in 15 U.S.C. 13c, as amended. 15130

(C) The goods and services that may be provided by the 15131
department of mental health and addiction services under 15132
divisions (A) and (B) of this section may include: 15133

(1) Procurement, storage, processing, and distribution of 15134
food and professional consultation on food operations; 15135

(2) Procurement, storage, and distribution of medical and 15136
laboratory supplies, dental supplies, medical records, forms, 15137
optical supplies, and sundries, subject to section 5120.135 of 15138
the Revised Code; 15139

(3) Procurement, storage, repackaging, distribution, and 15140
dispensing of drugs, the provision of professional pharmacy 15141
consultation, and drug information services; 15142

(4) Other goods and services. 15143

(D) The department of mental health and addiction services 15144
may provide the goods and services designated in division (C) of 15145
this section to its institutions and to state-operated 15146
community-based mental health or addiction services providers. 15147

(E) After consultation with and advice from the director 15148
of developmental disabilities, the director of rehabilitation 15149
and correction, and the director of youth services, the 15150
department of mental health and addiction services may provide 15151
the goods and services designated in division (C) of this 15152
section to the department of developmental disabilities, the 15153
department of rehabilitation and correction, and the department 15154
of youth services. 15155

(F) The cost of administration of this section shall be 15156
determined by the department of mental health and addiction 15157
services and paid by the agencies, services providers, or free 15158
clinics receiving the goods and services to the department for 15159
deposit in the state treasury to the credit of the Ohio pharmacy 15160
services fund, which is hereby created. The fund shall be used 15161
to pay the cost of administration of this section to the 15162
department. 15163

(G) Whenever a state agency fails to make a payment for 15164
goods and services provided under this section within thirty-one 15165
days after the date the payment was due, the office of budget 15166
and management may transfer moneys from the state agency to the 15167
department of mental health and addiction services. The amount 15168
transferred shall not exceed the amount of overdue payments. 15169
Prior to making a transfer under this division, the office of 15170
budget and management shall apply any credits the state agency 15171
has accumulated in payments for goods and services provided 15172
under this section. 15173

(H) Purchases of goods and services under this section are 15174
not subject to section 307.86 of the Revised Code. 15175

Sec. 5120.051. The department of rehabilitation and 15176
correction shall provide for the needs of mentally ill persons 15177
and ~~mentally-retarded~~ persons with intellectual disabilities who 15178
are incarcerated in state correctional institutions. The 15179
department may designate an institution or a unit within an 15180
institution for the custody, care, special training, treatment, 15181
and rehabilitation of mentally ill persons or ~~mentally-retarded~~- 15182
persons with intellectual disabilities. 15183

Sec. 5120.11. Within the department of rehabilitation and 15184
correction, there shall be established and maintained a bureau 15185
of examination and classification. The bureau shall conduct or 15186
provide for sociological, psychological, and psychiatric 15187
examination of each inmate of the correctional institutions. The 15188
examination shall be made as soon as possible after each inmate 15189
is admitted to any of the institutions, and further examinations 15190
may be made, if it is advisable. If the inmate is determined to 15191
be a ~~mentally-retarded or developmentally disabled~~ person with a 15192
developmental disability, as defined in section 5123.01 of the 15193
Revised Code, the bureau shall notify the sentencing court in 15194
writing of its determination within forty-five days after 15195
sentencing. 15196

The bureau shall collect such social and other information 15197
as will aid in the interpretation of its examinations. 15198

Subject to division (C) of section 5120.21 of the Revised 15199
Code, the bureau shall keep a record of the health, activities, 15200
and behavior of each inmate while the inmate is in the custody 15201
of the state. The records, including the findings and 15202
recommendations of the bureau, shall be made available to the 15203

adult parole authority for use in imposing post-release control 15204
sanctions under section 2967.28 of the Revised Code or any other 15205
section of the Revised Code, in granting parole, and in making 15206
parole, post-release, and rehabilitation plans for the inmate 15207
when the inmate leaves the institution, and to the department 15208
for its use in approving transfers of inmates from one 15209
institution to another. 15210

Sec. 5120.17. (A) As used in this section: 15211

(1) "Mental illness" means a substantial disorder of 15212
thought, mood, perception, orientation, or memory that grossly 15213
impairs judgment, behavior, capacity to recognize reality, or 15214
ability to meet the ordinary demands of life. 15215

(2) "Mentally ill person subject to hospitalization" means 15216
a mentally ill person to whom any of the following applies 15217
because of the person's mental illness: 15218

(a) The person represents a substantial risk of physical 15219
harm to the person as manifested by evidence of threats of, or 15220
attempts at, suicide or serious self-inflicted bodily harm. 15221

(b) The person represents a substantial risk of physical 15222
harm to others as manifested by evidence of recent homicidal or 15223
other violent behavior, evidence of recent threats that place 15224
another in reasonable fear of violent behavior and serious 15225
physical harm, or other evidence of present dangerousness. 15226

(c) The person represents a substantial and immediate risk 15227
of serious physical impairment or injury to the person as 15228
manifested by evidence that the person is unable to provide for 15229
and is not providing for the person's basic physical needs 15230
because of the person's mental illness and that appropriate 15231
provision for those needs cannot be made immediately available 15232

in the correctional institution in which the inmate is currently 15233
housed. 15234

(d) The person would benefit from treatment in a hospital 15235
for the person's mental illness and is in need of treatment in a 15236
hospital as manifested by evidence of behavior that creates a 15237
grave and imminent risk to substantial rights of others or the 15238
person. 15239

(3) "Psychiatric hospital" means all or part of a facility 15240
that is operated and managed by the department of mental health 15241
and addiction services to provide psychiatric hospitalization 15242
services in accordance with the requirements of this section 15243
pursuant to an agreement between the directors of rehabilitation 15244
and correction and mental health and addiction services or, is 15245
licensed by the department of mental health and addiction 15246
services pursuant to section 5119.33 of the Revised Code as a 15247
psychiatric hospital and is accredited by a health care 15248
accrediting organization approved by the department of mental 15249
health and addiction services and the psychiatric hospital is 15250
any of the following: 15251

(a) Operated and managed by the department of 15252
rehabilitation and correction within a facility that is operated 15253
by the department of rehabilitation and correction; 15254

(b) Operated and managed by a contractor for the 15255
department of rehabilitation and correction within a facility 15256
that is operated by the department of rehabilitation and 15257
correction; 15258

(c) Operated and managed in the community by an entity 15259
that has contracted with the department of rehabilitation and 15260
correction to provide psychiatric hospitalization services in 15261

accordance with the requirements of this section.	15262
(4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.	15263 15264
(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.	15265 15266 15267
(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:	15268 15269 15270 15271 15272 15273
(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;	15274 15275
(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;	15276 15277
(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.	15278 15279 15280 15281 15282
(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.	15283 15284 15285
(8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.	15286 15287 15288 15289

~~(9)~~ (8) "Uncontested transfer" means the transfer of a 15290
mentally ill inmate to a psychiatric hospital when the inmate 15291
has the mental capacity to, and has waived, the hearing required 15292
by division (B) of this section. 15293

~~(10)~~ (9) (a) "Independent decision-maker" means a person who 15294
is employed or retained by the department of rehabilitation and 15295
correction and is appointed by the chief or chief clinical 15296
officer of mental health services as a hospitalization hearing 15297
officer to conduct due process hearings. 15298

(b) An independent decision-maker who presides over any 15299
hearing or issues any order pursuant to this section shall be a 15300
psychiatrist, psychologist, or attorney, shall not be 15301
specifically associated with the institution in which the inmate 15302
who is the subject of the hearing or order resides at the time 15303
of the hearing or order, and previously shall not have had any 15304
treatment relationship with nor have represented in any legal 15305
proceeding the inmate who is the subject of the order. 15306

(B) (1) Except as provided in division (C) of this section, 15307
if the warden of a state correctional institution or the 15308
warden's designee believes that an inmate should be transferred 15309
from the institution to a psychiatric hospital, the department 15310
shall hold a hearing to determine whether the inmate is a 15311
mentally ill person subject to hospitalization. The department 15312
shall conduct the hearing at the state correctional institution 15313
in which the inmate is confined, and the department shall 15314
provide qualified independent assistance to the inmate for the 15315
hearing. An independent decision-maker provided by the 15316
department shall preside at the hearing and determine whether 15317
the inmate is a mentally ill person subject to hospitalization. 15318

(2) Except as provided in division (C) of this section, 15319

prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3) of this section, and that the department will provide qualified independent assistance to the inmate with respect to the hearing. The department shall not hold the hearing until the inmate has received written notice of the proposed transfer and has had sufficient time to consult with the person appointed by the department to provide assistance to the inmate and to prepare for a presentation at the hearing.

(3) At the hearing held pursuant to division (B)(1) of this section, the department shall disclose to the inmate the evidence that it relies upon for the transfer and shall give the inmate an opportunity to be heard. Unless the independent decision-maker finds good cause for not permitting it, the inmate may present documentary evidence and the testimony of witnesses at the hearing and may confront and cross-examine witnesses called by the department.

(4) If the independent decision-maker does not find clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the department shall not transfer the inmate to a psychiatric hospital but shall continue to confine the inmate in the same state correctional institution or in another state correctional institution that the department considers appropriate. If the independent decision-maker finds clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the decision-maker shall

order that the inmate be transported to a psychiatric hospital 15351
for observation and treatment for a period of not longer than 15352
thirty days. After the hearing, the independent decision-maker 15353
shall submit to the department a written decision that states 15354
one of the findings described in division (B) (4) of this 15355
section, the evidence that the decision-maker relied on in 15356
reaching that conclusion, and, if the decision is that the 15357
inmate should be transferred, the reasons for the transfer. 15358

(C) (1) The department may transfer an inmate to a 15359
psychiatric hospital under an emergency transfer order if the 15360
chief clinical officer of mental health services of the 15361
department or that officer's designee and either a psychiatrist 15362
employed or retained by the department or, in the absence of a 15363
psychiatrist, a psychologist employed or retained by the 15364
department determines that the inmate is mentally ill, presents 15365
an immediate danger to self or others, and requires hospital- 15366
level care. 15367

(2) The department may transfer an inmate to a psychiatric 15368
hospital under an uncontested transfer order if both of the 15369
following apply: 15370

(a) A psychiatrist employed or retained by the department 15371
determines all of the following apply: 15372

(i) The inmate has a mental illness or is a mentally ill 15373
person subject to hospitalization. 15374

(ii) The inmate requires hospital care to address the 15375
mental illness. 15376

(iii) The inmate has the mental capacity to make a 15377
reasoned choice regarding the inmate's transfer to a hospital. 15378

(b) The inmate agrees to a transfer to a hospital. 15379

(3) The written notice and the hearing required under 15380
divisions (B) (1) and (2) of this section are not required for an 15381
emergency transfer or uncontested transfer under division (C) (1) 15382
or (2) of this section. 15383

(4) After an emergency transfer under division (C) (1) of 15384
this section, the department shall hold a hearing for continued 15385
hospitalization within five working days after admission of the 15386
transferred inmate to the psychiatric hospital. The department 15387
shall hold subsequent hearings pursuant to division (F) of this 15388
section at the same intervals as required for inmate patients 15389
who are transported to a psychiatric hospital under division (B) 15390
(4) of this section. 15391

(5) After an uncontested transfer under division (C) (2) of 15392
this section, the inmate may withdraw consent to the transfer in 15393
writing at any time. Upon the inmate's withdrawal of consent, 15394
the hospital shall discharge the inmate, or, within five working 15395
days, the department shall hold a hearing for continued 15396
hospitalization. The department shall hold subsequent hearings 15397
pursuant to division (F) of this section at the same time 15398
intervals as required for inmate patients who are transported to 15399
a psychiatric hospital under division (B) (4) of this section. 15400

(D) (1) If an independent decision-maker, pursuant to 15401
division (B) (4) of this section, orders an inmate transported to 15402
a psychiatric hospital or if an inmate is transferred pursuant 15403
to division (C) (1) or (2) of this section, the staff of the 15404
psychiatric hospital shall examine the inmate patient when 15405
admitted to the psychiatric hospital as soon as practicable 15406
after the inmate patient arrives at the hospital and no later 15407
than twenty-four hours after the time of arrival. The attending 15408
physician responsible for the inmate patient's care shall give 15409

the inmate patient all information necessary to enable the 15410
patient to give a fully informed, intelligent, and knowing 15411
consent to the treatment the inmate patient will receive in the 15412
hospital. The attending physician shall tell the inmate patient 15413
the expected physical and medical consequences of any proposed 15414
treatment and shall give the inmate patient the opportunity to 15415
consult with another psychiatrist at the hospital and with the 15416
inmate advisor. 15417

(2) No inmate patient who is transported or transferred 15418
pursuant to division (B) (4) or (C) (1) or (2) of this section to 15419
a psychiatric hospital within a facility that is operated by the 15420
department of rehabilitation and correction shall be subjected 15421
to any of the following procedures: 15422

(a) Convulsive therapy; 15423

(b) Major aversive interventions; 15424

(c) Any unusually hazardous treatment procedures; 15425

(d) Psychosurgery. 15426

(E) The department of rehabilitation and correction shall 15427
ensure that an inmate patient hospitalized pursuant to this 15428
section receives or has all of the following: 15429

(1) Receives sufficient professional care within twenty 15430
days of admission to ensure that an evaluation of the inmate 15431
patient's current status, differential diagnosis, probable 15432
prognosis, and description of the current treatment plan have 15433
been formulated and are stated on the inmate patient's official 15434
chart; 15435

(2) Has a written treatment plan consistent with the 15436
evaluation, diagnosis, prognosis, and goals of treatment; 15437

(3) Receives treatment consistent with the treatment plan;	15438
(4) Receives periodic reevaluations of the treatment plan	15439
by the professional staff at intervals not to exceed thirty	15440
days;	15441
(5) Is provided with adequate medical treatment for	15442
physical disease or injury;	15443
(6) Receives humane care and treatment, including, without	15444
being limited to, the following:	15445
(a) Access to the facilities and personnel required by the	15446
treatment plan;	15447
(b) A humane psychological and physical environment;	15448
(c) The right to obtain current information concerning the	15449
treatment program, the expected outcomes of treatment, and the	15450
expectations for the inmate patient's participation in the	15451
treatment program in terms that the inmate patient reasonably	15452
can understand;	15453
(d) Opportunity for participation in programs designed to	15454
help the inmate patient acquire the skills needed to work toward	15455
discharge from the psychiatric hospital;	15456
(e) The right to be free from unnecessary or excessive	15457
medication and from unnecessary restraints or isolation;	15458
(f) All other rights afforded inmates in the custody of	15459
the department consistent with rules, policy, and procedure of	15460
the department.	15461
(F) The department shall hold a hearing for the continued	15462
hospitalization of an inmate patient who is transported or	15463
transferred to a psychiatric hospital pursuant to division (B)	15464

(4) or (C) (1) of this section prior to the expiration of the 15465
initial thirty-day period of hospitalization. The department 15466
shall hold any subsequent hearings, if necessary, not later than 15467
ninety days after the first thirty-day hearing and then not 15468
later than each one hundred and eighty days after the 15469
immediately prior hearing. An independent decision-maker shall 15470
conduct the hearings at the psychiatric hospital in which the 15471
inmate patient is confined. The inmate patient shall be afforded 15472
all of the rights set forth in this section for the hearing 15473
prior to transfer to the psychiatric hospital. The department 15474
may not waive a hearing for continued commitment. A hearing for 15475
continued commitment is mandatory for an inmate patient 15476
transported or transferred to a psychiatric hospital pursuant to 15477
division (B) (4) or (C) (1) of this section unless the inmate 15478
patient has the capacity to make a reasoned choice to execute a 15479
waiver and waives the hearing in writing. An inmate patient who 15480
is transferred to a psychiatric hospital pursuant to an 15481
uncontested transfer under division (C) (2) of this section and 15482
who has scheduled hearings after withdrawal of consent for 15483
hospitalization may waive any of the scheduled hearings if the 15484
inmate has the capacity to make a reasoned choice and executes a 15485
written waiver of the hearing. 15486

If upon completion of the hearing the independent 15487
decision-maker does not find by clear and convincing evidence 15488
that the inmate patient is a mentally ill person subject to 15489
hospitalization, the independent decision-maker shall order the 15490
inmate patient's discharge from the psychiatric hospital. If the 15491
independent decision-maker finds by clear and convincing 15492
evidence that the inmate patient is a mentally ill person 15493
subject to hospitalization, the independent decision-maker shall 15494
order that the inmate patient remain at the psychiatric hospital 15495

for continued hospitalization until the next required hearing. 15496

If at any time prior to the next required hearing for 15497
continued hospitalization, the medical director of the hospital 15498
or the attending physician determines that the treatment needs 15499
of the inmate patient could be met equally well in an available 15500
and appropriate less restrictive state correctional institution 15501
or unit, the medical director or attending physician may 15502
discharge the inmate to that facility. 15503

(G) An inmate patient is entitled to the credits toward 15504
the reduction of the inmate patient's stated prison term 15505
pursuant to Chapters 2967. and 5120. of the Revised Code under 15506
the same terms and conditions as if the inmate patient were in 15507
any other institution of the department of rehabilitation and 15508
correction. 15509

(H) The adult parole authority may place an inmate patient 15510
on parole or under post-release control directly from a 15511
psychiatric hospital. 15512

(I) If an inmate patient who is a mentally ill person 15513
subject to hospitalization is to be released from a psychiatric 15514
hospital because of the expiration of the inmate patient's 15515
stated prison term, the director of rehabilitation and 15516
correction or the director's designee, at least fourteen days 15517
before the expiration date, may file an affidavit under section 15518
5122.11 or 5123.71 of the Revised Code with the probate court in 15519
the county where the psychiatric hospital is located or the 15520
probate court in the county where the inmate will reside, 15521
alleging that the inmate patient is a mentally ill person 15522
subject to court order, as defined in section 5122.01 of the 15523
Revised Code, or a mentally retarded person with an intellectual 15524
disability subject to institutionalization by court order, as 15525

defined in section 5123.01 of the Revised Code, whichever is 15526
applicable. The proceedings in the probate court shall be 15527
conducted pursuant to Chapter 5122. or 5123. of the Revised Code 15528
except as modified by this division. 15529

Upon the request of the inmate patient, the probate court 15530
shall grant the inmate patient an initial hearing under section 15531
5122.141 of the Revised Code or a probable cause hearing under 15532
section 5123.75 of the Revised Code before the expiration of the 15533
stated prison term. After holding a full hearing, the probate 15534
court shall make a disposition authorized by section 5122.15 or 15535
5123.76 of the Revised Code before the date of the expiration of 15536
the stated prison term. No inmate patient shall be held in the 15537
custody of the department of rehabilitation and correction past 15538
the date of the expiration of the inmate patient's stated prison 15539
term. 15540

(J) The department of rehabilitation and correction shall 15541
set standards for treatment provided to inmate patients. 15542

(K) A certificate, application, record, or report that is 15543
made in compliance with this section and that directly or 15544
indirectly identifies an inmate or former inmate whose 15545
hospitalization has been sought under this section is 15546
confidential. No person shall disclose the contents of any 15547
certificate, application, record, or report of that nature or 15548
any other psychiatric or medical record or report regarding a 15549
mentally ill inmate unless one of the following applies: 15550

(1) The person identified, or the person's legal guardian, 15551
if any, consents to disclosure, and the chief clinical officer 15552
or designee of mental health services of the department of 15553
rehabilitation and correction determines that disclosure is in 15554
the best interests of the person. 15555

(2) Disclosure is required by a court order signed by a judge. 15556
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(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons. 15558
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(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any. 15562
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(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure. 15570
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(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and addiction 15581
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services and with community mental health services providers and 15586
boards of alcohol, drug addiction, and mental health services 15587
with which the department of mental health and addiction 15588
services has a current agreement for patient care or services to 15589
ensure continuity of care. Disclosure under this division is 15590
limited to records regarding a mentally ill inmate's medication 15591
history, physical health status and history, summary of course 15592
of treatment, summary of treatment needs, and a discharge 15593
summary, if any. No office, department, agency, provider, or 15594
board shall disclose the records and other information unless 15595
one of the following applies: 15596

(a) The mentally ill inmate is notified of the possible 15597
disclosure and consents to the disclosure. 15598

(b) The mentally ill inmate is notified of the possible 15599
disclosure, an attempt to gain the consent of the inmate is 15600
made, and the office, department, agency, or board documents the 15601
attempt to gain consent, the inmate's objections, if any, and 15602
the reasons for disclosure in spite of the inmate's objections. 15603

(7) Information may be disclosed to staff members 15604
designated by the director of rehabilitation and correction for 15605
the purpose of evaluating the quality, effectiveness, and 15606
efficiency of services and determining if the services meet 15607
minimum standards. 15608

The name of an inmate patient shall not be retained with 15609
the information obtained during the evaluations. 15610

(L) The director of rehabilitation and correction may 15611
adopt rules setting forth guidelines for the procedures required 15612
under divisions (B), (C) (1), and (C) (2) of this section. 15613

Sec. 5120.173. Any person who is required to report abuse 15614

or neglect of a child under eighteen years of age that is 15615
reasonably suspected or believed to have occurred or the threat 15616
of which is reasonably suspected or believed to exist pursuant 15617
to division (A) of section 2151.421 of the Revised Code, any 15618
person who is permitted to report or cause a report to be made 15619
of reasonably suspected abuse or neglect of a child under 15620
eighteen years of age pursuant to division (B) of that section, 15621
any person who is required to report suspected abuse or neglect 15622
of a person with ~~mental retardation or~~ a developmental 15623
disability pursuant to division (C) of section 5123.61 of the 15624
Revised Code, and any person who is permitted to report 15625
suspected abuse or neglect of a person with ~~mental retardation~~ 15626
~~or~~ a developmental disability pursuant to division (F) of that 15627
section and who makes or causes the report to be made, shall 15628
direct that report to the state highway patrol if the child or 15629
the person with ~~mental retardation or~~ a developmental disability 15630
is an inmate in the custody of a state correctional institution. 15631
If the state highway patrol determines after receipt of the 15632
report that it is probable that abuse or neglect of the inmate 15633
occurred, the patrol shall report its findings to the department 15634
of rehabilitation and correction, to the court that sentenced 15635
the inmate for the offense for which the inmate is in the 15636
custody of the department, and to the chairperson and vice- 15637
chairperson of the correctional institution inspection committee 15638
established by section 103.71 of the Revised Code. 15639

Sec. 5121.04. (A) The department of developmental 15640
disabilities shall investigate the financial condition of the 15641
residents in institutions, residents whose care or treatment is 15642
being paid for in a private facility or home under the control 15643
of the department, and of the relatives named in section 5121.06 15644
of the Revised Code as liable for the support of such residents, 15645

in order to determine the ability of any resident or liable 15646
relatives to pay for the support of the resident and to provide 15647
suitable clothing as required by the superintendent of the 15648
institution. 15649

(B) The department shall follow the provisions of this 15650
division in determining the ability to pay of a resident or the 15651
resident's liable relatives and the amount to be charged such 15652
resident or liable relatives. 15653

(1) Subject to divisions (B) (10) and (11) of this section, 15654
a resident without dependents shall be liable for the full 15655
applicable cost. A resident without dependents who has a gross 15656
annual income equal to or exceeding the sum of the full 15657
applicable cost, plus fifty dollars per month, regardless of the 15658
source of such income, shall pay currently the full amount of 15659
the applicable cost; if the resident's gross annual income is 15660
less than such sum, not more than fifty dollars per month shall 15661
be kept for personal use by or on behalf of the resident, except 15662
as permitted in the state plan for providing medical assistance 15663
under Title XIX of the "Social Security Act," 49 Stat. 620 15664
(1935), 42 U.S.C. 301, as amended, and the balance shall be paid 15665
currently on the resident's support. Subject to divisions (B) 15666
(10) and (11) of this section, the estate of a resident without 15667
dependents shall pay currently any remaining difference between 15668
the applicable cost and the amounts prescribed in this section, 15669
or shall execute an agreement with the department for payment to 15670
be made at some future date under terms suitable to the 15671
department. However, no security interest, mortgage, or lien 15672
shall be taken, granted, or charged against any principal 15673
residence of a resident without dependents under an agreement or 15674
otherwise to secure support payments, and no foreclosure actions 15675
shall be taken on security interests, mortgages, or liens taken, 15676

granted, or charged against principal residences of residents 15677
prior to October 7, 1977. 15678

(2) The ability to pay of a resident with dependents, or 15679
of a liable relative of a resident either with or without 15680
dependents, shall be determined in accordance with the 15681
resident's or liable relative's income or other assets, the 15682
needs of others who are dependent on such income and other 15683
assets for support, and, if applicable, divisions (B) (10) and 15684
(11) of this section. 15685

For the first thirty days of care and treatment of each 15686
admission, but in no event for more than thirty days in any 15687
calendar year, the resident with dependents or the liable 15688
relative of a resident either with or without dependents shall 15689
be charged an amount equal to the percentage of the average 15690
applicable cost determined in accordance with the schedule of 15691
adjusted gross annual income contained after this paragraph. 15692
After such first thirty days of care and treatment, such 15693
resident or such liable relative shall be charged an amount 15694
equal to the percentage of a base support rate of four dollars 15695
per day for residents, as determined in accordance with the 15696
schedule of gross annual income contained after this paragraph, 15697
or in accordance with division (B) (5) of this section. Beginning 15698
January 1, 1978, the department shall increase the base rate 15699
when the consumer price index average is more than 4.0 for the 15700
preceding calendar year by not more than the average for such 15701
calendar year. 15702

Adjusted Gross Annual 15703
Income of Resident 15704
or Liable Relative (FN a) Number of Dependents (FN b) 15705

8 or 15706

	1	2	3	4	5	6	7	more	
									15707
	Rate of Support (In Percentages)								15708
\$15,000 or less	--	--	--	--	--	--	--	--	15709
15,001 to 17,500	20	--	--	--	--	--	--	--	15710
17,501 to 20,000	25	20	--	--	--	--	--	--	15711
20,001 to 21,000	30	25	20	--	--	--	--	--	15712
21,001 to 22,000	35	30	25	20	--	--	--	--	15713
22,001 to 23,000	40	35	30	25	20	--	--	--	15714
23,001 to 24,000	45	40	35	30	25	20	--	--	15715
24,001 to 25,000	50	45	40	35	30	25	20	--	15716
25,001 to 26,000	55	50	45	40	35	30	25	20	15717
26,001 to 27,000	60	55	50	45	40	35	30	25	15718
27,001 to 28,000	70	60	55	50	45	40	35	30	15719
28,001 to 30,000	80	70	60	55	50	45	40	35	15720
30,001 to 40,000	90	80	70	60	55	50	45	40	15721
40,001 and over	100	90	80	70	60	55	50	45	15722

Footnote a. The resident or relative shall furnish a copy of the resident's or relative's federal income tax return as evidence of gross annual income. 15723
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Footnote b. The number of dependents includes the liable relative but excludes a resident in an institution. "Dependent" includes any person who receives more than half the person's support from the resident or the resident's liable relative. 15726
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(3) A resident or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished. 15730
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(4) Additional dependencies may be claimed if:	15737
(a) The liable relative is blind;	15738
(b) The liable relative is over sixty-five;	15739
(c) A child is a college student with expenses in excess of fifty dollars per month;	15740 15741
(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the resident.	15742 15743 15744
(5) If with respect to any resident with dependents there is chargeable under division (B) (2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such resident a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such resident an agreement with the department for payment to be made at some future date under terms suitable to the department.	15745 15746 15747 15748 15749 15750 15751 15752 15753 15754 15755 15756 15757 15758
(6) When a person has been a resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges.	15759 15760 15761 15762
(7) The department shall accept voluntary payments from residents or liable relatives whose incomes are below the minimum shown in the schedule set forth in this division. The	15763 15764 15765

department also shall accept voluntary payments in excess of 15766
required amounts from both liable and nonliable relatives. 15767

(8) If a resident is covered by an insurance policy, or 15768
other contract that provides for payment of expenses for care 15769
and treatment for ~~mental retardation or other~~ a developmental 15770
disability at or from an institution or facility (including a 15771
community service unit under the jurisdiction of the 15772
department), the other provisions of this section, except 15773
divisions (B) (8), (10), and (11) of this section, and of section 15774
5121.01 of the Revised Code shall be suspended to the extent 15775
that such insurance policy or other contract is in force, and 15776
such resident shall be charged the full amount of the applicable 15777
cost. Any insurance carrier or other third party payor providing 15778
coverage for such care and treatment shall pay for this support 15779
obligation in an amount equal to the lesser of either the 15780
applicable cost or the benefits provided under the policy or 15781
other contract. Whether or not an insured, owner of, or other 15782
person having an interest in such policy or other contract is 15783
liable for support payments under other provisions of this 15784
chapter, the insured, policy owner, or other person shall assign 15785
payment directly to the department of all assignable benefits 15786
under the policy or other contract and shall pay over to the 15787
department, within ten days of receipt, all insurance or other 15788
benefits received as reimbursement or payment for expenses 15789
incurred by the resident or for any other reason. If the 15790
insured, policy owner, or other person refuses to assign such 15791
payment to the department or refuses to pay such received 15792
reimbursements or payments over to the department within ten 15793
days of receipt, the insured's, policy owners', or other 15794
person's total liability for the services equals the applicable 15795
statutory liability for payment for the services as determined 15796

under other provisions of this chapter, plus the amounts payable 15797
under the terms of the policy or other contract. In no event 15798
shall this total liability exceed the full amount of the 15799
applicable cost. Upon its request, the department is entitled to 15800
a court order that compels the insured, owner of, or other 15801
person having an interest in the policy or other contract to 15802
comply with the assignment requirements of this division or that 15803
itself serves as a legally sufficient assignment in compliance 15804
with such requirements. Notwithstanding section 5123.89 of the 15805
Revised Code and any other law relating to confidentiality of 15806
records, the managing officer of the institution or facility 15807
where a person is or has been a resident shall disclose 15808
pertinent medical information concerning the resident to the 15809
insurance carrier or other third party payor in question, in 15810
order to effect collection from the carrier or payor of the 15811
state's claim for care and treatment under this division. For 15812
such disclosure, the managing officer is not subject to any 15813
civil or criminal liability. 15814

(9) The rate to be charged for pre-admission care, after- 15815
care, day-care, or routine consultation and treatment services 15816
shall be based upon the ability of the resident or the 15817
resident's liable relatives to pay. When it is determined by the 15818
department that a charge shall be made, such charge shall be 15819
computed as provided in divisions (B) (1) and (2) of this 15820
section. 15821

(10) If a resident with or without dependents is the 15822
beneficiary of a trust created pursuant to section 5815.28 of 15823
the Revised Code, then, notwithstanding any contrary provision 15824
of this chapter or of a rule adopted pursuant to this chapter, 15825
divisions (C) and (D) of that section shall apply in determining 15826
the assets or resources of the resident, the resident's estate, 15827

the settlor, or the settlor's estate and to claims arising under 15828
this chapter against the resident, the resident's estate, the 15829
settlor, or the settlor's estate. 15830

(11) If the department waives the liability of an 15831
individual and the individual's liable relatives pursuant to 15832
section 5123.194 of the Revised Code, the liability of the 15833
individual and relative ceases in accordance with the waiver's 15834
terms. 15835

(C) The department may enter into agreements with a 15836
resident or a liable relative for support payments to be made in 15837
the future. However, no security interest, mortgage, or lien 15838
shall be taken, granted, or charged against any principal family 15839
residence of a resident with dependents or a liable relative 15840
under an agreement or otherwise to secure support payments, and 15841
no foreclosure actions shall be taken on security interests, 15842
mortgages or liens taken, granted, or charged against principal 15843
residences of residents or liable relatives prior to October 7, 15844
1977. 15845

(D) The department shall make all investigations and 15846
determinations required by this section within ninety days after 15847
a resident is admitted to an institution under the department's 15848
control and immediately shall notify by mail the persons liable 15849
of the amount to be charged. 15850

(E) All actions to enforce the collection of payments 15851
agreed upon or charged by the department shall be commenced 15852
within six years after the date of default of an agreement to 15853
pay support charges or the date such payment becomes delinquent. 15854
If a payment is made pursuant to an agreement which is in 15855
default, a new six-year period for actions to enforce the 15856
collection of payments under such agreement shall be computed 15857

from the date of such payment. For purposes of this division an 15858
agreement is in default or a payment is delinquent if a payment 15859
is not made within thirty days after it is incurred or a 15860
payment, pursuant to an agreement, is not made within thirty 15861
days after the date specified for such payment. In all actions 15862
to enforce the collection of payment for the liability for 15863
support, every court of record shall receive into evidence the 15864
proof of claim made by the state together with all debts and 15865
credits, and it shall be prima-facie evidence of the facts 15866
contained in it. 15867

Sec. 5122.01. As used in this chapter and Chapter 5119. of 15868
the Revised Code: 15869

(A) "Mental illness" means a substantial disorder of 15870
thought, mood, perception, orientation, or memory that grossly 15871
impairs judgment, behavior, capacity to recognize reality, or 15872
ability to meet the ordinary demands of life. 15873

(B) "Mentally ill person subject to court order" means a 15874
mentally ill person who, because of the person's illness: 15875

(1) Represents a substantial risk of physical harm to self 15876
as manifested by evidence of threats of, or attempts at, suicide 15877
or serious self-inflicted bodily harm; 15878

(2) Represents a substantial risk of physical harm to 15879
others as manifested by evidence of recent homicidal or other 15880
violent behavior, evidence of recent threats that place another 15881
in reasonable fear of violent behavior and serious physical 15882
harm, or other evidence of present dangerousness; 15883

(3) Represents a substantial and immediate risk of serious 15884
physical impairment or injury to self as manifested by evidence 15885
that the person is unable to provide for and is not providing 15886

for the person's basic physical needs because of the person's 15887
mental illness and that appropriate provision for those needs 15888
cannot be made immediately available in the community; ~~or~~ 15889

(4) Would benefit from treatment for the person's mental 15890
illness and is in need of such treatment as manifested by 15891
evidence of behavior that creates a grave and imminent risk to 15892
substantial rights of others or the person; 15893

(5) (a) Would benefit from treatment as manifested by 15894
evidence of behavior that indicates all of the following: 15895

(i) The person is unlikely to survive safely in the 15896
community without supervision, based on a clinical 15897
determination. 15898

(ii) The person has a history of lack of compliance with 15899
treatment for mental illness and one of the following applies: 15900

(I) At least twice within the thirty-six months prior to 15901
the filing of an affidavit seeking court-ordered treatment of 15902
the person under section 5122.111 of the Revised Code, the lack 15903
of compliance has been a significant factor in necessitating 15904
hospitalization in a hospital or receipt of services in a 15905
forensic or other mental health unit of a correctional facility, 15906
provided that the thirty-six-month period shall be extended by 15907
the length of any hospitalization or incarceration of the person 15908
that occurred within the thirty-six-month period. 15909

(II) Within the forty-eight months prior to the filing of 15910
an affidavit seeking court-ordered treatment of the person under 15911
section 5122.111 of the Revised Code, the lack of compliance 15912
resulted in one or more acts of serious violent behavior toward 15913
self or others or threats of, or attempts at, serious physical 15914
harm to self or others, provided that the forty-eight-month 15915

period shall be extended by the length of any hospitalization or 15916
incarceration of the person that occurred within the forty- 15917
eight-month period. 15918

(iii) The person, as a result of the person's mental 15919
illness, is unlikely to voluntarily participate in necessary 15920
treatment. 15921

(iv) In view of the person's treatment history and current 15922
behavior, the person is in need of treatment in order to prevent 15923
a relapse or deterioration that would be likely to result in 15924
substantial risk of serious harm to the person or others. 15925

(b) An individual who meets only the criteria described in 15926
division (B) (5) (a) of this section is not subject to 15927
hospitalization. 15928

(C) (1) "Patient" means, subject to division (C) (2) of this 15929
section, a person who is admitted either voluntarily or 15930
involuntarily to a hospital or other place under section 15931
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 15932
subsequent to a finding of not guilty by reason of insanity or 15933
incompetence to stand trial or under this chapter, who is under 15934
observation or receiving treatment in such place. 15935

(2) "Patient" does not include a person admitted to a 15936
hospital or other place under section 2945.39, 2945.40, 15937
2945.401, or 2945.402 of the Revised Code to the extent that the 15938
reference in this chapter to patient, or the context in which 15939
the reference occurs, is in conflict with any provision of 15940
sections 2945.37 to 2945.402 of the Revised Code. 15941

(D) "Licensed physician" means a person licensed under the 15942
laws of this state to practice medicine or a medical officer of 15943
the government of the United States while in this state in the 15944

performance of the person's official duties. 15945

(E) "Psychiatrist" means a licensed physician who has 15946
satisfactorily completed a residency training program in 15947
psychiatry, as approved by the residency review committee of the 15948
American medical association, the committee on post-graduate 15949
education of the American osteopathic association, or the 15950
American osteopathic board of neurology and psychiatry, or who 15951
on July 1, 1989, has been recognized as a psychiatrist by the 15952
Ohio state medical association or the Ohio osteopathic 15953
association on the basis of formal training and five or more 15954
years of medical practice limited to psychiatry. 15955

(F) "Hospital" means a hospital or inpatient unit licensed 15956
by the department of mental health and addiction services under 15957
section 5119.33 of the Revised Code, and any institution, 15958
hospital, or other place established, controlled, or supervised 15959
by the department under Chapter 5119. of the Revised Code. 15960

(G) "Public hospital" means a facility that is tax- 15961
supported and under the jurisdiction of the department of mental 15962
health and addiction services. 15963

(H) "Community mental health services provider" means an 15964
agency, association, corporation, individual, or program that 15965
provides community mental health services that are certified by 15966
the director of mental health and addiction services under 15967
section 5119.36 of the Revised Code. 15968

(I) "Licensed clinical psychologist" means a person who 15969
holds a current valid psychologist license issued under section 15970
4732.12 of the Revised Code, and in addition, meets the 15971
educational requirements set forth in division (B) of section 15972
4732.10 of the Revised Code and has a minimum of two years' 15973

full-time professional experience, or the equivalent as 15974
determined by rule of the state board of psychology, at least 15975
one year of which shall be a predoctoral internship, in clinical 15976
psychological work in a public or private hospital or clinic or 15977
in private practice, diagnosing and treating problems of mental 15978
illness or ~~mental retardation~~ intellectual disability under the 15979
supervision of a psychologist who is licensed or who holds a 15980
diploma issued by the American board of professional psychology, 15981
or whose qualifications are substantially similar to those 15982
required for licensure by the state board of psychology when the 15983
supervision has occurred prior to enactment of laws governing 15984
the practice of psychology. 15985

(J) "Health officer" means any public health physician; 15986
public health nurse; or other person authorized ~~by~~ or designated 15987
by a city ~~health district; a~~ or general health district, or a 15988
board of alcohol, drug addiction, and mental health services to 15989
perform the duties of a health officer under this chapter. 15990

(K) "Chief clinical officer" means the medical director of 15991
a hospital, ~~or a~~ community mental health services provider, or a 15992
board of alcohol, drug addiction, and mental health services, 15993
or, if there is no medical director, the licensed physician 15994
responsible for the treatment provided by a hospital or 15995
community mental health services provider ~~provides~~. The chief 15996
clinical officer may delegate to the attending physician 15997
responsible for a patient's care the duties imposed on the chief 15998
clinical officer by this chapter. Within a community mental 15999
health services provider, the chief clinical officer shall be 16000
designated by the governing body of the services provider and 16001
shall be a licensed physician or licensed clinical psychologist 16002
who supervises diagnostic and treatment services. A licensed 16003
physician or licensed clinical psychologist designated by the 16004

chief clinical officer may perform the duties and accept the 16005
responsibilities of the chief clinical officer in the chief 16006
clinical officer's absence. 16007

(L) "Working day" or "court day" means Monday, Tuesday, 16008
Wednesday, Thursday, and Friday, except when such day is a 16009
holiday. 16010

(M) "Indigent" means unable without deprivation of 16011
satisfaction of basic needs to provide for the payment of an 16012
attorney and other necessary expenses of legal representation, 16013
including expert testimony. 16014

(N) "Respondent" means the person whose detention, 16015
commitment, hospitalization, continued hospitalization or 16016
commitment, or discharge is being sought in any proceeding under 16017
this chapter. 16018

(O) "Ohio protection and advocacy system" has the same 16019
meaning as in section 5123.60 of the Revised Code. 16020

(P) "Independent expert evaluation" means an evaluation 16021
conducted by a licensed clinical psychologist, psychiatrist, or 16022
licensed physician who has been selected by the respondent or 16023
the respondent's counsel and who consents to conducting the 16024
evaluation. 16025

(Q) "Court" means the probate division of the court of 16026
common pleas. 16027

(R) "Expunge" means: 16028

(1) The removal and destruction of court files and 16029
records, originals and copies, and the deletion of all index 16030
references; 16031

(2) The reporting to the person of the nature and extent 16032

of any information about the person transmitted to any other 16033
person by the court; 16034

(3) Otherwise insuring that any examination of court files 16035
and records in question shall show no record whatever with 16036
respect to the person; 16037

(4) That all rights and privileges are restored, and that 16038
the person, the court, and any other person may properly reply 16039
that no such record exists, as to any matter expunged. 16040

(S) "Residence" means a person's physical presence in a 16041
county with intent to remain there, except that: 16042

(1) If a person is receiving a mental health service at a 16043
facility that includes nighttime sleeping accommodations, 16044
residence means that county in which the person maintained the 16045
person's primary place of residence at the time the person 16046
entered the facility; 16047

(2) If a person is committed pursuant to section 2945.38, 16048
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 16049
residence means the county where the criminal charges were 16050
filed. 16051

When the residence of a person is disputed, the matter of 16052
residence shall be referred to the department of mental health 16053
and addiction services for investigation and determination. 16054
Residence shall not be a basis for a board's denying services to 16055
any person present in the board's service district, and the 16056
board shall provide services for a person whose residence is in 16057
dispute while residence is being determined and for a person in 16058
an emergency situation. 16059

(T) "Admission" to a hospital or other place means that a 16060
patient is accepted for and stays at least one night at the 16061

hospital or other place. 16062

(U) "Prosecutor" means the prosecuting attorney, village 16063
solicitor, city director of law, or similar chief legal officer 16064
who prosecuted a criminal case in which a person was found not 16065
guilty by reason of insanity, who would have had the authority 16066
to prosecute a criminal case against a person if the person had 16067
not been found incompetent to stand trial, or who prosecuted a 16068
case in which a person was found guilty. 16069

(V) (1) "Treatment plan" means a written statement of 16070
reasonable objectives and goals for an individual established by 16071
the treatment team, with specific criteria to evaluate progress 16072
towards achieving those objectives. 16073

(2) The active participation of the patient in 16074
establishing the objectives and goals shall be documented. The 16075
treatment plan shall be based on patient needs and include 16076
services to be provided to the patient while the patient is 16077
hospitalized, after the patient is discharged, or in an 16078
outpatient setting. The treatment plan shall address services to 16079
be provided. In the establishment of the treatment plan, 16080
consideration should be given to the availability of services, 16081
which may include but are not limited to all of the following: 16082

(a) Community psychiatric supportive treatment; 16083

(b) Assertive community treatment; 16084

(c) Medications; 16085

(d) Individual or group therapy; 16086

(e) Peer support services; 16087

(f) Financial services; 16088

(g) Housing or supervised living services;	16089
(h) Alcohol or substance abuse treatment;	16090
(i) Any other services prescribed to treat the patient's mental illness and to either assist the patient in living and functioning in the community or to help prevent a relapse or a deterioration of the patient's current condition.	16091 16092 16093 16094
(3) If the person subject to the treatment plan has executed an advanced directive for mental health treatment, the treatment team shall consider any directions included in such advanced directive in developing the treatment plan.	16095 16096 16097 16098
(W) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	16099 16100
(X) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	16101 16102
(Y) "Local correctional facility" has the same meaning as in section 2903.13 of the Revised Code.	16103 16104
Sec. 5123.01. As used in this chapter:	16105
(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded persons with developmental disabilities with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.	16106 16107 16108 16109 16110
(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded persons with developmental disabilities , certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded persons with	16111 16112 16113 16114 16115 16116

developmental disabilities with the approval of the director to 16117
provide habilitation and care for residents of the institution. 16118

(C) "Comprehensive evaluation" means a study, including a 16119
sequence of observations and examinations, of a person leading 16120
to conclusions and recommendations formulated jointly, with 16121
dissenting opinions if any, by a group of persons with special 16122
training and experience in the diagnosis and management of 16123
persons with ~~mental retardation or a~~ developmental 16124
~~disability~~disabilities, which group shall include individuals 16125
who are professionally qualified in the fields of medicine, 16126
psychology, and social work, together with such other 16127
specialists as the individual case may require. 16128

(D) "Education" means the process of formal training and 16129
instruction to facilitate the intellectual and emotional 16130
development of residents. 16131

(E) "Habilitation" means the process by which the staff of 16132
the institution assists the resident in acquiring and 16133
maintaining those life skills that enable the resident to cope 16134
more effectively with the demands of the resident's own person 16135
and of the resident's environment and in raising the level of 16136
the resident's physical, mental, social, and vocational 16137
efficiency. Habilitation includes but is not limited to programs 16138
of formal, structured education and training. 16139

(F) "Health officer" means any public health physician, 16140
public health nurse, or other person authorized or designated by 16141
a city or general health district. 16142

(G) "Home and community-based services" means medicaid- 16143
funded home and community-based services specified in division 16144
(A) (1) of section 5166.20 of the Revised Code provided under the 16145

medicaid waiver components the department of developmental 16146
disabilities administers pursuant to section 5166.21 of the 16147
Revised Code. Except as provided in section 5123.0412 of the 16148
Revised Code, home and community-based services provided under 16149
the medicaid waiver component known as the transitions 16150
developmental disabilities waiver are to be considered to be 16151
home and community-based services for the purposes of this 16152
chapter, and Chapters 5124. and 5126. of the Revised Code, only 16153
to the extent, if any, provided by the contract required by 16154
section 5166.21 of the Revised Code regarding the waiver. 16155

(H) "ICF/IID" has the same meaning as in section 5124.01 16156
of the Revised Code. 16157

(I) "Indigent person" means a person who is unable, 16158
without substantial financial hardship, to provide for the 16159
payment of an attorney and for other necessary expenses of legal 16160
representation, including expert testimony. 16161

(J) "Institution" means a public or private facility, or a 16162
part of a public or private facility, that is licensed by the 16163
appropriate state department and is equipped to provide 16164
residential habilitation, care, and treatment for ~~the mentally~~ 16165
~~retarded~~ persons with developmental disabilities. 16166

(K) "Licensed physician" means a person who holds a valid 16167
certificate issued under Chapter 4731. of the Revised Code 16168
authorizing the person to practice medicine and surgery or 16169
osteopathic medicine and surgery, or a medical officer of the 16170
government of the United States while in the performance of the 16171
officer's official duties. 16172

(L) "Managing officer" means a person who is appointed by 16173
the director of developmental disabilities to be in executive 16174

control of an institution ~~for the mentally retarded~~ under the 16175
jurisdiction of the department of developmental disabilities. 16176

(M) "Medicaid case management services" means case 16177
management services provided to an individual with ~~mental-~~ 16178
~~retardation or other~~ a developmental disability that the state 16179
medicaid plan requires. 16180

(N) "~~Mentally retarded person~~ Intellectual disability" 16181
means a ~~person~~ disability characterized by having significantly 16182
subaverage general intellectual functioning existing 16183
concurrently with deficiencies in adaptive behavior, manifested 16184
during the developmental period. 16185

(O) "~~Mentally retarded person~~ Person with an intellectual 16186
disability subject to institutionalization by court order" means 16187
a person eighteen years of age or older ~~who is~~ with at least 16188
~~moderately mentally retarded~~ a moderate level of intellectual 16189
disability and in relation to whom, because of the person's 16190
~~retardation~~ disability, either of the following conditions 16191
~~exist~~ exists: 16192

(1) The person represents a very substantial risk of 16193
physical impairment or injury to self as manifested by evidence 16194
that the person is unable to provide for and is not providing 16195
for the person's most basic physical needs and that provision 16196
for those needs is not available in the community; 16197

(2) The person needs and is susceptible to significant 16198
habilitation in an institution. 16199

(P) "~~A person who is at least moderately mentally~~ 16200
~~retarded~~ Moderate level of intellectual disability" means the 16201
condition in which a person ~~who is found~~, following a 16202
comprehensive evaluation, is found to be impaired in adaptive 16203

~~behavior to a have at least moderate degree and to be~~ 16204
~~functioning at the moderate level of deficits in overall~~ 16205
~~intellectual functioning, as measured by a full-scale~~ 16206
~~intelligence quotient test, and at least moderate deficits in~~ 16207
~~adaptive behavior, as determined in accordance with ~~standard~~~~ 16208
~~measurements as recorded in the most current revision of the~~ 16209
~~manual of terminology and classification in mental retardation~~ 16210
~~the criteria established in the fifth edition of the diagnostic~~ 16211
~~and statistical manual of mental disorders published by the~~ 16212
~~American psychiatric association ~~on mental retardation.~~~~ 16213

(Q) ~~As used in this division, "developmental delay" has~~ 16214
~~the meaning established pursuant to section 5123.011 of the~~ 16215
~~Revised Code.~~ 16216

"Developmental disability" means a severe, chronic 16217
disability that is characterized by all of the following: 16218

(1) It is attributable to a mental or physical impairment 16219
or a combination of mental and physical impairments, other than 16220
a mental or physical impairment solely caused by mental illness, 16221
as defined in division (A) of section 5122.01 of the Revised 16222
Code. 16223

(2) It is manifested before age twenty-two. 16224

(3) It is likely to continue indefinitely. 16225

(4) It results in one of the following: 16226

(a) In the case of a person under three years of age, at 16227
least one developmental delay, as defined in rules adopted under 16228
section 5123.011 of the Revised Code, or a diagnosed physical or 16229
mental condition that has a high probability of resulting in a 16230
developmental delay, as defined in those rules; 16231

(b) In the case of a person at least three years of age 16232
but under six years of age, at least two developmental delays, 16233
as defined in rules adopted under section 5123.011 of the 16234
Revised Code; 16235

(c) In the case of a person six years of age or older, a 16236
substantial functional limitation in at least three of the 16237
following areas of major life activity, as appropriate for the 16238
person's age: self-care, receptive and expressive language, 16239
learning, mobility, self-direction, capacity for independent 16240
living, and, if the person is at least sixteen years of age, 16241
capacity for economic self-sufficiency. 16242

(5) It causes the person to need a combination and 16243
sequence of special, interdisciplinary, or other type of care, 16244
treatment, or provision of services for an extended period of 16245
time that is individually planned and coordinated for the 16246
person. 16247

"Developmental disability" includes intellectual 16248
disability. 16249

(R) ~~"Developmentally disabled person" means a person with~~ 16250
~~a developmental disability.~~ 16251

~~(S)~~ "State institution" means an institution that is tax- 16252
supported and under the jurisdiction of the department of 16253
developmental disabilities. 16254

~~(T)~~ (S) "Residence" and "legal residence" have the same 16255
meaning as "legal settlement," which is acquired by residing in 16256
Ohio for a period of one year without receiving general 16257
assistance prior to July 17, 1995, under former Chapter 5113. of 16258
the Revised Code, financial assistance under Chapter 5115. of 16259
the Revised Code, or assistance from a private agency that 16260

maintains records of assistance given. A person having a legal 16261
settlement in the state shall be considered as having legal 16262
settlement in the assistance area in which the person resides. 16263
No adult person coming into this state and having a spouse or 16264
minor children residing in another state shall obtain a legal 16265
settlement in this state as long as the spouse or minor children 16266
are receiving public assistance, care, or support at the expense 16267
of the other state or its subdivisions. For the purpose of 16268
determining the legal settlement of a person who is living in a 16269
public or private institution or in a home subject to licensing 16270
by the department of job and family services, the department of 16271
mental health and addiction services, or the department of 16272
developmental disabilities, the residence of the person shall be 16273
considered as though the person were residing in the county in 16274
which the person was living prior to the person's entrance into 16275
the institution or home. Settlement once acquired shall continue 16276
until a person has been continuously absent from Ohio for a 16277
period of one year or has acquired a legal residence in another 16278
state. A woman who marries a man with legal settlement in any 16279
county immediately acquires the settlement of her husband. The 16280
legal settlement of a minor is that of the parents, surviving 16281
parent, sole parent, parent who is designated the residential 16282
parent and legal custodian by a court, other adult having 16283
permanent custody awarded by a court, or guardian of the person 16284
of the minor, provided that: 16285

(1) A minor female who marries shall be considered to have 16286
the legal settlement of her husband and, in the case of death of 16287
her husband or divorce, she shall not thereby lose her legal 16288
settlement obtained by the marriage. 16289

(2) A minor male who marries, establishes a home, and who 16290
has resided in this state for one year without receiving general 16291

assistance prior to July 17, 1995, under former Chapter 5113. of 16292
the Revised Code, financial assistance under Chapter 5115. of 16293
the Revised Code, or assistance from a private agency that 16294
maintains records of assistance given shall be considered to 16295
have obtained a legal settlement in this state. 16296

(3) The legal settlement of a child under eighteen years 16297
of age who is in the care or custody of a public or private 16298
child caring agency shall not change if the legal settlement of 16299
the parent changes until after the child has been in the home of 16300
the parent for a period of one year. 16301

No person, adult or minor, may establish a legal 16302
settlement in this state for the purpose of gaining admission to 16303
any state institution. 16304

~~(U)~~(T) (1) "Resident" means, subject to division ~~(U)~~(T) (2) 16305
of this section, a person who is admitted either voluntarily or 16306
involuntarily to an institution or other facility pursuant to 16307
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 16308
Code subsequent to a finding of not guilty by reason of insanity 16309
or incompetence to stand trial or under this chapter who is 16310
under observation or receiving habilitation and care in an 16311
institution. 16312

(2) "Resident" does not include a person admitted to an 16313
institution or other facility under section 2945.39, 2945.40, 16314
2945.401, or 2945.402 of the Revised Code to the extent that the 16315
reference in this chapter to resident, or the context in which 16316
the reference occurs, is in conflict with any provision of 16317
sections 2945.37 to 2945.402 of the Revised Code. 16318

~~(V)~~(U) "Respondent" means the person whose detention, 16319
commitment, or continued commitment is being sought in any 16320

proceeding under this chapter. 16321

~~(W)~~(V) "Working day" and "court day" mean Monday, 16322
Tuesday, Wednesday, Thursday, and Friday, except when such day 16323
is a legal holiday. 16324

~~(X)~~(W) "Prosecutor" means the prosecuting attorney, 16325
village solicitor, city director of law, or similar chief legal 16326
officer who prosecuted a criminal case in which a person was 16327
found not guilty by reason of insanity, who would have had the 16328
authority to prosecute a criminal case against a person if the 16329
person had not been found incompetent to stand trial, or who 16330
prosecuted a case in which a person was found guilty. 16331

~~(Y)~~(X) "Court" means the probate division of the court of 16332
common pleas. 16333

~~(Z)~~(Y) "Supported living" and "residential services" have 16334
the same meanings as in section 5126.01 of the Revised Code. 16335

Sec. 5123.012. (A) As used in this section, "preschool 16336
child with a disability" has the same meaning as in section 16337
3323.01 of the Revised Code. 16338

(B) Except as provided in division (C) of this section, 16339
the department of developmental disabilities shall make 16340
eligibility determinations in accordance with the definition of 16341
"developmental disability" contained in section 5123.01 of the 16342
Revised Code. The department may adopt rules in accordance with 16343
Chapter 119. of the Revised Code establishing eligibility for 16344
programs and services for any preschool child with a disability 16345
eligible for services under section 3323.02 of the Revised Code 16346
whose disability is not attributable solely to mental illness, 16347
as defined in section 5122.01 of the Revised Code. 16348

(C) (1) The department shall make determinations of 16349

eligibility for protective services in accordance with sections 16350
5123.55 to 5123.59 of the Revised Code. 16351

(2) Determinations of whether a ~~mentally retarded~~ person 16352
with an intellectual disability is subject to 16353
institutionalization by court order shall be made in accordance 16354
with sections 5123.71 to 5123.76 of the Revised Code and shall 16355
be based on the definition of "~~mentally retarded person~~ with an 16356
intellectual disability subject to institutionalization by court 16357
order" contained in section 5123.01 of the Revised Code. 16358

(3) All persons who were eligible for services and 16359
enrolled in programs offered by the department of developmental 16360
disabilities pursuant to this chapter on July 1, 1991, shall 16361
continue to be eligible for those services and to be enrolled in 16362
those programs as long as they are in need of services. 16363

Sec. 5123.014. Whenever the department or director of 16364
mental retardation and developmental disabilities is referred to 16365
or designated in any statute, rule, contract, grant, or other 16366
document, the reference or designation ~~shall be~~ is deemed to 16367
refer to the department or director of developmental 16368
disabilities, as the case may be. 16369

Whenever "mental retardation" or any derivation of that 16370
term is referred to or designated in any statute, rule, 16371
contract, grant, or other document, the reference or designation 16372
is deemed to have the same meaning established by or derived 16373
from the definition of "intellectual disability" contained in 16374
section 5123.01 or 5126.01 of the Revised Code, as the case may 16375
be. 16376

Whenever "mentally retarded person subject to 16377
institutionalization by court order" or any derivation of that 16378

term is referred to or designated in any statute, rule, 16379
contract, grant, or other document, the reference or designation 16380
is deemed to have the same meaning established by or derived 16381
from the definition of "person with an intellectual disability 16382
subject to institutionalization by court order" contained in 16383
section 5123.01 of the Revised Code, including the definition of 16384
"moderate level of intellectual disability" contained in that 16385
section. 16386

Sec. 5123.02. The department of developmental disabilities 16387
shall do the following: 16388

(A) Promote comprehensive statewide programs and services 16389
for persons with ~~mental retardation or a developmental~~ 16390
~~disability disabilities~~ and their families wherever they reside 16391
in the state. These programs shall include public education, 16392
prevention, diagnosis, treatment, training, and care. 16393

(B) Provide administrative leadership for statewide 16394
services which include residential facilities, evaluation 16395
centers, and community classes which are wholly or in part 16396
financed by the department of developmental disabilities as 16397
provided by section 5123.26 of the Revised Code; 16398

(C) Develop and maintain, to the extent feasible, data on 16399
all services and programs ~~for persons with mental retardation or~~ 16400
~~a developmental disability, that are provided by governmental~~ 16401
and private agencies provide for persons with developmental 16402
disabilities; 16403

(D) Make periodic determinations of the number of persons 16404
with ~~mental retardation or a developmental disability~~ 16405
disabilities requiring services in the state; 16406

(E) Provide leadership to local authorities in planning 16407

and developing community-wide services for persons with ~~mental-~~ 16408
~~retardation or a developmental disability~~ disabilities and their 16409
families; 16410

(F) Promote programs of professional training and research 16411
in cooperation with other state departments, agencies, and 16412
institutions of higher learning. 16413

Sec. 5123.03. (A) The department of developmental 16414
disabilities shall do all of the following: 16415

(1) Maintain, operate, manage, and govern all state 16416
institutions for the care, treatment, and training of ~~the~~ 16417
~~mentally retarded~~ persons with developmental disabilities; 16418

(2) Designate all such institutions by appropriate names; 16419

(3) Provide and designate facilities for the custody, 16420
care, and special treatment of persons of the following classes: 16421

(a) Dangerous persons in state institutions for ~~the~~ 16422
~~mentally retarded~~ persons with developmental disabilities who 16423
represent a serious threat to the safety of the other patients 16424
of the institution; 16425

(b) Persons charged with crimes who are found incompetent 16426
to stand trial or not guilty by reason of insanity and who are 16427
also ~~mentally retarded~~ persons with intellectual disabilities 16428
subject to institutionalization by court order. 16429

(4) Have control of all institutions maintained in part by 16430
the state for the care, treatment, and training of ~~the mentally~~ 16431
~~retarded~~ persons with developmental disabilities; 16432

(5) Administer the laws relative to persons in such 16433
institutions in an efficient, economical, and humane manner; 16434

(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law. 16435
16436

(B) The department may do any of the following: 16437

(1) Subject to section 5139.08 of the Revised Code, 16438
receive from the department of youth services for observation, 16439
diagnosis, care, habilitation, or placement any children in the 16440
custody of the department of youth services; 16441

(2) Receive for observation any minor from a public 16442
institution other than an institution under the jurisdiction of 16443
the department of developmental disabilities, from a private 16444
charitable institution, or from a person having legal custody of 16445
such a minor, upon such terms as are proper; 16446

(3) Receive from the department of mental health and 16447
addiction services any patient in the custody of the department 16448
who is transferred to the department of developmental 16449
disabilities upon such terms and conditions as may be agreed 16450
upon by the two departments. 16451

(C) In addition to the powers and duties expressly 16452
conferred by this section, the department may take any other 16453
action necessary for the full and efficient executive, 16454
administrative, and fiscal supervision of the state institutions 16455
described in this section. 16456

Sec. 5123.033. The program fee fund is hereby created in 16457
the state treasury. All fees collected pursuant to sections 16458
5123.161, 5123.164, and 5123.19 of the Revised Code shall be 16459
credited to the fund. Money credited to the fund shall be used 16460
solely for the department of developmental disabilities' duties 16461
under sections 5123.16 to 5123.1611 and 5123.19 of the Revised 16462
Code and to provide continuing education and professional 16463

training to providers of services to individuals with ~~mental-~~ 16464
~~retardation or a developmental disability~~disabilities. If the 16465
money credited to the fund is inadequate to pay all of the 16466
department's costs in performing those duties and providing the 16467
continuing education and professional training, the department 16468
may use other available funds appropriated to the department to 16469
pay the remaining costs of performing those duties and providing 16470
the continuing education and professional training. 16471

Sec. 5123.04. (A) The director of developmental 16472
disabilities is the executive head of the department of 16473
developmental disabilities. All duties conferred on the 16474
department and its institutions by law or by order of the 16475
director shall be performed under such rules as the director 16476
prescribes, and shall be under the director's control. The 16477
director shall establish bylaws for the government of all 16478
institutions under the jurisdiction of the department. Except as 16479
otherwise is provided as to appointments by chiefs of divisions, 16480
the director shall appoint such employees as are necessary for 16481
the efficient conduct of the department, and shall prescribe 16482
their titles and duties. If the director is not a licensed 16483
physician, decisions relating to medical diagnosis and treatment 16484
shall be the responsibility of a licensed physician appointed by 16485
the director. 16486

(B) The director shall adopt rules for the proper 16487
execution of the powers and duties of the department. 16488

(C) The director shall adopt rules establishing standards 16489
that ~~mental-retardation~~ programs and facilities for persons with 16490
developmental disabilities shall follow when performing 16491
evaluations of the mental condition of defendants ordered by the 16492
court under section 2919.271 or 2945.371 of the Revised Code, 16493

and for the treatment of defendants who have been found 16494
incompetent to stand trial under section 2945.38 of the Revised 16495
Code, and certify the compliance of such programs and facilities 16496
with the standards. 16497

(D) On behalf of the department, the director has the 16498
authority to, and responsibility for, entering into contracts 16499
and other agreements. 16500

(E) The director shall adopt rules in accordance with 16501
Chapter 119. of the Revised Code that do all of the following: 16502

(1) Specify the supplemental services that may be provided 16503
through a trust authorized by section 5815.28 of the Revised 16504
Code; 16505

(2) Establish standards for the maintenance and 16506
distribution to a beneficiary of assets of a trust authorized by 16507
section 5815.28 of the Revised Code. 16508

(F) The director shall provide monitoring of county boards 16509
of developmental disabilities. 16510

Sec. 5123.044. The department of developmental 16511
disabilities shall determine whether county boards of 16512
developmental disabilities violate the rights that individuals 16513
with ~~mental retardation or other~~ developmental disabilities have 16514
under section 5126.046 of the Revised Code to obtain home and 16515
community-based services, nonmedicaid residential services, or 16516
nonmedicaid supported living from qualified and willing 16517
providers. The department shall provide assistance to an 16518
individual with ~~mental retardation or other~~ a developmental 16519
disability who requests assistance with the individual's rights 16520
under that section if the department is notified of a county 16521
board's alleged violation of the individual's rights under that 16522

section. 16523

Sec. 5123.0410. An individual with ~~mental retardation or~~ 16524
~~other~~ a developmental disability who moves from one county in 16525
this state to another county in this state shall receive home 16526
and community-based services in the new county that are 16527
comparable in scope to the home and community-based services the 16528
individual receives in the prior county at the time the 16529
individual moves. If the county board serving the county to 16530
which the individual moves determines under section 5126.041 of 16531
the Revised Code that the individual is eligible for county 16532
board services, the county board shall ensure that the 16533
individual receives the comparable services. If the county board 16534
determines that the individual is not eligible for county board 16535
services, the department of developmental disabilities shall 16536
ensure that the individual receives the comparable services. 16537

If the home and community-based services that the 16538
individual receives at the time the individual moves include 16539
supported living or residential services, the department shall 16540
reduce the amount the department allocates to the county board 16541
serving the county the individual left for those supported 16542
living or residential services by an amount that equals the 16543
payment the department authorizes or projects, or both, for 16544
those supported living or residential services from the last day 16545
the individual resides in the county to the last day of the 16546
state fiscal year in which the individual moves. The department 16547
shall increase the amount the department allocates to the county 16548
board serving the county the individual moves to by the same 16549
amount. The department shall make the reduction and increase 16550
effective the day the department determines the individual has 16551
residence in the new county. The department shall determine the 16552
amount that is to be reduced and increased in accordance with 16553

the department's rules for authorizing payments for home and 16554
community-based services established adopted under section 16555
5123.049 of the Revised Code. The department shall annualize the 16556
reduction and increase for the subsequent state fiscal year as 16557
necessary. 16558

Sec. 5123.0412. (A) The department of developmental 16559
disabilities shall charge each county board of developmental 16560
disabilities an annual fee equal to one and one-quarter per cent 16561
of the total value of all medicaid paid claims for home and 16562
community-based services provided during the year to an 16563
individual eligible for services from the county board. ~~However,~~ 16564
except that the department shall not charge the fee for home and 16565
community-based services provided under the medicaid waiver 16566
component known as the transitions developmental disabilities 16567
waiver. ~~No~~ A county board shall not pass on to a provider of 16568
home and community-based services the cost of a fee charged to 16569
the county board under this section ~~on to another provider of~~ 16570
~~these services.~~ 16571

(B) The ~~fees~~ amounts collected from the fees charged under 16572
this section shall be deposited into the ~~ODDD~~ department of 16573
developmental disabilities administration and oversight fund, 16574
which is hereby created in the state treasury. The department 16575
shall use the money in the ~~ODDD administration and oversight~~ 16576
fund for both of the following purposes: 16577

(1) Medicaid administrative costs, including 16578
administrative and oversight costs of medicaid case management 16579
services and home and community-based services. The 16580
administrative and oversight costs of medicaid case management 16581
services and home and community-based services shall include 16582
costs for staff, systems, and other resources the department 16583

needs and dedicates solely to the following duties associated 16584
with the services: 16585

- (a) Eligibility determinations; 16586
- (b) Training; 16587
- (c) Fiscal management; 16588
- (d) Claims processing; 16589
- (e) Quality assurance oversight; 16590
- (f) Other duties the department identifies. 16591

(2) Providing technical support to county ~~boards'~~boards 16592
with respect to their medicaid local administrative authority 16593
under section 5126.055 of the Revised Code for the services. 16594

(C) The department shall submit an annual report to the 16595
director of budget and management certifying how the department 16596
spent the money in the ~~ODDD administration and oversight~~ fund 16597
for the purposes specified in division (B) of this section. 16598

Sec. 5123.0413. The department of developmental 16599
disabilities, in consultation with the department of ~~job and~~ 16600
~~family services~~medicaid, office of budget and management, and 16601
county boards of developmental disabilities, shall adopt rules 16602
in accordance with Chapter 119. of the Revised Code to establish 16603
both of the following in the event a county property tax levy 16604
for services for individuals with ~~mental retardation or other~~ 16605
developmental ~~disability~~disabilities fails: 16606

- (A) A method of paying for home and community-based 16607
services; 16608
- (B) A method of reducing the number of individuals a 16609
county board would otherwise be required by section 5126.0512 of 16610

the Revised Code to ensure are enrolled in home and community- 16611
based services. 16612

Sec. 5123.0417. (A) The director of developmental 16613
disabilities shall establish one or more programs for 16614
individuals under twenty-two years of age who have intensive 16615
behavioral needs, including such individuals with a primary 16616
diagnosis of autism spectrum disorder. The programs may include 16617
one or more medicaid waiver components that the director 16618
administers pursuant to section 5166.21 of the Revised Code. The 16619
programs may do one or more of the following: 16620

(1) Establish models that incorporate elements common to 16621
effective intervention programs and evidence-based practices in 16622
services for children with intensive behavioral needs; 16623

(2) Design a template for individualized education ~~plans~~ 16624
programs and individual service plans that provide consistent 16625
intervention programs and evidence-based practices for the care 16626
and treatment of children with intensive behavioral needs; 16627

(3) Disseminate best practice guidelines for use by 16628
families of children with intensive behavioral needs and 16629
professionals working with such families; 16630

(4) Develop a transition planning model for effectively 16631
mainstreaming school-age children with intensive behavioral 16632
needs to their public school district; 16633

(5) Contribute to the field of early and effective 16634
identification and intervention programs for children with 16635
intensive behavioral needs by providing financial support for 16636
scholarly research and publication of clinical findings. 16637

(B) The director of developmental disabilities shall 16638
collaborate with the medicaid director and consult with the 16639

executive director of the Ohio center for autism and low 16640
incidence and university-based programs that specialize in 16641
services for individuals with developmental disabilities when 16642
establishing programs under this section. 16643

Sec. 5123.0418. (A) In addition to other authority granted 16644
the director of developmental disabilities for use of funds 16645
appropriated to the department of developmental disabilities, 16646
the director may use such funds for the following purposes: 16647

(1) All of the following to assist persons with ~~mental-~~ 16648
~~retardation or a developmental disability~~ disabilities remain in 16649
the community and avoid institutionalization: 16650

(a) Behavioral and short-term interventions; 16651

(b) Residential services; 16652

(c) Supported living. 16653

(2) Respite care services; 16654

(3) Staff training to help the following personnel serve 16655
persons with ~~mental-retardation or a developmental disability-~~ 16656
disabilities in the community: 16657

(a) Employees of, and personnel under contract with, 16658
county boards of developmental disabilities; 16659

(b) Employees of providers of supported living; 16660

(c) Employees of providers of residential services; 16661

(d) Other personnel the director identifies. 16662

(B) The director may establish priorities for using funds 16663
for the purposes specified in division (A) of this section. The 16664
director shall use the funds in a manner consistent with the 16665
appropriations that authorize the director to use the funds and 16666

all other state and federal laws governing the use of the funds. 16667

Sec. 5123.081. (A) As used in this section: 16668

(1) (a) "Applicant" means any of the following: 16669

(i) A person who is under final consideration for 16670
appointment to or employment with the department of 16671
developmental disabilities or a county board of developmental 16672
disabilities; 16673

(ii) A person who is being transferred to the department 16674
or a county board; 16675

(iii) An employee who is being recalled to or reemployed 16676
by the department or a county board after a layoff; 16677

(iv) A person under final consideration for a direct 16678
services position with a provider or subcontractor. 16679

(b) Neither of the following is an applicant: 16680

(i) A person who is employed by a responsible entity in a 16681
position for which a criminal records check is required by this 16682
section and either is being considered for a different position 16683
with the responsible entity or is returning after a leave of 16684
absence or seasonal break in employment, unless the responsible 16685
entity has reason to believe that the person has committed a 16686
disqualifying offense; 16687

(ii) A person who is to provide only respite care under a 16688
family support services program established under section 16689
5126.11 of the Revised Code if a family member of the individual 16690
with ~~mental retardation or~~ a developmental disability who is to 16691
receive the respite care selects the person. 16692

(2) "Criminal records check" has the same meaning as in 16693

section 109.572 of the Revised Code. 16694

(3) "Direct services position" means an employment 16695
position in which the employee has the opportunity to be alone 16696
with or exercises supervision or control over one or more 16697
individuals with ~~mental retardation or a~~ developmental 16698
~~disability~~ disabilities. 16699

(4) "Disqualifying offense" means any of the offenses 16700
listed or described in divisions (A) (3) (a) to (e) of section 16701
109.572 of the Revised Code. 16702

(5) (a) "Employee" means either of the following: 16703

(i) A person appointed to or employed by the department of 16704
developmental disabilities or a county board of developmental 16705
disabilities; 16706

(ii) A person employed in a direct services position by a 16707
provider or subcontractor. 16708

(b) "Employee" does not mean a person who provides only 16709
respite care under a family support services program established 16710
under section 5126.11 of the Revised Code if a family member of 16711
the individual with ~~mental retardation or a~~ developmental 16712
disability who receives the respite care selected the person. 16713

(6) "Minor drug possession offense" has the same meaning 16714
as in section 2925.01 of the Revised Code. 16715

(7) "Provider" means a person that provides specialized 16716
services to individuals with ~~mental retardation or a~~ 16717
developmental ~~disability~~ disabilities and employs one or more 16718
persons in direct services positions. 16719

(8) "Responsible entity" means the following: 16720

- (a) The department of developmental disabilities in the case of either of the following: 16721
16722
- (i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff; 16723
16724
16725
16726
- (ii) A person who is an employee because the person is appointed to or employed by the department. 16727
16728
- (b) A county board of developmental disabilities in the case of either of the following: 16729
16730
- (i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff; 16731
16732
16733
16734
16735
- (ii) A person who is an employee because the person is appointed to or employed by the county board. 16736
16737
- (c) A provider in the case of either of the following: 16738
- (i) A person who is an applicant because the person is under final consideration for a direct services position with the provider; 16739
16740
16741
- (ii) A person who is an employee because the person is employed in a direct services position by the provider. 16742
16743
- (d) A subcontractor in the case of either of the following: 16744
16745
- (i) A person who is an applicant because the person is under final consideration for a direct services position with 16746
16747

the subcontractor; 16748

(ii) A person who is an employee because the person is 16749
employed in a direct services position by the subcontractor. 16750

(9) "Specialized services" means any program or service 16751
designed and operated to serve primarily individuals with ~~mental-~~ 16752
~~retardation or a developmental disability~~ disabilities, 16753
including a program or service provided by an entity licensed or 16754
certified by the department of developmental disabilities. If 16755
there is a question as to whether a provider or subcontractor is 16756
providing specialized services, the provider or subcontractor 16757
may request that the director of developmental disabilities make 16758
a determination. The director's determination is final. 16759

(10) "Subcontractor" means a person to which both of the 16760
following apply: 16761

(a) The person has either of the following: 16762

(i) A subcontract with a provider to provide specialized 16763
services included in the contract between the provider and the 16764
department of developmental disabilities or a county board of 16765
developmental disabilities; 16766

(ii) A subcontract with another subcontractor to provide 16767
specialized services included in a subcontract between the other 16768
subcontractor and a provider or other subcontractor. 16769

(b) The person employs one or more persons in direct 16770
services positions. 16771

(B) A responsible entity shall not employ an applicant or 16772
continue to employ an employee if either of the following 16773
applies: 16774

(1) The applicant or employee fails to comply with 16775

division (D) (3) of this section. 16776

(2) Except as provided in rules adopted under this 16777
section, the applicant or employee is found by a criminal 16778
records check required by this section to have been convicted 16779
of, pleaded guilty to, or been found eligible for intervention 16780
in lieu of conviction for a disqualifying offense. 16781

(C) Before employing an applicant in a position for which 16782
a criminal records check is required by this section, a 16783
responsible entity shall require the applicant to submit a 16784
statement with the applicant's signature attesting that the 16785
applicant has not been convicted of, pleaded guilty to, or been 16786
found eligible for intervention in lieu of conviction for a 16787
disqualifying offense. The responsible entity also shall require 16788
the applicant to sign an agreement under which the applicant 16789
agrees to notify the responsible entity within fourteen calendar 16790
days if, while employed by the responsible entity, the applicant 16791
is formally charged with, is convicted of, pleads guilty to, or 16792
is found eligible for intervention in lieu of conviction for a 16793
disqualifying offense. The agreement shall provide that the 16794
applicant's failure to provide the notification may result in 16795
termination of the applicant's employment. 16796

(D) (1) As a condition of employing any applicant in a 16797
position for which a criminal records check is required by this 16798
section, a responsible entity shall request the superintendent 16799
of the bureau of criminal identification and investigation to 16800
conduct a criminal records check of the applicant. If rules 16801
adopted under this section require an employee to undergo a 16802
criminal records check, a responsible entity shall request the 16803
superintendent to conduct a criminal records check of the 16804
employee at times specified in the rules as a condition of the 16805

responsible entity's continuing to employ the employee in a 16806
position for which a criminal records check is required by this 16807
section. If an applicant or employee does not present proof that 16808
the applicant or employee has been a resident of this state for 16809
the five-year period immediately prior to the date upon which 16810
the criminal records check is requested, the responsible entity 16811
shall request that the superintendent obtain information from 16812
the federal bureau of investigation as a part of the criminal 16813
records check. If the applicant or employee presents proof that 16814
the applicant or employee has been a resident of this state for 16815
that five-year period, the responsible entity may request that 16816
the superintendent include information from the federal bureau 16817
of investigation in the criminal records check. For purposes of 16818
this division, an applicant or employee may provide proof of 16819
residency in this state by presenting, with a notarized 16820
statement asserting that the applicant or employee has been a 16821
resident of this state for that five-year period, a valid 16822
driver's license, notification of registration as an elector, a 16823
copy of an officially filed federal or state tax form 16824
identifying the applicant's or employee's permanent residence, 16825
or any other document the responsible entity considers 16826
acceptable. 16827

(2) A responsible entity shall do all of the following: 16828

(a) Provide to each applicant and employee for whom a 16829
criminal records check is required by this section a copy of the 16830
form prescribed pursuant to division (C)(1) of section 109.572 16831
of the Revised Code and a standard impression sheet to obtain 16832
fingerprint impressions prescribed pursuant to division (C)(2) 16833
of section 109.572 of the Revised Code; 16834

(b) Obtain the completed form and standard impression 16835

sheet from the applicant or employee; 16836

(c) Forward the completed form and standard impression 16837
sheet to the superintendent at the time the criminal records 16838
check is requested. 16839

(3) Any applicant or employee who receives pursuant to 16840
this division a copy of the form prescribed pursuant to division 16841
(C) (1) of section 109.572 of the Revised Code and a copy of the 16842
standard impression sheet prescribed pursuant to division (C) (2) 16843
of that section and who is requested to complete the form and 16844
provide a set of the applicant's or employee's fingerprint 16845
impressions shall complete the form or provide all the 16846
information necessary to complete the form and shall provide the 16847
standard impression sheet with the impressions of the 16848
applicant's or employee's fingerprints. 16849

(4) A responsible entity shall pay to the bureau of 16850
criminal identification and investigation the fee prescribed 16851
pursuant to division (C) (3) of section 109.572 of the Revised 16852
Code for each criminal records check requested and conducted 16853
pursuant to this section. 16854

(E) A responsible entity may request any other state or 16855
federal agency to supply the responsible entity with a written 16856
report regarding the criminal record of an applicant or 16857
employee. If an employee holds an occupational or professional 16858
license or other credentials, the responsible entity may request 16859
that the state or federal agency that regulates the employee's 16860
occupation or profession supply the responsible entity with a 16861
written report of any information pertaining to the employee's 16862
criminal record that the agency obtains in the course of 16863
conducting an investigation or in the process of renewing the 16864
employee's license or other credentials. The responsible entity 16865

may consider the reports when determining whether to employ the 16866
applicant or to continue to employ the employee. 16867

(F) As a condition of employing an applicant in a position 16868
for which a criminal records check is required by this section 16869
and that involves transporting individuals with ~~mental-~~ 16870
~~retardation or~~ developmental disabilities or operating a 16871
responsible entity's vehicles for any purpose, the responsible 16872
entity shall obtain the applicant's driving record from the 16873
bureau of motor vehicles. If rules adopted under this section 16874
require a responsible entity to obtain an employee's driving 16875
record, the responsible entity shall obtain the employee's 16876
driving record from the bureau at times specified in the rules 16877
as a condition of continuing to employ the employee. The 16878
responsible entity may consider the applicant's or employee's 16879
driving record when determining whether to employ the applicant 16880
or to continue to employ the employee. 16881

(G) A responsible entity may employ an applicant 16882
conditionally pending receipt of a report regarding the 16883
applicant requested under this section. The responsible entity 16884
shall terminate the applicant's employment if it is determined 16885
from a report that the applicant failed to inform the 16886
responsible entity that the applicant had been convicted of, 16887
pleaded guilty to, or been found eligible for intervention in 16888
lieu of conviction for a disqualifying offense. 16889

(H) A responsible entity may charge an applicant a fee for 16890
costs the responsible entity incurs in obtaining a report 16891
regarding the applicant under this section if the responsible 16892
entity notifies the applicant of the amount of the fee at the 16893
time of the applicant's initial application for employment and 16894
that, unless the fee is paid, the responsible entity will not 16895

consider the applicant for employment. The fee shall not exceed 16896
the amount of the fee, if any, the responsible entity pays for 16897
the report. 16898

(I) (1) Any report obtained pursuant to this section is not 16899
a public record for purposes of section 149.43 of the Revised 16900
Code and shall not be made available to any person, other than 16901
the following: 16902

(a) The applicant or employee who is the subject of the 16903
report or the applicant's or employee's representative; 16904

(b) The responsible entity that requested the report or 16905
its representative; 16906

(c) The department if a county board, provider, or 16907
subcontractor is the responsible entity that requested the 16908
report and the department requests the responsible entity to 16909
provide a copy of the report to the department; 16910

(d) A county board if a provider or subcontractor is the 16911
responsible entity that requested the report and the county 16912
board requests the responsible entity to provide a copy of the 16913
report to the county board; 16914

(e) Any court, hearing officer, or other necessary 16915
individual involved in a case dealing with any of the following: 16916

(i) The denial of employment to the applicant or employee; 16917

(ii) The denial, suspension, or revocation of a 16918
certificate under section 5123.166 or 5123.45 of the Revised 16919
Code; 16920

(iii) A civil or criminal action regarding the medicaid 16921
program or a program the department administers. 16922

(2) An applicant or employee for whom the responsible entity has obtained reports under this section may submit a written request to the responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the responsible entity shall send copies of the reports to the agencies or entities specified.

(3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the responsible entity obtains the written consent of the individual who is the subject of the report.

(4) A responsible entity shall provide each applicant and employee with a copy of any report obtained about the applicant or employee under this section.

(J) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo criminal records checks under this section;

(b) Require responsible entities to obtain the driving records of employees under this section;

(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more

classes of employees from the requirements. 16952

(2) The rules shall do both of the following: 16953

(a) If the rules require employees to undergo criminal 16954
records checks, require responsible entities to obtain the 16955
driving records of employees, or both, specify the times at 16956
which the criminal records checks are to be conducted and the 16957
driving records are to be obtained; 16958

(b) Specify circumstances under which a responsible entity 16959
may employ an applicant or employee who is found by a criminal 16960
records check required by this section to have been convicted 16961
of, pleaded guilty to, or been found eligible for intervention 16962
in lieu of conviction for a disqualifying offense but meets 16963
standards in regard to rehabilitation set by the director. 16964

Sec. 5123.092. (A) There is hereby established at each 16965
institution and branch institution under the control of the 16966
department of developmental disabilities a citizen's advisory 16967
council consisting of thirteen members. At least seven of the 16968
members shall be persons who are not providers of ~~mental-~~ 16969
~~retardation~~ services for persons with developmental 16970
disabilities. Each council shall include parents or other 16971
relatives of residents of institutions under the control of the 16972
department, community leaders, professional persons in relevant 16973
fields, and persons who have an interest in or knowledge of 16974
~~mental-retardation~~ developmental disabilities. The managing 16975
officer of the institution shall be a nonvoting member of the 16976
council. 16977

(B) The director of developmental disabilities shall be 16978
the appointing authority for the voting members of each 16979
citizen's advisory council. Each time the term of a voting 16980

member expires, the remaining members of the council shall 16981
recommend to the director one or more persons to serve on the 16982
council. The director may accept a nominee of the council or 16983
reject the nominee or nominees. If the director rejects the 16984
nominee or nominees, the remaining members of the advisory 16985
council shall further recommend to the director one or more 16986
other persons to serve on the advisory council. This procedure 16987
shall continue until a member is appointed to the advisory 16988
council. 16989

Each advisory council shall elect from its appointed 16990
members a chairperson, vice-chairperson, and a secretary to 16991
serve for terms of one year. Advisory council officers shall not 16992
serve for more than two consecutive terms in the same office. A 16993
majority of the advisory council members constitutes a quorum. 16994

(C) Terms of office shall be for three years, each term 16995
ending on the same day of the same month of the year as did the 16996
term which it succeeds. No member shall serve more than two 16997
consecutive terms, except that any former member may be 16998
appointed if one year or longer has elapsed since the member 16999
served two consecutive terms. Each member shall hold office from 17000
the date of appointment until the end of the term for which the 17001
member was appointed. Any vacancy shall be filled in the same 17002
manner in which the original appointment was made, and the 17003
appointee to a vacancy in an unexpired term shall serve the 17004
balance of the term of the original appointee. Any member shall 17005
continue in office subsequent to the expiration date of the 17006
member's term until the member's successor takes office, or 17007
until a period of sixty days has elapsed, whichever occurs 17008
first. 17009

(D) Members shall be expected to attend all meetings of 17010

the advisory council. Unexcused absence from two successive 17011
regularly scheduled meetings shall be considered prima-facie 17012
evidence of intent not to continue as a member. The chairperson 17013
of the board shall, after a member has been absent for two 17014
successive regularly scheduled meetings, direct a letter to the 17015
member asking if the member wishes to remain in membership. If 17016
an affirmative reply is received, the member shall be retained 17017
as a member except that, if, after having expressed a desire to 17018
remain a member, the member then misses a third successive 17019
regularly scheduled meeting without being excused, the 17020
chairperson shall terminate the member's membership. 17021

(E) A citizen's advisory council shall meet six times 17022
annually, or more frequently if three council members request 17023
the chairperson to call a meeting. The council shall keep 17024
minutes of each meeting and shall submit them to the managing 17025
officer of the institution with which the council is associated 17026
and the department of developmental disabilities. 17027

(F) Members of citizen's advisory councils shall receive 17028
no compensation for their services, except that they shall be 17029
reimbursed for their actual and necessary expenses incurred in 17030
the performance of their official duties by the institution with 17031
which they are associated from funds allocated to it, provided 17032
that reimbursement for those expenses shall not exceed limits 17033
imposed upon the department of developmental disabilities by 17034
administrative rules regulating travel within this state. 17035

(G) The councils shall have reasonable access to all 17036
patient treatment and living areas and records of the 17037
institution, except those records of a strictly personal or 17038
confidential nature. The councils shall have access to a 17039
patient's personal records with the consent of the patient or 17040

the patient's legal guardian or, if the patient is a minor, with 17041
the consent of the parent or legal guardian of the patient. 17042

(H) As used in this section, "branch institution" means a 17043
facility that is located apart from an institution and is under 17044
the control of the managing officer of the institution. 17045

Sec. 5123.093. The citizen's advisory councils established 17046
under section 5123.092 of the Revised Code shall do all of the 17047
following: 17048

(A) Transmit to the director of developmental disabilities 17049
verbal or written information, received from any person or 17050
organization associated with the institution or within the 17051
community, that an advisory council considers important, ~~to the~~ 17052
~~director of developmental disabilities;~~ 17053

(B) Review the records of all applicants to any 17054
unclassified position at the institution, except for resident 17055
physician positions filled under section 5123.11 of the Revised 17056
Code; 17057

(C) Review and evaluate institutional employee training 17058
and continuing education programs; 17059

(D) On or before the thirty-first day of January of each 17060
year, submit a written report to the director of developmental 17061
disabilities regarding matters affecting the institution 17062
including, but not limited to, allegations of dehumanizing 17063
practices and violations of individual or legal rights; 17064

(E) Review institutional budgets, programs, services, and 17065
planning; 17066

(F) Develop and maintain ~~relationships~~ within the 17067
community relationships with community ~~mental retardation and~~ 17068

developmental disabilities organizations; 17069

(G) Participate in the formulation of the institution's 17070
objectives, administrative procedures, program philosophy, and 17071
long range goals; 17072

(H) Bring any matter that an advisory council considers 17073
important to the attention of ~~the joint council on developmental~~ 17074
~~disabilities and~~ the director of developmental disabilities; 17075

(I) Recommend to the director of developmental 17076
disabilities persons for appointment to citizen's advisory 17077
councils; 17078

(J) Adopt any rules or procedures necessary to carry out 17079
this section. 17080

The chairperson of the advisory council or the 17081
chairperson's designee shall be notified within twenty-four 17082
hours of any alleged incident of abuse to a resident or staff 17083
member by anyone. Incidents of resident or staff abuse shall 17084
include, but not be limited to, sudden deaths, accidents, 17085
suicides, attempted suicides, injury caused by other persons, 17086
alleged criminal acts, errors in prescribing or administering 17087
medication, theft from clients, fires, epidemic disease, 17088
administering unprescribed drugs, unauthorized use of restraint, 17089
withholding of information concerning alleged abuse, neglect, or 17090
any deprivation of rights as defined in Chapter 5122. or 5123. 17091
of the Revised Code. 17092

Sec. 5123.122. Notwithstanding section 5121.04 of the 17093
Revised Code and except as provided in section 5123.194 of the 17094
Revised Code, the liable relative of a ~~mentally retarded or~~ 17095
~~developmentally disabled~~ person with a developmental disability 17096
who is a minor receiving residential services pursuant to a 17097

contract entered into with the department of developmental 17098
disabilities under section 5123.18 of the Revised Code shall be 17099
charged for the minor's support the percentage of a base support 17100
rate determined in accordance with division (B) (2) of section 17101
5121.04 of the Revised Code. 17102

Sec. 5123.165. (A) Except as provided in division (B) of 17103
this section, no person or government entity may provide 17104
supported living to an individual with ~~mental retardation or a~~ 17105
developmental disability if the person or government entity also 17106
provides the individual a residence. 17107

(B) A person may provide supported living to an individual 17108
with ~~mental retardation or a~~ developmental disability even 17109
though the person also provides the individual a residence if 17110
either of the following apply: 17111

(1) The person also resides in the residence with the 17112
individual and does not provide at any one time supported living 17113
to more than a total of three individuals with ~~mental-~~ 17114
~~retardation or a~~ developmental disability disabilities who 17115
reside in that residence; 17116

(2) The person is an association of family members related 17117
to two or more of the individuals with ~~mental retardation or a~~ 17118
developmental disability disabilities who reside in the 17119
residence and does not provide at any one time supported living 17120
to more than a total of four individuals with ~~mental retardation-~~ 17121
~~or a~~ developmental disability disabilities who reside in that 17122
residence. 17123

Sec. 5123.169. (A) The director of developmental 17124
disabilities shall not issue a supported living certificate to 17125
an applicant or renew an applicant's supported living 17126

certificate if either of the following applies: 17127

(1) The applicant fails to comply with division (C) (2) of 17128
this section; 17129

(2) Except as provided in rules adopted under section 17130
5123.1611 of the Revised Code, the applicant is found by a 17131
criminal records check required by this section to have been 17132
convicted of, pleaded guilty to, or been found eligible for 17133
intervention in lieu of conviction for a disqualifying offense. 17134

(B) Before issuing a supported living certificate to an 17135
applicant or renewing an applicant's supported living 17136
certificate, the director shall require the applicant to submit 17137
a statement with the applicant's signature attesting that the 17138
applicant has not been convicted of, pleaded guilty to, or been 17139
found eligible for intervention in lieu of conviction for a 17140
disqualifying offense. The director also shall require the 17141
applicant to sign an agreement under which the applicant agrees 17142
to notify the director within fourteen calendar days if, while 17143
holding a supported living certificate, the applicant is 17144
formally charged with, is convicted of, pleads guilty to, or is 17145
found eligible for intervention in lieu of conviction for a 17146
disqualifying offense. The agreement shall provide that the 17147
applicant's failure to provide the notification may result in 17148
action being taken by the director against the applicant under 17149
section 5123.166 of the Revised Code. 17150

(C) (1) As a condition of receiving a supported living 17151
certificate or having a supported living certificate renewed, an 17152
applicant shall request the superintendent of the bureau of 17153
criminal identification and investigation to conduct a criminal 17154
records check of the applicant. If an applicant does not present 17155
proof to the director that the applicant has been a resident of 17156

this state for the five-year period immediately prior to the 17157
date that the applicant applies for issuance or renewal of the 17158
supported living certificate, the director shall require the 17159
applicant to request that the superintendent obtain information 17160
from the federal bureau of investigation as a part of the 17161
criminal records check. If the applicant presents proof to the 17162
director that the applicant has been a resident of this state 17163
for that five-year period, the director may require the 17164
applicant to request that the superintendent include information 17165
from the federal bureau of investigation in the criminal records 17166
check. For purposes of this division, an applicant may provide 17167
proof of residency in this state by presenting, with a notarized 17168
statement asserting that the applicant has been a resident of 17169
this state for that five-year period, a valid driver's license, 17170
notification of registration as an elector, a copy of an 17171
officially filed federal or state tax form identifying the 17172
applicant's permanent residence, or any other document the 17173
director considers acceptable. 17174

(2) Each applicant shall do all of the following: 17175

(a) Obtain a copy of the form prescribed pursuant to 17176
division (C) (1) of section 109.572 of the Revised Code and a 17177
standard impression sheet prescribed pursuant to division (C) (2) 17178
of section 109.572 of the Revised Code; 17179

(b) Complete the form and provide the applicant's 17180
fingerprint impressions on the standard impression sheet; 17181

(c) Forward the completed form and standard impression 17182
sheet to the superintendent at the time the criminal records 17183
check is requested; 17184

(d) Instruct the superintendent to submit the completed 17185

report of the criminal records check directly to the director; 17186

(e) Pay to the bureau of criminal identification and 17187
investigation the fee prescribed pursuant to division (C) (3) of 17188
section 109.572 of the Revised Code for each criminal records 17189
check of the applicant requested and conducted pursuant to this 17190
section. 17191

(D) The director may request any other state or federal 17192
agency to supply the director with a written report regarding 17193
the criminal record of an applicant. The director may consider 17194
the reports when determining whether to issue a supported living 17195
certificate to the applicant or to renew an applicant's 17196
supported living certificate. 17197

(E) An applicant who seeks to be an independent provider 17198
or is an independent provider seeking renewal of the applicant's 17199
supported living certificate shall obtain the applicant's 17200
driving record from the bureau of motor vehicles and provide a 17201
copy of the record to the director if the supported living that 17202
the applicant will provide involves transporting individuals 17203
with ~~mental retardation or~~ developmental disabilities. The 17204
director may consider the applicant's driving record when 17205
determining whether to issue the applicant a supported living 17206
certificate or to renew the applicant's supported living 17207
certificate. 17208

(F) (1) A report obtained pursuant to this section is not a 17209
public record for purposes of section 149.43 of the Revised Code 17210
and shall not be made available to any person, other than the 17211
following: 17212

(a) The applicant who is the subject of the report or the 17213
applicant's representative; 17214

(b) The director or the director's representative;	17215
(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	17216 17217
(i) The denial of a supported living certificate or refusal to renew a supported living certificate;	17218 17219
(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code;	17220 17221
(iii) A civil or criminal action regarding the medicaid program.	17222 17223
(2) An applicant for whom the director has obtained reports under this section may submit a written request to the director to have copies of the reports sent to any person or state or local government entity. The applicant shall specify in the request the person or entities to which the copies are to be sent. On receiving the request, the director shall send copies of the reports to the persons or entities specified.	17224 17225 17226 17227 17228 17229 17230
(3) The director may request that a person or state or local government entity send copies to the director of any report regarding a records check or criminal records check that the person or entity possesses, if the director obtains the written consent of the individual who is the subject of the report.	17231 17232 17233 17234 17235 17236
(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section.	17237 17238
Sec. 5123.17. The department of developmental disabilities may provide for the custody, supervision, control, treatment, and training of persons with mental retardation or a developmental disability <u>disabilities</u> elsewhere than within the	17239 17240 17241 17242

enclosure of an institution under its jurisdiction, if the 17243
department so determines with respect to any individual or group 17244
of individuals. In all such cases, the department shall ensure 17245
adequate and proper supervision for the protection of those 17246
persons and of the public. 17247

Sec. 5123.171. As used in this section, "respite care" 17248
means appropriate, short-term, temporary care provided to a 17249
~~mentally retarded or developmentally disabled~~ person with a 17250
developmental disability to sustain the family structure or to 17251
meet planned or emergency needs of the family. 17252

The department of developmental disabilities shall provide 17253
respite care services to persons with ~~mental retardation or a~~ 17254
developmental ~~disability~~ disabilities for the purpose of 17255
promoting self-sufficiency and normalization, preventing or 17256
reducing inappropriate institutional care, and furthering the 17257
unity of the family by enabling the family to meet the special 17258
needs of a ~~mentally retarded or developmentally disabled~~ person 17259
with a developmental disability. 17260

In order to be eligible for respite care services under 17261
this section, the ~~mentally retarded or developmentally disabled~~ 17262
person with a developmental disability must be in need of 17263
services that are part of habilitation services, as defined in 17264
section 5126.01 of the Revised Code. 17265

Respite care may be provided in a residential facility 17266
licensed under section 5123.19 of the Revised Code, including a 17267
residential facility certified as an ICF/IID, and a respite care 17268
home certified under section 5126.05 of the Revised Code. 17269

The department shall develop a system for locating vacant 17270
beds that are available for respite care and for making 17271

information on vacant beds available to users of respite care 17272
services. ICFs/IID shall report vacant beds to the department 17273
but shall not be required to accept respite care clients. 17274

The director of developmental disabilities shall adopt, 17275
and may amend or rescind, rules in accordance with Chapter 119. 17276
of the Revised Code for both of the following: 17277

(A) Certification by county boards of developmental 17278
disabilities of respite care homes; 17279

(B) Provision of respite care services authorized by this 17280
section. Rules adopted under this division shall establish all 17281
of the following: 17282

(1) A formula for distributing funds appropriated for 17283
respite care services; 17284

(2) Standards for supervision, training, and quality 17285
control in the provision of respite care services; 17286

(3) Eligibility criteria for emergency respite care 17287
services. 17288

Sec. 5123.18. ~~(A)~~ The department of developmental 17289
disabilities may enter into a contract with a person or 17290
government agency to provide residential services to individuals 17291
with ~~mental retardation or~~ developmental disabilities in need of 17292
residential services. To be eligible to enter into a contract 17293
with the department under this section, a person or government 17294
entity and the home in which the residential services are 17295
provided must meet all applicable standards for licensing or 17296
certification by the appropriate government entity. 17297

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 17298
of the Revised Code: 17299

(1) "Independent living arrangement" means an arrangement 17300
in which ~~a mentally retarded or developmentally disabled person~~ 17301
an individual with a developmental disability resides in an 17302
individualized setting chosen by the ~~person~~ individual or the 17303
~~person's~~ individual's guardian, which is not dedicated 17304
principally to the provision of residential services for ~~mentally~~ 17305
~~retarded or developmentally disabled persons~~ individuals with 17306
developmental disabilities, and for which no financial support 17307
is received for rendering such service from any governmental 17308
agency by a provider of residential services. 17309

(2) "Licensee" means the person or government agency that 17310
has applied for a license to operate a residential facility and 17311
to which the license was issued under this section. 17312

(3) "Political subdivision" means a municipal corporation, 17313
county, or township. 17314

(4) "Related party" has the same meaning as in section 17315
5123.16 of the Revised Code except that "provider" as used in 17316
the definition of "related party" means a person or government 17317
entity that held or applied for a license to operate a 17318
residential facility, rather than a person or government entity 17319
certified to provide supported living. 17320

(5) (a) Except as provided in division (A) (5) (b) of this 17321
section, "residential facility" means a home or facility, 17322
including an ICF/IID, in which an individual with ~~mental~~ 17323
~~retardation or~~ a developmental disability resides. 17324

(b) "Residential facility" does not mean any of the 17325
following: 17326

(i) The home of a relative or legal guardian in which an 17327
individual with ~~mental retardation or~~ a developmental disability 17328

resides; 17329

(ii) A respite care home certified under section 5126.05 17330
of the Revised Code; 17331

(iii) A county home or district home operated pursuant to 17332
Chapter 5155. of the Revised Code; 17333

(iv) A dwelling in which the only residents with ~~mental-~~ 17334
~~retardation or~~ developmental disabilities are in independent 17335
living arrangements or are being provided supported living. 17336

(B) Every person or government agency desiring to operate 17337
a residential facility shall apply for licensure of the facility 17338
to the director of developmental disabilities unless the 17339
residential facility is subject to section 3721.02, 5103.03, 17340
5119.33, or division (B)(1)(b) of section 5119.34 of the Revised 17341
Code. 17342

(C) Subject to section 5123.196 of the Revised Code, the 17343
director of developmental disabilities shall license the 17344
operation of residential facilities. An initial license shall be 17345
issued for a period that does not exceed one year, unless the 17346
director denies the license under division (D) of this section. 17347
A license shall be renewed for a period that does not exceed 17348
three years, unless the director refuses to renew the license 17349
under division (D) of this section. The director, when issuing 17350
or renewing a license, shall specify the period for which the 17351
license is being issued or renewed. A license remains valid for 17352
the length of the licensing period specified by the director, 17353
unless the license is terminated, revoked, or voluntarily 17354
surrendered. 17355

(D) If it is determined that an applicant or licensee is 17356
not in compliance with a provision of this chapter that applies 17357

to residential facilities or the rules adopted under such a 17358
provision, the director may deny issuance of a license, refuse 17359
to renew a license, terminate a license, revoke a license, issue 17360
an order for the suspension of admissions to a facility, issue 17361
an order for the placement of a monitor at a facility, issue an 17362
order for the immediate removal of residents, or take any other 17363
action the director considers necessary consistent with the 17364
director's authority under this chapter regarding residential 17365
facilities. In the director's selection and administration of 17366
the sanction to be imposed, all of the following apply: 17367

(1) The director may deny, refuse to renew, or revoke a 17368
license, if the director determines that the applicant or 17369
licensee has demonstrated a pattern of serious noncompliance or 17370
that a violation creates a substantial risk to the health and 17371
safety of residents of a residential facility. 17372

(2) The director may terminate a license if more than 17373
twelve consecutive months have elapsed since the residential 17374
facility was last occupied by a resident or a notice required by 17375
division (J) of this section is not given. 17376

(3) The director may issue an order for the suspension of 17377
admissions to a facility for any violation that may result in 17378
sanctions under division (D)(1) of this section and for any 17379
other violation specified in rules adopted under division (G)(2) 17380
of this section. If the suspension of admissions is imposed for 17381
a violation that may result in sanctions under division (D)(1) 17382
of this section, the director may impose the suspension before 17383
providing an opportunity for an adjudication under Chapter 119. 17384
of the Revised Code. The director shall lift an order for the 17385
suspension of admissions when the director determines that the 17386
violation that formed the basis for the order has been 17387

corrected. 17388

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected. 17389
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(5) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. Except in the case of a licensee that is an ICF/IID, the county board shall send a copy of the letter to each of the following: 17395
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(a) Each resident who receives services from the licensee; 17405

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian; 17406
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(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor. 17408
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(6) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents. 17410
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(7) In determining whether a residential facility is being operated in compliance with a provision of this chapter that 17415
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applies to residential facilities or the rules adopted under 17417
such a provision, or whether conditions at a residential 17418
facility present an immediate danger of physical or 17419
psychological harm to the residents, the director may rely on 17420
information obtained by a county board of developmental 17421
disabilities or other governmental agencies. 17422

(8) In proceedings initiated to deny, refuse to renew, or 17423
revoke licenses, the director may deny, refuse to renew, or 17424
revoke a license regardless of whether some or all of the 17425
deficiencies that prompted the proceedings have been corrected 17426
at the time of the hearing. 17427

(E) (1) Except as provided in division (E) (2) of this 17428
section, appeals from proceedings initiated to impose a sanction 17429
under division (D) of this section shall be conducted in 17430
accordance with Chapter 119. of the Revised Code. 17431

(2) Appeals from proceedings initiated to order the 17432
suspension of admissions to a facility shall be conducted in 17433
accordance with Chapter 119. of the Revised Code, unless the 17434
order was issued before providing an opportunity for an 17435
adjudication, in which case all of the following apply: 17436

(a) The licensee may request a hearing not later than ten 17437
days after receiving the notice specified in section 119.07 of 17438
the Revised Code. 17439

(b) If a timely request for a hearing that includes the 17440
licensee's current address is made, the hearing shall commence 17441
not later than thirty days after the department receives the 17442
request. 17443

(c) After commencing, the hearing shall continue 17444
uninterrupted, except for Saturdays, Sundays, and legal 17445

holidays, unless other interruptions are agreed to by the 17446
licensee and the director. 17447

(d) If the hearing is conducted by a hearing examiner, the 17448
hearing examiner shall file a report and recommendations not 17449
later than ten days after the last of the following: 17450

(i) The close of the hearing; 17451

(ii) If a transcript of the proceedings is ordered, the 17452
hearing examiner receives the transcript; 17453

(iii) If post-hearing briefs are timely filed, the hearing 17454
examiner receives the briefs. 17455

(e) A copy of the written report and recommendation of the 17456
hearing examiner shall be sent, by certified mail, to the 17457
licensee and the licensee's attorney, if applicable, not later 17458
than five days after the report is filed. 17459

(f) Not later than five days after the hearing examiner 17460
files the report and recommendations, the licensee may file 17461
objections to the report and recommendations. 17462

(g) Not later than fifteen days after the hearing examiner 17463
files the report and recommendations, the director shall issue 17464
an order approving, modifying, or disapproving the report and 17465
recommendations. 17466

(h) Notwithstanding the pendency of the hearing, the 17467
director shall lift the order for the suspension of admissions 17468
when the director determines that the violation that formed the 17469
basis for the order has been corrected. 17470

(F) Neither a person or government agency whose 17471
application for a license to operate a residential facility is 17472
denied nor a related party of the person or government agency 17473

may apply for a license to operate a residential facility before 17474
the date that is five years after the date of the denial. 17475
Neither a licensee whose residential facility license is revoked 17476
nor a related party of the licensee may apply for a residential 17477
facility license before the date that is five years after the 17478
date of the revocation. 17479

(G) In accordance with Chapter 119. of the Revised Code, 17480
the director shall adopt and may amend and rescind rules for 17481
licensing and regulating the operation of residential 17482
facilities. The rules for residential facilities that are 17483
ICFs/IID may differ from those for other residential facilities. 17484
The rules shall establish and specify the following: 17485

(1) Procedures and criteria for issuing and renewing 17486
licenses, including procedures and criteria for determining the 17487
length of the licensing period that the director must specify 17488
for each license when it is issued or renewed; 17489

(2) Procedures and criteria for denying, refusing to 17490
renew, terminating, and revoking licenses and for ordering the 17491
suspension of admissions to a facility, placement of a monitor 17492
at a facility, and the immediate removal of residents from a 17493
facility; 17494

(3) Fees for issuing and renewing licenses, which shall be 17495
deposited into the program fee fund created under section 17496
5123.033 of the Revised Code; 17497

(4) Procedures for surveying residential facilities; 17498

(5) Classifications for the various types of residential 17499
facilities; 17500

(6) The maximum number of ~~persons~~ individuals who may be 17501
served in a particular type of residential facility; 17502

- (7) Uniform procedures for admission of ~~persons~~ individuals to and transfers and discharges of ~~persons~~ individuals from residential facilities; 17503
17504
17505
- (8) Other standards for the operation of residential facilities and the services provided at residential facilities; 17506
17507
- (9) Procedures for waiving any provision of any rule adopted under this section. 17508
17509
- (H) (1) Before issuing a license, the director shall 17510
conduct a survey of the residential facility for which 17511
application is made. The director shall conduct a survey of each 17512
licensed residential facility at least once during the period 17513
the license is valid and may conduct additional inspections as 17514
needed. A survey includes but is not limited to an on-site 17515
examination and evaluation of the residential facility, its 17516
personnel, and the services provided there. The director may 17517
assign to a county board of developmental disabilities or the 17518
department of health the responsibility to conduct any survey or 17519
inspection under this section. 17520
- (2) In conducting surveys, the director shall be given 17521
access to the residential facility; all records, accounts, and 17522
any other documents related to the operation of the facility; 17523
the licensee; the residents of the facility; and all persons 17524
acting on behalf of, under the control of, or in connection with 17525
the licensee. The licensee and all persons on behalf of, under 17526
the control of, or in connection with the licensee shall 17527
cooperate with the director in conducting the survey. 17528
- (3) Following each survey, the director shall provide the 17529
licensee with a report listing the date of the survey, any 17530
citations issued as a result of the survey, and the statutes or 17531

rules that purportedly have been violated and are the bases of 17532
the citations. The director shall also do both of the following: 17533

(a) Specify a date by which the licensee may appeal any of 17534
the citations; 17535

(b) When appropriate, specify a timetable within which the 17536
licensee must submit a plan of correction describing how the 17537
problems specified in the citations will be corrected and, the 17538
date by which the licensee anticipates the problems will be 17539
corrected. 17540

(4) If the director initiates a proceeding to revoke a 17541
license, the director shall include the report required by 17542
division (H) (3) of this section with the notice of the proposed 17543
revocation the director sends to the licensee. In this 17544
circumstance, the licensee may not submit a plan of correction. 17545

(5) After a plan of correction is submitted, the director 17546
shall approve or disapprove the plan. If the plan of correction 17547
is approved, a copy of the approved plan shall be provided, not 17548
later than five business days after it is approved, to any 17549
person or government entity who requests it and made available 17550
on the internet web site maintained by the department of 17551
developmental disabilities. If the plan of correction is not 17552
approved and the director initiates a proceeding to revoke the 17553
license, a copy of the survey report shall be provided to any 17554
person or government entity that requests it and shall be made 17555
available on the internet web site maintained by the department. 17556

(6) The director shall initiate disciplinary action 17557
against any department employee who notifies or causes the 17558
notification to any unauthorized person of an unannounced survey 17559
of a residential facility by an authorized representative of the 17560

department. 17561

(I) In addition to any other information which may be 17562
required of applicants for a license pursuant to this section, 17563
the director shall require each applicant to provide a copy of 17564
an approved plan for a proposed residential facility pursuant to 17565
section 5123.042 of the Revised Code. This division does not 17566
apply to renewal of a license or to an applicant for an initial 17567
or modified license who meets the requirements of section 17568
5123.197 of the Revised Code. 17569

(J) (1) A licensee shall notify the owner of the building 17570
in which the licensee's residential facility is located of any 17571
significant change in the identity of the licensee or management 17572
contractor before the effective date of the change if the 17573
licensee is not the owner of the building. 17574

(2) Pursuant to rules, which shall be adopted in 17575
accordance with Chapter 119. of the Revised Code, the director 17576
may require notification to the department of any significant 17577
change in the ownership of a residential facility or in the 17578
identity of the licensee or management contractor. If the 17579
director determines that a significant change of ownership is 17580
proposed, the director shall consider the proposed change to be 17581
an application for development by a new operator pursuant to 17582
section 5123.042 of the Revised Code and shall advise the 17583
applicant within sixty days of the notification that the current 17584
license shall continue in effect or a new license will be 17585
required pursuant to this section. If the director requires a 17586
new license, the director shall permit the facility to continue 17587
to operate under the current license until the new license is 17588
issued, unless the current license is revoked, refused to be 17589
renewed, or terminated in accordance with Chapter 119. of the 17590

Revised Code. 17591

(3) A licensee shall transfer to the new licensee or 17592
management contractor all records related to the residents of 17593
the facility following any significant change in the identity of 17594
the licensee or management contractor. 17595

(K) A county board of developmental disabilities and any 17596
interested person may file complaints alleging violations of 17597
statute or department rule relating to residential facilities 17598
with the department. All complaints shall state the facts 17599
constituting the basis of the allegation. The department shall 17600
not reveal the source of any complaint unless the complainant 17601
agrees in writing to waive the right to confidentiality or until 17602
so ordered by a court of competent jurisdiction. 17603

The department shall adopt rules in accordance with 17604
Chapter 119. of the Revised Code establishing procedures for the 17605
receipt, referral, investigation, and disposition of complaints 17606
filed with the department under this division. 17607

(L) Before issuing a license under this section to a 17608
residential facility that will accommodate at any time more than 17609
one ~~mentally retarded or developmentally disabled~~ individual 17610
with a developmental disability, the director shall, by first 17611
class mail, notify the following: 17612

(1) If the facility will be located in a municipal 17613
corporation, the clerk of the legislative authority of the 17614
municipal corporation; 17615

(2) If the facility will be located in unincorporated 17616
territory, the clerk of the appropriate board of county 17617
commissioners and the fiscal officer of the appropriate board of 17618
township trustees. 17619

The director shall not issue the license for ten days 17620
after mailing the notice, excluding Saturdays, Sundays, and 17621
legal holidays, in order to give the notified local officials 17622
time in which to comment on the proposed issuance. 17623

Any legislative authority of a municipal corporation, 17624
board of county commissioners, or board of township trustees 17625
that receives notice under this division of the proposed 17626
issuance of a license for a residential facility may comment on 17627
it in writing to the director within ten days after the director 17628
mailed the notice, excluding Saturdays, Sundays, and legal 17629
holidays. If the director receives written comments from any 17630
notified officials within the specified time, the director shall 17631
make written findings concerning the comments and the director's 17632
decision on the issuance of the license. If the director does 17633
not receive written comments from any notified local officials 17634
within the specified time, the director shall continue the 17635
process for issuance of the license. 17636

(M) Any person may operate a licensed residential facility 17637
that provides room and board, personal care, habilitation 17638
services, and supervision in a family setting for at least six 17639
but not more than eight ~~persons~~ individuals with ~~mental~~ 17640
~~retardation or a developmental~~ disability disabilities as a 17641
permitted use in any residential district or zone, including any 17642
single-family residential district or zone, of any political 17643
subdivision. These residential facilities may be required to 17644
comply with area, height, yard, and architectural compatibility 17645
requirements that are uniformly imposed upon all single-family 17646
residences within the district or zone. 17647

(N) Any person may operate a licensed residential facility 17648
that provides room and board, personal care, habilitation 17649

services, and supervision in a family setting for at least nine 17650
but not more than sixteen ~~persons~~ individuals with ~~mental~~ 17651
~~retardation or a developmental disability~~ disabilities as a 17652
permitted use in any multiple-family residential district or 17653
zone of any political subdivision, except that a political 17654
subdivision that has enacted a zoning ordinance or resolution 17655
establishing planned unit development districts may exclude 17656
these residential facilities from those districts, and a 17657
political subdivision that has enacted a zoning ordinance or 17658
resolution may regulate these residential facilities in 17659
multiple-family residential districts or zones as a 17660
conditionally permitted use or special exception, in either 17661
case, under reasonable and specific standards and conditions set 17662
out in the zoning ordinance or resolution to: 17663

(1) Require the architectural design and site layout of 17664
the residential facility and the location, nature, and height of 17665
any walls, screens, and fences to be compatible with adjoining 17666
land uses and the residential character of the neighborhood; 17667

(2) Require compliance with yard, parking, and sign 17668
regulation; 17669

(3) Limit excessive concentration of these residential 17670
facilities. 17671

(O) This section does not prohibit a political subdivision 17672
from applying to residential facilities nondiscriminatory 17673
regulations requiring compliance with health, fire, and safety 17674
regulations and building standards and regulations. 17675

(P) Divisions (M) and (N) of this section are not 17676
applicable to municipal corporations that had in effect on June 17677
15, 1977, an ordinance specifically permitting in residential 17678

zones licensed residential facilities by means of permitted 17679
uses, conditional uses, or special exception, so long as such 17680
ordinance remains in effect without any substantive 17681
modification. 17682

(Q) (1) The director may issue an interim license to 17683
operate a residential facility to an applicant for a license 17684
under this section if either of the following is the case: 17685

(a) The director determines that an emergency exists 17686
requiring immediate placement of ~~persons~~individuals in a 17687
residential facility, that insufficient licensed beds are 17688
available, and that the residential facility is likely to 17689
receive a permanent license under this section within thirty 17690
days after issuance of the interim license. 17691

(b) The director determines that the issuance of an 17692
interim license is necessary to meet a temporary need for a 17693
residential facility. 17694

(2) To be eligible to receive an interim license, an 17695
applicant must meet the same criteria that must be met to 17696
receive a permanent license under this section, except for any 17697
differing procedures and time frames that may apply to issuance 17698
of a permanent license. 17699

(3) An interim license shall be valid for thirty days and 17700
may be renewed by the director for a period not to exceed one 17701
hundred eighty days. 17702

(4) The director shall adopt rules in accordance with 17703
Chapter 119. of the Revised Code as the director considers 17704
necessary to administer the issuance of interim licenses. 17705

(R) Notwithstanding rules adopted pursuant to this section 17706
establishing the maximum number of ~~persons~~individuals who may 17707

be served in a particular type of residential facility, a 17708
residential facility shall be permitted to serve the same number 17709
of ~~persons~~individuals being served by the facility on the 17710
effective date of the rules or the number of ~~persons~~individuals 17711
for which the facility is authorized pursuant to a current 17712
application for a certificate of need with a letter of support 17713
from the department of developmental disabilities and which is 17714
in the review process prior to April 4, 1986. 17715

This division does not preclude the department from 17716
suspending new admissions to a residential facility pursuant to 17717
a written order issued under section 5124.70 of the Revised 17718
Code. 17719

(S) The director may enter at any time, for purposes of 17720
investigation, any home, facility, or other structure that has 17721
been reported to the director or that the director has 17722
reasonable cause to believe is being operated as a residential 17723
facility without a license issued under this section. 17724

The director may petition the court of common pleas of the 17725
county in which an unlicensed residential facility is located 17726
for an order enjoining the person or governmental agency 17727
operating the facility from continuing to operate without a 17728
license. The court may grant the injunction on a showing that 17729
the person or governmental agency named in the petition is 17730
operating a residential facility without a license. The court 17731
may grant the injunction, regardless of whether the residential 17732
facility meets the requirements for receiving a license under 17733
this section. 17734

Sec. 5123.196. (A) Except as provided in division (E) of 17735
this section, the director of developmental disabilities shall 17736
not issue a license under section 5123.19 of the Revised Code on 17737

or after July 1, 2003, if issuance will result in there being 17738
more beds in all residential facilities licensed under that 17739
section than is permitted under division (B) of this section. 17740

(B) The maximum number of beds for the purpose of division 17741
(A) of this section shall not exceed ten thousand eight hundred 17742
thirty-eight minus, except as provided in division (C) of this 17743
section, both of the following: 17744

(1) The number of such beds that cease to be residential 17745
facility beds on or after July 1, 2003, because a residential 17746
facility license is revoked, terminated, or not renewed for any 17747
reason or is surrendered in accordance with section 5123.19 of 17748
the Revised Code; 17749

(2) The number of such beds for which a licensee 17750
voluntarily converts to use for supported living on or after 17751
July 1, 2003. 17752

(C) The director is not required to reduce the maximum 17753
number of beds pursuant to division (B) of this section by a bed 17754
that ceases to be a residential facility bed if the director 17755
determines that the bed is needed to provide services to an 17756
individual with ~~mental retardation~~ or a developmental disability 17757
who resided in the residential facility in which the bed was 17758
located. 17759

(D) The director shall maintain an up-to-date written 17760
record of the maximum number of residential facility beds 17761
provided for by division (B) of this section. 17762

(E) The director may issue an interim license under 17763
division (Q) of section 5123.19 of the Revised Code and issue, 17764
pursuant to rules adopted under division (G)(9) of that section, 17765
a waiver allowing a residential facility to admit more residents 17766

than the facility is licensed to admit regardless of whether the 17767
interim license or waiver will result in there being more beds 17768
in all residential facilities licensed under that section than 17769
is permitted under division (B) of this section. 17770

Sec. 5123.20. No person or government agency shall operate 17771
a residential facility or receive ~~a mentally retarded or~~ 17772
~~developmentally disabled person~~ an individual with a 17773
developmental disability as a resident of a residential facility 17774
unless the facility is licensed under section 5123.19 of the 17775
Revised Code, and no person or governmental agency shall operate 17776
a respite care home or receive ~~a mentally retarded or~~ 17777
~~developmentally disabled person~~ an individual with a 17778
developmental disability in a respite care home unless the home 17779
is certified under section 5126.05 of the Revised Code. 17780

Sec. 5123.27. The director of developmental disabilities 17781
may accept, hold, and administer in trust on behalf of the 17782
state, if it is for the public interest, any grant, devise, 17783
gift, or bequest of money or property made to the state for the 17784
use or benefit of any institution under the jurisdiction of the 17785
department of developmental disabilities or for the use and 17786
benefit of persons with ~~mental retardation or a developmental~~ 17787
~~disability~~ disabilities under the control of the department. If 17788
the trust so provides, the money or property may be used for any 17789
work which the department is authorized to undertake. 17790

The department shall keep such gift, grant, devise, or 17791
bequest as a distinct property or fund and, if it is in money, 17792
shall invest it in the manner provided by law. The department 17793
may deposit in a proper trust company or savings bank any money 17794
left in trust during a specified life or lives and shall adopt 17795
rules governing the deposit, transfer, withdrawal, or investment 17796

of the money and the income from it. 17797

The department shall, in the manner prescribed by the 17798
director of budget and management pursuant to section 126.21 of 17799
the Revised Code, account for all money or property received or 17800
expended under this section. The records, together with a 17801
statement certified by the depository showing the money 17802
deposited there to the credit of the trust, shall be open to 17803
public inspection. The director of budget and management may 17804
require the department to file a report with the director on any 17805
particular portion, or the whole, of any trust property received 17806
or expended by it. 17807

The department shall, upon the expiration of any trust 17808
according to its terms, dispose of the money or property held 17809
under the trust in the manner provided in the instrument 17810
creating the trust. If the instrument creating the trust failed 17811
to make any terms of disposition, or if no trust was in 17812
evidence, the decedent resident's money, saving or commercial 17813
deposits, dividends or distributions, bonds, or any other 17814
interest-bearing debt certificate or stamp issued by the United 17815
States government shall escheat to the state. All such unclaimed 17816
intangible personal property of a former resident shall be 17817
retained by the managing officer in such institution for the 17818
period of one year, during which time every possible effort 17819
shall be made to find the former resident or the former 17820
resident's legal representative. 17821

If after a period of one year from the time the resident 17822
has left the institution or has died, the managing officer has 17823
been unable to locate the person or the person's legal 17824
representative, then, upon proper notice of that fact, the 17825
director shall at that time formulate in writing a method of 17826

disposition on the minutes of the department authorizing the 17827
managing officer to convert such intangible personal property to 17828
cash to be paid into the state treasury to the credit of the 17829
general revenue fund. 17830

The department shall include in its annual report a 17831
statement of all such money and property and the terms and 17832
conditions relating to them. 17833

Sec. 5123.34. This chapter attempts to do all of the 17834
following: 17835

(A) Provide humane and scientific treatment and care and 17836
the highest attainable degree of individual development for 17837
persons with ~~mental retardation or a developmental~~ 17838
~~disability~~disabilities; 17839

(B) Promote the study of the causes of ~~mental retardation-~~ 17840
~~and~~ developmental disabilities, with a view to ultimate 17841
prevention; 17842

(C) Secure by uniform and systematic management the 17843
highest attainable degree of economy in the administration of 17844
the institutions under the control of the department of 17845
developmental disabilities. 17846

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 17847
5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code 17848
shall be liberally construed to attain these purposes. 17849

Sec. 5123.35. (A) There is hereby created the Ohio 17850
developmental disabilities council, which shall serve as an 17851
advocate for all persons with developmental disabilities. The 17852
council shall act in accordance with the "Developmental 17853
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 17854
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint 17855

the members of the council in accordance with 42 U.S.C. 6024. 17856

(B) The ~~Ohio developmental disabilities~~ council shall 17857
develop the state plan required by federal law as a condition of 17858
receiving federal assistance under 42 U.S.C. 6021 to 6030. The 17859
department of developmental disabilities, as the state agency 17860
selected by the governor for purposes of receiving the federal 17861
assistance, shall receive, account for, and disburse funds based 17862
on the state plan and shall provide assurances and other 17863
administrative support services required as a condition of 17864
receiving the federal assistance. 17865

(C) The federal funds may be disbursed through grants to 17866
or contracts with persons and government agencies for the 17867
provision of necessary or useful goods and services for 17868
~~developmentally disabled persons with developmental~~ 17869
disabilities. The ~~Ohio developmental disabilities~~ council may 17870
award the grants or enter into the contracts. 17871

(D) The ~~Ohio developmental disabilities~~ council may award 17872
grants to or enter into contracts with a member of the council 17873
or an entity that the member represents if all of the following 17874
apply: 17875

(1) The member serves on the council as a representative 17876
of one of the principal state agencies concerned with services 17877
for persons with developmental disabilities as specified in 42 17878
U.S.C. 6024(b) (3), a representative of a university affiliated 17879
program as defined in 42 U.S.C. 6001(18), or a representative of 17880
the ~~legal rights service created under Ohio protection and~~ 17881
advocacy system, as defined in section 5123.60 of the Revised 17882
Code. 17883

(2) The council determines that the member or the entity 17884

the member represents is capable of providing the goods or 17885
services specified under the terms of the grant or contract. 17886

(3) The member has not taken part in any discussion or 17887
vote of the council related to awarding the grant or entering 17888
into the contract, including service as a member of a review 17889
panel established by the council to award grants or enter into 17890
contracts or to make recommendations with regard to awarding 17891
grants or entering into contracts. 17892

(E) A member of the ~~Ohio developmental disabilities~~ 17893
council is not in violation of Chapter 102. or section 2921.42 17894
of the Revised Code with regard to receiving a grant or entering 17895
into a contract under this section if the requirements of 17896
division (D) of this section have been met. 17897

(F)(1) Notwithstanding division (C) of section 121.22 of 17898
the Revised Code, the requirement for a member's presence in 17899
person at a meeting in order to be part of a quorum or to vote 17900
does not apply if the council holds a meeting by interactive 17901
video conference and all of the following apply: 17902

(a) A primary meeting location that is open and accessible 17903
to the public is established for the meeting of the council; 17904

(b) A clear video and audio connection is established that 17905
enables all meeting participants at the primary meeting location 17906
to witness the participation of each member; 17907

(c) A roll call vote is recorded for each vote taken; 17908

(d) The minutes of the council identify which members 17909
participated by interactive video conference. 17910

(2) Notwithstanding division (C) of section 121.22 of the 17911
Revised Code, the requirement for a member's presence in person 17912

at a meeting in order to be part of a quorum or to vote does not 17913
apply if the council holds a meeting by teleconference and all 17914
of the following apply: 17915

(a) The council has determined its membership does not 17916
have access to and the council cannot provide access to the 17917
equipment needed to conduct interactive video conferencing; 17918

(b) A primary meeting location that is open and accessible 17919
to the public is established for the meeting of the council; 17920

(c) A clear audio connection is established that enables 17921
all meeting participants at the primary meeting location to hear 17922
the participation of each member; 17923

(d) A roll call vote is recorded for each vote taken; 17924

(e) The minutes of the council identify which members 17925
participated by teleconference. 17926

(3) The ~~Ohio developmental disabilities~~ council shall 17927
adopt any rules the council considers necessary to implement 17928
this section. The rules shall be adopted in accordance with 17929
Chapter 119. of the Revised Code. At a minimum, the rules shall 17930
do all of the following: 17931

(a) Authorize council members to remotely attend a council 17932
meeting by interactive video conference or teleconference in 17933
lieu of attending the meeting in person; 17934

(b) Establish a minimum number of members required to be 17935
physically present in person at the primary meeting location if 17936
the council conducts a meeting by interactive video conference 17937
or teleconference; 17938

(c) Establish geographic restrictions for participation in 17939
meetings by interactive video conference or teleconference; 17940

(d) Establish a policy for distributing and circulating 17941
necessary documents to council members, the public, and the 17942
media in advance of a meeting at which members are permitted to 17943
attend by interactive video conference or teleconference; 17944

(e) Establish a method for verifying the identity of a 17945
member who remotely attends a meeting by teleconference. 17946

Sec. 5123.351. The director of developmental disabilities, 17947
with respect to the eligibility for state reimbursement of 17948
expenses incurred by facilities and programs established and 17949
operated under Chapter 5126. of the Revised Code for persons 17950
with ~~mental retardation or a developmental~~ 17951
~~disability~~disabilities, shall do all of the following: 17952

(A) Make rules that may be necessary to carry out the 17953
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 17954
5123.36 of the Revised Code; 17955

(B) Define minimum standards for qualifications of 17956
personnel, professional services, and in-service training and 17957
educational leave programs; 17958

(C) Review and evaluate community programs and make 17959
recommendations for needed improvements to county boards of 17960
developmental disabilities and to program directors; 17961

(D) Withhold state reimbursement, in whole or in part, 17962
from any county or combination of counties for failure to comply 17963
with Chapter 5126. or section 5123.35 or 5123.351 of the Revised 17964
Code or rules of the department of developmental disabilities; 17965

(E) Withhold state funds from an agency, corporation, or 17966
association denying or rendering service on the basis of race, 17967
color, sex, religion, ancestry, national origin, disability as 17968
defined in section 4112.01 of the Revised Code, or inability to 17969

pay; 17970

(F) Provide consultative staff service to communities to 17971
assist in ascertaining needs and in planning and establishing 17972
programs. 17973

Sec. 5123.36. (A) To the extent funds are available and on 17974
application by a county board of developmental disabilities or 17975
private nonprofit agency incorporated to provide ~~mental-~~ 17976
~~retardation or~~ developmental disability services, the director 17977
of developmental disabilities may enter into an agreement with 17978
the county board or agency to assist the county board or agency 17979
with a ~~mental retardation or~~ developmental disability 17980
construction project. Except as provided by division (B) of this 17981
section, the director may provide up to ninety per cent of the 17982
total project cost where circumstances warrant. The director 17983
may, where circumstances warrant, use existing facilities or 17984
other in-kind match for the local share of the communities' 17985
share of the cost. 17986

(B) Upon the recommendation of the director, for projects 17987
of the highest priority of the department of developmental 17988
disabilities, the controlling board may authorize the director 17989
to provide more than ninety per cent of the total cost of a 17990
project under this section. 17991

(C) A county board is eligible for funds under this 17992
section for a project bid on or after January 1, 1992, under 17993
either section 153.07 or 307.86 of the Revised Code, as long as 17994
all other applicable requirements were followed. 17995

(D) A private nonprofit agency that receives funds 17996
pursuant to this section for the construction of a single-family 17997
home, including, where appropriate, the acquisition and 17998

installation of a single-family home fabricated in an off-site facility, is not subject to the requirements of Chapter 153. of the Revised Code with respect to the construction project, notwithstanding any provision of that chapter to the contrary.

(E) The director may not assist a project under this section unless the controlling board or director of budget and management also approves the project pursuant to section 126.14 of the Revised Code.

Sec. 5123.37. A county board of developmental disabilities or private, nonprofit agency that receives state funds pursuant to an agreement with the director of developmental disabilities under section 5123.36 of the Revised Code to acquire a facility may apply to the director for approval to sell the facility before the terms of the agreement expire for the purpose of acquiring a replacement facility to be used to provide ~~mental-retardation or~~ developmental disability services to individuals the county board or agency serves. The application shall be made on a form the director shall prescribe. The county board or agency shall include in the application the specific purpose for which the replacement facility is to be used. The director may refuse to approve the application if the director determines that any of the following apply:

(A) The application is incomplete or indicates that the county board or agency is unable to purchase a replacement facility.

(B) The replacement facility would not be used to continue to provide ~~mental-retardation or~~ developmental disability services that the director determines are appropriate for the individuals the county board or agency serves.

(C) The county board or agency has failed to comply with a provision of Chapter 5123. or 5126. of the Revised Code or a rule adopted by the director.

(D) Approving the application would be inconsistent with the plans and priorities of the department of developmental disabilities.

Sec. 5123.374. (A) The director of developmental disabilities may rescind approval of an application submitted under section 5123.37 of the Revised Code if either of the following occurs:

(1) The county board of developmental disabilities or private, nonprofit agency that submitted the application fails, on or before the deadline or, if any, the last extended deadline established under section 5123.372 of the Revised Code for the county board or agency, to notify the director that the county board or agency is ready to acquire the replacement facility.

(2) The county board or agency at any time notifies the director that the county board or agency no longer intends to acquire a replacement facility.

(B) If the director rescinds approval of an application, the director shall use any funds the county board or agency paid to the director under section 5123.371 of the Revised Code to assist ~~mental retardation or~~ developmental disabilities construction projects under section 5123.36 of the Revised Code.

Sec. 5123.375. The developmental disabilities community capital replacement facilities fund is hereby created in the state treasury. The director of developmental disabilities shall credit all amounts paid to the director under section 5123.371 of the Revised Code to the fund. The director shall use the

money in the fund as follows: 18057

(A) To make payments to county boards of developmental 18058
disabilities and private, nonprofit agencies pursuant to 18059
agreements entered into under section 5123.373 of the Revised 18060
Code; 18061

(B) To provide, pursuant to section 5123.374 of the 18062
Revised Code, assistance for ~~mental retardation or~~ developmental 18063
disabilities construction projects under section 5123.36 of the 18064
Revised Code. 18065

Sec. 5123.40. There is hereby created in the state 18066
treasury the services fund for individuals with ~~mental-~~ 18067
~~retardation and~~ developmental disabilities. On the death of the 18068
beneficiary of a trust created pursuant to section 5815.28 of 18069
the Revised Code, the portion of the remaining assets of the 18070
trust specified in the trust instrument shall be deposited to 18071
the credit of the fund. 18072

Money credited to the fund shall be used for individuals 18073
with ~~mental retardation and~~ developmental disabilities. In 18074
accordance with Chapter 119. of the Revised Code, the department 18075
of developmental disabilities may adopt any rules necessary to 18076
implement this section. 18077

Sec. 5123.41. As used in this section and sections 5123.42 18078
to 5123.47 of the Revised Code: 18079

(A) "Adult services" has the same meaning as in section 18080
5126.01 of the Revised Code. 18081

(B) "Certified supported living provider" means a person 18082
or government entity certified under section 5123.161 of the 18083
Revised Code. 18084

- (C) "Drug" has the same meaning as in section 4729.01 of the Revised Code. 18085
18086
- (D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code. 18087
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- (E) "Health-related activities" means the following: 18089
- (1) Taking vital signs; 18090
 - (2) Application of clean dressings that do not require health assessment; 18091
18092
 - (3) Basic measurement of bodily intake and output; 18093
 - (4) Oral suctioning; 18094
 - (5) Use of glucometers; 18095
 - (6) External urinary catheter care; 18096
 - (7) Emptying and replacing colostomy bags; 18097
 - (8) Collection of specimens by noninvasive means. 18098
- (F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code. 18099
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- (G) "~~MR/DD~~ Developmental disabilities personnel" means the employees and the workers under contract who provide specialized services to individuals with ~~mental retardation and~~ developmental disabilities. "~~MR/DD~~ Developmental disabilities personnel" includes those who provide the services as follows: 18102
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- (1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities; 18107
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 - (2) Through an entity under contract with the department 18110

of developmental disabilities or a county board of developmental 18111
disabilities; 18112

(3) Through direct employment or by being under contract 18113
with private entities, including private entities that operate 18114
residential facilities. 18115

(H) "Nursing delegation" means the process established in 18116
rules adopted by the board of nursing pursuant to Chapter 4723. 18117
of the Revised Code under which a registered nurse or licensed 18118
practical nurse acting at the direction of a registered nurse 18119
transfers the performance of a particular nursing activity or 18120
task to another person who is not otherwise authorized to 18121
perform the activity or task. 18122

(I) "Prescribed medication" means a drug that is to be 18123
administered according to the instructions of a licensed health 18124
professional authorized to prescribe drugs. 18125

(J) "Residential facility" means a facility licensed under 18126
section 5123.19 of the Revised Code. 18127

(K) "Specialized services" has the same meaning as in 18128
section 5123.50 of the Revised Code. 18129

(L) "Tube feeding" means the provision of nutrition to an 18130
individual through a gastrostomy tube or a jejunostomy tube. 18131

Sec. 5123.42. (A) ~~Beginning nine months after March 31,~~ 18132
~~2003, MR/DD~~ Developmental disabilities personnel who are not 18133
specifically authorized by other provisions of the Revised Code 18134
to administer prescribed medications, perform health-related 18135
activities, or perform tube feedings may do so pursuant to this 18136
section as part of the specialized services the ~~MR/DD~~ 18137
developmental disabilities personnel provide to individuals with 18138
~~mental retardation and~~ developmental disabilities in the 18139

following categories:	18140
(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18141 18142 18143
(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18144 18145
(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18146 18147 18148
(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18149 18150 18151
(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with mental retardation and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18152 18153 18154 18155 18156 18157 18158
(6) Recipients of services not included in divisions (A) (1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18159 18160 18161
(7) Residents of a residential facility with five or fewer resident beds;	18162 18163
(8) Residents of a residential facility with at least six but not more than sixteen resident beds;	18164 18165
(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if	18166 18167

all of the following are the case: 18168

(a) The field trip is sponsored by the facility for 18169
purposes of complying with federal medicaid statutes and 18170
regulations, state medicaid statutes and rules, or other federal 18171
or state statutes, regulations, or rules that require the 18172
facility to provide habilitation, community integration, or 18173
normalization services to its residents. 18174

(b) Not more than ten field trip participants are 18175
residents who have health needs requiring the administration of 18176
prescribed medications, excluding participants who self- 18177
administer prescribed medications or receive assistance with 18178
self-administration of prescribed medications. 18179

(c) The facility staffs the field trip with ~~MR/DD-~~ 18180
developmental disabilities personnel in such a manner that one 18181
person will administer prescribed medications, perform health- 18182
related activities, or perform tube feedings for not more than 18183
four participants if one or more of those participants have 18184
health needs requiring the person to administer prescribed 18185
medications through a gastrostomy or jejunostomy tube. 18186

(d) According to the instructions of a health care 18187
professional acting within the scope of the professional's 18188
practice, the health needs of the participants who require 18189
administration of prescribed medications by ~~MR/DD-~~developmental 18190
disabilities personnel are such that the participants must 18191
receive the medications during the field trip to avoid 18192
jeopardizing their health and safety. 18193

(B) (1) In the case of recipients of early intervention, 18194
preschool, and school-age services, as specified in division (A) 18195
(1) of this section, all of the following apply: 18196

- (a) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may perform health-related activities. 18197
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- (b) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may administer oral and topical prescribed medications. 18199
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- (c) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 18202
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- (d) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 18206
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- (2) In the case of recipients of adult services, as specified in division (A) (2) of this section, all of the following apply: 18210
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- (a) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may perform health-related activities. 18213
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- (b) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may administer oral and topical prescribed medications. 18215
18216
18217
- (c) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 18218
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- (d) With nursing delegation, ~~MR/DD~~-developmental disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and 18222
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labeled. 18225

(3) In the case of recipients of family support services, 18226
as specified in division (A)(3) of this section, all of the 18227
following apply: 18228

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18229
disabilities personnel may perform health-related activities. 18230

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18231
disabilities personnel may administer oral and topical 18232
prescribed medications. 18233

(c) With nursing delegation, ~~MR/DD-developmental~~ 18234
disabilities personnel may administer prescribed medications 18235
through gastrostomy and jejunostomy tubes, if the tubes being 18236
used are stable and labeled. 18237

(d) With nursing delegation, ~~MR/DD-developmental~~ 18238
disabilities personnel may perform routine tube feedings, if the 18239
gastrostomy and jejunostomy tubes being used are stable and 18240
labeled. 18241

(e) With nursing delegation, ~~MR/DD-developmental~~ 18242
disabilities personnel may administer routine doses of insulin 18243
through subcutaneous injections and insulin pumps. 18244

(4) In the case of recipients of services from certified 18245
supported living providers, as specified in division (A)(4) of 18246
this section, all of the following apply: 18247

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18248
disabilities personnel may perform health-related activities. 18249

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18250
disabilities personnel may administer oral and topical 18251
prescribed medications. 18252

(c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:

(a) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities.

(b) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

- (e) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 18281
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- (6) In the case of recipients of services not included in divisions (A) (1) to (5) of this section, as specified in division (A) (6) of this section, all of the following apply: 18284
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- (a) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18287
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- (b) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications. 18289
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- (c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 18292
18293
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- (d) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 18296
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- (7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A) (7) of this section, all of the following apply: 18300
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- (a) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18303
18304
- (b) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications. 18305
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18307
- (c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18308

disabilities personnel may administer prescribed medications 18309
through gastrostomy and jejunostomy tubes, if the tubes being 18310
used are stable and labeled. 18311

(d) With nursing delegation, ~~MR/DD-developmental~~ 18312
disabilities personnel may perform routine tube feedings, if the 18313
gastrostomy and jejunostomy tubes being used are stable and 18314
labeled. 18315

(e) With nursing delegation, ~~MR/DD-developmental~~ 18316
disabilities personnel may administer routine doses of insulin 18317
through subcutaneous injections and insulin pumps. 18318

(8) In the case of residents of a residential facility 18319
with at least six but not more than sixteen resident beds, as 18320
specified in division (A) (8) of this section, all of the 18321
following apply: 18322

(a) With nursing delegation, ~~MR/DD-developmental~~ 18323
disabilities personnel may perform health-related activities. 18324

(b) With nursing delegation, ~~MR/DD-developmental~~ 18325
disabilities personnel may administer oral and topical 18326
prescribed medications. 18327

(c) With nursing delegation, ~~MR/DD-developmental~~ 18328
disabilities personnel may administer prescribed medications 18329
through gastrostomy and jejunostomy tubes, if the tubes being 18330
used are stable and labeled. 18331

(d) With nursing delegation, ~~MR/DD-developmental~~ 18332
disabilities personnel may perform routine tube feedings, if the 18333
gastrostomy and jejunostomy tubes being used are stable and 18334
labeled. 18335

(9) In the case of residents of a residential facility 18336

with seventeen or more resident beds who are on a field trip 18337
from the facility, all of the following apply during the field 18338
trip, subject to the limitations specified in division (A) (9) of 18339
this section: 18340

(a) With nursing delegation, ~~MR/DD-developmental~~ 18341
disabilities personnel may perform health-related activities. 18342

(b) With nursing delegation, ~~MR/DD-developmental~~ 18343
disabilities personnel may administer oral and topical 18344
prescribed medications. 18345

(c) With nursing delegation, ~~MR/DD-developmental~~ 18346
disabilities personnel may administer prescribed medications 18347
through gastrostomy and jejunostomy tubes, if the tubes being 18348
used are stable and labeled. 18349

(d) With nursing delegation, ~~MR/DD-developmental~~ 18350
disabilities personnel may perform routine tube feedings, if the 18351
gastrostomy and jejunostomy tubes being used are stable and 18352
labeled. 18353

(C) The authority of ~~MR/DD-developmental disabilities~~ 18354
personnel to administer prescribed medications, perform health- 18355
related activities, and perform tube feedings pursuant to this 18356
section is subject to all of the following: 18357

(1) To administer prescribed medications, perform health- 18358
related activities, or perform tube feedings for individuals in 18359
the categories specified under divisions (A) (1) to (8) of this 18360
section, ~~MR/DD-developmental disabilities~~ personnel shall obtain 18361
the certificate or certificates required by the department of 18362
developmental disabilities and issued under section 5123.45 of 18363
the Revised Code. ~~MR/DD-Developmental disabilities~~ personnel 18364
shall administer prescribed medication, perform health-related 18365

activities, and perform tube feedings only as authorized by the certificate or certificates held.

(2) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the category specified under division (A) (9) of this section, ~~MR/DD-developmental disabilities~~ personnel shall successfully complete the training course or courses developed under section 5123.43 of the Revised Code for the ~~MR/DD-developmental disabilities~~ personnel. ~~MR/DD-Developmental disabilities~~ personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the training completed.

(3) If nursing delegation is required under division (B) of this section, ~~MR/DD-developmental disabilities~~ personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.

(4) The employer of ~~MR/DD-developmental disabilities~~ personnel shall ensure that ~~MR/DD-developmental disabilities~~ personnel have been trained specifically with respect to each individual for whom they administer prescribed medications, perform health-related activities, or perform tube feedings. ~~MR/DD-Developmental disabilities~~ personnel shall not administer prescribed medications, perform health-related activities, or perform tube feedings for any individual for whom they have not been specifically trained.

(5) If the employer of ~~MR/DD-developmental disabilities~~ personnel believes that ~~MR/DD-developmental disabilities~~ personnel have not or will not safely administer prescribed medications, perform health-related activities, or perform tube feedings, the employer shall prohibit the action from continuing

or commencing. ~~MR/DD-Developmental disabilities~~ personnel shall 18396
not engage in the action or actions subject to an employer's 18397
prohibition. 18398

(D) In accordance with section 5123.46 of the Revised 18399
Code, the department of developmental disabilities shall adopt 18400
rules governing its implementation of this section. The rules 18401
shall include the following: 18402

(1) Requirements for documentation of the administration 18403
of prescribed medications, performance of health-related 18404
activities, and performance of tube feedings by ~~MR/DD-~~ 18405
developmental disabilities personnel pursuant to the authority 18406
granted under this section; 18407

(2) Procedures for reporting errors that occur in the 18408
administration of prescribed medications, performance of health- 18409
related activities, and performance of tube feedings by ~~MR/DD-~~ 18410
developmental disabilities personnel pursuant to the authority 18411
granted under this section; 18412

(3) Other standards and procedures the department 18413
considers necessary for implementation of this section. 18414

Sec. 5123.421. The department of developmental 18415
disabilities shall accept complaints from any person or 18416
government entity regarding the administration of prescribed 18417
medications, performance of health-related activities, and 18418
performance of tube feedings by ~~MR/DD-~~developmental disabilities 18419
personnel pursuant to the authority granted under section 18420
5123.42 of the Revised Code. The department shall conduct 18421
investigations of complaints as it considers appropriate. The 18422
department shall adopt rules in accordance with section 5123.46 18423
of the Revised Code establishing procedures for accepting 18424

complaints and conducting investigations under this section. 18425

Sec. 5123.422. ~~MR/DD~~ Developmental disabilities personnel 18426
who administer prescribed medications, perform health-related 18427
activities, or perform tube feedings pursuant to the authority 18428
granted under section 5123.42 of the Revised Code are not liable 18429
for any injury caused by administering the medications, 18430
performing the health-related activities, or performing the tube 18431
feedings, if both of the following apply: 18432

(A) The ~~MR/DD~~ developmental disabilities personnel acted 18433
in accordance with the methods taught in training completed in 18434
compliance with section 5123.42 of the Revised Code; 18435

(B) The ~~MR/DD~~ developmental disabilities personnel did not 18436
act in a manner that constitutes wanton or reckless misconduct. 18437

Sec. 5123.43. (A) The department of developmental 18438
disabilities shall develop courses for the training of ~~MR/DD~~ 18439
developmental disabilities personnel in the administration of 18440
prescribed medications, performance of health-related 18441
activities, and performance of tube feedings pursuant to the 18442
authority granted under section 5123.42 of the Revised Code. The 18443
department may develop separate or combined training courses for 18444
the administration of prescribed medications, performance of 18445
health-related activities, and performance of tube feedings. 18446
Training in the administration of prescribed medications through 18447
gastrostomy and jejunostomy tubes may be included in a course 18448
providing training in tube feedings. Training in the 18449
administration of insulin may be developed as a separate course 18450
or included in a course providing training in the administration 18451
of other prescribed medications. 18452

(B) (1) The department shall adopt rules in accordance with 18453

section 5123.46 of the Revised Code that specify the content and 18454
length of the training courses developed under this section. The 18455
rules may include any other standards the department considers 18456
necessary for the training courses. 18457

(2) In adopting rules that specify the content of a 18458
training course or part of a training course that trains ~~MR/DD-~~ 18459
developmental disabilities personnel in the administration of 18460
prescribed medications, the department shall ensure that the 18461
content includes all of the following: 18462

(a) Infection control and universal precautions; 18463

(b) Correct and safe practices, procedures, and techniques 18464
for administering prescribed medication; 18465

(c) Assessment of drug reaction, including known side 18466
effects, interactions, and the proper course of action if a side 18467
effect occurs; 18468

(d) The requirements for documentation of medications 18469
administered to each individual; 18470

(e) The requirements for documentation and notification of 18471
medication errors; 18472

(f) Information regarding the proper storage and care of 18473
medications; 18474

(g) Information about proper receipt of prescriptions and 18475
transcription of prescriptions into an individual's medication 18476
administration record, except when the ~~MR/DD-~~ 18477
developmental 18478
disabilities personnel being trained will administer prescribed 18479
medications only to residents of a residential facility with 18480
seventeen or more resident beds who are participating in a field 18481
trip, as specified in division (A) (9) of section 5123.42 of the

Revised Code; 18482

(h) Course completion standards that require successful 18483
demonstration of proficiency in administering prescribed 18484
medications; 18485

(i) Any other material or course completion standards that 18486
the department considers relevant to the administration of 18487
prescribed medications by ~~MR/DD~~ developmental disabilities 18488
personnel. 18489

Sec. 5123.44. The department of developmental disabilities 18490
shall develop courses that train registered nurses to provide 18491
the ~~MR/DD~~ developmental disabilities personnel training courses 18492
developed under section 5123.43 of the Revised Code. The 18493
department may develop courses that train registered nurses to 18494
provide all of the courses developed under section 5123.43 of 18495
the Revised Code or any one or more of the courses developed 18496
under that section. 18497

The department shall adopt rules in accordance with 18498
section 5123.46 of the Revised Code that specify the content and 18499
length of the training courses. The rules may include any other 18500
standards the department considers necessary for the training 18501
courses. 18502

Sec. 5123.441. (A) Each ~~MR/DD~~ developmental disabilities 18503
personnel training course developed under section 5123.43 of the 18504
Revised Code shall be provided by a registered nurse. 18505

(B) (1) Except as provided in division (B) (2) of this 18506
section, to provide a training course or courses to ~~MR/DD~~ 18507
developmental disabilities personnel, a registered nurse shall 18508
obtain the certificate or certificates required by the 18509
department and issued under section 5123.45 of the Revised Code. 18510

The registered nurse shall provide only the training course or 18511
courses authorized by the certificate or certificates the 18512
registered nurse holds. 18513

(2) A registered nurse is not required to obtain a 18514
certificate to provide a training course to ~~MR/DD~~developmental 18515
disabilities personnel if the only ~~MR/DD~~ personnel to whom the 18516
course or courses are provided are those who administer 18517
prescribed medications, perform health-related activities, or 18518
perform tube feedings for residents of a residential facility 18519
with seventeen or more resident beds who are on a field trip 18520
from the facility, as specified in division (A)(9) of section 18521
5123.42 of the Revised Code. To provide the training course or 18522
courses, the registered nurse shall successfully complete the 18523
training required by the department through the courses it 18524
develops under section 5123.44 of the Revised Code. The 18525
registered nurse shall provide only the training courses 18526
authorized by the training the registered nurse completes. 18527

Sec. 5123.45. (A) The department of developmental 18528
disabilities shall establish a program under which the 18529
department issues certificates to the following: 18530

(1) ~~MR/DD~~Developmental disabilities personnel, for 18531
purposes of meeting the requirement of division (C)(1) of 18532
section 5123.42 of the Revised Code to obtain a certificate or 18533
certificates to administer prescribed medications, perform 18534
health-related activities, and perform tube feedings; 18535

(2) Registered nurses, for purposes of meeting the 18536
requirement of division (B)(1) of section 5123.441 of the 18537
Revised Code to obtain a certificate or certificates to provide 18538
the ~~MR/DD~~developmental disabilities personnel training courses 18539
developed under section 5123.43 of the Revised Code. 18540

(B) (1) Except as provided in division (B) (2) of this section, to receive a certificate issued under this section, ~~MR/DD~~ developmental disabilities personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to ~~MR/DD~~ developmental disabilities personnel and registered nurses who meet the requirements for the certificate or certificates.

(2) The department shall include provisions in the program for issuing certificates to ~~MR/DD~~ personnel and registered nurses who were required to be included in the certificate program pursuant to division (B) (2) of this section as that division existed immediately before ~~the effective date of this amendment September 29, 2011.~~ ~~MR/DD~~ personnel Personnel who receive a certificate under division (B) (2) of this section shall not administer insulin until they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to ~~MR/DD~~ personnel in the administration of insulin. A registered nurse who receives a certificate under division (B) (2) of this section shall not provide training courses to ~~MR/DD~~ personnel in the administration of insulin unless the registered nurse completes a course developed under section 5123.44 of the Revised Code that enables the registered nurse to receive a certificate to provide training courses to ~~MR/DD~~ personnel in the administration of insulin.

(C) Certificates issued to ~~MR/DD~~ developmental disabilities personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, ~~MR/DD-developmental~~ disabilities personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that ~~MR/DD-developmental disabilities~~ personnel and registered nurses must meet to be eligible to take a training course;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate;

(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of ~~MR/DD-developmental disabilities~~ personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;

(5) Standards and procedures for suspending or revoking a certificate;

(6) Standards and procedures for suspending a certificate 18601
without a hearing pending the outcome of an investigation; 18602

(7) Any other standards or procedures the department 18603
considers necessary to administer the certification program. 18604

Sec. 5123.451. The department of developmental 18605
disabilities shall establish and maintain a registry that lists 18606
all ~~MR/DD~~ developmental disabilities personnel and registered 18607
nurses holding valid certificates issued under section 5123.45 18608
of the Revised Code. The registry shall specify the type of 18609
certificate held and any limitations that apply to a certificate 18610
holder. The department shall make the information in the 18611
registry available to the public in computerized form or any 18612
other manner that provides continuous access to the information 18613
in the registry. 18614

Sec. 5123.47. (A) As used in this section: 18615

(1) "In-home care" means the supportive services provided 18616
within the home of an individual with ~~mental retardation or a~~ 18617
developmental disability who receives funding for the services 18618
through a county board of developmental disabilities, including 18619
any recipient of residential services funded as home and 18620
community-based services, family support services provided under 18621
section 5126.11 of the Revised Code, or supported living 18622
provided in accordance with sections 5126.41 to 5126.47 of the 18623
Revised Code. "In-home care" includes care that is provided 18624
outside an individual's home in places incidental to the home, 18625
and while traveling to places incidental to the home, except 18626
that "in-home care" does not include care provided in the 18627
facilities of a county board of developmental disabilities or 18628
care provided in schools. 18629

- (2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent. 18630
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- (3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional. 18632
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- (4) "Family member" means a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with ~~mental retardation or a~~ developmental disability 18634
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if the individual with ~~mental retardation or a~~ developmental 18636
~~disabilities~~ disability lives with the person and is dependent 18637
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on the person to the extent that, if the supports were 18639
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withdrawn, another living arrangement would have to be found.
- (5) "Health care professional" means any of the following: 18641
- (a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code; 18642
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- (b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code; 18644
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- (c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code; 18646
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- (d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code; 18648
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- (e) A person who holds a valid certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine; 18650
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- (f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code; 18654
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- (g) An occupational therapist or occupational therapy 18656

assistant or a physical therapist or physical therapist 18657
assistant who holds a valid license issued under Chapter 4755. 18658
of the Revised Code; 18659

(h) A respiratory care professional who holds a valid 18660
license issued under Chapter 4761. of the Revised Code. 18661

(6) "Health care task" means a task that is prescribed, 18662
ordered, delegated, or otherwise directed by a health care 18663
professional acting within the scope of the professional's 18664
practice. 18665

(B) Except as provided in division (E) of this section, a 18666
family member of an individual with ~~mental retardation or a~~ 18667
developmental disability may authorize an unlicensed in-home 18668
care worker to administer oral and topical prescribed 18669
medications or perform other health care tasks as part of the 18670
in-home care the worker provides to the individual, if all of 18671
the following apply: 18672

(1) The family member is the primary supervisor of the 18673
care. 18674

(2) The unlicensed in-home care worker has been selected 18675
by the family member or the individual receiving care and is 18676
under the direct supervision of the family member. 18677

(3) The unlicensed in-home care worker is providing the 18678
care through an employment or other arrangement entered into 18679
directly with the family member and is not otherwise employed by 18680
or under contract with a person or government entity to provide 18681
services to individuals with ~~mental retardation and~~ 18682
developmental disabilities. 18683

(C) A family member shall obtain a prescription, if 18684
applicable, and written instructions from a health care 18685

professional for the care to be provided to the individual. The 18686
family member shall authorize the unlicensed in-home care worker 18687
to provide the care by preparing a written document granting the 18688
authority. The family member shall provide the unlicensed in- 18689
home care worker with appropriate training and written 18690
instructions in accordance with the instructions obtained from 18691
the health care professional. 18692

(D) A family member who authorizes an unlicensed in-home 18693
care worker to administer oral and topical prescribed 18694
medications or perform other health care tasks retains full 18695
responsibility for the health and safety of the individual 18696
receiving the care and for ensuring that the worker provides the 18697
care appropriately and safely. No entity that funds or monitors 18698
the provision of in-home care may be held liable for the results 18699
of the care provided under this section by an unlicensed in-home 18700
care worker, including such entities as the county board of 18701
developmental disabilities and the department of developmental 18702
disabilities. 18703

An unlicensed in-home care worker who is authorized under 18704
this section by a family member to provide care to an individual 18705
may not be held liable for any injury caused in providing the 18706
care, unless the worker provides the care in a manner that is 18707
not in accordance with the training and instructions received or 18708
the worker acts in a manner that constitutes wanton or reckless 18709
misconduct. 18710

(E) A county board of developmental disabilities may 18711
evaluate the authority granted by a family member under this 18712
section to an unlicensed in-home care worker at any time it 18713
considers necessary and shall evaluate the authority on receipt 18714
of a complaint. If the board determines that a family member has 18715

acted in a manner that is inappropriate for the health and 18716
safety of the individual receiving the care, the authorization 18717
granted by the family member to an unlicensed in-home care 18718
worker is void, and the family member may not authorize other 18719
unlicensed in-home care workers to provide the care. In making 18720
such a determination, the board shall use appropriately licensed 18721
health care professionals and shall provide the family member an 18722
opportunity to file a complaint under section 5126.06 of the 18723
Revised Code. 18724

Sec. 5123.50. As used in sections 5123.50 to 5123.542 of 18725
the Revised Code: 18726

(A) "Abuse" means all of the following: 18727

(1) The use of physical force that can reasonably be 18728
expected to result in physical harm or serious physical harm; 18729

(2) Sexual abuse; 18730

(3) Verbal abuse. 18731

(B) "Misappropriation" means depriving, defrauding, or 18732
otherwise obtaining the real or personal property of an 18733
individual by any means prohibited by the Revised Code, 18734
including violations of Chapter 2911. or 2913. of the Revised 18735
Code. 18736

(C) "~~MR/DD~~ Developmental disabilities employee" means all 18737
of the following: 18738

(1) An employee of the department of developmental 18739
disabilities; 18740

(2) An employee of a county board of developmental 18741
disabilities; 18742

(3) An employee in a position that includes providing 18743
specialized services to an individual with ~~mental retardation or~~ 18744
~~another a~~ developmental disability; 18745

(4) An independent provider as defined in section 5123.16 18746
of the Revised Code. 18747

(D) "Neglect" means, when there is a duty to do so, 18748
failing to provide an individual with any treatment, care, 18749
goods, or services that are necessary to maintain the health and 18750
safety of the individual. 18751

(E) "Offense of violence" has the same meaning as in 18752
section 2901.01 of the Revised Code. 18753

(F) "Physical harm" and "serious physical harm" have the 18754
same meanings as in section 2901.01 of the Revised Code. 18755

(G) "Prescribed medication" has the same meaning as in 18756
section 5123.41 of the Revised Code. 18757

(H) "Sexual abuse" means unlawful sexual conduct or sexual 18758
contact. 18759

(I) "Specialized services" means any program or service 18760
designed and operated to serve primarily individuals with ~~mental~~ 18761
~~retardation or a developmental disability~~ disabilities, 18762
including a program or service provided by an entity licensed or 18763
certified by the department of developmental disabilities. A 18764
program or service available to the general public is not a 18765
specialized service. 18766

(J) "Verbal abuse" means purposely using words to 18767
threaten, coerce, intimidate, harass, or humiliate an 18768
individual. 18769

(K) "Sexual conduct," "sexual contact," and "spouse" have 18770

the same meanings as in section 2907.01 of the Revised Code. 18771

Sec. 5123.51. (A) In addition to any other action required 18772
by sections 5123.61 and 5126.31 of the Revised Code, the 18773
department of developmental disabilities shall review each 18774
report the department receives of abuse or neglect of an 18775
individual with ~~mental retardation or~~ a developmental disability 18776
or misappropriation of an individual's property that includes an 18777
allegation that ~~an MR/DD~~ a developmental disabilities employee 18778
committed or was responsible for the abuse, neglect, or 18779
misappropriation. The department shall review a report it 18780
receives from a public children services agency only after the 18781
agency completes its investigation pursuant to section 2151.421 18782
of the Revised Code. On receipt of a notice under section 18783
2930.061 or 5123.541 of the Revised Code, the department shall 18784
review the notice. 18785

(B) The department shall do both of the following: 18786

(1) Investigate the allegation or adopt the findings of an 18787
investigation or review of the allegation conducted by another 18788
person or government entity and determine whether there is a 18789
reasonable basis for the allegation; 18790

(2) If the department determines that there is a 18791
reasonable basis for the allegation, conduct an adjudication 18792
pursuant to Chapter 119. of the Revised Code. 18793

(C) (1) The department shall appoint an independent hearing 18794
officer to conduct any hearing conducted pursuant to division 18795
(B) (2) of this section, except that, if the hearing is regarding 18796
an employee of the department who is represented by a union, the 18797
department and a representative of the union shall jointly 18798
select the hearing officer. 18799

(2) (a) Except as provided in division (C) (2) (b) of this section, no hearing shall be conducted under division (B) (2) of this section until any criminal proceeding or collective bargaining arbitration concerning the same allegation has concluded.

(b) The department may conduct a hearing pursuant to division (B) (2) of this section before a criminal proceeding concerning the same allegation is concluded if both of the following are the case:

(i) The department notifies the prosecutor responsible for the criminal proceeding that the department proposes to conduct a hearing.

(ii) The prosecutor consents to the hearing.

(3) In conducting a hearing pursuant to division (B) (2) of this section, the hearing officer shall do all of the following:

(a) Determine whether there is clear and convincing evidence that the ~~MR/DD~~ developmental disabilities employee has done any of the following:

(i) Misappropriated property of one or more individuals with ~~mental retardation or a developmental disability~~ disabilities that has a value, either separately or taken together, of one hundred dollars or more;

(ii) Misappropriated property of an individual with ~~mental retardation or a~~ developmental disability that is designed to be used as a check, draft, negotiable instrument, credit card, charge card, or device for initiating an electronic fund transfer at a point of sale terminal, automated teller machine, or cash dispensing machine;

- (iii) Misappropriated prescribed medication of an individual with ~~mental retardation or~~ a developmental disability; 18828
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- (iv) Knowingly abused such an individual; 18831
- (v) Recklessly abused or neglected such an individual, with resulting physical harm; 18832
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- (vi) Negligently abused or neglected such an individual, with resulting serious physical harm; 18834
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- (vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm; 18836
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- (viii) Engaged in sexual conduct or had sexual contact with an individual with ~~mental retardation or another a~~ developmental disability who was not the ~~MR/DD~~ developmental disabilities employee's spouse and for whom the ~~MR/DD~~ developmental disabilities employee was employed or under a contract to provide care; 18838
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- (ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with ~~mental retardation or~~ a developmental disability; 18844
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- (x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with ~~mental retardation or~~ a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code. 18849
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(b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation; 18856
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(c) Give weight to any relevant facts presented at the hearing. 18858
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(D) (1) Unless the director of developmental disabilities determines that there are extenuating circumstances and except as provided in division (E) of this section, if the director, after considering all of the factors listed in division (C) (3) of this section, finds that there is clear and convincing evidence that ~~an MR/DD-a developmental disabilities~~ employee has done one or more of the things described in division (C) (3) (a) of this section the director shall include the name of the employee in the registry established under section 5123.52 of the Revised Code. 18860
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(2) Extenuating circumstances the director must consider include the use of physical force by ~~an MR/DD-a developmental disabilities~~ employee that was necessary as self-defense. 18870
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(3) If the director includes ~~an MR/DD-a developmental disabilities~~ employee in the registry established under section 5123.52 of the Revised Code, the director shall notify the employee, the person or government entity that employs or contracts with the employee, the individual with ~~mental-retardation or~~-a developmental disability who was the subject of the report and that individual's legal guardian, if any, the attorney general, and the prosecuting attorney or other law enforcement agency. If the ~~MR/DD-developmental disabilities~~ employee holds a license, certificate, registration, or other authorization to engage in a profession issued pursuant to Title XLVII of the Revised Code, the director shall notify the appropriate agency, board, department, or other entity 18873
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responsible for regulating the employee's professional practice. 18886

(4) If an individual whose name appears on the registry is 18887
involved in a court proceeding or arbitration arising from the 18888
same facts as the allegation resulting in the individual's 18889
placement on the registry, the disposition of the proceeding or 18890
arbitration shall be noted in the registry next to the 18891
individual's name. 18892

(E) In the case of an allegation concerning an employee of 18893
the department, after the hearing conducted pursuant to division 18894
(B) (2) of this section, the director of health or that 18895
director's designee shall review the decision of the hearing 18896
officer to determine whether the standard described in division 18897
(C) (3) of this section has been met. If the director or designee 18898
determines that the standard has been met and that no 18899
extenuating circumstances exist, the director or designee shall 18900
notify the director of developmental disabilities that the ~~MR/DD-~~ 18901
developmental disabilities employee is to be included in the 18902
registry established under section 5123.52 of the Revised Code. 18903
If the director of developmental disabilities receives such 18904
notification, the director shall include the ~~MR/DD-~~developmental 18905
disabilities employee in the registry and shall provide the 18906
notification described in division (D) (3) of this section. 18907

(F) If the department is required by Chapter 119. of the 18908
Revised Code to give notice of an opportunity for a hearing and 18909
the ~~MR/DD-~~developmental disabilities employee subject to the 18910
notice does not timely request a hearing in accordance with 18911
section 119.07 or 5123.0414 of the Revised Code, the department 18912
is not required to hold a hearing. 18913

(G) Files and records of investigations conducted pursuant 18914
to this section are not public records as defined in section 18915

149.43 of the Revised Code, but, on request, the department 18916
shall provide copies of those files and records to the attorney 18917
general, a prosecuting attorney, or a law enforcement agency. 18918

Sec. 5123.52. (A) The department of developmental 18919
disabilities shall establish a registry of ~~MR/DD-developmental~~ 18920
~~disabilities~~ employees consisting of the names of ~~MR/DD-~~ 18921
~~employees~~ individuals included in the registry pursuant to 18922
section 5123.51 of the Revised Code. 18923

(B) Before a person or government entity hires, contracts 18924
with, or employs an individual as ~~an MR/DD-a developmental~~ 18925
disabilities employee, the person or government entity shall 18926
inquire whether the individual is included in the registry. 18927

(C) When it receives an inquiry regarding whether an 18928
individual is included in the registry, the department shall 18929
inform the person making the inquiry whether the individual is 18930
included in the registry. 18931

(D) (1) Except as otherwise provided in a collective 18932
bargaining agreement entered into under Chapter 4117. of the 18933
Revised Code that is in effect on November 22, 2000, no person 18934
or government entity shall hire, contract with, or employ as ~~an~~ 18935
~~MR/DD-a developmental disabilities~~ employee an individual who is 18936
included in the registry. Notwithstanding sections 4117.08 and 18937
4117.10 of the Revised Code, no agreement entered into under 18938
Chapter 4117. of the Revised Code after November 22, 2000, may 18939
contain any provision that in any way limits the effect or 18940
operation of this section. 18941

(2) Neither the department nor any county board of 18942
developmental disabilities may enter into a new contract or 18943
renew a contract with a person or government entity that fails 18944

to comply with division (D) (1) of this section until the 18945
department or board is satisfied that the person or government 18946
entity will comply. 18947

(3) A person or government entity that fails to hire or 18948
retain as ~~an MR/DD~~ a developmental disabilities employee ~~a~~ 18949
~~person~~ an individual because the ~~person~~ individual is included 18950
in the registry shall not be liable in damages in a civil action 18951
brought by the employee or applicant for employment. Termination 18952
of employment pursuant to division (D) (1) of this section 18953
constitutes a discharge for just cause for the purposes of 18954
section 4141.29 of the Revised Code. 18955

(E) Information contained in the registry is a public 18956
record for the purposes of section 149.43 of the Revised Code 18957
and is subject to inspection and copying under section 1347.08 18958
of the Revised Code. 18959

Sec. 5123.541. (A) No ~~MR/DD~~ developmental disabilities 18960
employee shall engage in any sexual conduct or have any sexual 18961
contact with an individual with ~~mental retardation or another~~ a 18962
developmental disability for whom the ~~MR/DD~~ developmental 18963
disabilities employee is employed or under a contract to provide 18964
care unless the individual is the ~~MR/DD~~ developmental 18965
disabilities employee's spouse. 18966

(B) Any ~~MR/DD~~ developmental disabilities employee who 18967
violates division (A) of this section shall be eligible to be 18968
included in the registry regarding misappropriation, abuse, 18969
neglect, or other specified misconduct by ~~MR/DD~~ developmental 18970
disabilities employees established under section 5123.52 of the 18971
Revised Code, in addition to any other sanction or penalty 18972
authorized or required by law. 18973

(C) (1) Any person listed in division (C) (2) of section 5123.61 of the Revised Code who has reason to believe that ~~an~~ MR/DD a developmental disabilities employee has violated division (A) of this section shall immediately report that belief to the department of developmental disabilities.

(2) Any person who has reason to believe that ~~an~~ MR/DD a developmental disabilities employee has violated division (A) of this section may report that belief to the department of developmental disabilities.

Sec. 5123.542. (A) Each of the following shall annually provide a written notice to each of its ~~MR/DD~~ developmental disabilities employees explaining the conduct for which ~~an~~ MR/DD a developmental disabilities employee may be included in the registry established under section 5123.52 of the Revised Code:

- (1) The department of developmental disabilities;
- (2) Each county board of developmental disabilities;
- (3) Each provider and subcontractor, as defined in section 5123.081 of the Revised Code;
- (4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code;
- (5) Each owner, operator, or administrator of a program certified by the department to provide supported living.

(B) The department of developmental disabilities or a county board of developmental disabilities shall provide the notice required by division (A) of this section to ~~an~~ MR/DD a developmental disabilities employee who is an independent provider, as defined in section 5123.16 of the Revised Code.

(C) The notice described in division (A) of this section shall be in a form and provided in a manner prescribed by the department of developmental disabilities. The form shall be the same for all persons and entities required to provide notice under division (A) of this section.

~~(C)~~(D) The fact that an MR/DD-a developmental disabilities employee does not receive the notice required by this section does not exempt the employee from inclusion in the registry established under section 5123.52 of the Revised Code.

Sec. 5123.55. As used in sections 5123.55 to 5123.59 of the Revised Code:

(A) "Guardian" means a guardian of the person, limited guardian, interim guardian, or emergency guardian pursuant to appointment by the probate court under Chapter 2111. of the Revised Code.

(B) "Trustee" means a trustee appointed by and accountable to the probate court, in lieu of a guardian and without a judicial determination of incompetency, with respect to an estate of ten thousand dollars or less.

(C) "Protector" means an agency under contract with the department of developmental disabilities acting with or without court appointment to provide guidance, service, and encouragement in the development of maximum self-reliance to a person with ~~mental retardation or~~ a developmental disability, independent of any determination of incompetency.

(D) "Protective service" means performance of the duties of a guardian, trustee, or conservator, or acting as a protector, with respect to a person with ~~mental retardation or~~ a developmental disability.

(E) "Conservator" means a conservator of the person 19031
pursuant to an appointment by a probate court under Chapter 19032
2111. of the Revised Code. 19033

Sec. 5123.57. No guardianship or trusteeship appointment 19034
shall be made under sections 5123.55 to 5123.59 of the Revised 19035
Code and no person shall be accepted for service by a protector 19036
under those sections unless a comprehensive evaluation has been 19037
made in a clinic or other facility approved by the department of 19038
developmental disabilities. The evaluation shall include a 19039
medical, psychological, social, and educational evaluation, and 19040
a copy of the evaluation shall be filed with the department. 19041

Any agency that is appointed as a guardian, trustee, or 19042
conservator under sections 5123.55 to 5123.59 of the Revised 19043
Code or accepted as a protector under those sections shall 19044
provide for a review at least once each year in writing of the 19045
physical, mental, and social condition of each ~~mentally retarded~~ 19046
~~or developmentally disabled~~ person with a developmental 19047
disability for whom it is acting as guardian, trustee, or 19048
protector. An agency providing protective services under 19049
contract with the department shall file these reports with the 19050
department of developmental disabilities. Any record of the 19051
department or agency pertaining to a ~~mentally retarded or~~ 19052
~~developmentally disabled~~ person with a developmental disability 19053
shall not be a public record under section 149.43 of the Revised 19054
Code. Information contained in those records shall not be 19055
disclosed publicly in such a manner as to identify individuals, 19056
but may be made available to persons approved by the director of 19057
developmental disabilities or the court. 19058

Sec. 5123.58. An agency providing protective services 19059
under contract with the department of developmental disabilities 19060

may be nominated under any of the following conditions as 19061
guardian, trustee, protector, conservator, or as trustee and 19062
protector of a ~~mentally retarded or developmentally disabled~~ 19063
person with a developmental disability: 19064

(A) The person who needs or believes the person needs 19065
protective service may make application in writing. 19066

(B) Any interested person may make application in writing 19067
on behalf of a ~~mentally retarded or developmentally disabled~~ 19068
person with a developmental disability. 19069

(C) A parent may name the department or agency as guardian 19070
or successor guardian in a will. 19071

(D) A parent may name the department or agency as 19072
guardian, trustee, or protector, to assume such duties during 19073
the parent's lifetime. 19074

If the results of the comprehensive evaluation required 19075
under section 5123.57 of the Revised Code indicate that the 19076
person named in the nomination is in need of protective 19077
services, the agency or service either shall reject or accept 19078
the nomination as guardian, trustee, or conservator, subject to 19079
appointment by the probate court, or reject or accept the 19080
nomination as protector, or trustee and protector. 19081

At the time the nomination is accepted or when an 19082
appointment is made by the court, the ~~mentally retarded or~~ 19083
~~developmentally disabled~~ person with a developmental disability 19084
and any person who made application for service on the ~~mentally~~ 19085
~~retarded or developmentally disabled person's behalf of the~~ 19086
person with a developmental disability under this section shall 19087
be informed by the agency, service, or court of the procedure 19088
for terminating the appointment or service. The agency or 19089

service shall cease to provide protective service as a protector 19090
pursuant to nomination under division (A), (B), or (D) of this 19091
section when a written request for termination is received by 19092
the agency from or on behalf of the ~~mentally retarded or~~ 19093
~~developmentally disabled~~ person with a developmental disability. 19094
If the agency or service believes the person to be in need of 19095
protective service, the agency or service may file an 19096
application for guardianship, trusteeship, or protectorship with 19097
the probate court. Termination of any court appointment as 19098
guardian, trustee, or protector shall be by order of the probate 19099
court. 19100

Sec. 5123.601. (A) The Ohio protection and advocacy system 19101
staff, and attorneys designated by the system to represent 19102
persons detained, hospitalized, or institutionalized under this 19103
chapter or Chapter 5122. of the Revised Code shall have ready 19104
access to all of the following: 19105

(1) During normal business hours and at other reasonable 19106
times, all records, except records of community residential 19107
facilities and records of contract agencies of county boards of 19108
developmental disabilities and boards of alcohol, drug 19109
addiction, and mental health services, relating to expenditures 19110
of state and federal funds or to the commitment, care, 19111
treatment, and habilitation of all persons represented by the 19112
Ohio protection and advocacy system, including those who may be 19113
represented pursuant to division (D) of this section, or persons 19114
detained, hospitalized, institutionalized, or receiving services 19115
under this chapter or Chapter 340., 5119., 5122., or 5126. of 19116
the Revised Code that are records maintained by the following 19117
entities providing services for those persons: departments; 19118
institutions; hospitals; boards of alcohol, drug addiction, and 19119
mental health services; county boards of developmental 19120

disabilities; and any other entity providing services to persons 19121
who may be represented by the Ohio protection and advocacy 19122
system pursuant to division (D) of this section; 19123

(2) Any records maintained in computerized data banks of 19124
the departments or boards or, in the case of persons who may be 19125
represented by the Ohio protection and advocacy system pursuant 19126
to division (D) of this section, any other entity that provides 19127
services to those persons; 19128

(3) During their normal working hours, personnel of the 19129
departments, facilities, boards, agencies, institutions, 19130
hospitals, and other service-providing entities; 19131

(4) At any time, all persons detained, hospitalized, or 19132
institutionalized; persons receiving services under this chapter 19133
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 19134
persons who may be represented by the Ohio protection and 19135
advocacy system pursuant to division (D) of this section. 19136

(5) Records of a community residential facility, a 19137
contract agency of a board of alcohol, drug addiction, and 19138
mental health services, or a contract agency of a county board 19139
of developmental disabilities with one of the following 19140
consents: 19141

(a) The consent of the person, including when the person 19142
is a minor or has been adjudicated incompetent; 19143

(b) The consent of the person's guardian of the person, if 19144
any, or the parent if the person is a minor; 19145

(c) No consent, if the person is unable to consent for any 19146
reason, and the guardian of the person, if any, or the parent of 19147
the minor, has refused to consent or has not responded to a 19148
request for consent and either of the following has occurred: 19149

(i) A complaint regarding the person has been received by 19150
the Ohio protection and advocacy system; 19151

(ii) The Ohio protection and advocacy system has 19152
determined that there is probable cause to believe that such 19153
person has been subjected to abuse or neglect. 19154

(B) All records received or maintained by the Ohio 19155
protection and advocacy system in connection with any 19156
investigation, representation, or other activity under this 19157
section shall be confidential and shall not be disclosed except 19158
as authorized by the person represented by the Ohio protection 19159
and advocacy system or, subject to any privilege, a guardian of 19160
the person or parent of the minor. Relationships between 19161
personnel and the agents of the Ohio protection and advocacy 19162
system and its clients shall be fiduciary relationships, and all 19163
communications shall be privileged as if between attorney and 19164
client. 19165

(C) The Ohio protection and advocacy system may compel by 19166
subpoena the appearance and sworn testimony of any person the 19167
Ohio protection and advocacy system reasonably believes may be 19168
able to provide information or to produce any documents, books, 19169
records, papers, or other information necessary to carry out its 19170
duties. On the refusal of any person to produce or authenticate 19171
any requested documents, the Ohio protection and advocacy system 19172
may apply to the Franklin county court of common pleas to compel 19173
the production or authentication of requested documents. If the 19174
court finds that failure to produce or authenticate any 19175
requested documents was improper, the court may hold the person 19176
in contempt as in the case of disobedience of the requirements 19177
of a subpoena issued from the court, or a refusal to testify in 19178
the court. 19179

(D) In addition to providing services to ~~mentally ill,~~ 19180
~~mentally retarded,~~ persons with mental illness or 19181
~~developmentally disabled~~ persons with developmental 19182
disabilities, when a grant authorizing the provision of services 19183
to other individuals is accepted by the Ohio protection and 19184
advocacy system, the Ohio protection and advocacy system may 19185
provide advocacy to those other individuals and exercise any 19186
other authority granted by this section on behalf of those 19187
individuals. Determinations of whether an individual is eligible 19188
for services under this division shall be made by the Ohio 19189
protection and advocacy system. 19190

Sec. 5123.61. (A) As used in this section: 19191

(1) "Law enforcement agency" means the state highway 19192
patrol, the police department of a municipal corporation, or a 19193
county sheriff. 19194

(2) "Abuse" has the same meaning as in section 5123.50 of 19195
the Revised Code, except that it includes a misappropriation, as 19196
defined in that section. 19197

(3) "Neglect" has the same meaning as in section 5123.50 19198
of the Revised Code. 19199

(B) The department of developmental disabilities shall 19200
establish a registry office for the purpose of maintaining 19201
reports of abuse, neglect, and other major unusual incidents 19202
made to the department under this section and reports received 19203
from county boards of developmental disabilities under section 19204
5126.31 of the Revised Code. The department shall establish 19205
committees to review reports of abuse, neglect, and other major 19206
unusual incidents. 19207

(C) (1) Any person listed in division (C) (2) of this 19208

section, having reason to believe that ~~a person~~ an individual 19209
with ~~mental retardation or~~ a developmental disability has 19210
suffered or faces a substantial risk of suffering any wound, 19211
injury, disability, or condition of such a nature as to 19212
reasonably indicate abuse or neglect of that ~~person~~ individual, 19213
shall immediately report or cause reports to be made of such 19214
information to the entity specified in this division. Except as 19215
provided in section 5120.173 of the Revised Code or as otherwise 19216
provided in this division, the person making the report shall 19217
make it to a law enforcement agency or to the county board of 19218
developmental disabilities. If the report concerns a resident of 19219
a facility operated by the department of developmental 19220
disabilities the report shall be made either to a law 19221
enforcement agency or to the department. If the report concerns 19222
any act or omission of an employee of a county board of 19223
developmental disabilities, the report immediately shall be made 19224
to the department and to the county board. 19225

(2) All of the following persons are required to make a 19226
report under division (C) (1) of this section: 19227

(a) Any physician, including a hospital intern or 19228
resident, any dentist, podiatrist, chiropractor, practitioner of 19229
a limited branch of medicine as specified in section 4731.15 of 19230
the Revised Code, hospital administrator or employee of a 19231
hospital, nurse licensed under Chapter 4723. of the Revised 19232
Code, employee of an ambulatory health facility as defined in 19233
section 5101.61 of the Revised Code, employee of a home health 19234
agency, employee of a residential facility licensed under 19235
section 5119.34 of the Revised Code that provides 19236
accommodations, supervision, and ~~person~~ personal care services 19237
for three to sixteen unrelated adults, or employee of a 19238
community mental health facility; 19239

(b) Any school teacher or school authority, licensed 19240
professional clinical counselor, licensed professional 19241
counselor, independent social worker, social worker, independent 19242
marriage and family therapist, marriage and family therapist, 19243
psychologist, attorney, peace officer, coroner, or residents' 19244
rights advocate as defined in section 3721.10 of the Revised 19245
Code; 19246

(c) A superintendent, board member, or employee of a 19247
county board of developmental disabilities; an administrator, 19248
board member, or employee of a residential facility licensed 19249
under section 5123.19 of the Revised Code; an administrator, 19250
board member, or employee of any other public or private 19251
provider of services to ~~a person an individual with mental~~ 19252
~~retardation or~~ a developmental disability, or any ~~MR/DD~~ 19253
developmental disabilities employee, as defined in section 19254
5123.50 of the Revised Code; 19255

(d) A member of a citizen's advisory council established 19256
at an institution or branch institution of the department of 19257
developmental disabilities under section 5123.092 of the Revised 19258
Code; 19259

(e) A member of the clergy who is employed in a position 19260
that includes providing specialized services to an individual 19261
with ~~mental retardation or another~~ a developmental disability, 19262
while acting in an official or professional capacity in that 19263
position, or a person who is employed in a position that 19264
includes providing specialized services to an individual with 19265
~~mental retardation or another~~ a developmental disability and 19266
who, while acting in an official or professional capacity, 19267
renders spiritual treatment through prayer in accordance with 19268
the tenets of an organized religion. 19269

(3) (a) The reporting requirements of this division do not 19270
apply to employees of the Ohio protection and advocacy system. 19271

(b) An attorney or physician is not required to make a 19272
report pursuant to division (C) (1) of this section concerning 19273
any communication the attorney or physician receives from a 19274
client or patient in an attorney-client or physician-patient 19275
relationship, if, in accordance with division (A) or (B) of 19276
section 2317.02 of the Revised Code, the attorney or physician 19277
could not testify with respect to that communication in a civil 19278
or criminal proceeding, except that the client or patient is 19279
deemed to have waived any testimonial privilege under division 19280
(A) or (B) of section 2317.02 of the Revised Code with respect 19281
to that communication and the attorney or physician shall make a 19282
report pursuant to division (C) (1) of this section, if both of 19283
the following apply: 19284

(i) The client or patient, at the time of the 19285
communication, is ~~a person an individual with mental retardation~~ 19286
~~or~~ a developmental disability. 19287

(ii) The attorney or physician knows or suspects, as a 19288
result of the communication or any observations made during that 19289
communication, that the client or patient has suffered or faces 19290
a substantial risk of suffering any wound, injury, disability, 19291
or condition of a nature that reasonably indicates abuse or 19292
neglect of the client or patient. 19293

(4) Any person who fails to make a report required under 19294
division (C) of this section and who is ~~an MR/DD~~ a developmental 19295
disabilities employee, as defined in section 5123.50 of the 19296
Revised Code, shall be eligible to be included in the registry 19297
regarding misappropriation, abuse, neglect, or other specified 19298
misconduct by ~~MR/DD~~ developmental disabilities employees 19299

established under section 5123.52 of the Revised Code. 19300

(D) The reports required under division (C) of this 19301
section shall be made forthwith by telephone or in person and 19302
shall be followed by a written report. The reports shall contain 19303
the following: 19304

(1) The names and addresses of the ~~person~~ individual with 19305
~~mental retardation or~~ a developmental disability and the 19306
~~person's~~ individual's custodian, if known; 19307

(2) The age of the ~~person~~ individual with ~~mental~~ 19308
~~retardation or~~ a developmental disability; 19309

(3) Any other information that would assist in the 19310
investigation of the report. 19311

(E) When a physician performing services as a member of 19312
the staff of a hospital or similar institution has reason to 19313
believe that ~~a person~~ an individual with ~~mental retardation or~~ a 19314
developmental disability has suffered injury, abuse, or physical 19315
neglect, the physician shall notify the person in charge of the 19316
institution or that person's designated delegate, who shall make 19317
the necessary reports. 19318

(F) Any person having reasonable cause to believe that ~~a~~ 19319
~~person~~ an individual with ~~mental retardation or~~ a developmental 19320
disability has suffered or faces a substantial risk of suffering 19321
abuse or neglect may report or cause a report to be made of that 19322
belief to the entity specified in this division. Except as 19323
provided in section 5120.173 of the Revised Code or as otherwise 19324
provided in this division, the person making the report shall 19325
make it to a law enforcement agency or the county board of 19326
developmental disabilities. If the ~~person~~ individual is a 19327
resident of a facility operated by the department of 19328

developmental disabilities, the report shall be made to a law 19329
enforcement agency or to the department. If the report concerns 19330
any act or omission of an employee of a county board of 19331
developmental disabilities, the report immediately shall be made 19332
to the department and to the county board. 19333

(G) (1) Upon the receipt of a report concerning the 19334
possible abuse or neglect of ~~a person~~ an individual with ~~mental~~ 19335
~~retardation or~~ a developmental disability, the law enforcement 19336
agency shall inform the county board of developmental 19337
disabilities or, if the ~~person~~ individual is a resident of a 19338
facility operated by the department of developmental 19339
disabilities, the department. 19340

(2) On receipt of a report under this section that 19341
includes an allegation of action or inaction that may constitute 19342
a crime under federal law or the law of this state, the 19343
department of developmental disabilities shall notify the law 19344
enforcement agency. 19345

(3) When a county board of developmental disabilities 19346
receives a report under this section that includes an allegation 19347
of action or inaction that may constitute a crime under federal 19348
law or the law of this state, the superintendent of the board or 19349
an individual the superintendent designates under division (H) 19350
of this section shall notify the law enforcement agency. The 19351
superintendent or individual shall notify the department of 19352
developmental disabilities when it receives any report under 19353
this section. 19354

(4) When a county board of developmental disabilities 19355
receives a report under this section and believes that the 19356
degree of risk to the person is such that the report is an 19357
emergency, the superintendent of the board or an employee of the 19358

board the superintendent designates shall attempt a face-to-face 19359
contact with the ~~person~~ individual with ~~mental retardation or a~~ 19360
developmental disability who allegedly is the victim within one 19361
hour of the board's receipt of the report. 19362

(H) The superintendent of the board may designate an 19363
individual to be responsible for notifying the law enforcement 19364
agency and the department when the county board receives a 19365
report under this section. 19366

(I) An adult with ~~mental retardation or a~~ developmental 19367
disability about whom a report is made may be removed from the 19368
adult's place of residence only by law enforcement officers who 19369
consider that the adult's immediate removal is essential to 19370
protect the adult from further injury or abuse or in accordance 19371
with the order of a court made pursuant to section 5126.33 of 19372
the Revised Code. 19373

(J) A law enforcement agency shall investigate each report 19374
of abuse or neglect it receives under this section. In addition, 19375
the department, in cooperation with law enforcement officials, 19376
shall investigate each report regarding a resident of a facility 19377
operated by the department to determine the circumstances 19378
surrounding the injury, the cause of the injury, and the person 19379
responsible. The investigation shall be in accordance with the 19380
memorandum of understanding prepared under section 5126.058 of 19381
the Revised Code. The department shall determine, with the 19382
registry office which shall be maintained by the department, 19383
whether prior reports have been made concerning an adult with 19384
~~mental retardation or a~~ developmental disability or other 19385
principals in the case. If the department finds that the report 19386
involves action or inaction that may constitute a crime under 19387
federal law or the law of this state, it shall submit a report 19388

of its investigation, in writing, to the law enforcement agency. 19389
If the ~~person-individual~~ with ~~mental retardation or a~~ 19390
developmental disability is an adult, with the consent of the 19391
adult, the department shall provide such protective services as 19392
are necessary to protect the adult. The law enforcement agency 19393
shall make a written report of its findings to the department. 19394

If the ~~person-individual with a developmental disability~~ 19395
is an adult and is not a resident of a facility operated by the 19396
department, the county board of developmental disabilities shall 19397
review the report of abuse or neglect in accordance with 19398
sections 5126.30 to 5126.33 of the Revised Code and the law 19399
enforcement agency shall make the written report of its findings 19400
to the county board. 19401

(K) Any person or any hospital, institution, school, 19402
health department, or agency participating in the making of 19403
reports pursuant to this section, any person participating as a 19404
witness in an administrative or judicial proceeding resulting 19405
from the reports, or any person or governmental entity that 19406
discharges responsibilities under sections 5126.31 to 5126.33 of 19407
the Revised Code shall be immune from any civil or criminal 19408
liability that might otherwise be incurred or imposed as a 19409
result of such actions except liability for perjury, unless the 19410
person or governmental entity has acted in bad faith or with 19411
malicious purpose. 19412

(L) No employer or any person with the authority to do so 19413
shall discharge, demote, transfer, prepare a negative work 19414
performance evaluation, reduce pay or benefits, terminate work 19415
privileges, or take any other action detrimental to an employee 19416
or retaliate against an employee as a result of the employee's 19417
having made a report under this section. This division does not 19418

preclude an employer or person with authority from taking action 19419
with regard to an employee who has made a report under this 19420
section if there is another reasonable basis for the action. 19421

(M) Reports made under this section are not public records 19422
as defined in section 149.43 of the Revised Code. Information 19423
contained in the reports on request shall be made available to 19424
the ~~person~~ individual who is the subject of the report, to the 19425
~~person's~~ individual's legal counsel, and to agencies authorized 19426
to receive information in the report by the department or by a 19427
county board of developmental disabilities. 19428

(N) Notwithstanding section 4731.22 of the Revised Code, 19429
the physician-patient privilege shall not be a ground for 19430
excluding evidence regarding the injuries or physical neglect of 19431
~~a person~~ an individual with ~~mental retardation or a~~ 19432
developmental disability or the cause thereof in any judicial 19433
proceeding resulting from a report submitted pursuant to this 19434
section. 19435

Sec. 5123.611. (A) As used in this section, "~~MR/DD-~~ 19436
developmental disabilities employee" means all of the following: 19437

(1) An employee of the department of developmental 19438
disabilities; 19439

(2) An employee of a county board of developmental 19440
disabilities; 19441

(3) An employee in a position that includes providing 19442
specialized services, as defined in section 5123.50 of the 19443
Revised Code, to an individual with ~~mental retardation or a~~ 19444
developmental disability. 19445

(B) At the conclusion of a review of a report of abuse, 19446
neglect, or a major unusual incident that is conducted by a 19447

review committee established pursuant to section 5123.61 of the Revised Code, the committee shall issue recommendations to the department. The department shall review the committee's recommendations and issue a report of its findings. The department shall make the report available to all of the following:

(1) The individual with ~~mental retardation or a~~ developmental disability who is the subject of the report;

(2) That individual's guardian or legal counsel;

(3) The licensee, as defined in section 5123.19 of the Revised Code, of a residential facility in which the individual resides;

(4) The employer of any ~~MR/DD~~ developmental disabilities employee who allegedly committed or was responsible for the abuse, neglect, or major unusual incident.

(C) Except as provided in this section, the department shall not disclose its report to any person or government entity that is not authorized to investigate reports of abuse, neglect, or other major unusual incidents, unless the individual with ~~mental retardation or a~~ developmental disability who is the subject of the report or the individual's guardian gives the department written consent.

Sec. 5123.612. The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the reporting of major unusual incidents and unusual incidents concerning persons with ~~mental retardation or a developmental disability~~ disabilities. The rules shall specify what constitutes a major unusual incident or an unusual incident.

Sec. 5123.614. (A) Subject to division (B) of this 19477
section, on receipt of a report of a major unusual incident made 19478
pursuant to section 5123.61 or 5126.31 of the Revised Code or 19479
rules adopted under section 5123.612 of the Revised Code, the 19480
department of developmental disabilities may do either of the 19481
following: 19482

(1) Conduct an independent review or investigation of the 19483
incident; 19484

(2) Request that an independent review or investigation of 19485
the incident be conducted by a county board of developmental 19486
disabilities that is not implicated in the report, a regional 19487
council of government, or any other entity authorized to conduct 19488
such investigations. 19489

(B) If a report described in division (A) of this section 19490
concerning the health or safety of a person with ~~mental-~~ 19491
~~retardation or a developmental disability~~ involves an allegation 19492
that an employee of a county board of developmental disabilities 19493
has created a substantial risk of serious physical harm to a 19494
person with ~~mental-retardation or a developmental disability,~~ 19495
the department shall do one of the following: 19496

(1) Conduct an independent investigation regarding the 19497
incident; 19498

(2) Request that an independent review or investigation of 19499
the incident be conducted by a county board of developmental 19500
disabilities that is not implicated in the report, a regional 19501
council of government, or any other entity authorized to conduct 19502
such investigations. 19503

Sec. 5123.62. The rights of persons with ~~mental-~~ 19504
~~retardation or a developmental disability~~ disabilities include, 19505

- but are not limited to, the following: 19506
- (A) The right to be treated at all times with courtesy and 19507
respect and with full recognition of their dignity and 19508
individuality; 19509
- (B) The right to an appropriate, safe, and sanitary living 19510
environment that complies with local, state, and federal 19511
standards and recognizes the persons' need for privacy and 19512
independence; 19513
- (C) The right to food adequate to meet accepted standards 19514
of nutrition; 19515
- (D) The right to practice the religion of their choice or 19516
to abstain from the practice of religion; 19517
- (E) The right of timely access to appropriate medical or 19518
dental treatment; 19519
- (F) The right of access to necessary ancillary services, 19520
including, but not limited to, occupational therapy, physical 19521
therapy, speech therapy, and behavior modification and other 19522
psychological services; 19523
- (G) The right to receive appropriate care and treatment in 19524
the least intrusive manner; 19525
- (H) The right to privacy, including both periods of 19526
privacy and places of privacy; 19527
- (I) The right to communicate freely with persons of their 19528
choice in any reasonable manner they choose; 19529
- (J) The right to ownership and use of personal possessions 19530
so as to maintain individuality and personal dignity; 19531
- (K) The right to social interaction with members of either 19532

sex;	19533
(L) The right of access to opportunities that enable individuals to develop their full human potential;	19534 19535
(M) The right to pursue vocational opportunities that will promote and enhance economic independence;	19536 19537
(N) The right to be treated equally as citizens under the law;	19538 19539
(O) The right to be free from emotional, psychological, and physical abuse;	19540 19541
(P) The right to participate in appropriate programs of education, training, social development, and habilitation and in programs of reasonable recreation;	19542 19543 19544
(Q) The right to participate in decisions that affect their lives;	19545 19546
(R) The right to select a parent or advocate to act on their behalf;	19547 19548
(S) The right to manage their personal financial affairs, based on individual ability to do so;	19549 19550
(T) The right to confidential treatment of all information in their personal and medical records, except to the extent that disclosure or release of records is permitted under sections 5123.89 and 5126.044 of the Revised Code;	19551 19552 19553 19554
(U) The right to voice grievances and recommend changes in policies and services without restraint, interference, coercion, discrimination, or reprisal;	19555 19556 19557
(V) The right to be free from unnecessary chemical or physical restraints;	19558 19559

(W) The right to participate in the political process; 19560

(X) The right to refuse to participate in medical, 19561
psychological, or other research or experiments. 19562

Sec. 5123.63. Every state agency, county board of 19563
developmental disabilities, or political subdivision that 19564
provides services, either directly or through a contract, to 19565
persons with ~~mental retardation or a developmental disability-~~ 19566
disabilities shall give each provider a copy of the list of 19567
rights contained in section 5123.62 of the Revised Code. Each 19568
public and private provider of services shall carry out the 19569
requirements of this section in addition to any other posting or 19570
notification requirements imposed by local, state, or federal 19571
law or rules. 19572

The provider shall make copies of the list of rights and 19573
shall be responsible for an initial distribution of the list to 19574
each individual receiving services from the provider. If the 19575
individual is unable to read the list, the provider shall 19576
communicate the contents of the list to the individual to the 19577
extent practicable in a manner that the individual understands. 19578
The individual receiving services or the parent, guardian, or 19579
advocate of the individual shall sign an acknowledgement of 19580
receipt of a copy of the list of rights, and a copy of the 19581
signed acknowledgement shall be placed in the individual's file. 19582
The provider shall also be responsible for answering any 19583
questions and giving any explanations necessary to assist the 19584
individual to understand the rights enumerated. Instruction in 19585
these rights shall be documented. 19586

Each provider shall make available to all persons 19587
receiving services and all employees and visitors a copy of the 19588
list of rights and the addresses and telephone numbers of the 19589

Ohio protection and advocacy system, the department of 19590
developmental disabilities, and the county board of 19591
developmental disabilities of the county in which the provider 19592
provides services. 19593

Sec. 5123.64. (A) Every provider of services to persons 19594
with ~~mental retardation or a developmental disability~~ 19595
disabilities shall establish policies and programs to ensure 19596
that all staff members are familiar with the rights enumerated 19597
in section 5123.62 of the Revised Code and observe those rights 19598
in their contacts with persons receiving services. Any policy, 19599
procedure, or rule of the provider that conflicts with any of 19600
the rights enumerated shall be null and void. Every provider 19601
shall establish written procedures for resolving complaints of 19602
violations of those rights. A copy of the procedures shall be 19603
provided to any person receiving services or to any parent, 19604
guardian, or advocate of a person receiving services. 19605

(B) Any person with ~~mental retardation or a developmental~~ 19606
disability who believes that the person's rights as enumerated 19607
in section 5123.62 of the Revised Code have been violated may: 19608

(1) Bring the violation to the attention of the provider 19609
for resolution; 19610

(2) Report the violation to the department of 19611
developmental disabilities, the Ohio protection and advocacy 19612
system, or the appropriate county board of developmental 19613
disabilities; 19614

(3) Take any other appropriate action to ensure compliance 19615
with sections 5123.61 to 5123.64 of the Revised Code, including 19616
the filing of a legal action to enforce rights or to recover 19617
damages for violation of rights. 19618

Sec. 5123.65. In addition to the rights specified in 19619
section 5123.62 of the Revised Code, individuals with ~~mental-~~ 19620
~~retardation and~~ developmental disabilities who can safely self- 19621
administer medication or receive assistance with self- 19622
administration of medication have the right to self-administer 19623
medication or receive assistance with the self-administration of 19624
medication. The department of developmental disabilities shall 19625
adopt rules as it considers necessary to implement and enforce 19626
this section. The rules shall be adopted in accordance with 19627
Chapter 119. of the Revised Code. 19628

Sec. 5123.651. (A) As used in this section, "~~MR/DD-~~ 19629
developmental disabilities personnel" and "prescribed 19630
medication" have the same meanings as in section 5123.41 of the 19631
Revised Code. 19632

(B) ~~MR/DD-~~Developmental disabilities personnel who are not 19633
specifically authorized by other provisions of the Revised Code 19634
to provide assistance in the self-administration of prescribed 19635
medication may, under this section, provide that assistance as 19636
part of the services they provide to individuals with ~~mental-~~ 19637
~~retardation and~~ developmental disabilities. To provide 19638
assistance with self-administration of prescribed medication, 19639
~~MR/DD-~~developmental disabilities personnel are not required to 19640
be trained or certified in accordance with section 5123.42 of 19641
the Revised Code. 19642

(C) When assisting in the self-administration of 19643
prescribed medication, ~~MR/DD-~~developmental disabilities 19644
personnel shall take only the following actions: 19645

(1) Remind an individual when to take the medication and 19646
observe the individual to ensure that the individual follows the 19647
directions on the container; 19648

(2) Assist an individual by taking the medication in its container from the area where it is stored, handing the container with the medication in it to the individual, and opening the container, if the individual is physically unable to open the container;

(3) Assist, on request by or with the consent of, a physically impaired but mentally alert individual, with removal of oral or topical medication from the container and with the individual's taking or applying of the medication. If an individual is physically unable to place a dose of oral medication to the individual's mouth without spilling or dropping it, ~~MR/DD~~ developmental disabilities personnel may place the dose in another container and place that container to the individual's mouth.

Sec. 5123.67. This chapter shall be liberally interpreted to accomplish the following purposes:

(A) To promote the human dignity and to protect the constitutional rights of persons with ~~mental retardation or a~~ developmental ~~disability~~ disabilities in the state;

(B) To encourage the development of the ability and potential of each person with ~~mental retardation or a~~ developmental disability in the state to the fullest possible extent, no matter how severe the degree of disability;

(C) To promote the economic security, standard of living, and meaningful employment of persons with ~~mental retardation or a~~ developmental ~~disability~~ disabilities;

(D) To maximize the assimilation of persons with ~~mental retardation or a~~ developmental ~~disability~~ disabilities into the ordinary life of the communities in which they live;

(E) To promote opportunities for persons with ~~mental-~~ 19678
~~retardation or a~~ developmental ~~disability~~ disabilities to live 19679
in surroundings or circumstances that are typical for other 19680
community members; 19681

(F) To promote the right of persons with ~~mental-~~ 19682
~~retardation or a~~ developmental ~~disability~~ disabilities to speak 19683
and be heard about the desired direction of their lives and to 19684
use available resources in ways that further that direction. 19685

Sec. 5123.69. (A) Except as provided in division (D) of 19686
this section, any person who is eighteen years of age or older 19687
and who is or believes ~~self to be mentally retarded~~ that the 19688
person is a person with an intellectual disability may make 19689
written application to the managing officer of any institution 19690
for voluntary admission. Except as provided in division (D) of 19691
this section, the application may be made on behalf of a minor 19692
by a parent or guardian, and on behalf of an adult adjudicated 19693
mentally incompetent by a guardian. 19694

(B) The managing officer of an institution, with the 19695
concurrence of the chief program director, may admit a person 19696
applying pursuant to this section only after a comprehensive 19697
evaluation has been made of the person and only if the 19698
comprehensive evaluation concludes that the person ~~is mentally~~ 19699
~~retarded~~ has an intellectual disability and would benefit 19700
significantly from admission. 19701

(C) The managing officer shall discharge any voluntary 19702
resident if, in the judgment of the chief program director, the 19703
results of a comprehensive examination indicate that 19704
institutionalization no longer is advisable. In light of the 19705
results of the comprehensive evaluation, the managing officer 19706
also may discharge any voluntary resident if, in the judgment of 19707

the chief program director, the discharge would contribute to 19708
the most effective use of the institution in the habilitation 19709
and care of ~~the mentally retarded~~ persons with developmental 19710
disabilities. 19711

(D) A person who is found incompetent to stand trial or 19712
not guilty by reason of insanity and who is committed pursuant 19713
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 19714
Revised Code shall not voluntarily commit self pursuant to this 19715
section until after the final termination of the commitment, as 19716
described in division (J) of section 2945.401 of the Revised 19717
Code. 19718

Sec. 5123.701. (A) Except as provided in division (D) of 19719
this section, any person in the community who is eighteen years 19720
of age or older and who is or believes self to be ~~mentally~~ 19721
~~retarded~~ a person with an intellectual disability may make 19722
written application to the managing officer of any institution 19723
for temporary admission for short-term care. The application may 19724
be made on behalf of a minor by a parent or guardian, and on 19725
behalf of an adult adjudicated mentally incompetent by a 19726
guardian. 19727

(B) For purposes of this section, short-term care shall be 19728
defined to mean appropriate services provided to a person with 19729
~~mental retardation~~ an intellectual disability for no more than 19730
fourteen consecutive days and for no more than forty-two days in 19731
a fiscal year. When circumstances warrant, the fourteen-day 19732
period may be extended at the discretion of the managing 19733
officer. Short-term care is provided in a developmental center 19734
to meet the family's or caretaker's needs for separation from 19735
the person with ~~mental retardation~~ an intellectual disability. 19736

(C) The managing officer of an institution, with the 19737

concurrence of the chief program director, may admit a person 19738
for short-term care only after a medical examination has been 19739
made of the person and only if the managing officer concludes 19740
that the person ~~is mentally retarded~~ has an intellectual 19741
disability. 19742

(D) A person who is found not guilty by reason of insanity 19743
shall not admit self to an institution for short-term care 19744
unless a hearing was held regarding the person pursuant to 19745
division (A) of section 2945.40 of the Revised Code and either 19746
of the following applies: 19747

(1) The person was found at the hearing not to be a 19748
~~mentally retarded person~~ with an intellectual disability subject 19749
to institutionalization by court order; 19750

(2) The person was found at the hearing to be a ~~mentally~~ 19751
~~retarded person~~ with an intellectual disability subject to 19752
institutionalization by court order, was involuntarily 19753
committed, and was finally discharged. 19754

(E) The ~~mentally retarded person~~ with an intellectual 19755
disability, liable relatives, and guardians of ~~mentally retarded~~ 19756
~~persons~~ with intellectual disabilities admitted for respite care 19757
shall pay support charges in accordance with sections 5121.01 to 19758
5121.21 of the Revised Code. 19759

(F) At the conclusion of each period of short-term care, 19760
the person shall return to the person's family or caretaker. 19761
Under no circumstances shall a person admitted for short-term 19762
care according to this section remain in the institution after 19763
the period of short-term care unless the person is admitted 19764
according to section 5123.70, sections 5123.71 to 5123.76, or 19765
section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 19766

Revised Code. 19767

Sec. 5123.71. (A) (1) Proceedings for the involuntary 19768
institutionalization of a person pursuant to sections 5123.71 to 19769
5123.76 of the Revised Code shall be commenced by the filing of 19770
an affidavit with the probate division of the court of common 19771
pleas of the county where the person resides or where the person 19772
is institutionalized, in the manner and form prescribed by the 19773
department of developmental disabilities either on information 19774
or actual knowledge, whichever is determined to be proper by the 19775
court. The affidavit may be filed only by a person who has 19776
custody of the individual as a parent, guardian, or service 19777
provider or by a person acting on behalf of the department or a 19778
county board of developmental disabilities. This section does 19779
not apply regarding the institutionalization of a person 19780
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 19781
the Revised Code. 19782

The affidavit shall contain an allegation setting forth 19783
the specific category or categories under division (O) of 19784
section 5123.01 of the Revised Code upon which the commencement 19785
of proceedings is based and a statement of the factual ground 19786
for the belief that the person is a ~~mentally-retarded~~ person 19787
with an intellectual disability subject to institutionalization 19788
by court order. Except as provided in division (A) (2) of this 19789
section, the affidavit shall be accompanied by both of the 19790
following: 19791

(a) A comprehensive evaluation report prepared by the 19792
person's evaluation team that includes a statement by the 19793
members of the team certifying that they have performed a 19794
comprehensive evaluation of the person and that they are of the 19795
opinion that the person is a ~~mentally-retarded~~ person with an 19796

intellectual disability subject to institutionalization by court order; 19797
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(b) An assessment report prepared by the county board of developmental disabilities under section 5123.711 of the Revised Code specifying that the individual is in need of services on an emergency or priority basis. 19799
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(2) In lieu of the comprehensive evaluation report, the affidavit may be accompanied by a written and sworn statement that the person or the guardian of a person adjudicated incompetent has refused to allow a comprehensive evaluation and county board assessment and assessment reports. Immediately after accepting an affidavit that is not accompanied by the reports of a comprehensive evaluation and county board assessment, the court shall cause a comprehensive evaluation and county board assessment of the person named in the affidavit to be performed. The evaluation shall be conducted in the least restrictive environment possible and the assessment shall be conducted in the same manner as assessments conducted under section 5123.711 of the Revised Code. The evaluation and assessment must be completed before a probable cause hearing or full hearing may be held under section 5123.75 or 5123.76 of the Revised Code. 19803
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A written report of the evaluation team's findings and the county board's assessment shall be filed with the court. The reports shall, consistent with the rules of evidence, be accepted as probative evidence in any proceeding under section 5123.75 or 5123.76 of the Revised Code. If the counsel for the person who is evaluated or assessed is known, the court shall send to the counsel a copy of the reports as soon as possible after they are filed and prior to any proceedings under section 19819
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5123.75 or 5123.76 of the Revised Code. 19827

(B) Any person who is involuntarily detained in an 19828
institution or otherwise is in custody under this chapter shall 19829
be informed of the right to do the following: 19830

(1) Immediately make a reasonable number of telephone 19831
calls or use other reasonable means to contact an attorney, a 19832
physician, or both, to contact any other person or persons to 19833
secure representation by counsel, or to obtain medical 19834
assistance, and be provided assistance in making calls if the 19835
assistance is needed and requested; 19836

(2) Retain counsel and have independent expert evaluation 19837
and, if the person is an indigent person, be represented by 19838
court-appointed counsel and have independent expert evaluation 19839
at court expense; 19840

(3) Upon request, have a hearing to determine whether 19841
there is probable cause to believe that the person is a ~~mentally-~~ 19842
~~retarded~~ person with an intellectual disability subject to 19843
institutionalization by court order. 19844

(C) No person who is being treated by spiritual means 19845
through prayer alone in accordance with a recognized religious 19846
method of healing may be ordered detained or involuntarily 19847
committed unless the court has determined that the person 19848
represents a very substantial risk of self-impairment, self- 19849
injury, or impairment or injury to others. 19850

Sec. 5123.74. (A) On receipt of an affidavit under section 19851
5123.71 of the Revised Code, the probate division of the court 19852
of common pleas may, if it has probable cause to believe that 19853
the person named in the affidavit is a ~~mentally-retarded~~ person 19854
with an intellectual disability subject to institutionalization 19855

by court order and that emergency institutionalization is 19856
required, do any of the following: 19857

(1) Issue a temporary order of detention ordering any 19858
health or police officer or sheriff to take into custody and 19859
transport such person to an institution or other place as 19860
designated in section 5123.77 of the Revised Code; 19861

(2) Order the county board of developmental disabilities 19862
to provide services to the individual in the community if the 19863
board's assessment of the individual conducted under section 19864
5123.711 of the Revised Code identifies that resources are 19865
available to meet the individual's needs in an appropriate 19866
manner within the community as an alternative to 19867
institutionalization; 19868

(3) Set the matter for further hearing. 19869

(B) A managing officer of a nonpublic institution may, and 19870
the managing officer of a public institution shall, receive for 19871
observation, diagnosis, habilitation, and care any person whose 19872
admission is ordered pursuant to division (A) (1) of this 19873
section. 19874

The alternatives to institutionalization that may be 19875
ordered under division (A) (2) of this section are limited to 19876
those that are necessary to remediate the emergency condition; 19877
necessary for the person's health, safety or welfare; and 19878
necessary for the protection of society, if applicable. 19879

(C) A person detained under this section may be observed 19880
and habilitated until the probable cause hearing provided for in 19881
section 5123.75 of the Revised Code. If no probable cause 19882
hearing is requested or held, the person may be evaluated and 19883
shall be provided with habilitative services until the full 19884

hearing is held pursuant to section 5123.76 of the Revised Code. 19885

Sec. 5123.75. A respondent who is involuntarily placed in 19886
an institution or other place as designated in section 5123.77 19887
of the Revised Code or with respect to whom proceedings have 19888
been instituted under section 5123.71 of the Revised Code shall, 19889
on request of the respondent, the respondent's guardian, or the 19890
respondent's counsel, or upon the court's own motion, be 19891
afforded a hearing to determine whether there is probable cause 19892
to believe that the respondent is a ~~mentally retarded~~ person 19893
with an intellectual disability subject to institutionalization 19894
by court order. 19895

(A) The probable cause hearing shall be conducted within 19896
two court days from the day on which the request is made. 19897
Failure to conduct the probable cause hearing within this time 19898
shall effect an immediate discharge of the respondent. If the 19899
proceedings are not reinstated within thirty days, records of 19900
the proceedings shall be expunged. 19901

(B) The respondent shall be informed that the respondent 19902
may retain counsel and have independent expert evaluation and, 19903
if the respondent is an indigent person, be represented by court 19904
appointed counsel and have independent expert evaluation at 19905
court expense. 19906

(C) The probable cause hearing shall be conducted in a 19907
manner consistent with the procedures set forth in division (A) 19908
of section 5123.76 of the Revised Code, except divisions (A) (10) 19909
and (14) of that section, and the designee of the director of 19910
developmental disabilities under section 5123.72 of the Revised 19911
Code shall present evidence for the state. 19912

(D) If the court does not find probable cause to believe 19913

that the respondent is a ~~mentally retarded~~ person with an 19914
intellectual disability subject to institutionalization by court 19915
order, it shall order immediate release of the respondent and 19916
dismiss and expunge all record of the proceedings under this 19917
chapter. 19918

(E) On motion of the respondent or the respondent's 19919
counsel and for good cause shown, the court may order a 19920
continuance of the hearing. 19921

(F) If the court finds probable cause to believe that the 19922
respondent is a ~~mentally retarded~~ person with an intellectual 19923
disability subject to institutionalization by court order, the 19924
court may issue an interim order of placement and, where 19925
proceedings under section 5123.71 of the Revised Code have been 19926
instituted, shall order a full hearing as provided in section 19927
5123.76 of the Revised Code to be held on the question of 19928
whether the respondent is a ~~mentally retarded~~ person with an 19929
intellectual disability subject to institutionalization by court 19930
order. Unless specifically waived by the respondent or the 19931
respondent's counsel, the court shall schedule said hearing to 19932
be held as soon as possible within ten days from the probable 19933
cause hearing. A waiver of such full hearing at this point shall 19934
not preclude the respondent from asserting the respondent's 19935
right to such hearing under section 5123.76 of the Revised Code 19936
at any time prior to the mandatory hearing provided in division 19937
(H) of section 5123.76 of the Revised Code. In any case, if the 19938
respondent has waived the right to the full hearing, a mandatory 19939
hearing shall be held under division (H) of section 5123.76 of 19940
the Revised Code between the ninetieth and the one hundredth day 19941
after the original involuntary detention of the person unless 19942
the respondent has been discharged. 19943

(G) Whenever possible, the probable cause hearing shall be held before the respondent is taken into custody.

Sec. 5123.76. (A) The full hearing shall be conducted in a manner consistent with the procedures outlined in this chapter and with due process of law. The hearing shall be held by a judge of the probate division or, upon transfer by the judge of the probate division, by another judge of the court of common pleas, or a referee designated by the judge of the probate division. Any referee designated by the judge of the probate division must be an attorney.

(1) The following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the institution, facility, or program in which the respondent currently is held or in which the respondent has been held pursuant to these proceedings;

(c) With the consent of the respondent, all relevant documents, information, and evidence in the custody or control of any institution or person other than the state.

(2) The respondent has the right to be represented by counsel of the respondent's choice and has the right to attend the hearing except if unusual circumstances of compelling medical necessity exist that render the respondent unable to attend and the respondent has not expressed a desire to attend.

(3) If the respondent is not represented by counsel and the court determines that the conditions specified in division (A)(2) of this section justify the respondent's absence and the

right to counsel has not been validly waived, the court shall 19973
appoint counsel forthwith to represent the respondent at the 19974
hearing, reserving the right to tax costs of appointed counsel 19975
to the respondent unless it is shown that the respondent is 19976
indigent. If the court appoints counsel, or if the court 19977
determines that the evidence relevant to the respondent's 19978
absence does not justify the absence, the court shall continue 19979
the case. 19980

(4) The respondent shall be informed of the right to 19981
retain counsel, to have independent expert evaluation, and, if 19982
an indigent person, to be represented by court appointed counsel 19983
and have expert independent evaluation at court expense. 19984

(5) The hearing may be closed to the public unless counsel 19985
for the respondent requests that the hearing be open to the 19986
public. 19987

(6) Unless objected to by the respondent, the respondent's 19988
counsel, or the designee of the director of developmental 19989
disabilities under section 5123.72 of the Revised Code, the 19990
court, for good cause shown, may admit persons having a 19991
legitimate interest in the proceedings. 19992

(7) The affiant under section 5123.71 of the Revised Code 19993
shall be subject to subpoena by either party. 19994

(8) The court shall examine the sufficiency of all 19995
documents filed and shall inform the respondent, if present, and 19996
the respondent's counsel of the nature of the content of the 19997
documents and the reason for which the respondent is being held 19998
or for which the respondent's placement is being sought. 19999

(9) The court shall receive only relevant, competent, and 20000
material evidence. 20001

(10) In accordance with section 5123.72 of the Revised Code, the designee of the director shall present the evidence for the state. In proceedings under this chapter, the attorney general shall present the comprehensive evaluation, assessment, diagnosis, prognosis, record of habilitation and care, if any, and less restrictive habilitation plans, if any. The attorney general does not have a similar presentation responsibility in connection with a person who has been found not guilty by reason of insanity and who is the subject of a hearing under section 2945.40 of the Revised Code to determine whether the person is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order.

(11) The respondent has the right to testify and the respondent or the respondent's counsel has the right to subpoena witnesses and documents and to present and cross-examine witnesses.

(12) The respondent shall not be compelled to testify and shall be so advised by the court.

(13) On motion of the respondent or the respondent's counsel for good cause shown, or upon the court's own motion, the court may order a continuance of the hearing.

(14) To an extent not inconsistent with this chapter, the Rules of Civil Procedure shall be applicable.

(B) Unless, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent named in the affidavit is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, it shall order the respondent's discharge forthwith.

(C) If, upon completion of the hearing, the court finds by

clear and convincing evidence that the respondent is a ~~mentally-~~ 20031
~~retarded~~ person with an intellectual disability subject to 20032
institutionalization by court order, the court may order the 20033
respondent's discharge or order the respondent, for a period not 20034
to exceed ninety days, to any of the following: 20035

(1) A public institution, provided that commitment of the 20036
respondent to the institution will not cause the institution to 20037
exceed its licensed capacity determined in accordance with 20038
section 5123.19 of the Revised Code and provided that such a 20039
placement is indicated by the comprehensive evaluation report 20040
filed pursuant to section 5123.71 of the Revised Code; 20041

(2) A private institution; 20042

(3) A ~~county mental retardation~~ community program for 20043
persons with developmental disabilities; 20044

(4) Receive private habilitation and care; 20045

(5) Any other suitable facility, program, or the care of 20046
any person consistent with the comprehensive evaluation, 20047
assessment, diagnosis, prognosis, and habilitation needs of the 20048
respondent. 20049

(D) Any order made pursuant to division (C) (2), (4), or 20050
(5) of this section shall be conditional upon the receipt by the 20051
court of consent by the facility, program, or person to accept 20052
the respondent. 20053

(E) In determining the place to which, or the person with 20054
whom, the respondent is to be committed, the court shall 20055
consider the comprehensive evaluation, assessment, diagnosis, 20056
and projected habilitation plan for the respondent, and shall 20057
order the implementation of the least restrictive alternative 20058
available and consistent with habilitation goals. 20059

(F) If, at any time it is determined by the director of the facility or program to which, or the person to whom, the respondent is committed that the respondent could be equally well habilitated in a less restrictive environment that is available, the following shall occur:

(1) The respondent shall be released by the director of the facility or program or by the person forthwith and referred to the court together with a report of the findings and recommendations of the facility, program, or person.

(2) The director of the facility or program or the person shall notify the respondent's counsel and the designee of the director of developmental disabilities.

(3) The court shall dismiss the case or order placement in the less restrictive environment.

(G) (1) Except as provided in divisions (G) (2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised Code. Upon admission of a voluntary resident, the managing officer immediately shall notify the court, the respondent's counsel, and the designee of the director in writing of that fact by mail or otherwise, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not be voluntarily admitted to an institution pursuant to division (G) (1) of this section until after the termination of the commitment, as described in division (J) of

section 2945.401 of the Revised Code. 20089

(H) If, at the end of any commitment period, the 20090
respondent has not already been discharged or has not requested 20091
voluntary admission status, the director of the facility or 20092
program, or the person to whose care the respondent has been 20093
committed, shall discharge the respondent forthwith, unless at 20094
least ten days before the expiration of that period the designee 20095
of the director of developmental disabilities or the prosecutor 20096
files an application with the court requesting continued 20097
commitment. 20098

(1) An application for continued commitment shall include 20099
a written report containing a current comprehensive evaluation 20100
and assessment, a diagnosis, a prognosis, an account of progress 20101
and past habilitation, and a description of alternative 20102
habilitation settings and plans, including a habilitation 20103
setting that is the least restrictive setting consistent with 20104
the need for habilitation. A copy of the application shall be 20105
provided to respondent's counsel. The requirements for notice 20106
under section 5123.73 of the Revised Code and the provisions of 20107
divisions (A) to (E) of this section apply to all hearings on 20108
such applications. 20109

(2) A hearing on the first application for continued 20110
commitment shall be held at the expiration of the first ninety- 20111
day period. The hearing shall be mandatory and may not be 20112
waived. 20113

(3) Subsequent periods of commitment not to exceed one 20114
hundred eighty days each may be ordered by the court if the 20115
designee of the director of developmental disabilities files an 20116
application for continued commitment, after a hearing is held on 20117
the application or without a hearing if no hearing is requested 20118

and no hearing required under division (H) (4) of this section is 20119
waived. Upon the application of a person involuntarily committed 20120
under this section, supported by an affidavit of a licensed 20121
physician alleging that the person is no longer a ~~mentally-~~ 20122
~~retarded~~ person with an intellectual disability subject to 20123
institutionalization by court order, the court for good cause 20124
shown may hold a full hearing on the person's continued 20125
commitment prior to the expiration of any subsequent period of 20126
commitment set by the court. 20127

(4) A mandatory hearing shall be held at least every two 20128
years after the initial commitment. 20129

(5) If the court, after a hearing upon a request to 20130
continue commitment, finds that the respondent is a ~~mentally-~~ 20131
~~retarded~~ person with an intellectual disability subject to 20132
institutionalization by court order, the court may make an order 20133
pursuant to divisions (C), (D), and (E) of this section. 20134

(I) Notwithstanding the provisions of division (H) of this 20135
section, no person who is found to be a ~~mentally-retarded~~ person 20136
with an intellectual disability subject to institutionalization 20137
by court order pursuant to division (O) (2) of section 5123.01 of 20138
the Revised Code shall be held under involuntary commitment for 20139
more than five years. 20140

(J) The managing officer admitting a person pursuant to a 20141
judicial proceeding, within ten working days of the admission, 20142
shall make a report of the admission to the department. 20143

Sec. 5123.79. (A) Notwithstanding a finding pursuant to 20144
section 5123.76 of the Revised Code that a person is a ~~mentally-~~ 20145
~~retarded~~ person with an intellectual disability subject to 20146
institutionalization by court order, the managing officer of an 20147

institution, with the concurrence of the chief program director, 20148
shall, except as provided in division (C) of this section, grant 20149
a discharge without the consent or the authorization of any 20150
court upon a determination that institutionalization no longer 20151
is appropriate. Upon the discharge, the managing officer of the 20152
institution shall notify the probate division of the court of 20153
common pleas that made the involuntary commitment. 20154

(B) Upon the request of the director of a private 20155
institution, program, facility, or person having custody of a 20156
resident institutionalized pursuant to section 5123.76 of the 20157
Revised Code, or on the order of the probate division of the 20158
court of common pleas, the resident may be called for a 20159
rehearing to determine the advisability of continued 20160
institutionalization at a place within the county of resident's 20161
residence or the county where the resident is institutionalized 20162
as the probate division designates. The hearing shall be held 20163
pursuant to section 5123.76 of the Revised Code. 20164

Sec. 5123.80. (A) When the chief program director of an 20165
institution for ~~the mentally retarded~~ persons with developmental 20166
disabilities considers that it is in the best interest of a 20167
resident, the managing officer may permit the resident to leave 20168
the institution on a trial visit. The trial visit shall be for 20169
the period of time the managing officer determines. 20170

(B) The managing officer, upon releasing a resident on 20171
trial visit, may impose such requirements and conditions upon 20172
the resident while the resident is absent from the institution 20173
as are consistent with the habilitation plan. 20174

(C) The managing officer of the institution from which an 20175
involuntary resident is given trial visit status may at any time 20176
revoke the trial visit if there is reason to believe that it is 20177

in the best interests of the resident to be returned to the 20178
institution. 20179

(D) If the revocation is not voluntarily complied with the 20180
managing officer, within five days, shall authorize any health 20181
or police officer, or sheriff to take the resident into custody 20182
and transport the resident to the institution. 20183

(E) An involuntarily committed resident who has 20184
successfully completed one year of continuous trial visit shall 20185
be automatically discharged. 20186

Sec. 5123.81. When an involuntarily committed resident of 20187
an institution for ~~the mentally retarded~~ persons with 20188
developmental disabilities is absent without leave, an order 20189
shall be issued within five days after the resident's absence 20190
requiring the resident to be taken into custody by any health or 20191
police officer, or sheriff and transported to the institution 20192
from which the resident is absent. The order may be issued by 20193
the director of developmental disabilities, the managing officer 20194
of the institution from which the resident is absent, or the 20195
probate judge of the county from which the resident was ordered 20196
institutionalized or in which he is found. The officer who takes 20197
the resident into custody shall immediately notify the issuer of 20198
the order. 20199

Sec. 5123.82. (A) Any person who has been 20200
institutionalized under this chapter may, at any time after 20201
discharge from such institution, make application to the 20202
managing officer of any public institution for habilitation and 20203
care if such person feels the person is in need of such 20204
services. If the chief program director determines the applicant 20205
to be in need of such services, the managing officer may provide 20206
such services as are required by the applicant. 20207

(B) Any person may apply to the managing officer of any public institution for habilitation and care if such person feels the person is in need of such services. If the person's condition warrants, ~~the person's~~ person may be enrolled as an outpatient and, during such enrollment, the person may receive services subject to Chapter 5121. of the Revised Code.

(C) The application prescribed in division (A) or (B) of this section may also be made on behalf of a minor by a parent, guardian, or custodian of a minor, and on behalf of an adult adjudicated incompetent by the guardian or custodian of the adult.

(D) The managing officer of the public institution may refer any discharged resident who makes an application under this section to the director of any community ~~mental retardation~~ program for persons with developmental disabilities serving the county in which such resident resides, or to such other facility as the director of developmental disabilities may designate. Upon notice of such referral, the director of such program may provide the services required by the applicant.

Sec. 5123.83. No person shall be deprived of any civil right, or public or private employment, solely by reason of ~~his~~ the person's having received services, voluntarily or involuntarily, for ~~mental retardation or~~ a developmental disability. Any person in custody, voluntarily or involuntarily, under the provisions of this chapter, retains all rights not specifically denied ~~him~~ the person under this or any other chapter of the Revised Code.

Sec. 5123.84. All residents of institutions for ~~the~~ mentally retarded persons with developmental disabilities shall be allowed to communicate freely with others, including but not

restricted to the following: 20238

(A) Receiving visitors at reasonable times; 20239

(B) Being visited by counsel or personal physician, or 20240
both, at any reasonable time; 20241

(C) Having reasonable access to telephones to make and 20242
receive confidential calls, including a reasonable number of 20243
free calls if unable to pay for them and assistance in calling 20244
if requested and needed; 20245

(D) Having ready access to letter writing materials and 20246
stamps, including a reasonable number without cost if the 20247
resident is unable to pay for them, to mailing and receiving 20248
unopened correspondence, and to receiving assistance in writing 20249
if requested and needed. 20250

Sec. 5123.85. (A) All residents institutionalized pursuant 20251
to this chapter shall receive, within thirty days of their 20252
admission, a comprehensive evaluation, a diagnosis, a prognosis, 20253
and a description of habilitation goals consistent therewith. 20254

(B) All such residents shall have a written habilitation 20255
plan consistent with the comprehensive evaluation, diagnosis, 20256
prognosis, and goals which shall be provided, upon request of 20257
resident or resident's counsel, to resident's counsel and to any 20258
private physician designated by the resident or the resident's 20259
counsel. 20260

(C) All such residents shall receive habilitation and care 20261
consistent with the habilitation plan. The department of 20262
developmental disabilities shall set standards for habilitation 20263
and care provided to such residents, consistent wherever 20264
possible with standards set by ~~the joint commission on national~~ 20265
~~accreditation of facilities for the mentally~~ 20266

~~retarded organizations recognized by the department.~~ 20267

(D) All such residents shall receive periodic 20268
comprehensive re-evaluations of the habilitation plan by the 20269
professional staff of the institution at intervals not to exceed 20270
ninety days. 20271

(E) All such residents shall be provided with prompt and 20272
adequate medical treatment for any physical or mental disease or 20273
injury. 20274

Sec. 5123.86. (A) Except as provided in divisions (C), 20275
(D), and (E) of this section, the chief medical officer shall 20276
provide all information, including expected physical and medical 20277
consequences, necessary to enable any resident of an institution 20278
for ~~the mentally retarded persons with developmental~~ 20279
disabilities to give a fully informed, intelligent, and knowing 20280
consent if any of the following procedures are proposed: 20281

(1) Surgery; 20282

(2) Sterilization; 20283

(3) Experimental procedures. 20284

(B) No resident shall be subjected to sterilization 20285
without the resident's informed consent. 20286

(C) If a resident is physically or mentally unable to 20287
receive the information required for surgery or an experimental 20288
procedure under division (A) of this section, or has been 20289
adjudicated incompetent, the information may be provided to the 20290
resident's natural or court-appointed guardian, including an 20291
agency providing guardianship services under contract with the 20292
department of developmental disabilities under sections 5123.55 20293
to 5123.59 of the Revised Code. The guardian may give the 20294

informed, intelligent, and knowing written consent for surgery 20295
or the experimental procedure. 20296

If a resident is physically or mentally unable to receive 20297
the information required for surgery or an experimental 20298
procedure under division (A) of this section and has no 20299
guardian, then the information, the recommendation of the chief 20300
medical officer, and the concurring judgment of a licensed 20301
physician who is not a full-time employee of the state may be 20302
provided to the court in the county in which the institution is 20303
located. The court may approve the surgery or experimental 20304
procedure. Before approving the surgery or experimental 20305
procedure, the court shall notify the Ohio protection and 20306
advocacy system created by section 5123.60 of the Revised Code, 20307
and shall notify the resident of the resident's rights to 20308
consult with counsel, to have counsel appointed by the court if 20309
the resident is indigent, and to contest the recommendation of 20310
the chief medical officer. 20311

(D) If, in the judgment of two licensed physicians, delay 20312
in obtaining consent for surgery would create a grave danger to 20313
the health of a resident, emergency surgery may be performed 20314
without the consent of the resident if the necessary information 20315
is provided to the resident's guardian, including an agency 20316
providing guardianship services under contract with the 20317
department of developmental disabilities under sections 5123.55 20318
to 5123.59 of the Revised Code, or to the resident's spouse or 20319
next of kin to enable that person or agency to give an informed, 20320
intelligent, and knowing written consent. 20321

If the guardian, spouse, or next of kin cannot be 20322
contacted through exercise of reasonable diligence, or if the 20323
guardian, spouse, or next of kin is contacted, but refuses to 20324

consent, then the emergency surgery may be performed upon the
written authorization of the chief medical officer and after
court approval has been obtained. However, if delay in obtaining
court approval would create a grave danger to the life of the
resident, the chief medical officer may authorize surgery, in
writing, without court approval. If the surgery is authorized
without court approval, the chief medical officer who made the
authorization and the physician who performed the surgery shall
each execute an affidavit describing the circumstances
constituting the emergency and warranting the surgery and the
circumstances warranting their not obtaining prior court
approval. The affidavit shall be filed with the court with which
the request for prior approval would have been filed within five
court days after the surgery, and a copy of the affidavit shall
be placed in the resident's file and shall be given to the
guardian, spouse, or next of kin of the resident, to the
hospital at which the surgery was performed, and to the Ohio
protection and advocacy system created by section 5123.60 of the
Revised Code.

(E) This chapter does not authorize any form of compulsory
medical or psychiatric treatment of any resident who is being
treated by spiritual means through prayer alone in accordance
with a recognized religious method of healing.

Sec. 5123.87. (A) No resident of an institution for ~~the~~
~~mentally retarded~~ persons with developmental disabilities shall
be compelled to perform labor ~~which~~ that involves the operation,
support, or maintenance of the institution or for which the
institution is under contract with an outside organization.
Privileges or release from the institution shall not be
conditional upon the performance of such labor. Residents who
volunteer to perform such labor shall be compensated at a rate

derived from the value of the work performed, having reference 20356
to the prevailing wage rate for comparable work or wage rates 20357
established under section 4111.06 of the Revised Code. 20358

(B) A resident may be required to perform habilitative 20359
tasks ~~which~~ that do not involve the operation, support, or 20360
maintenance of the institution if those tasks are an integrated 20361
part of the resident's habilitation plan and supervised by a 20362
~~mental retardation member of the institution's professional~~ 20363
staff who is designated by the chief program director. 20364

(C) A resident may be required to perform tasks of a 20365
personal housekeeping nature. 20366

Sec. 5123.88. Any person detained pursuant to this chapter 20367
shall be entitled to the writ of habeas corpus upon proper 20368
petition by ~~himself~~ self or a friend to any court generally 20369
empowered to issue the writ of habeas corpus in the county in 20370
which the person is detained. 20371

No person may bring a petition for a writ of habeas corpus 20372
that alleges that a person involuntarily detained pursuant to 20373
this chapter is no longer ~~mentally retarded~~ a person with an 20374
intellectual disability subject to institutionalization by court 20375
order unless the person shows that the release procedures of 20376
division (H) of section 5123.76 of the Revised Code are 20377
inadequate or unavailable. 20378

Sec. 5123.89. (A) As used in this section: 20379

(1) "Family" means a parent, brother, sister, spouse, son, 20380
daughter, grandparent, aunt, uncle, or cousin. 20381

(2) "Payment" means activities undertaken by a service 20382
provider or government entity to obtain or provide reimbursement 20383
for services provided to a person. 20384

(3) "Treatment" means the provision of services to a person, including the coordination or management of services provided to the person.

(B) All certificates, applications, records, and reports made for the purpose of this chapter, other than court journal entries or court docket entries, ~~which~~ that directly or indirectly identify a resident or former resident of an institution for ~~the mentally retarded persons with developmental disabilities~~ or person whose institutionalization has been sought under this chapter shall be kept confidential and shall not be disclosed by any person except in the following situations:

(1) It is the judgment of the court for judicial records, and the managing officer for institution records, that disclosure is in the best interest of the person identified, and that person or that person's guardian or, if that person is a minor, that person's parent or guardian consents.

(2) Disclosure is provided for in other sections of this chapter.

(3) It is the judgment of the managing officer for institution records that disclosure to a mental health facility is in the best interest of the person identified.

(4) Disclosure is of a record deposited with the Ohio history connection pursuant to division (C) of section 5123.31 of the Revised Code and the disclosure is made to the closest living relative of the person identified, on the relative's request.

(5) Disclosure is needed for the treatment of a person who is a resident or former resident of an institution for ~~the~~

~~mentally retarded persons with developmental disabilities~~ or a 20414
person whose institutionalization has been sought under this 20415
chapter or is needed for the payment of services provided to the 20416
person. 20417

(C) The department of developmental disabilities shall 20418
adopt rules with respect to the systematic and periodic 20419
destruction of residents' records. 20420

(D) Upon the death of a resident or former resident of an 20421
institution for ~~the mentally retarded persons with developmental~~ 20422
~~disabilities~~ or a person whose institutionalization was sought 20423
under this chapter, the managing officer of an institution shall 20424
provide access to the certificates, applications, records, and 20425
reports made for the purposes of this chapter to the resident's, 20426
former resident's, or person's guardian if the guardian makes a 20427
written request. If a deceased resident, former resident, or 20428
person whose institutionalization was sought under this chapter 20429
did not have a guardian at the time of death, the managing 20430
officer shall provide access to the certificates, applications, 20431
records, and reports made for purposes of this chapter to a 20432
member of the person's family, upon that family member's written 20433
request. 20434

(E) No person shall reveal the contents of a record of a 20435
resident except as authorized by this chapter. 20436

Sec. 5123.91. All persons who are not subject to any 20437
criminal provisions and who act reasonable and in good faith, 20438
either upon actual knowledge or upon information reasonably 20439
thought by them to be reliable, shall be free from any liability 20440
to a person institutionalized in institutions for ~~the mentally~~ 20441
~~retarded~~ persons with developmental disabilities or to any other 20442
person in their procedural or physical assistance administered 20443

in the course of the institutionalization or discharge of a 20444
person pursuant to the provisions of this chapter. 20445

Sec. 5123.92. If an affidavit alleging that a person ~~is~~ 20446
~~mentally retarded~~ has an intellectual disability and is subject 20447
to institutionalization by court order is filed, according to 20448
the provisions of section 5123.71 of the Revised Code, in the 20449
probate division of a county within the institutional district 20450
but not in the county within which the institution is located, 20451
and if such person is detained in the institution, the probate 20452
division of the county in which the institution is located 20453
shall, upon the request of the probate division receiving the 20454
affidavit, hold a hearing and make a disposition of the person 20455
in accordance with the procedures prescribed by this chapter. 20456

Sec. 5123.93. Minors with ~~mental retardation~~ intellectual 20457
disabilities shall remain under the guardianship of their 20458
parents or of a guardian appointed pursuant to Chapter 2111. of 20459
the Revised Code, notwithstanding institutionalization pursuant 20460
to any section of this chapter, unless parental rights have been 20461
terminated pursuant to a court finding that the child is 20462
neglected, abused, or dependent pursuant to Chapter 2151. of the 20463
Revised Code. If a minor with ~~mental retardation~~ an intellectual 20464
disability has been found to be dependent, abused, or neglected, 20465
the public children services agency to whom permanent custody 20466
has been assigned pursuant to Chapter 2151. of the Revised Code 20467
shall have the same authority and responsibility it would have 20468
if the child were not ~~mentally retarded~~ a person with an 20469
intellectual disability and were not institutionalized. In no 20470
case shall the guardianship of a person with ~~mental retardation~~ 20471
an intellectual disability be assigned to the managing officer 20472
or any other employee of an institution in which the person is 20473
institutionalized, or be assigned, unless there is a 20474

relationship by blood or marriage or unless the service is a 20475
protective service as defined in section 5123.55 of the Revised 20476
Code, to a person or agency who provides services to the person 20477
with ~~mental retardation~~ an intellectual disability. 20478

Sec. 5123.95. The probate judge, upon making an order 20479
institutionalizing a person under this chapter, shall forthwith 20480
transmit copies, under ~~his~~ the judge's official seal, of court 20481
papers in the case, including the certificate of the expert 20482
witnesses, and of ~~his~~ the judge's findings in the case to the 20483
managing officer of the institution for ~~the mentally retarded~~
persons with developmental disabilities. 20484
20485

If not otherwise furnished, the probate judge shall see 20486
that each person institutionalized under section 5123.76 of the 20487
Revised Code is properly attired for transportation and, in 20488
addition, the institution shall be furnished a complete change 20489
of clothing for such person, which shall be paid for on the 20490
certificate of the probate judge and the order of the county 20491
auditor from the county treasury. The clothing shall be new or 20492
as good as new. The managing officer of the institution need not 20493
receive the person without such clothing. 20494

Upon institutionalization, the managing officer of the 20495
institution to which the individual is admitted shall take 20496
possession of all money and other valuables that may be upon the 20497
person of the individual and shall, within ten days, file a list 20498
thereof with the probate judge of the county of which the 20499
individual is a resident. If the amount of money is fifty 20500
dollars or less it shall be retained and expended by the 20501
managing officer of the institution for the benefit of the 20502
individual. Unless a guardian of the estate of the individual 20503
has already been appointed, the probate judge may, upon ~~his~~ the 20504

judge's own motion and without notice, appoint a special 20505
guardian of the estate of the individual. Any special guardian, 20506
before being appointed, shall file a bond approved by the 20507
probate judge in the same amount as is required by section 20508
2109.04 of the Revised Code. A special guardian as provided for 20509
in this section, and while acting as such, shall be governed by 20510
all laws applicable to guardians of the estates of incompetents. 20511
The special guardian shall be allowed such compensation for ~~his~~ 20512
the special guardian's services as the court thinks reasonable, 20513
providing ~~he~~ the special guardian forthwith performs all the 20514
duties incumbent upon ~~him~~ the special guardian. 20515

Sec. 5123.96. Costs, fees, and expenses of all proceedings 20516
held under this chapter shall be paid as follows: 20517

(A) To police and health officers, other than sheriffs or 20518
their deputies, the same fees allowed to constables, to be paid 20519
upon the approval of the probate judge; 20520

(B) To sheriffs or their deputies, the same fees allowed 20521
for similar services in the court of common pleas; 20522

(C) To physicians or licensed clinical psychologists 20523
acting as expert witnesses and to other expert witnesses 20524
designated by the court, an amount determined by the court; 20525

(D) To witnesses in an administrative proceeding, the same 20526
fees and mileage as are provided to witnesses by section 119.094 20527
of the Revised Code, and to witnesses in a judicial proceeding, 20528
the same fees and mileage as are provided to witnesses by 20529
section 2335.06 of the Revised Code, to be paid upon the 20530
approval of the probate judge; 20531

(E) To a person, other than the sheriff or the sheriff's 20532
deputies, for taking a ~~mentally retarded~~ person with an 20533

intellectual disability to an institution or removing a ~~mentally-retarded person with an intellectual disability~~ from an institution, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge;

(F) To assistants who convey ~~mentally-retarded persons with intellectual disabilities~~ to institutions when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;

(G) To an attorney appointed by the probate division for an indigent who allegedly is a ~~mentally-retarded person with an intellectual disability~~ pursuant to any section of this chapter, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.

(H) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before the respondent's institutionalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held;

(I) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.

All costs, fees, and expenses described in this section,

after payment by the county from appropriations pursuant to 20563
section 2101.11 of the Revised Code, shall be certified by the 20564
county auditor to the department of developmental disabilities 20565
within two months of the date the costs, fees, and expenses are 20566
incurred by the county. Payment shall be provided for by the 20567
director of budget and management upon presentation of properly 20568
verified vouchers. The director of developmental disabilities 20569
may adopt rules in accordance with Chapter 119. of the Revised 20570
Code to implement the payment of costs, fees, and expenses under 20571
this section. 20572

Sec. 5123.99. (A) Whoever violates section 5123.16 or 20573
5123.20 of the Revised Code is guilty of a misdemeanor of the 20574
first degree. 20575

(B) Whoever violates division (C), (E), or (G) (3) of 20576
section 5123.61 of the Revised Code is guilty of a misdemeanor 20577
of the fourth degree or, if the abuse or neglect constitutes a 20578
felony, a misdemeanor of the second degree. In addition to any 20579
other sanction or penalty authorized or required by law, if a 20580
person who is convicted of or pleads guilty to a violation of 20581
division (C), (E), or (G) (3) of section 5123.61 of the Revised 20582
Code is ~~an MR/DD~~ a developmental disabilities employee, as 20583
defined in section 5123.50 of the Revised Code, the offender 20584
shall be eligible to be included in the registry regarding 20585
misappropriation, abuse, neglect, or other specified misconduct 20586
by ~~MR/DD~~ developmental disabilities employees established under 20587
section 5123.52 of the Revised Code. 20588

Sec. 5126.01. As used in this chapter: 20589

(A) As used in this division, "adult" means an individual 20590
who is eighteen years of age or over and not enrolled in a 20591
program or service under Chapter 3323. of the Revised Code and 20592

an individual sixteen or seventeen years of age who is eligible 20593
for adult services under rules adopted by the director of 20594
developmental disabilities pursuant to Chapter 119. of the 20595
Revised Code. 20596

(1) "Adult services" means services provided to an adult 20597
outside the home, except when they are provided within the home 20598
according to an individual's assessed needs and identified in an 20599
individual service plan, that support learning and assistance in 20600
the area of self-care, sensory and motor development, 20601
socialization, daily living skills, communication, community 20602
living, social skills, or vocational skills. 20603

(2) "Adult services" includes all of the following: 20604

(a) Adult day habilitation services; 20605

(b) Employment services; 20606

(c) Educational experiences and training obtained through 20607
entities and activities that are not expressly intended for 20608
individuals with ~~mental retardation~~ and developmental 20609
disabilities, including trade schools, vocational or technical 20610
schools, adult education, job exploration and sampling, unpaid 20611
work experience in the community, volunteer activities, and 20612
spectator sports. 20613

(B) (1) "Adult day habilitation services" means adult 20614
services that do the following: 20615

(a) Provide access to and participation in typical 20616
activities and functions of community life that are desired and 20617
chosen by the general population, including such activities and 20618
functions as opportunities to experience and participate in 20619
community exploration, companionship with friends and peers, 20620
leisure activities, hobbies, maintaining family contacts, 20621

community events, and activities where individuals without 20622
disabilities are involved; 20623

(b) Provide supports or a combination of training and 20624
supports that afford an individual a wide variety of 20625
opportunities to facilitate and build relationships and social 20626
supports in the community. 20627

(2) "Adult day habilitation services" includes all of the 20628
following: 20629

(a) Personal care services needed to ensure an 20630
individual's ability to experience and participate in vocational 20631
services, educational services, community activities, and any 20632
other adult day habilitation services; 20633

(b) Skilled services provided while receiving adult day 20634
habilitation services, including such skilled services as 20635
behavior management intervention, occupational therapy, speech 20636
and language therapy, physical therapy, and nursing services; 20637

(c) Training and education in self-determination designed 20638
to help the individual do one or more of the following: develop 20639
self-advocacy skills, exercise the individual's civil rights, 20640
acquire skills that enable the individual to exercise control 20641
and responsibility over the services received, and acquire 20642
skills that enable the individual to become more independent, 20643
integrated, or productive in the community; 20644

(d) Recreational and leisure activities identified in the 20645
individual's service plan as therapeutic in nature or assistive 20646
in developing or maintaining social supports; 20647

(e) Transportation necessary to access adult day 20648
habilitation services; 20649

(f) Habilitation management, as described in section 20650
5126.14 of the Revised Code. 20651

(3) "Adult day habilitation services" does not include 20652
activities that are components of the provision of residential 20653
services, family support services, or supported living services. 20654

(C) "Appointing authority" means the following: 20655

(1) In the case of a member of a county board of 20656
developmental disabilities appointed by, or to be appointed by, 20657
a board of county commissioners, the board of county 20658
commissioners; 20659

(2) In the case of a member of a county board appointed 20660
by, or to be appointed by, a senior probate judge, the senior 20661
probate judge. 20662

(D) "Community employment," "competitive employment," and 20663
"integrated setting" have the same meanings as in section 20664
5123.022 of the Revised Code. 20665

(E) "Supported employment services" means vocational 20666
assessment, job training and coaching, job development and 20667
placement, worksite accessibility, and other services related to 20668
employment outside a sheltered workshop. "Supported employment 20669
services" includes both of the following: 20670

(1) Job training resulting in the attainment of community 20671
employment, supported work in a typical work environment, or 20672
self-employment; 20673

(2) Support for ongoing community employment, supported 20674
work at community-based sites, or self-employment. 20675

(F) ~~As used in this division, "developmental delay" has~~ 20676
~~the meaning established pursuant to section 5123.011 of the~~ 20677

~~Revised Code.~~ 20678

"Developmental disability" means a severe, chronic 20679
disability that is characterized by all of the following: 20680

(1) It is attributable to a mental or physical impairment 20681
or a combination of mental and physical impairments, other than 20682
a mental or physical impairment solely caused by mental illness 20683
as defined in division (A) of section 5122.01 of the Revised 20684
Code; 20685

(2) It is manifested before age twenty-two; 20686

(3) It is likely to continue indefinitely; 20687

(4) It results in one of the following: 20688

(a) In the case of a person under age three, at least one 20689
developmental delay, as defined in rules adopted under section 20690
5123.011 of the Revised Code, or a diagnosed physical or mental 20691
condition that has a high probability of resulting in a 20692
developmental delay, as defined in those rules; 20693

(b) In the case of a person at least age three but under 20694
age six, at least two developmental delays, as defined in rules 20695
adopted under section 5123.011 of the Revised Code; 20696

(c) In the case of a person age six or older, a 20697
substantial functional limitation in at least three of the 20698
following areas of major life activity, as appropriate for the 20699
person's age: self-care, receptive and expressive language, 20700
learning, mobility, self-direction, capacity for independent 20701
living, and, if the person is at least age sixteen, capacity for 20702
economic self-sufficiency. 20703

(5) It causes the person to need a combination and 20704
sequence of special, interdisciplinary, or other type of care, 20705

treatment, or provision of services for an extended period of 20706
time that is individually planned and coordinated for the 20707
person. 20708

"Developmental disability" includes intellectual 20709
disability. 20710

(G) "Early childhood services" means a planned program of 20711
habilitation designed to meet the needs of individuals with 20712
~~mental retardation or other~~ developmental disabilities who have 20713
not attained compulsory school age. 20714

(H) "Employment services" means prevocational services or 20715
supported employment services. 20716

(I) (1) "Environmental modifications" means the physical 20717
adaptations to an individual's home, specified in the 20718
individual's service plan, that are necessary to ensure the 20719
individual's health, safety, and welfare or that enable the 20720
individual to function with greater independence in the home, 20721
and without which the individual would require 20722
institutionalization. 20723

(2) "Environmental modifications" includes such 20724
adaptations as installation of ramps and grab-bars, widening of 20725
doorways, modification of bathroom facilities, and installation 20726
of specialized electric and plumbing systems necessary to 20727
accommodate the individual's medical equipment and supplies. 20728

(3) "Environmental modifications" does not include 20729
physical adaptations or improvements to the home that are of 20730
general utility or not of direct medical or remedial benefit to 20731
the individual, including such adaptations or improvements as 20732
carpeting, roof repair, and central air conditioning. 20733

(J) "Family support services" means the services provided 20734

under a family support services program operated under section 20735
5126.11 of the Revised Code. 20736

(K) "Habilitation" means the process by which the staff of 20737
the facility or agency assists an individual with ~~mental-~~ 20738
~~retardation or other-~~ a developmental disability in acquiring and 20739
maintaining those life skills that enable the individual to cope 20740
more effectively with the demands of the individual's own person 20741
and environment, and in raising the level of the individual's 20742
personal, physical, mental, social, and vocational efficiency. 20743
Habilitation includes, but is not limited to, programs of 20744
formal, structured education and training. 20745

(L) "Home and community-based services" has the same 20746
meaning as in section 5123.01 of the Revised Code. 20747

(M) "ICF/IID" has the same meaning as in section 5124.01 20748
of the Revised Code. 20749

(N) "Immediate family" means parents, grandparents, 20750
brothers, sisters, spouses, sons, daughters, aunts, uncles, 20751
mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, 20752
sons-in-law, and daughters-in-law. 20753

(O) "Intellectual disability" means a mental impairment 20754
manifested during the developmental period characterized by 20755
significantly subaverage general intellectual functioning 20756
existing concurrently with deficiencies in the effectiveness or 20757
degree with which an individual meets the standards of personal 20758
independence and social responsibility expected of the 20759
individual's age and cultural group. 20760

(P) "Medicaid case management services" means case 20761
management services provided to an individual with ~~mental-~~ 20762
~~retardation or other-~~ a developmental disability that the state 20763

medicaid plan requires. 20764

~~(P) "Mental retardation" means a mental impairment
manifested during the developmental period characterized by
significantly subaverage general intellectual functioning
existing concurrently with deficiencies in the effectiveness or
degree with which an individual meets the standards of personal
independence and social responsibility expected of the
individual's age and cultural group.~~ 20765
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(Q) "Prevocational services" means services that provide 20772
learning and work experiences, including volunteer work 20773
experiences, from which an individual can develop general 20774
strengths and skills that are not specific to a particular task 20775
or job but contribute to employability in community employment, 20776
supported work at community-based sites, or self-employment. 20777

(R) "Residential services" means services to individuals 20778
with ~~mental retardation or other~~ developmental disabilities to 20779
provide housing, food, clothing, habilitation, staff support, 20780
and related support services necessary for the health, safety, 20781
and welfare of the individuals and the advancement of their 20782
quality of life. "Residential services" includes program 20783
management, as described in section 5126.14 of the Revised Code. 20784

(S) "Resources" means available capital and other assets, 20785
including moneys received from the federal, state, and local 20786
governments, private grants, and donations; appropriately 20787
qualified personnel; and appropriate capital facilities and 20788
equipment. 20789

(T) "Senior probate judge" means the current probate judge 20790
of a county who has served as probate judge of that county 20791
longer than any of the other current probate judges of that 20792

county. If a county has only one probate judge, "senior probate judge" means that probate judge. 20793
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(U) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code. 20795
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(V) (1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment. 20798
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(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following: 20803
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(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received. 20805
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(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living. 20817
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(W) "Supportive home services" means a range of services to families of individuals with ~~mental retardation or other~~ 20820
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developmental disabilities to develop and maintain increased 20822
acceptance and understanding of such persons, increased ability 20823
of family members to teach the person, better coordination 20824
between school and home, skills in performing specific 20825
therapeutic and management techniques, and ability to cope with 20826
specific situations. 20827

(X) (1) "Supported living" means services provided for as 20828
long as twenty-four hours a day to an individual with ~~mental-~~ 20829
~~retardation or other-~~ a developmental disability through any 20830
public or private resources, including moneys from the 20831
individual, that enhance the individual's reputation in 20832
community life and advance the individual's quality of life by 20833
doing the following: 20834

(a) Providing the support necessary to enable an 20835
individual to live in a residence of the individual's choice, 20836
with any number of individuals who are not disabled, or with not 20837
more than three individuals with ~~mental retardation and-~~ 20838
developmental disabilities unless the individuals are related by 20839
blood or marriage; 20840

(b) Encouraging the individual's participation in the 20841
community; 20842

(c) Promoting the individual's rights and autonomy; 20843

(d) Assisting the individual in acquiring, retaining, and 20844
improving the skills and competence necessary to live 20845
successfully in the individual's residence. 20846

(2) "Supported living" includes the provision of all of 20847
the following: 20848

(a) Housing, food, clothing, habilitation, staff support, 20849
professional services, and any related support services 20850

necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.022. When making appointments to a county board of developmental disabilities, an appointing authority shall do all of the following:

(A) Appoint only individuals who are residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of ~~mental-retardation~~ intellectual disabilities and other allied fields;

(B) If the appointing authority is a board of county commissioners, appoint at least two individuals who are eligible for services provided by the county board or are immediate family members of such individuals. The board of county commissioners shall, whenever possible, ensure that one of those two members is an individual eligible for adult services or an immediate family member of an individual eligible for adult services and the other is an immediate family member of an

individual eligible for early intervention services or services 20879
for preschool or school-age children; 20880

(C) If the appointing authority is a senior probate judge, 20881
appoint at least one individual who is an immediate family 20882
member of an individual eligible for residential services or 20883
supported living; 20884

(D) Appoint, to the maximum extent possible, individuals 20885
who have professional training and experience in business 20886
management, finance, law, health care practice, personnel 20887
administration, or government service; 20888

(E) Provide for the county board's membership to reflect, 20889
as nearly as possible, the composition of the county that the 20890
county board serves. 20891

Sec. 5126.023. None of the following individuals may serve 20892
as a member of a county board of developmental disabilities: 20893

(A) An elected public official, except for a township 20894
trustee, township fiscal officer, or individual excluded from 20895
the definition of public official or employee in division (B) of 20896
section 102.01 of the Revised Code; 20897

(B) An immediate family member of a member of the same 20898
county board; 20899

(C) An employee of any county board; 20900

(D) An immediate family member of an employee of the same 20901
county board; 20902

(E) A former employee of a county board whose employment 20903
ceased less than four calendar years before the former employee 20904
would begin to serve as a member of the same county board; 20905

(F) A former employee of a county board whose employment 20906
ceased less than two years before the former employee would 20907
begin to serve as a member of a different county board; 20908

(G) Unless there is no conflict of interest, an individual 20909
who or whose immediate family member is a board member of an 20910
agency licensed or certified by the department of developmental 20911
disabilities to provide services to individuals with ~~mental-~~ 20912
~~retardation or~~ developmental disabilities or an individual who 20913
or whose immediate family member is an employee of such an 20914
agency; 20915

(H) An individual with an immediate family member who 20916
serves as a county commissioner of a county served by the county 20917
board unless the individual was a member of the county board 20918
before October 31, 1980. 20919

Sec. 5126.04. (A) Each county board of developmental 20920
disabilities shall plan and set priorities based on available 20921
resources for the provision of facilities, programs, and other 20922
services to meet the needs of county residents who are 20923
individuals with ~~mental retardation and other~~ developmental 20924
disabilities, former residents of the county residing in state 20925
institutions or, ~~before the effective date of this amendment-~~ 20926
September 29, 2011, placed under purchase of service agreements 20927
under section 5123.18 of the Revised Code, and children subject 20928
to a determination made pursuant to section 121.38 of the 20929
Revised Code. 20930

Each county board shall assess the facility and service 20931
needs of the individuals with ~~mental retardation and other~~ 20932
developmental disabilities who are residents of the county or 20933
former residents of the county residing in state institutions 20934
or, ~~before the effective date of this amendment~~ September 29, 20935

2011, placed under purchase of service agreements under section 20936
5123.18 of the Revised Code. 20937

Each county board shall require individual habilitation or 20938
service plans for individuals with ~~mental retardation and other~~ 20939
developmental disabilities who are being served or who have been 20940
determined eligible for services and are awaiting the provision 20941
of services. Each board shall ensure that methods of having 20942
their service needs evaluated are available. 20943

(B) (1) If a foster child is in need of assessment for 20944
eligible services or is receiving services from a county board 20945
of developmental disabilities and that child is placed in a 20946
different county, the agency that placed the child, immediately 20947
upon placement, shall inform the county board in the new county 20948
all of the following: 20949

(a) That a foster child has been placed in that county; 20950

(b) The name and other identifying information of the 20951
foster child; 20952

(c) The name of the foster child's previous county of 20953
residence; 20954

(d) That the foster child was in need of assessment for 20955
eligible services or was receiving services from the county 20956
board of developmental disabilities in the previous county. 20957

(2) Upon receiving the notice described in division (B) (1) 20958
of this section or otherwise learning that the child was in need 20959
of assessment for eligible services or was receiving services 20960
from a county board of developmental disabilities in the 20961
previous county, the county board in the new county shall 20962
communicate with the county board of the previous county to 20963
determine how services for the foster child shall be provided in 20964

accordance with each board's plan and priorities as described in 20965
division (A) of this section. 20966

If the two county boards are unable to reach an agreement 20967
within ten days of the child's placement, the county board in 20968
the new county shall send notice to the Ohio department of 20969
developmental disabilities of the failure to agree. The 20970
department shall decide how services shall be provided for the 20971
foster child within ten days of receiving notice that the county 20972
boards could not reach an agreement. The department may decide 20973
that one, or both, of the county boards shall provide services. 20974
The services shall be provided in accordance with the board's 20975
plan and priorities as described in division (A) of this 20976
section. 20977

(C) The department of developmental disabilities may adopt 20978
rules in accordance with Chapter 119. of the Revised Code as 20979
necessary to implement this section. To the extent that rules 20980
adopted under this section apply to the identification and 20981
placement of children with disabilities under Chapter 3323. of 20982
the Revised Code, the rules shall be consistent with the 20983
standards and procedures established under sections 3323.03 to 20984
3323.05 of the Revised Code. 20985

(D) The responsibility or authority of a county board to 20986
provide services under this chapter does not affect the 20987
responsibility of any other entity of state or local government 20988
to provide services to individuals with ~~mental retardation and~~ 20989
developmental disabilities. 20990

(E) On or before the first day of February prior to a 20991
school year, a county board of developmental disabilities may 20992
elect not to participate during that school year in the 20993
provision of or contracting for educational services for 20994

children ages six through twenty-one years of age, provided that 20995
on or before that date the board gives notice of this election 20996
to the superintendent of public instruction, each school 20997
district in the county, and the educational service center 20998
serving the county. If a board makes this election, it shall not 20999
have any responsibility for or authority to provide educational 21000
services that school year for children ages six through twenty- 21001
one years of age. If a board does not make an election for a 21002
school year in accordance with this division, the board shall be 21003
deemed to have elected to participate during that school year in 21004
the provision of or contracting for educational services for 21005
children ages six through twenty-one years of age. 21006

(F) If a county board of developmental disabilities elects 21007
to provide educational services during a school year to 21008
individuals six through twenty-one years of age who have 21009
multiple disabilities, the board may provide these services to 21010
individuals who are appropriately identified and determined 21011
eligible pursuant to Chapter 3323. of the Revised Code, and in 21012
accordance with applicable rules of the state board of 21013
education. The county board may also provide related services to 21014
individuals six through twenty-one years of age who have one or 21015
more disabling conditions, in accordance with section 3317.20 21016
and Chapter 3323. of the Revised Code and applicable rules of 21017
the state board of education. 21018

Sec. 5126.041. (A) As used in this section: 21019

(1) "Preschool child with a disability" has the same 21020
meaning as in section 3323.01 of the Revised Code. 21021

(2) "State institution" means all or part of an 21022
institution under the control of the department of developmental 21023
disabilities pursuant to section 5123.03 of the Revised Code and 21024

maintained for the care, treatment, and training of ~~the mentally-~~ 21025
~~retarded~~individuals with developmental disabilities. 21026

(B) Except as provided in division (C) of this section, 21027
each county board of developmental disabilities shall make 21028
eligibility determinations in accordance with the definition of 21029
"developmental disability" contained in section 5126.01 of the 21030
Revised Code. Pursuant to rules adopted under section 5123.012 21031
of the Revised Code, a county board may establish eligibility 21032
for programs and services for any preschool child with a 21033
disability eligible for services under section 3323.02 of the 21034
Revised Code whose disability is not attributable solely to 21035
mental illness, as defined in section 5122.01 of the Revised 21036
Code. 21037

(C) (1) A county board shall make determinations of 21038
eligibility for service and support administration in accordance 21039
with rules adopted under section 5126.08 of the Revised Code. 21040

(2) All persons who were eligible for services and 21041
enrolled in programs offered by a county board of developmental 21042
disabilities pursuant to this chapter on July 1, 1991, shall 21043
continue to be eligible for those services and to be enrolled in 21044
those programs as long as they are in need of services. 21045

(3) A person who resided in a state institution on or 21046
before October 29, 1993, is eligible for programs and services 21047
offered by a county board of developmental disabilities, unless 21048
the person is determined by the county board not to be in need 21049
of those programs and services. 21050

(D) A county board shall refer a person who requests but 21051
is not eligible for programs and services offered by the board 21052
to other entities of state and local government or appropriate 21053

private entities that provide services. 21054

(E) Membership of a person on, or employment of a person 21055
by, a county board of developmental disabilities does not affect 21056
the eligibility of any member of that person's family for 21057
services provided by the board or by any entity under contract 21058
with the board. 21059

Sec. 5126.042. (A) As used in this section, "emergency 21060
status" means a status that an individual with ~~mental-~~ 21061
~~retardation or~~ developmental disabilities has when the 21062
individual is at risk of substantial self-harm or substantial 21063
harm to others if action is not taken within thirty days. An 21064
"emergency status" may include a status resulting from one or 21065
more of the following situations: 21066

(1) Loss of present residence for any reason, including 21067
legal action; 21068

(2) Loss of present caretaker for any reason, including 21069
serious illness of the caretaker, change in the caretaker's 21070
status, or inability of the caretaker to perform effectively for 21071
the individual; 21072

(3) Abuse, neglect, or exploitation of the individual; 21073

(4) Health and safety conditions that pose a serious risk 21074
to the individual or others of immediate harm or death; 21075

(5) Change in the emotional or physical condition of the 21076
individual that necessitates substantial accommodation that 21077
cannot be reasonably provided by the individual's existing 21078
caretaker. 21079

(B) If a county board of developmental disabilities 21080
determines that available resources are not sufficient to meet 21081

the needs of all individuals who request non-medicaid programs 21082
or services, it shall establish one or more waiting lists for 21083
the non-medicaid programs or services in accordance with its 21084
plan developed under section 5126.04 of the Revised Code. The 21085
board may establish priorities for making placements on its 21086
waiting lists established under this division. Any such 21087
priorities shall be consistent with the board's plan and 21088
applicable law. 21089

(C) If a county board determines that available resources 21090
are insufficient to meet the needs of all individuals who 21091
request home and community-based services, it shall establish a 21092
waiting list for the services. An individual's date of placement 21093
on the waiting list shall be the date a request is made to the 21094
board for the individual to receive the home and community-based 21095
services. The board shall provide for an individual who has an 21096
emergency status to receive priority status on the waiting list. 21097
The board shall also provide for an individual to whom any of 21098
the following apply to receive priority status on the waiting 21099
list in accordance with rules adopted under division (E) of this 21100
section: 21101

(1) The individual is receiving supported living, family 21102
support services, or adult services for which no federal 21103
financial participation is received under the medicaid program; 21104

(2) The individual's primary caregiver is at least sixty 21105
years of age; 21106

(3) The individual has intensive needs as determined in 21107
accordance with rules adopted under division (E) of this 21108
section; 21109

(4) The individual resides in an ICF/IID, as defined in 21110

section 5124.01 of the Revised Code; 21111

(5) The individual resides in a nursing facility, as 21112
defined in section 5165.01 of the Revised Code. 21113

(D) If two or more individuals on a waiting list 21114
established under division (C) of this section have priority for 21115
the services pursuant to that division, a county board shall use 21116
criteria specified in rules adopted under division (E) of this 21117
section in determining the order in which the individuals with 21118
priority will be offered the services. An individual who has 21119
priority for home and community-based services because the 21120
individual has an emergency status has priority for the services 21121
over all other individuals on the waiting list who do not have 21122
emergency status. 21123

(E) The department of developmental disabilities shall 21124
adopt rules in accordance with Chapter 119. of the Revised Code 21125
governing waiting lists established under division (C) of this 21126
section. The rules shall include procedures to be followed to 21127
ensure that the due process rights of individuals placed on 21128
waiting lists are not violated. As part of the rules adopted 21129
under this division, the department shall adopt rules 21130
establishing criteria a county board shall use under division 21131
(D) of this section in determining the order in which 21132
individuals with priority for home and community-based services 21133
pursuant to division (C) of this section will be offered the 21134
services. 21135

(F) The following shall take precedence over the 21136
applicable provisions of this section: 21137

(1) Medicaid rules and regulations; 21138

(2) Any specific requirements that may be contained within 21139

a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.043. (A) Unless a guardian has been appointed for the individual, when a decision regarding receipt of a service or participation in a program provided for or funded under this chapter or Chapter 5123. or 5124. of the Revised Code by an individual with ~~mental retardation or other a~~ developmental disability must be made, the individual shall be permitted to make the decision. The individual may obtain support and guidance from an adult family member or other person, but doing so does not affect the right of the individual to make the decision.

(B) An individual with ~~mental retardation or other a~~ developmental disability may authorize an adult to make a decision described in division (A) of this section on the individual's behalf, as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.

(C) If a guardian has been appointed for an individual with ~~mental retardation or other a~~ developmental disability, the guardian shall make any decision described in division (A) of this section on behalf of the individual. This section does not require appointment of a guardian.

(D) Individuals with ~~mental retardation and other~~ developmental disabilities, including those who have been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered. An adult or guardian who makes a decision pursuant

to division (B) or (C) of this section shall make a decision 21170
that is in the best interests of the individual on whose behalf 21171
the decision is made and that is consistent with the needs, 21172
desires, and preferences of that individual. 21173

Sec. 5126.046. (A) Except as otherwise provided by 42 21174
C.F.R. 431.51, an individual with ~~mental retardation or other a~~ 21175
developmental disability who is eligible for home and community- 21176
based services has the right to obtain the services from any 21177
provider of the services that is qualified to furnish the 21178
services and is willing to furnish the services to the 21179
individual. A county board of developmental disabilities that 21180
has medicaid local administrative authority under division (A) 21181
of section 5126.055 of the Revised Code for home and community- 21182
based services and refuses to permit an individual to obtain 21183
home and community-based services from a qualified and willing 21184
provider shall provide the individual timely notice that the 21185
individual may appeal under section 5160.31 of the Revised Code. 21186

(B) An individual with ~~mental retardation or other a~~ 21187
developmental disability who is eligible for nonmedicaid 21188
residential services or nonmedicaid supported living has the 21189
right to obtain the services from any provider of the 21190
residential services or supported living that is qualified to 21191
furnish the residential services or supported living and is 21192
willing to furnish the residential services or supported living 21193
to the individual. 21194

(C) The department of developmental disabilities shall 21195
make available to the public on its internet web site an up-to- 21196
date list of all providers of home and community-based services, 21197
nonmedicaid residential services, and nonmedicaid supported 21198
living. County boards shall assist individuals with ~~mental-~~ 21199

~~retardation or other~~ developmental disabilities and the families 21200
of such individuals access the list on the department's internet 21201
web site. 21202

(D) The director of developmental disabilities shall adopt 21203
rules in accordance with Chapter 119. of the Revised Code 21204
governing the implementation of this section. The rules shall 21205
include procedures for individuals to choose their providers. 21206

Sec. 5126.05. (A) Subject to the rules established by the 21207
director of developmental disabilities pursuant to Chapter 119. 21208
of the Revised Code for programs and services offered pursuant 21209
to this chapter, and subject to the rules established by the 21210
state board of education pursuant to Chapter 119. of the Revised 21211
Code for programs and services offered pursuant to Chapter 3323. 21212
of the Revised Code, the county board of developmental 21213
disabilities shall: 21214

(1) Administer and operate facilities, programs, and 21215
services as provided by this chapter and Chapter 3323. of the 21216
Revised Code and establish policies for their administration and 21217
operation; 21218

(2) Coordinate, monitor, and evaluate existing services 21219
and facilities available to individuals with ~~mental retardation~~ 21220
~~and~~ developmental disabilities; 21221

(3) Provide early childhood services, supportive home 21222
services, and adult services, according to the plan and 21223
priorities developed under section 5126.04 of the Revised Code; 21224

(4) Provide or contract for special education services 21225
pursuant to Chapters 3317. and 3323. of the Revised Code and 21226
ensure that related services, as defined in section 3323.01 of 21227
the Revised Code, are available according to the plan and 21228

priorities developed under section 5126.04 of the Revised Code;	21229
(5) Adopt a budget, authorize expenditures for the	21230
purposes specified in this chapter and do so in accordance with	21231
section 319.16 of the Revised Code, approve attendance of board	21232
members and employees at professional meetings and approve	21233
expenditures for attendance, and exercise such powers and duties	21234
as are prescribed by the director;	21235
(6) Submit annual reports of its work and expenditures,	21236
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to	21237
the director, the superintendent of public instruction, and the	21238
board of county commissioners at the close of the fiscal year	21239
and at such other times as may reasonably be requested;	21240
(7) Authorize all positions of employment, establish	21241
compensation, including but not limited to salary schedules and	21242
fringe benefits for all board employees, approve contracts of	21243
employment for management employees that are for a term of more	21244
than one year, employ legal counsel under section 309.10 of the	21245
Revised Code, and contract for employee benefits;	21246
(8) Provide service and support administration in	21247
accordance with section 5126.15 of the Revised Code;	21248
(9) Certify respite care homes pursuant to rules adopted	21249
under section 5123.171 of the Revised Code by the director of	21250
developmental disabilities;	21251
(10) Implement an employment first policy that clearly	21252
identifies community employment as the desired outcome for every	21253
individual of working age who receives services from the board;	21254
(11) Set benchmarks for improving community employment	21255
outcomes.	21256

(B) To the extent that rules adopted under this section 21257
apply to the identification and placement of children with 21258
disabilities under Chapter 3323. of the Revised Code, they shall 21259
be consistent with the standards and procedures established 21260
under sections 3323.03 to 3323.05 of the Revised Code. 21261

(C) Any county board may enter into contracts with other 21262
such boards and with public or private, nonprofit, or profit- 21263
making agencies or organizations of the same or another county, 21264
to provide the facilities, programs, and services authorized or 21265
required, upon such terms as may be agreeable, and in accordance 21266
with this chapter and Chapter 3323. of the Revised Code and 21267
rules adopted thereunder and in accordance with sections 307.86 21268
and 5126.071 of the Revised Code. 21269

(D) A county board may combine transportation for children 21270
and adults enrolled in programs and services offered under 21271
Chapter 5126. of the Revised Code with transportation for 21272
children enrolled in classes funded under sections 3317.0213 and 21273
3317.20 of the Revised Code. 21274

(E) A county board may purchase all necessary insurance 21275
policies, may purchase equipment and supplies through the 21276
department of administrative services or from other sources, and 21277
may enter into agreements with public agencies or nonprofit 21278
organizations for cooperative purchasing arrangements. 21279

(F) A county board may receive by gift, grant, devise, or 21280
bequest any moneys, lands, or property for the benefit of the 21281
purposes for which the board is established and hold, apply, and 21282
dispose of the moneys, lands, and property according to the 21283
terms of the gift, grant, devise, or bequest. All money received 21284
by gift, grant, bequest, or disposition of lands or property 21285
received by gift, grant, devise, or bequest shall be deposited 21286

in the county treasury to the credit of such board and shall be 21287
available for use by the board for purposes determined or stated 21288
by the donor or grantor, but may not be used for personal 21289
expenses of the board members. Any interest or earnings accruing 21290
from such gift, grant, devise, or bequest shall be treated in 21291
the same manner and subject to the same provisions as such gift, 21292
grant, devise, or bequest. 21293

(G) The board of county commissioners shall levy taxes and 21294
make appropriations sufficient to enable the county board of 21295
developmental disabilities to perform its functions and duties, 21296
and may utilize any available local, state, and federal funds 21297
for such purpose. 21298

Sec. 5126.051. (A) To the extent that resources are 21299
available, a county board of developmental disabilities shall 21300
provide for or arrange residential services and supported living 21301
for individuals with ~~mental retardation and~~ developmental 21302
disabilities. 21303

A county board may acquire, convey, lease, or sell 21304
property for residential services and supported living and enter 21305
into loan agreements, including mortgages, for the acquisition 21306
of such property. A county board is not required to comply with 21307
provisions of Chapter 307. of the Revised Code providing for 21308
competitive bidding or sheriff sales in the acquisition, lease, 21309
conveyance, or sale of property under this division, but the 21310
acquisition, lease, conveyance, or sale must be at fair market 21311
value determined by appraisal of one or more disinterested 21312
persons appointed by the board. 21313

Any action taken by a county board under this division 21314
that will incur debt on the part of the county shall be taken in 21315
accordance with Chapter 133. of the Revised Code. A county board 21316

shall not incur any debt on the part of the county without the 21317
prior approval of the board of county commissioners. 21318

(B) (1) To the extent that resources are available, a 21319
county board shall provide or arrange for the provision of adult 21320
services to individuals who are age eighteen and older and not 21321
enrolled in a program or service under Chapter 3323. of the 21322
Revised Code or age sixteen or seventeen and eligible for adult 21323
services under rules adopted by the director of developmental 21324
disabilities under Chapter 119. of the Revised Code. These 21325
services shall be provided to the individuals in accordance with 21326
~~the individual's~~ their individual service ~~plan~~ plans and shall 21327
include support services specified in the ~~plan~~ plans. 21328

(2) Any prevocational services shall be provided in 21329
accordance with the individual's ~~individual~~ service plan and 21330
occur over a specified period of time with specific outcomes 21331
sought to be achieved. 21332

(3) A county board may, in cooperation with the 21333
opportunities for Ohioans with disabilities agency, seek federal 21334
funds for job training or other services directed at helping 21335
individuals obtain community employment. 21336

(4) A county board may contract with any agency, board, or 21337
other entity that is accredited by the commission on 21338
accreditation of rehabilitation facilities to provide services. 21339
A county board that is accredited by the commission on 21340
accreditation of rehabilitation facilities may provide services 21341
for which it is certified by the commission. 21342

(C) To the extent that resources are available, a county 21343
board may provide services to an individual with ~~mental~~ 21344
~~retardation or other~~ a developmental disability in addition to 21345

those provided pursuant to this section, section 5126.05 of the Revised Code, or any other section of this chapter. The services shall be provided in accordance with the individual's ~~individual~~ service plan and may be provided in collaboration with other entities of state or local government.

Sec. 5126.054. (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with ~~mental retardation or other developmental disability~~ disabilities residing in the county who need the level of care provided by an ICF/IID, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the waiting list priority given to them under

section 5126.042 of the Revised Code and the types of home and 21375
community-based services the individuals are to receive; 21376

(3) A component that provides for the implementation of 21377
medicaid case management services and home and community-based 21378
services for individuals who begin to receive the services on or 21379
after the date the plan is approved under section 5123.046 of 21380
the Revised Code. A county board shall include all of the 21381
following in the component: 21382

(a) If the department of developmental disabilities or 21383
department of medicaid requires, an agreement to pay the 21384
nonfederal share of medicaid expenditures that the county board 21385
is required by sections 5126.059 and 5126.0510 of the Revised 21386
Code to pay; 21387

(b) How the services are to be phased in over the period 21388
the plan covers, including how the county board will serve 21389
individuals who have priority on a waiting list established 21390
under section 5126.042 of the Revised Code; 21391

(c) Any agreement or commitment regarding the county 21392
board's funding of home and community-based services that the 21393
county board has with the department at the time the county 21394
board develops the component; 21395

(d) Assurances adequate to the department that the county 21396
board will comply with all of the following requirements: 21397

(i) To provide the types of home and community-based 21398
services specified in the preliminary implementation component 21399
required by division (A)(2) of this section to at least the 21400
number of individuals specified in that component; 21401

(ii) To use any additional funds the county board receives 21402
for the services to improve the county board's resource 21403

capabilities for supporting such services available in the 21404
county at the time the component is developed and to expand the 21405
services to accommodate the unmet need for those services in the 21406
county; 21407

(iii) To employ or contract with a business manager or 21408
enter into an agreement with another county board of 21409
developmental disabilities that employs or contracts with a 21410
business manager to have the business manager serve both county 21411
boards. No superintendent of a county board may serve as the 21412
county board's business manager. 21413

(iv) To employ or contract with a medicaid services 21414
manager or enter into an agreement with another county board of 21415
developmental disabilities that employs or contracts with a 21416
medicaid services manager to have the medicaid services manager 21417
serve both county boards. No superintendent of a county board 21418
may serve as the county board's medicaid services manager. 21419

(e) Programmatic and financial accountability measures and 21420
projected outcomes expected from the implementation of the plan; 21421

(f) Any other applicable information or conditions that 21422
the department requires as a condition of approving the 21423
component under section 5123.046 of the Revised Code. 21424

(B) A county board whose plan developed under division (A) 21425
of this section is approved by the department under section 21426
5123.046 of the Revised Code shall update and renew the plan in 21427
accordance with a schedule the department shall develop. 21428

Sec. 5126.055. (A) Except as provided in section 5126.056 21429
of the Revised Code, a county board of developmental 21430
disabilities has medicaid local administrative authority to, and 21431
shall, do all of the following for an individual with ~~mental-~~ 21432

~~retardation or other~~ a developmental disability who resides in 21433
the county that the county board serves and seeks or receives 21434
home and community-based services: 21435

(1) Perform assessments and evaluations of the individual. 21436
As part of the assessment and evaluation process, ~~the county~~ 21437
~~board shall do~~ all of the following apply: 21438

(a) ~~Make~~ The county board shall make a recommendation to 21439
the department of developmental disabilities on whether the 21440
department should approve or deny the individual's application 21441
for the services, including on the basis of whether the 21442
individual needs the level of care an ICF/IID provides~~†~~. 21443

(b) If the individual's application is denied because of 21444
the county board's recommendation and the individual appeals 21445
pursuant to section 5160.31 of the Revised Code, the county 21446
board shall present, with the department of developmental 21447
disabilities or department of medicaid, whichever denies the 21448
application, the reasons for the recommendation and denial at 21449
the hearing~~†~~. 21450

(c) If the individual's application is approved, the 21451
county board shall recommend to the departments of developmental 21452
disabilities and medicaid the services that should be included 21453
in the ~~individual's individualized individual~~ service plan ~~and,~~ 21454
~~if~~. If either department under section 5166.21 of the Revised 21455
Code approves, reduces, denies, or terminates a service included 21456
in the ~~individual's individualized service plan under section~~ 21457
~~5166.20 of the Revised Code~~ because of the county board's 21458
recommendation, the board shall present, with the department 21459
that made the approval, reduction, denial, or termination, the 21460
reasons for the recommendation and approval, reduction, denial, 21461
or termination at a hearing held pursuant to an appeal made 21462

under section 5160.31 of the Revised Code. 21463

(2) Perform any duties assigned to the county board in 21464
rules adopted under section 5126.046 of the Revised Code 21465
regarding the individual's right to choose a qualified and 21466
willing provider of the services and, at a hearing held pursuant 21467
to an appeal made under section 5160.31 of the Revised Code, 21468
present evidence of the process for appropriate assistance in 21469
choosing providers; 21470

(3) If the county board is certified under section 21471
5123.161 of the Revised Code to provide the services and agrees 21472
to provide the services to the individual and the individual 21473
chooses the county board to provide the services, furnish, in 21474
accordance with the county board's medicaid provider agreement 21475
and for the authorized reimbursement rate, the services the 21476
individual requires; 21477

(4) Monitor the services provided to the individual and 21478
ensure the individual's health, safety, and welfare. The 21479
monitoring shall include quality assurance activities. If the 21480
county board provides the services, the department of 21481
developmental disabilities shall also monitor the services. 21482

(5) Develop, with the individual and the provider of the 21483
individual's services, an effective ~~individualized~~ individual 21484
service plan that includes coordination of services, recommend 21485
that the departments of developmental disabilities and medicaid 21486
approve the plan, and implement the plan unless either 21487
department disapproves it. The ~~individualized service~~ plan shall 21488
include a summary page, agreed to by the county board, provider, 21489
and individual receiving services, that clearly outlines the 21490
amount, duration, and scope of services to be provided under the 21491
plan. 21492

(6) Have an investigative agent conduct investigations	21493
under section 5126.313 of the Revised Code that concern the	21494
individual;	21495
(7) Have a service and support administrator perform the	21496
duties under division (B) (9) of section 5126.15 of the Revised	21497
Code that concern the individual.	21498
(B) A county board shall perform its medicaid local	21499
administrative authority under this section in accordance with	21500
all of the following:	21501
(1) The county board's plan that the department of	21502
developmental disabilities approves under section 5123.046 of	21503
the Revised Code;	21504
(2) All applicable federal and state laws;	21505
(3) All applicable policies of the departments of	21506
developmental disabilities and medicaid and the United States	21507
department of health and human services;	21508
(4) The department of medicaid's supervision under its	21509
authority as the single state medicaid agency;	21510
(5) The department of developmental disabilities'	21511
oversight.	21512
(C) The departments of developmental disabilities and	21513
medicaid shall communicate with and provide training to county	21514
boards regarding medicaid local administrative authority granted	21515
by this section. The communication and training shall include	21516
issues regarding audit protocols and other standards established	21517
by the United States department of health and human services	21518
that the departments determine appropriate for communication and	21519
training. County boards shall participate in the training. The	21520

departments shall assess the county board's compliance against 21521
uniform standards that the departments shall establish. 21522

(D) A county board may not delegate its medicaid local 21523
administrative authority granted under this section but may 21524
contract with a person or government entity, including a council 21525
of governments, for assistance with its medicaid local 21526
administrative authority. A county board that enters into such a 21527
contract shall notify the director of developmental 21528
disabilities. The notice shall include the tasks and 21529
responsibilities that the contract gives to the person or 21530
government entity. The person or government entity shall comply 21531
in full with all requirements to which the county board is 21532
subject regarding the person or government entity's tasks and 21533
responsibilities under the contract. The county board remains 21534
ultimately responsible for the tasks and responsibilities. 21535

(E) A county board that has medicaid local administrative 21536
authority under this section shall, through the departments of 21537
developmental disabilities and medicaid, reply to, and cooperate 21538
in arranging compliance with, a program or fiscal audit or 21539
program violation exception that a state or federal audit or 21540
review discovers. The department of medicaid shall timely notify 21541
the department of developmental disabilities and the county 21542
board of any adverse findings. After receiving the notice, the 21543
county board, in conjunction with the department of 21544
developmental disabilities, shall cooperate fully with the 21545
department of medicaid and timely prepare and send to the 21546
department a written plan of correction or response to the 21547
adverse findings. The county board is liable for any adverse 21548
findings that result from an action it takes or fails to take in 21549
its implementation of medicaid local administrative authority. 21550

(F) If the department of developmental disabilities or 21551
department of medicaid determines that a county board's 21552
implementation of its medicaid local administrative authority 21553
under this section is deficient, the department that makes the 21554
determination shall require that county board do the following: 21555

(1) If the deficiency affects the health, safety, or 21556
welfare of an individual with ~~mental retardation or other a~~ 21557
developmental disability, correct the deficiency within twenty- 21558
four hours; 21559

(2) If the deficiency does not affect the health, safety, 21560
or welfare of an individual with ~~mental retardation or other a~~ 21561
developmental disability, receive technical assistance from the 21562
department or submit a plan of correction to the department that 21563
is acceptable to the department within sixty days and correct 21564
the deficiency within the time required by the plan of 21565
correction. 21566

Sec. 5126.058. (A) Each county board of developmental 21567
disabilities shall prepare a memorandum of understanding that is 21568
developed by all of the following and that is signed by the 21569
persons identified in divisions (A) (2) to (7) of this section: 21570

(1) The senior probate judge of the county or the senior 21571
probate judge's representative; 21572

(2) The county peace officer; 21573

(3) All chief municipal peace officers within the county; 21574

(4) Other law enforcement officers handling abuse, 21575
neglect, and exploitation of ~~mentally retarded and~~ 21576
~~developmentally disabled persons~~ individuals with developmental 21577
disabilities in the county; 21578

(5) The prosecuting attorney of the county;	21579
(6) The public children services agency;	21580
(7) The coroner of the county.	21581
(B) A memorandum of understanding shall set forth the	21582
normal operating procedure to be employed by all concerned	21583
officials in the execution of their respective responsibilities	21584
under this section and sections 313.12, 2151.421, 2903.16,	21585
5126.31, and 5126.33 of the Revised Code and shall have as its	21586
primary goal the elimination of all unnecessary interviews of	21587
persons who are the subject of reports made pursuant to this	21588
section. A failure to follow the procedure set forth in the	21589
memorandum by the concerned officials is not grounds for, and	21590
shall not result in, the dismissal of any charge or complaint	21591
arising from any reported case of abuse, neglect, or	21592
exploitation or the suppression of any evidence obtained as a	21593
result of any reported abuse, neglect, or exploitation and does	21594
not give any rights or grounds for appeal or post-conviction	21595
relief to any person.	21596
(C) A memorandum of understanding shall include, but is	21597
not limited to, all of the following:	21598
(1) The roles and responsibilities for handling emergency	21599
and nonemergency cases of abuse, neglect, or exploitation;	21600
(2) The roles and responsibilities for handling and	21601
coordinating investigations of reported cases of abuse, neglect,	21602
or exploitation and methods to be used in interviewing the	21603
person who is the subject of the report and who allegedly was	21604
abused, neglected, or exploited;	21605
(3) The roles and responsibilities for addressing the	21606
categories of persons who may interview the person who is the	21607

subject of the report and who allegedly was abused, neglected, 21608
or exploited; 21609

(4) The roles and responsibilities for providing victim 21610
services to ~~mentally retarded and developmentally disabled~~ 21611
~~persons~~individuals with developmental disabilities pursuant to 21612
Chapter 2930. of the Revised Code; 21613

(5) The roles and responsibilities for the filing of 21614
criminal charges against persons alleged to have abused, 21615
neglected, or exploited ~~mentally retarded or developmentally~~ 21616
~~disabled persons~~individuals with developmental disabilities. 21617

(D) A memorandum of understanding may be signed by victim 21618
advocates, municipal court judges, municipal prosecutors, and 21619
any other person whose participation furthers the goals of a 21620
memorandum of understanding, as set forth in this section. 21621

Sec. 5126.059. A county board of developmental 21622
disabilities shall pay the nonfederal share of medicaid 21623
expenditures for medicaid case management services the county 21624
board provides to an individual with ~~mental retardation or other~~ 21625
a developmental disability who the county board determines under 21626
section 5126.041 of the Revised Code is eligible for county 21627
board services. 21628

Sec. 5126.0510. (A) Except as otherwise provided in an 21629
agreement entered into under section 5123.048 of the Revised 21630
Code and subject to divisions (B), (C), (D), and (E) of this 21631
section, a county board of developmental disabilities shall pay 21632
the nonfederal share of medicaid expenditures for the following 21633
home and community-based services provided to an individual with 21634
~~mental retardation or other~~ a developmental disability who the 21635
county board determines under section 5126.041 of the Revised 21636

Code is eligible for county board services:	21637
(1) Home and community-based services provided by the county board to such an individual;	21638 21639
(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which the services are provided;	21640 21641 21642 21643
(3) Home and community-based services provided by a provider other than the county board to such an individual who, pursuant to a request the county board makes, enrolls in the medicaid waiver component under which the services are provided after June 30, 2007;	21644 21645 21646 21647 21648
(4) Home and community-based services provided by a provider other than the county board to such an individual for whom there is in effect an agreement entered into under division (F) of this section between the county board and director of developmental disabilities.	21649 21650 21651 21652 21653
(B) In the case of medicaid expenditures for home and community-based services for which division (A) (2) of this section requires a county board to pay the nonfederal share, the following shall apply to such services provided during fiscal year 2008 under the individual options medicaid waiver component:	21654 21655 21656 21657 21658 21659
(1) The county board shall pay no less than the total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;	21660 21661 21662 21663
(2) The county board shall pay no more than the sum of the following:	21664 21665

(a) The total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(b) An amount equal to one per cent of the total amount the department of developmental disabilities and county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component to individuals the county board determined under section 5126.041 of the Revised Code are eligible for county board services.

(C) A county board is not required to pay the nonfederal share of home and community-based services provided after June 30, 2008, that the county board is otherwise required by division (A) (2) of this section to pay if the department of developmental disabilities fails to comply with division (A) of section 5123.0416 of the Revised Code.

(D) A county board is not required to pay the nonfederal share of home and community-based services that the county board is otherwise required by division (A) (3) of this section to pay if both of the following apply:

(1) The services are provided to an individual who enrolls in the medicaid waiver component under which the services are provided as the result of an order issued following an appeal made under section 5160.31 of the Revised Code or an appeal of the order to a court of common pleas;

(2) There are more individuals who are eligible for services from the county board enrolled in home and community-based services than is required by section 5126.0512 of the

Revised Code. 21695

(E) A county board is not required to pay the nonfederal 21696
share of home and community-based services that the county board 21697
is otherwise required by division (A) of this section to pay if 21698
the services are provided to an individual who enrolls, pursuant 21699
to division (D) of section 5124.69 of the Revised Code, in the 21700
medicaid waiver component under which the services are provided. 21701

(F) A county board may enter into an agreement with the 21702
director of developmental disabilities under which the county 21703
board agrees to pay the nonfederal share of medicaid 21704
expenditures for one or more home and community-based services 21705
that the county board is not otherwise required by division (A) 21706
(1), (2), or (3) of this section to pay and that are provided to 21707
an individual the county board determines under section 5126.041 21708
of the Revised Code is eligible for county board services. The 21709
agreement shall specify which home and community-based services 21710
the agreement covers. The county board shall pay the nonfederal 21711
share of medicaid expenditures for the home and community-based 21712
services that the agreement covers as long as the agreement is 21713
in effect. 21714

Sec. 5126.08. (A) The director of developmental 21715
disabilities shall adopt rules in accordance with Chapter 119. 21716
of the Revised Code for all programs and services offered by a 21717
county board of developmental disabilities. Such rules shall 21718
include, but are not limited to, the following: 21719

(1) Determination of what constitutes a program or 21720
service; 21721

(2) Standards to be followed by a board in administering, 21722
providing, arranging, or operating programs and services; 21723

(3) Standards for determining the nature and degree of 21724
~~mental retardation, including mild mental retardation, or~~ 21725
developmental disability; 21726

(4) Standards and procedures for making eligibility 21727
determinations for the programs and services; 21728

(5) Procedures for obtaining consent for the arrangement 21729
of services under section 5126.31 of the Revised Code and for 21730
obtaining signatures on ~~individual~~ individualized service plans 21731
under that section; 21732

(6) Specification of the service and support 21733
administration to be provided by a county board and standards 21734
for resolving grievances in connection with service and support 21735
administration. 21736

(B) The director shall be the final authority in 21737
determining the nature and degree of ~~mental retardation or~~ 21738
developmental disability. 21739

Sec. 5126.082. (A) In addition to the rules adopted under 21740
division (A) (2) of section 5126.08 of the Revised Code 21741
establishing standards to be followed by county boards of 21742
developmental disabilities in administering, providing, 21743
arranging, and operating programs and services and in addition 21744
to the board accreditation system established under section 21745
5126.081 of the Revised Code, the director of developmental 21746
disabilities shall adopt rules in accordance with Chapter 119. 21747
of the Revised Code establishing standards for promoting and 21748
advancing the quality of life of individuals with ~~mental~~ 21749
~~retardation and~~ developmental disabilities receiving any of the 21750
following: 21751

(1) Early childhood services pursuant to section 5126.05 21752

of the Revised Code for children under age three; 21753

(2) Adult services pursuant to section 5126.05 and 21754
division (B) of section 5126.051 of the Revised Code for 21755
individuals age sixteen or older; 21756

(3) Family support services pursuant to section 5126.11 of 21757
the Revised Code. 21758

(B) The rules adopted under this section shall specify the 21759
actions county boards of developmental disabilities and the 21760
agencies with which they contract should take to do the 21761
following: 21762

(1) Offer individuals with ~~mental retardation and~~ 21763
developmental disabilities, and their families when appropriate, 21764
choices in programs and services that are centered on the needs 21765
and desires of those individuals; 21766

(2) Maintain infants with their families whenever possible 21767
by collaborating with other agencies that provide services to 21768
infants and their families and taking other appropriate actions; 21769

(3) Provide families that have children with ~~mental~~ 21770
~~retardation and~~ developmental disabilities under age eighteen 21771
residing in their homes the resources necessary to allow the 21772
children to remain in their homes; 21773

(4) Create and implement community employment services 21774
based on the needs and desires of adults with ~~mental retardation~~ 21775
~~and~~ developmental disabilities; 21776

(5) Create, in collaboration with other agencies, 21777
transportation systems that provide safe and accessible 21778
transportation within the county to individuals with 21779
disabilities; 21780

(6) Provide services that allow individuals with 21781
disabilities to be integrated into the community by engaging in 21782
educational, vocational, and recreational activities with 21783
individuals who do not have disabilities; 21784

(7) Provide age-appropriate retirement services for 21785
individuals age sixty-five and older with ~~mental retardation and~~ 21786
developmental disabilities; 21787

(8) Establish residential services and supported living 21788
for individuals with ~~mental retardation and~~ developmental 21789
disabilities in accordance with their needs. 21790

(C) To assist in funding programs and services that meet 21791
the standards established under this section, each county board 21792
of developmental disabilities shall make a good faith effort to 21793
acquire available federal funds, including reimbursements under 21794
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 21795
U.S.C.A. 1396, as amended. 21796

(D) Each county board of developmental disabilities shall 21797
work toward full compliance with the standards established under 21798
this section, based on its available resources. Funds received 21799
under this chapter shall be used to comply with the standards. 21800
Annually, each board shall conduct a self audit to evaluate the 21801
board's progress in complying fully with the standards. 21802

(E) The department shall complete a program quality review 21803
of each county board of developmental disabilities to determine 21804
the extent to which the board has complied with the standards. 21805
The review shall be conducted in conjunction with the 21806
comprehensive accreditation review of the board that is 21807
conducted under section 5126.081 of the Revised Code. 21808

Notwithstanding any provision of this chapter or Chapter 21809

5123. of the Revised Code requiring the department to distribute 21810
funds to county boards of developmental disabilities, the 21811
department may withhold funds from a board if it finds that the 21812
board is not in substantial compliance with the standards 21813
established under this section. 21814

(F) When the standards for accreditation from the 21815
commission on accreditation of rehabilitation facilities, or 21816
another accrediting agency, meet or exceed the standards 21817
established under this section, the director may accept 21818
accreditation from the commission or other agency as evidence 21819
that the board is in compliance with all or part of the 21820
standards established under this section. Programs and services 21821
accredited by the commission or agency are exempt from the 21822
program quality reviews required by division (E) of this 21823
section. 21824

Sec. 5126.11. (A) As used in this section, "respite care" 21825
means appropriate, short-term, temporary care that is provided 21826
~~to a mentally retarded or developmentally disabled person~~ an 21827
individual with a developmental disability to sustain the family 21828
structure or to meet planned or emergency needs of the family. 21829

(B) Subject to rules adopted by the director of 21830
developmental disabilities, and subject to the availability of 21831
money from state and federal sources, the county board of 21832
developmental disabilities shall establish a family support 21833
services program. Under such a program, the board shall make 21834
payments to an individual with ~~mental retardation or other~~ a 21835
developmental disability or the family of an individual with 21836
~~mental retardation or other~~ a developmental disability who 21837
desires to remain in and be supported in the family home. 21838
Payments shall be made for all or part of costs incurred or 21839

estimated to be incurred for services that would promote self- 21840
sufficiency and normalization, prevent or reduce inappropriate 21841
institutional care, and further the unity of the family by 21842
enabling the family to meet the special needs of the individual 21843
and to live as much like other families as possible. Payments 21844
may be made in the form of reimbursement for expenditures or in 21845
the form of vouchers to be used to purchase services. 21846

(C) Payment shall not be made under this section to an 21847
individual or the individual's family if the individual is 21848
living in a residential facility that is providing residential 21849
services under contract with the department of developmental 21850
disabilities or a county board. 21851

(D) Payments may be made for the following services: 21852

(1) Respite care, in or out of the home; 21853

(2) Counseling, supervision, training, and education of 21854
the individual, the individual's caregivers, and members of the 21855
individual's family that aid the family in providing proper care 21856
for the individual, provide for the special needs of the family, 21857
and assist in all aspects of the individual's daily living; 21858

(3) Special diets, purchase or lease of special equipment, 21859
or modifications of the home, if such diets, equipment, or 21860
modifications are necessary to improve or facilitate the care 21861
and living environment of the individual; 21862

(4) Providing support necessary for the individual's 21863
continued skill development, including such services as 21864
development of interventions to cope with unique problems that 21865
may occur within the complexity of the family, enrollment of the 21866
individual in special summer programs, provision of appropriate 21867
leisure activities, and other social skills development 21868

activities; 21869

(5) Any other services that are consistent with the 21870
purposes specified in division (B) of this section and specified 21871
in the individual's service plan. 21872

(E) In order to be eligible for payments under a family 21873
support services program, the individual or the individual's 21874
family must reside in the county served by the county board, and 21875
the individual must be in need of habilitation. Payments shall 21876
be adjusted for income in accordance with the payment schedule 21877
established in rules adopted under this section. Payments shall 21878
be made only after the county board has taken into account all 21879
other available assistance for which the individual or family is 21880
eligible. 21881

(F) Before incurring expenses for a service for which 21882
payment will be sought under a family support services program, 21883
the individual or family shall apply to the county board for a 21884
determination of eligibility and approval of the service. The 21885
service need not be provided in the county served by the county 21886
board. After being determined eligible and receiving approval 21887
for the service, the individual or family may incur expenses for 21888
the service or use the vouchers received from the county board 21889
for the purchase of the service. 21890

If the county board refuses to approve a service, an 21891
appeal may be made in accordance with rules adopted by the 21892
department under this section. 21893

(G) To be reimbursed for expenses incurred for approved 21894
services, the individual or family shall submit to the county 21895
board a statement of the expenses incurred accompanied by any 21896
evidence required by the board. To redeem vouchers used to 21897

purchase approved services, the entity that provided the service 21898
shall submit to the county board evidence that the service was 21899
provided and a statement of the charges. The county board shall 21900
make reimbursements and redeem vouchers ~~no~~not later than forty- 21901
five days after it receives the statements and evidence required 21902
by this division. 21903

(H) A county board shall consider the following objectives 21904
in carrying out a family support services program: 21905

(1) Enabling individuals to return to their families from 21906
an institution under the jurisdiction of the department of 21907
developmental disabilities; 21908

(2) Enabling individuals found to be subject to 21909
institutionalization by court order under section 5123.76 of the 21910
Revised Code to remain with their families with the aid of 21911
payments provided under this section; 21912

(3) Providing services to eligible children and adults 21913
currently residing in the community; 21914

(4) Providing services to individuals with developmental 21915
disabilities who are not receiving other services from the 21916
board. 21917

(I) The director shall adopt, and may amend and rescind, 21918
rules for the implementation of family support services programs 21919
by county boards. ~~Such~~The rules shall include all of the 21920
following: 21921

(1) A payment schedule adjusted for income; 21922

(2) Standards for supervision, training, and quality 21923
control in the provision of respite care services; 21924

(3) Eligibility standards and procedures for providing 21925

temporary emergency respite care; 21926

(4) Procedures for hearing and deciding appeals made under 21927
division (F) of this section. 21928

Rules adopted under division (I) (1) of this section shall 21929
be adopted in accordance with section 111.15 of the Revised 21930
Code. Rules adopted under divisions (I) (2) to (4) of this 21931
section shall be adopted in accordance with Chapter 119. of the 21932
Revised Code. 21933

(J) All individuals certified by the superintendent of the 21934
county board as eligible for temporary emergency respite care in 21935
accordance with rules adopted under this section shall be 21936
considered eligible for temporary emergency respite care for not 21937
more than five days to permit the determination of eligibility 21938
for family support services. The requirements of divisions (E) 21939
and (F) of this section do not apply to temporary emergency 21940
respite care. 21941

(K) The county board shall not be required to make 21942
payments for family support services at a level that exceeds 21943
available state and federal funds for such payments. 21944

Sec. 5126.15. (A) A county board of developmental 21945
disabilities shall provide service and support administration to 21946
each individual three years of age or older who is eligible for 21947
service and support administration if the individual requests, 21948
or a person on the individual's behalf requests, service and 21949
support administration. A board shall provide service and 21950
support administration to each individual receiving home and 21951
community-based services. A board may provide, in accordance 21952
with the service coordination requirements of 34 C.F.R. 303.23, 21953
service and support administration to an individual under three 21954

years of age eligible for early intervention services under 34 21955
C.F.R. part 303. A board may provide service and support 21956
administration to an individual who is not eligible for other 21957
services of the board. Service and support administration shall 21958
be provided in accordance with rules adopted under section 21959
5126.08 of the Revised Code. 21960

A board may provide service and support administration by 21961
directly employing service and support administrators or by 21962
contracting with entities for the performance of service and 21963
support administration. Individuals employed or under contract 21964
as service and support administrators shall not be in the same 21965
collective bargaining unit as employees who perform duties that 21966
are not administrative. 21967

A service and support administrator shall perform only the 21968
duties specified in division (B) of this section. While employed 21969
by or under contract with a board, a service and support 21970
administrator shall neither be employed by or serve in a 21971
decision-making or policy-making capacity for any other entity 21972
that provides programs or services to individuals with ~~mental-~~ 21973
~~retardation or~~ developmental disabilities nor provide programs 21974
or services to individuals with mental retardation or 21975
developmental disabilities through self-employment. 21976

(B) A service and support administrator shall do all of 21977
the following: 21978

(1) Establish an individual's eligibility for the services 21979
of the county board of developmental disabilities; 21980

(2) Assess individual needs for services; 21981

(3) Develop individual service plans with the active 21982
participation of the individual to be served, other persons 21983

selected by the individual, and, when applicable, the provider 21984
selected by the individual, and recommend the plans for approval 21985
by the department of developmental disabilities when services 21986
included in the plans are funded through medicaid; 21987

(4) Establish budgets for services based on the 21988
individual's assessed needs and preferred ways of meeting those 21989
needs; 21990

(5) Assist individuals in making selections from among the 21991
providers they have chosen; 21992

(6) Ensure that services are effectively coordinated and 21993
provided by appropriate providers; 21994

(7) Establish and implement an ongoing system of 21995
monitoring the implementation of individual service plans to 21996
achieve consistent implementation and the desired outcomes for 21997
the individual; 21998

(8) Perform quality assurance reviews as a distinct 21999
function of service and support administration; 22000

(9) Incorporate the results of quality assurance reviews 22001
and identified trends and patterns of unusual incidents and 22002
major unusual incidents into amendments of an individual's 22003
service plan for the purpose of improving and enhancing the 22004
quality and appropriateness of services rendered to the 22005
individual. 22006

Sec. 5126.22. (A) Employees who hold the following 22007
positions in a county board of developmental disabilities are 22008
management employees: 22009

assistant superintendent 22010

director of business 22011

director of personnel	22012
adult services director	22013
workshop director	22014
habilitation manager	22015
director of residential services	22016
principal (director of children services)	22017
program or service supervisor	22018
plant manager	22019
production manager	22020
service and support administration supervisor	22021
investigative agent	22022
confidential employees as defined in section 4117.01 of the Revised Code	22023 22024
positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties	22025 22026 22027
positions designated by the county board in accordance with division (D) of this section.	22028 22029
(B) Employees who hold the following positions in a board are professional employees:	22030 22031
personnel licensed or certified pursuant to Chapter 3319. of the Revised Code	22032 22033
early intervention specialist	22034
physical development specialist	22035

habilitation specialist	22036
work adjustment specialist	22037
placement specialist	22038
vocational evaluator	22039
psychologist	22040
occupational therapist	22041
speech and language pathologist	22042
recreation specialist	22043
behavior management specialist	22044
physical therapist	22045
supportive home services specialist	22046
licensed practical nurse or registered nurse	22047
rehabilitation counselor	22048
doctor of medicine and surgery or of osteopathic medicine	22049
and surgery	22050
dentist	22051
service and support administrator	22052
conditional status service and support administrator	22053
social worker	22054
any position that is not a management position and for	22055
which the standards for certification established by the	22056
director of developmental disabilities under section 5126.25 of	22057
the Revised Code require a bachelor's or higher degree	22058
professional positions designated by the director	22059

professional positions designated by the county board in accordance with division (D) of this section.	22060 22061
(C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include:	22062 22063 22064
workshop specialist	22065
workshop specialist assistant	22066
contract procurement specialist	22067
community employment specialist	22068
any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration	22069 22070 22071
service positions designated by the director	22072
service positions designated by a county board in accordance with division (D) of this section.	22073 22074
(D) A county board may designate a position only if the position does not include directly providing, or supervising employees who directly provide, service or instruction to individuals with mental retardation or developmental disabilities.	22075 22076 22077 22078 22079
(E) If a county board desires to have a position established that is not specifically listed in this section that includes directly providing, or supervising employees who directly provide, services or instruction to individuals with mental retardation or developmental disabilities, the board shall submit to the director a written description of the position and request that the director designate the position as	22080 22081 22082 22083 22084 22085 22086

a management, professional, or service position under this 22087
section. The director shall consider each request submitted 22088
under this division and respond within thirty days. If the 22089
director approves the request, the director shall designate the 22090
position as a management, professional, or service position. 22091

(F) A county board shall not terminate its employment of 22092
any management, professional, or service employee solely because 22093
a position is added to or eliminated from those positions listed 22094
in this section or because a position is designated or no longer 22095
designated by the director or a county board. 22096

Sec. 5126.25. (A) The director of developmental 22097
disabilities shall adopt rules under division (C) of this 22098
section establishing uniform standards and procedures for the 22099
certification and registration of persons, other than the 22100
persons described in division (I) of this section, who are 22101
seeking employment with or are employed by either of the 22102
following: 22103

(1) A county board of developmental disabilities; 22104

(2) An entity that contracts with a county board to 22105
operate programs and services for individuals with ~~mental-~~ 22106
~~retardation or~~ developmental disabilities. 22107

(B) No person shall be employed in a position for which 22108
certification or registration is required pursuant to the rules 22109
adopted under this section without the certification or 22110
registration that is required for that position. The person 22111
shall not be employed or shall not continue to be employed if 22112
the required certification or registration is denied, revoked, 22113
or not renewed. 22114

(C) The director shall adopt rules in accordance with 22115

Chapter 119. of the Revised Code as the director considers 22116
necessary to implement and administer this section, including 22117
rules establishing all of the following: 22118

(1) Positions of employment that are subject to this 22119
section and, for each position, whether a person must receive 22120
certification or receive registration to be employed in that 22121
position; 22122

(2) Requirements that must be met to receive the 22123
certification or registration required to be employed in a 22124
particular position, including standards regarding education, 22125
specialized training, and experience, taking into account the 22126
needs of individuals with ~~mental retardation or~~ developmental 22127
disabilities and the specialized techniques needed to serve 22128
them, except that the rules shall not require a person 22129
designated as a service employee under section 5126.22 of the 22130
Revised Code to have or obtain a bachelor's or higher degree; 22131

(3) Procedures to be followed in applying for initial 22132
certification or registration and for renewing the certification 22133
or registration. 22134

(4) Requirements that must be met for renewal of 22135
certification or registration, which may include continuing 22136
education and professional training requirements; 22137

(5) Subject to section 5126.23 of the Revised Code, 22138
grounds for which certification or registration may be denied, 22139
suspended, or revoked and procedures for appealing the denial, 22140
suspension, or revocation. 22141

(D) Each person seeking certification or registration for 22142
employment shall apply in the manner established in rules 22143
adopted under this section. 22144

(E) (1) Except as provided in division (E) (2) of this section, the superintendent of each county board is responsible for taking all actions regarding certification and registration of employees, other than the position of superintendent, early intervention supervisor, early intervention specialist, or investigative agent. For the position of superintendent, early intervention supervisor, early intervention specialist, or investigative agent, the director of developmental disabilities is responsible for taking all such actions.

Actions that may be taken by the superintendent or director include issuing, renewing, denying, suspending, and revoking certification and registration. All actions shall be taken in accordance with the rules adopted under this section.

The superintendent may charge a fee to persons applying for certification or registration. The superintendent shall establish the amount of the fee according to the costs the county board incurs in administering its program for certification and registration of employees.

A person subject to the denial, suspension, or revocation of certification or registration may appeal the decision. The appeal shall be made in accordance with the rules adopted under this section.

(2) Pursuant to division (C) of section 5126.05 of the Revised Code, the superintendent may enter into a contract with any other entity under which the entity is given authority to carry out all or part of the superintendent's responsibilities under division (E) (1) of this section.

(F) A person with valid certification or registration under this section on the effective date of any rules adopted

under this section that increase the standards applicable to the 22174
certification or registration shall have such period as the 22175
rules prescribe, but not less than one year after the effective 22176
date of the rules, to meet the new certification or registration 22177
standards. 22178

(G) A person with valid certification or registration is 22179
qualified to be employed according to that certification or 22180
registration by any county board or entity contracting with a 22181
county board. 22182

(H) The director shall monitor county boards to ensure 22183
that their employees and the employees of their contracting 22184
entities have the applicable certification or registration 22185
required under this section and that the employees are 22186
performing only those functions they are authorized to perform 22187
under the certification or registration. The superintendent of 22188
each county board or the superintendent's designee shall 22189
maintain in appropriate personnel files evidence acceptable to 22190
the director that the employees have met the requirements. On 22191
request, representatives of the department of developmental 22192
disabilities shall be given access to the evidence. 22193

(I) The certification and registration requirements of 22194
this section and the rules adopted under it do not apply to 22195
either of the following: 22196

(1) A person who holds a valid license issued or 22197
certificate issued under Chapter 3319. of the Revised Code and 22198
performs no duties other than teaching or supervision of a 22199
teaching program; 22200

(2) A person who holds a valid license or certificate 22201
issued under Title XLVII of the Revised Code and performs only 22202

those duties governed by the license or certificate. 22203

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of 22204
the Revised Code: 22205

(A) "Adult" means a person eighteen years of age or older 22206
with ~~mental retardation or a~~ developmental disability. 22207

(B) "Caretaker" means a person who is responsible for the 22208
care of an adult by order of a court, including an order of 22209
guardianship, or who assumes the responsibility for the care of 22210
an adult as a volunteer, as a family member, by contract, or by 22211
the acceptance of payment for care. 22212

(C) "Abuse" has the same meaning as in section 5123.50 of 22213
the Revised Code, except that it includes a misappropriation, as 22214
defined in that section. 22215

(D) "Neglect" has the same meaning as in section 5123.50 22216
of the Revised Code. 22217

(E) "Exploitation" means the unlawful or improper act of a 22218
caretaker using an adult or an adult's resources for monetary or 22219
personal benefit, profit, or gain, including misappropriation, 22220
as defined in section 5123.50 of the Revised Code, of an adult's 22221
resources. 22222

(F) "Working day" means Monday, Tuesday, Wednesday, 22223
Thursday, or Friday, except when that day is a holiday as 22224
defined in section 1.14 of the Revised Code. 22225

(G) "Incapacitated" means lacking understanding or 22226
capacity, with or without the assistance of a caretaker, to make 22227
and carry out decisions regarding food, clothing, shelter, 22228
health care, or other necessities, but does not include mere 22229
refusal to consent to the provision of services. 22230

(H) "Emergency protective services" means protective 22231
services furnished to ~~a person an individual~~ with ~~mental-~~ 22232
~~retardation or~~ a developmental disability to prevent immediate 22233
physical harm. 22234

(I) "Protective services" means services provided by the 22235
county board of developmental disabilities to an adult with 22236
~~mental retardation or~~ a developmental disability for the 22237
prevention, correction, or discontinuance of an act of as well 22238
as conditions resulting from abuse, neglect, or exploitation. 22239

(J) "Protective service plan" means an individualized plan 22240
developed by the county board of developmental disabilities to 22241
prevent the further abuse, neglect, or exploitation of an adult 22242
with ~~mental retardation or~~ a developmental disability. 22243

(K) "Substantial risk" has the same meaning as in section 22244
2901.01 of the Revised Code. 22245

(L) "Party" means all of the following: 22246

(1) An adult who is the subject of a probate proceeding 22247
under sections 5126.30 to 5126.33 of the Revised Code; 22248

(2) A caretaker, unless otherwise ordered by the probate 22249
court; 22250

(3) Any other person designated as a party by the probate 22251
court including but not limited to, the adult's spouse, 22252
custodian, guardian, or parent. 22253

~~(M) "Board" means a county board of developmental-~~ 22254
~~disabilities.~~ 22255

Sec. 5126.31. (A) A county board of developmental 22256
disabilities shall review reports of abuse and neglect made 22257
under section 5123.61 of the Revised Code and reports referred 22258

to it under section 5101.611 of the Revised Code to determine 22259
whether the ~~person~~ individual who is the subject of the report 22260
is an adult with ~~mental retardation or~~ a developmental 22261
disability in need of services to deal with the abuse or 22262
neglect. The county board shall give notice of each report to 22263
the registry office of the department of developmental 22264
disabilities established pursuant to section 5123.61 of the 22265
Revised Code on the first working day after receipt of the 22266
report. If the report alleges that there is a substantial risk 22267
to the adult of immediate physical harm or death, the county 22268
board shall initiate review within twenty-four hours of its 22269
receipt of the report. If the county board determines that the 22270
~~person~~ individual is sixty years of age or older but does not 22271
have ~~mental retardation or~~ a developmental disability, it shall 22272
refer the case to the county department of job and family 22273
services. If the county board determines that the ~~person~~ 22274
individual is an adult with ~~mental retardation or~~ a 22275
developmental disability, it shall continue its review of the 22276
case. 22277

(B) For each review over which the county board retains 22278
responsibility under division (A) of this section, it shall do 22279
all of the following: 22280

(1) Give both written and oral notice of the purpose of 22281
the review to the adult and, if any, to the adult's legal 22282
counsel or caretaker, in simple and clear language; 22283

(2) Visit the adult, in the adult's residence if possible, 22284
and explain the notice given under division (B) (1) of this 22285
section; 22286

(3) Request from the registry office any prior reports 22287
concerning the adult or other principals in the case; 22288

(4) Consult, if feasible, with the person who made the report under section 5101.61 or 5123.61 of the Revised Code and with any agencies or persons who have information about the alleged abuse or neglect;

(5) Cooperate fully with the law enforcement agency responsible for investigating the report and for filing any resulting criminal charges and, on request, turn over evidence to the agency;

(6) Determine whether the adult needs services, and prepare a written report stating reasons for the determination. No adult shall be determined to be abused, neglected, or in need of services for the sole reason that, in lieu of medical treatment, the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the adult is a member or adherent.

(C) The county board shall arrange for the provision of services for the prevention, correction or discontinuance of abuse or neglect or of a condition resulting from abuse or neglect for any adult who has been determined to need the services and consents to receive them. These services may include, but are not limited to, service and support administration, fiscal management, medical, mental health, home health care, homemaker, legal, and residential services and the provision of temporary accommodations and necessities such as food and clothing. The services do not include acting as a guardian, trustee, or protector as defined in section 5123.55 of the Revised Code. If the provision of residential services would require expenditures by the department of developmental disabilities, the county board shall obtain the approval of the

department prior to arranging the residential services. 22319

To arrange services, the county board shall: 22320

(1) Develop an individualized service plan identifying the 22321
types of services required for the adult, the goals for the 22322
services, and the persons or agencies that will provide them; 22323

(2) In accordance with rules established by the director 22324
of developmental disabilities, obtain the consent of the adult 22325
or the adult's guardian to the provision of any of these 22326
services and obtain the signature of the adult or guardian on 22327
the ~~individual~~-individualized service plan. An adult who has 22328
been found incompetent under Chapter 2111. of the Revised Code 22329
may consent to services. If the county board is unable to obtain 22330
consent, it may seek, if the adult is incapacitated, a court 22331
order pursuant to section 5126.33 of the Revised Code 22332
authorizing the board to arrange these services. 22333

(D) The county board shall ensure that the adult receives 22334
the services arranged by the board from the provider and shall 22335
have the services terminated if the adult withdraws consent. 22336

(E) On completion of a review, the county board shall 22337
submit a written report to the registry office established under 22338
section 5123.61 of the Revised Code. If the report includes a 22339
finding that ~~a person~~-an individual with ~~mental retardation or~~-a 22340
developmental disability is a victim of action or inaction that 22341
may constitute a crime under federal law or the law of this 22342
state, the board shall submit the report to the law enforcement 22343
agency responsible for investigating the report. Reports 22344
prepared under this section are not public records as defined in 22345
section 149.43 of the Revised Code. 22346

Sec. 5126.33. (A) A county board of developmental 22347

disabilities may file a complaint with the probate court of the 22348
county in which an adult with ~~mental retardation or a~~ 22349
developmental disability resides for an order authorizing the 22350
board to arrange services described in division (C) of section 22351
5126.31 of the Revised Code for that adult if the adult is 22352
eligible to receive services or support under section 5126.041 22353
of the Revised Code and the board has been unable to secure 22354
consent. The complaint shall include all of the following: 22355

(1) The name, age, and address of the adult; 22356

(2) Facts describing the nature of the abuse, neglect, or 22357
exploitation and supporting the board's belief that services are 22358
needed; 22359

(3) The types of services proposed by the board, as set 22360
forth in the protective service plan described in division (J) 22361
of section 5126.30 of the Revised Code and filed with the 22362
complaint; 22363

(4) Facts showing the board's attempts to obtain the 22364
consent of the adult or the adult's guardian to the services. 22365

(B) The board shall give the adult notice of the filing of 22366
the complaint and in simple and clear language shall inform the 22367
adult of the adult's rights in the hearing under division (C) of 22368
this section and explain the consequences of a court order. This 22369
notice shall be personally served upon all parties, and also 22370
shall be given to the adult's legal counsel, if any. The notice 22371
shall be given at least twenty-four hours prior to the hearing, 22372
although the court may waive this requirement upon a showing 22373
that there is a substantial risk that the adult will suffer 22374
immediate physical harm in the twenty-four hour period and that 22375
the board has made reasonable attempts to give the notice 22376

required by this division. 22377

(C) Upon the filing of a complaint for an order under this 22378
section, the court shall hold a hearing at least twenty-four 22379
hours and no later than seventy-two hours after the notice under 22380
division (B) of this section has been given unless the court has 22381
waived the notice. All parties shall have the right to be 22382
present at the hearing, present evidence, and examine and cross- 22383
examine witnesses. The Ohio Rules of Evidence shall apply to a 22384
hearing conducted pursuant to this division. The adult shall be 22385
represented by counsel unless the court finds that the adult has 22386
made a voluntary, informed, and knowing waiver of the right to 22387
counsel. If the adult is indigent, the court shall appoint 22388
counsel to represent the adult. The board shall be represented 22389
by the county prosecutor or an attorney designated by the board. 22390

(D) (1) The court shall issue an order authorizing the 22391
board to arrange the protective services if it finds, on the 22392
basis of clear and convincing evidence, all of the following: 22393

(a) The adult has been abused, neglected, or exploited; 22394

(b) The adult is incapacitated; 22395

(c) There is a substantial risk to the adult of immediate 22396
physical harm or death; 22397

(d) The adult is in need of the services; 22398

(e) No person authorized by law or court order to give 22399
consent for the adult is available or willing to consent to the 22400
services. 22401

(2) The board shall develop a detailed protective service 22402
plan describing the services that the board will provide, or 22403
arrange for the provision of, to the adult to prevent further 22404

abuse, neglect, or exploitation. The board shall submit the plan 22405
to the court for approval. The protective service plan may be 22406
changed only by court order. 22407

(3) In formulating the order, the court shall consider the 22408
individual protective service plan and shall specifically 22409
designate the services that are necessary to deal with the 22410
abuse, neglect, or exploitation or condition resulting from 22411
abuse, neglect, or exploitation and that are available locally, 22412
and authorize the board to arrange for these services only. The 22413
court shall limit the provision of these services to a period 22414
not exceeding six months, renewable for an additional six-month 22415
period on a showing by the board that continuation of the order 22416
is necessary. 22417

(E) If the court finds that all other options for meeting 22418
the adult's needs have been exhausted, it may order that the 22419
adult be removed from the adult's place of residence and placed 22420
in another residential setting. Before issuing that order, the 22421
court shall consider the adult's choice of residence and shall 22422
determine that the new residential setting is the least 22423
restrictive alternative available for meeting the adult's needs 22424
and is a place where the adult can obtain the necessary 22425
requirements for daily living in safety. The court shall not 22426
order an adult to a hospital or public hospital, as defined in 22427
section 5122.01 of the Revised Code, or a state institution, as 22428
defined in section 5123.01 of the Revised Code. 22429

(F) The court shall not authorize a change in an adult's 22430
placement ordered under division (E) of this section unless it 22431
finds compelling reasons to justify a change. The parties to 22432
whom notice was given in division (B) of this section shall be 22433
given notice of a proposed change at least five working days 22434

prior to the change. 22435

(G) The adult, the board, or any other person who received 22436
notice of the petition may file a motion for modification of the 22437
court order at any time. 22438

(H) The county board shall pay court costs incurred in 22439
proceedings brought pursuant to this section. The adult shall 22440
not be required to pay for court-ordered services. 22441

(I) (1) After the filing of a complaint for an order under 22442
this section, the court, prior to the final disposition, may 22443
enter any temporary order that the court finds necessary to 22444
protect the adult with ~~mental retardation or~~ a developmental 22445
disability from abuse, neglect, or exploitation including, but 22446
not limited to, the following: 22447

(a) A temporary protection order; 22448

(b) An order requiring the evaluation of the adult; 22449

(c) An order requiring a party to vacate the adult's place 22450
of residence or legal settlement, provided that, subject to 22451
division (K) (1) (d) of this section, no operator of a residential 22452
facility licensed by the department may be removed under this 22453
division; 22454

(d) In the circumstances described in, and in accordance 22455
with the procedures set forth in, section 5123.191 of the 22456
Revised Code, an order of the type described in that section 22457
that appoints a receiver to take possession of and operate a 22458
residential facility licensed by the department. 22459

(2) The court may grant an ex parte order pursuant to this 22460
division on its own motion or if a party files a written motion 22461
or makes an oral motion requesting the issuance of the order and 22462

stating the reasons for it if it appears to the court that the 22463
best interest and the welfare of the adult require that the 22464
court issue the order immediately. The court, if acting on its 22465
own motion, or the person requesting the granting of an ex parte 22466
order, to the extent possible, shall give notice of its intent 22467
or of the request to all parties, the adult's legal counsel, if 22468
any. If the court issues an ex parte order, the court shall hold 22469
a hearing to review the order within seventy-two hours after it 22470
is issued or before the end of the next day after the day on 22471
which it is issued, whichever occurs first. The court shall give 22472
written notice of the hearing to all parties to the action. 22473

Sec. 5126.333. Any person who has reason to believe that 22474
there is a substantial risk to an adult with ~~mental retardation~~ 22475
~~or~~ a developmental disability of immediate physical harm or 22476
death and that the responsible county board of developmental 22477
disabilities has failed to seek an order pursuant to section 22478
5126.33 or 5126.331 of the Revised Code may notify the 22479
department of developmental disabilities. Within twenty-four 22480
hours of receipt of such notice, the department shall cause an 22481
investigation to be conducted regarding the notice. The 22482
department shall provide assistance to the county board to 22483
provide for the health and safety of the adult as permitted by 22484
law. 22485

Sec. 5126.40. (A) Sections 5126.40 to 5126.47 of the 22486
Revised Code do not apply to medicaid-funded supported living. 22487

(B) As used in sections 5126.40 to 5126.47 of the Revised 22488
Code, "provider" means a person or government entity certified 22489
by the director of developmental disabilities to provide 22490
supported living for individuals with ~~mental retardation and~~ 22491
developmental disabilities. 22492

(C) On and after July 1, 1995, each county board of 22493
developmental disabilities shall plan and develop supported 22494
living for individuals with ~~mental retardation and~~ developmental 22495
disabilities who are residents of the county in accordance with 22496
sections 5126.41 to 5126.47 of the Revised Code. 22497

Sec. 5126.46. (A) No county board of developmental 22498
disabilities shall be obligated to use any money other than 22499
money in the community developmental disabilities residential 22500
services fund to furnish residential services. 22501

(B) Except with respect to a child required to be provided 22502
services pursuant to section 121.38 of the Revised Code, no 22503
court or other entity of state or local government shall order 22504
or otherwise require a county board of developmental 22505
disabilities to use money from local sources for residential 22506
services for an individual with ~~mental retardation or a~~ 22507
developmental ~~disabilities~~ disability or to arrange for 22508
residential services for such an individual unless a vacancy 22509
exists in an appropriate residential setting within the county. 22510

Sec. 5126.49. The county board of developmental 22511
disabilities may adopt a resolution requesting the board of 22512
county commissioners to implement a residential facility linked 22513
deposit program under sections 5126.51 to 5126.62 of the Revised 22514
Code if the county board of developmental disabilities finds all 22515
of the following: 22516

(A) There is a shortage of residential facilities in the 22517
county for individuals with ~~mental retardation or~~ developmental 22518
disabilities. 22519

(B) Eligible organizations, otherwise willing and able to 22520
develop residential facilities in the county, have been unable 22521

to do so because of high interest rates. 22522

(C) Placement of residential facility linked deposits will 22523
assist in financing the development of residential facilities in 22524
the county that otherwise would not be developed because of high 22525
interest rates. 22526

The board shall transmit a certified copy of the 22527
resolution to the board of county commissioners. 22528

Sec. 5126.52. The general assembly finds that individuals 22529
with ~~mental retardation or~~ developmental disabilities residing 22530
in the state face a shortage of suitable residential facilities; 22531
that loans to finance the development of suitable residential 22532
facilities are subject to high interest rates; that eligible 22533
organizations, otherwise willing and able to develop suitable 22534
residential facilities, are unable to do so because of the high 22535
interest rates; and, consequently, that the shortage of suitable 22536
residential facilities is likely to continue and worsen. 22537

The residential facility linked deposit program, when 22538
implemented in a county, is intended to provide low-cost funds 22539
for lending purposes that will effectively reduce high interest 22540
rates and materially contribute to remedying the shortage of 22541
suitable residential facilities for individuals with ~~mental-~~ 22542
~~retardation or~~ developmental disabilities who reside in the 22543
county. 22544

Sec. 5126.55. The county board of developmental 22545
disabilities shall review each application filed under section 22546
5126.54 of the Revised Code and adopt a resolution approving or 22547
disapproving development of the proposed residential facility. 22548
The county board shall not approve development of the proposed 22549
residential facility unless it finds, based upon the application 22550

and its evaluation of the applicant, that development of the residential facility is consistent with its plan and priorities, under section 5126.05 of the Revised Code, for the provision of residential facilities for individuals with ~~mental retardation~~ or developmental disabilities residing in the county.

The resolution shall include specific findings of fact justifying the approval or disapproval.

The county board shall transmit a certified copy of the resolution to the applicant and to the board of county commissioners.

Sec. 5126.58. The county board of developmental disabilities shall adopt a resolution approving or disapproving an eligible organization's application for a residential facility linked deposit loan. The county board shall disapprove an application unless it finds, based on the application and its evaluation of the applicant, each of the following:

(A) The applicant has fully complied with sections 5126.54 and 5126.56 of the Revised Code.

(B) Development of the residential facility will materially contribute to alleviating the shortage of residential facilities in the county for individuals with ~~mental retardation~~ or developmental disabilities.

(C) The applicant is ready to proceed with development of the residential facility, but is unable to do so because of high interest rates.

(D) The board of county commissioners has certified that public moneys of the county are currently available for placement of the residential facility linked deposit necessary to provide low-cost financing to the applicant.

(E) Placement of the residential facility linked deposit, 22580
considered in the aggregate with all other residential facility 22581
linked deposits under the county's residential facility linked 22582
deposit program, will not cause the total amount of the county's 22583
residential facility linked deposits to exceed an amount equal 22584
to ten per cent of the operating budget of the county board of 22585
developmental disabilities for the current year. If placement of 22586
the residential facility linked deposit would cause the total 22587
amount of the county's residential facility linked deposits to 22588
exceed the maximum established by this division, the county 22589
board may accept the application but limit the amount of the 22590
residential facility linked deposit accordingly. 22591

The resolution shall include specific findings of fact 22592
justifying acceptance or rejection of the application. If the 22593
board accepts the application, it shall specify the amount of 22594
the residential facility linked deposit in the resolution. 22595

The county board shall transmit a certified copy of the 22596
resolution to the applicant, the eligible lending institution, 22597
and the county's investing authority. 22598

Sec. 5139.06. (A) When a child has been committed to the 22599
department of youth services, the department shall do both of 22600
the following: 22601

(1) Place the child in an appropriate institution under 22602
the condition that it considers best designed for the training 22603
and rehabilitation of the child and the protection of the 22604
public, provided that the institutional placement shall be 22605
consistent with the order committing the child to its custody; 22606

(2) Maintain the child in institutional care or 22607
institutional care in a secure facility for the required period 22608

of institutionalization in a manner consistent with division (A) 22609
(1) of section 2152.16 and divisions (A) to (F) of section 22610
2152.17 of the Revised Code, whichever are applicable, and with 22611
section 5139.38 or division (B), (C), or (D) of section 2152.22 22612
of the Revised Code. 22613

(B) When a child has been committed to the department of 22614
youth services and has not been institutionalized or 22615
institutionalized in a secure facility for the prescribed 22616
minimum period of time, including, but not limited to, a 22617
prescribed period of time under division (A)(1)(a) of section 22618
2152.16 of the Revised Code, the department, the child, or the 22619
child's parent may request the court that committed the child to 22620
order a judicial release to court supervision or a judicial 22621
release to department of youth services supervision in 22622
accordance with division (B), (C), or (D) of section 2152.22 of 22623
the Revised Code, and the child may be released from 22624
institutionalization or institutionalization in a secure 22625
facility in accordance with the applicable division. A child in 22626
those circumstances shall not be released from 22627
institutionalization or institutionalization in a secure 22628
facility except in accordance with section 2152.22 or 5139.38 of 22629
the Revised Code. When a child is released pursuant to a 22630
judicial release to court supervision under division (B) or (D) 22631
of section 2152.22 of the Revised Code, the department shall 22632
comply with division (B)(3) of that section and, if the court 22633
requests, shall send the committing court a report on the 22634
child's progress in the institution and recommendations for 22635
conditions of supervision by the court after release. When a 22636
child is released pursuant to a judicial release to department 22637
of youth services supervision under division (C) or (D) of 22638
section 2152.22 of the Revised Code, the department shall comply 22639

with division (C) (3) of that section relative to the child and 22640
shall send the committing court and the juvenile court of the 22641
county in which the child is placed a copy of the treatment and 22642
rehabilitation plan described in that division and the 22643
conditions that it fixed. The court of the county in which the 22644
child is placed may adopt the conditions as an order of the 22645
court and may add any additional consistent conditions it 22646
considers appropriate, provided that the court may not add any 22647
condition that decreases the level or degree of supervision 22648
specified by the department in its plan, that substantially 22649
increases the financial burden of supervision that will be 22650
experienced by the department, or that alters the placement 22651
specified by the department in its plan. Any violations of the 22652
conditions of the child's judicial release or early release 22653
shall be handled pursuant to division (E) of section 2152.22 of 22654
the Revised Code. 22655

(C) When a child has been committed to the department of 22656
youth services, the department may do any of the following: 22657

(1) Notwithstanding the provisions of this chapter, 22658
Chapter 2151., or Chapter 2152. of the Revised Code that 22659
prescribe required periods of institutionalization, transfer the 22660
child to any other state institution, whenever it appears that 22661
the child by reason of mental illness, ~~mental retardation~~, or 22662
~~other~~ developmental disability ought to be in another state 22663
institution. Before transferring a child to any other state 22664
institution, the department shall include in the minutes a 22665
record of the order of transfer and the reason for the transfer 22666
and, at least seven days prior to the transfer, shall send a 22667
certified copy of the order to the person shown by its record to 22668
have had the care or custody of the child immediately prior to 22669
the child's commitment. Except as provided in division (C) (2) of 22670

this section, no person shall be transferred from a benevolent 22671
institution to a correctional institution or to a facility or 22672
institution operated by the department of youth services. 22673

(2) Notwithstanding the provisions of this chapter, 22674
Chapter 2151., or Chapter 2152. of the Revised Code that 22675
prescribe required periods of institutionalization, transfer the 22676
child under section 5120.162 of the Revised Code to a 22677
correctional medical center established by the department of 22678
rehabilitation and correction, whenever the child has an 22679
illness, physical condition, or other medical problem and it 22680
appears that the child would benefit from diagnosis or treatment 22681
at the center for that illness, condition, or problem. Before 22682
transferring a child to a center, the department of youth 22683
services shall include in the minutes a record of the order of 22684
transfer and the reason for the transfer and, except in 22685
emergency situations, at least seven days prior to the transfer, 22686
shall send a certified copy of the order to the person shown by 22687
its records to have had the care or custody of the child 22688
immediately prior to the child's commitment. If the transfer of 22689
the child occurs in an emergency situation, as soon as possible 22690
after the decision is made to make the transfer, the department 22691
of youth services shall send a certified copy of the order to 22692
the person shown by its records to have had the care or custody 22693
of the child immediately prior to the child's commitment. A 22694
transfer under this division shall be in accordance with the 22695
terms of the agreement the department of youth services enters 22696
into with the department of rehabilitation and correction under 22697
section 5120.162 of the Revised Code and shall continue only as 22698
long as the child reasonably appears to receive benefit from 22699
diagnosis or treatment at the center for an illness, physical 22700
condition, or other medical problem. 22701

(3) Revoke or modify any order of the department except an order of discharge as often as conditions indicate it to be desirable;

(4) If the child was committed pursuant to division (A) (1) (b), (c), (d), or (e) of section 2152.16 of the Revised Code and has been institutionalized or institutionalized in a secure facility for the prescribed minimum periods of time under the division pursuant to which the commitment was made, assign the child to a family home, a group care facility, or other place maintained under public or private auspices, within or without this state, for necessary treatment and rehabilitation, the costs of which may be paid by the department, provided that the department shall notify the committing court, in writing, of the place and terms of the assignment at least fifteen days prior to the scheduled date of the assignment;

(5) Release the child from an institution in accordance with sections 5139.51 to 5139.54 of the Revised Code in the circumstances described in those sections.

(D) The department of youth services shall notify the committing court of any order transferring the physical location of any child committed to it in accordance with section 5139.35 of the Revised Code. Upon the discharge from its custody and control, the department may petition the court for an order terminating its custody and control.

Sec. 5139.08. The department of youth services may enter into an agreement with the director of rehabilitation and correction pursuant to which the department of youth services, in accordance with division (C) (2) of section 5139.06 and section 5120.162 of the Revised Code, may transfer to a correctional medical center established by the department of

rehabilitation and correction, children who are within its 22732
custody for diagnosis or treatment of an illness, physical 22733
condition, or other medical problem. The department of youth 22734
services may enter into any other agreements with the director 22735
of job and family services, the director of mental health and 22736
addiction services, the director of developmental disabilities, 22737
the director of rehabilitation and correction, with the courts 22738
having probation officers or other public officials, and with 22739
private agencies or institutions for separate care or special 22740
treatment of children subject to the control of the department 22741
of youth services. The department of youth services may, upon 22742
the request of a juvenile court not having a regular probation 22743
officer, provide probation services for such court. 22744

Upon request by the department of youth services, any 22745
public agency or group care facility established or administered 22746
by the state for the care and treatment of children and youth 22747
shall, consistent with its functions, accept and care for any 22748
child whose custody is vested in the department in the same 22749
manner as it would be required to do if custody had been vested 22750
by a court in such agency or group care facility. If the 22751
department has reasonable grounds to believe that any child or 22752
youth whose custody is vested in it is mentally ill or ~~mentally-~~ 22753
~~retarded~~has an intellectual disability, the department may file 22754
an affidavit under section 5122.11 or 5123.76 of the Revised 22755
Code. The department's affidavit for admission of a child or 22756
youth to such institution shall be filed with the probate court 22757
of the county from which the child was committed to the 22758
department. Such court may request the probate court of the 22759
county in which the child is held to conduct the hearing on the 22760
application, in which case the court making such request shall 22761
bear the expenses of the proceeding. If the department files 22762

such an affidavit, the child or youth may be kept in such 22763
institution until a final decision on the affidavit is made by 22764
the appropriate court. 22765

Sec. 5139.12. Any person who is required, pursuant to 22766
division (A) of section 2151.421 of the Revised Code, to report 22767
the person's knowledge of or reasonable cause to suspect abuse 22768
or neglect or threat of abuse or neglect of a child under 22769
eighteen years of age or a ~~mentally retarded, developmentally~~ 22770
~~disabled, or physically impaired child~~ person with a 22771
developmental disability or physical impairment under twenty-one 22772
years of age, or any person who is permitted, pursuant to 22773
division (B) of that section, to report, or cause such a report 22774
to be made and who makes or causes the report to be made, shall 22775
direct that report to the state highway patrol if the child is a 22776
delinquent child in the custody of an institution. If the state 22777
highway patrol determines after receipt of the report that there 22778
is probable cause that abuse or neglect or threat of abuse or 22779
neglect of the delinquent child occurred, the highway patrol 22780
shall report its findings to the department of youth services, 22781
to the court that ordered the disposition of the delinquent 22782
child for the act that would have been an offense if committed 22783
by an adult and for which the delinquent child is in the custody 22784
of the department, to the public children services agency in the 22785
county in which the child resides or in which the abuse or 22786
neglect or threat of abuse or neglect occurred, and to the 22787
chairperson and vice-chairperson of the correctional institution 22788
inspection committee established by section 103.71 of the 22789
Revised Code. 22790

Sec. 5139.27. The department of youth services shall adopt 22791
rules prescribing the minimum standards of construction for a 22792
school, forestry camp, or other facility established under 22793

section 2151.65 of the Revised Code for which financial 22794
assistance may be granted to assist in defraying the cost of the 22795
construction of the school, forestry camp, or other facility. If 22796
an application for that financial assistance is filed with the 22797
department under section 2151.651 of the Revised Code, and the 22798
department finds that the application is in proper form and the 22799
specifications for the construction of the school, forestry 22800
camp, or other facility meet the minimum standards set forth in 22801
the rules adopted by the department, the department may, from 22802
moneys available to it for granting financial assistance for the 22803
construction of schools, forestry camps, or other facilities 22804
established under section 2151.65 of the Revised Code, grant 22805
financial assistance to the county making the application, 22806
subject to the approval of the controlling board, in an amount 22807
not to exceed one-half of the county's share of the cost of 22808
construction of the school, forestry camp, or other facility but 22809
not to exceed six thousand five hundred dollars for each bed 22810
unit provided for in the school, forestry camp, or other 22811
facility. As used in this section, "construction" means the 22812
building and the initial equipping of new structures and, to the 22813
extent provided for in rules adopted by the department, the 22814
acquisition, remodeling, and initial equipping of existing 22815
structures, excluding architect's fees and the cost of land 22816
acquisition. 22817

A county that receives financial assistance under this 22818
section shall not be obligated to repay the assistance to the 22819
state unless the school, forestry camp, or other facility for 22820
which the assistance is granted is used within the ten-year 22821
period immediately following its establishment for other than 22822
the purpose of rehabilitating children between the ages of 22823
twelve to eighteen years, other than psychotic ~~or mentally~~ 22824

~~retarded children~~ or children with intellectual disabilities, 22825
who are designated delinquent children, as defined in section 22826
2152.02 of the Revised Code, or unruly, as defined in section 22827
2151.022 of the Revised Code, by order of a juvenile court. If 22828
the department of youth services finds that the school, forestry 22829
camp, or other facility is used for other than that purpose 22830
within that ten-year period, the county shall be obligated to 22831
repay the assistance to the state and, through its board of 22832
county commissioners, may enter into an agreement with the 22833
director of budget and management for the discharge of that 22834
obligation over a period not to exceed ten years in duration. 22835
Whenever a county is obligated to repay that assistance to the 22836
state and its board of county commissioners fails to enter into 22837
or fails to comply with an agreement for the discharge of that 22838
obligation, the tax commissioner, pursuant to section 5747.54 of 22839
the Revised Code, shall withhold from distribution to the county 22840
from the local government fund an amount sufficient to discharge 22841
the county from that obligation to the state. 22842

Sec. 5139.39. The department of youth services, in the 22843
manner provided in this chapter and Chapter 2151. of the Revised 22844
Code, may transfer to a foster care facility certified by the 22845
department of job and family services under section 5103.03 of 22846
the Revised Code, any child committed to it and, in the event of 22847
a transfer of that nature, unless otherwise mutually agreed, the 22848
department of youth services shall bear the cost of care and 22849
services provided for the child in the foster care facility. A 22850
juvenile court may transfer to any foster facility certified by 22851
the department of job and family services any child between 22852
twelve and eighteen years of age, other than a psychotic ~~or~~ 22853
~~mentally retarded child~~ or a child with an intellectual 22854
disability, who has been designated a delinquent child and 22855

placed on probation by order of the juvenile court as a result 22856
of having violated any law of this state or the United States or 22857
any ordinance of a political subdivision of this state. 22858

Sec. 5139.54. (A) Notwithstanding any other provision for 22859
determining when a child shall be released or discharged from 22860
the legal custody of the department of youth services, including 22861
jurisdictional provisions in section 2152.22 of the Revised 22862
Code, the release authority, for medical reasons, may release a 22863
child upon supervised release or discharge the child from the 22864
custody of the department when any of the following applies: 22865

(1) The child is terminally ill or otherwise in imminent 22866
danger of death. 22867

(2) The child is incapacitated due to injury, disease, 22868
illness, or other medical condition and is no longer a threat to 22869
public safety. 22870

(3) The child appears to be a mentally ill person subject 22871
to court order, as defined in section 5122.01 of the Revised 22872
Code, or a ~~mentally retarded~~ person with an intellectual 22873
disability subject to institutionalization by court order, as 22874
defined in section 5123.01 of the Revised Code. 22875

(B) When considering whether to release or discharge a 22876
child under this section for medical reasons, the release 22877
authority may request additional medical information about the 22878
child or may ask the department to conduct additional medical 22879
examinations. 22880

(C) The release authority shall determine the appropriate 22881
level of supervised release for a child released under this 22882
section. The terms and conditions of the release may require 22883
periodic medical reevaluations as appropriate. Upon granting a 22884

release or discharge under this section, the release authority 22885
shall give notice of the release and its terms and conditions or 22886
of the discharge to the court that committed the child to the 22887
custody of the department. 22888

(D) The release authority shall submit annually to the 22889
director of youth services a report that includes all of the 22890
following information for the previous calendar year: 22891

(1) The number of children the release authority 22892
considered for medical release or discharge; 22893

(2) The nature of the injury, disease, illness, or other 22894
medical condition of each child considered for medical release 22895
or discharge; 22896

(3) The decision made by the release authority for each 22897
child, including the reasons for denying medical release or 22898
discharge or for granting it; 22899

(4) The number of children on medical release who were 22900
returned to a secure facility or whose supervised release was 22901
revoked. 22902

Sec. 5164.25. The departments of developmental 22903
disabilities and medicaid may approve, reduce, deny, or 22904
terminate a medicaid service included in the ~~individualized~~ 22905
individual service plan developed for a medicaid recipient with 22906
~~mental retardation or other a~~ developmental disability who is 22907
eligible for medicaid case management services. If either 22908
department approves, reduces, denies, or terminates a service, 22909
that department shall timely notify the medicaid recipient that 22910
the recipient may appeal pursuant to section 5160.31 of the 22911
Revised Code. 22912

Sec. 5164.342. (A) As used in this section: 22913

"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.

"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of medicaid, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5164.341 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code. If a waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor, the waiver agency may provide for applicants and employees to undergo database reviews and

criminal records checks in accordance with section 173.38 of the Revised Code rather than this section. 22943
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(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply: 22945
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22947

(1) A review of the databases listed in division (E) of this section reveals any of the following: 22948
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(a) That the applicant or employee is included in one or more of the databases listed in divisions (E) (1) to (5) of this section; 22950
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(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident; 22953
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(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services. 22959
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(2) After the applicant or employee is given the information and notification required by divisions (F) (2) (a) and (b) of this section, the applicant or employee fails to do either of the following: 22965
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(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C) (1) of section 109.572 of the Revised 22969
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22971

Code or the standard impression sheet prescribed pursuant to 22972
division (C) (2) of that section; 22973

(b) Instruct the superintendent to submit the completed 22974
report of the criminal records check required by this section 22975
directly to the chief administrator of the waiver agency. 22976

(3) Except as provided in rules authorized by this 22977
section, the applicant or employee is found by a criminal 22978
records check required by this section to have been convicted of 22979
or have pleaded guilty to a disqualifying offense, regardless of 22980
the date of the conviction or date of entry of the guilty plea. 22981

(D) At the time of each applicant's initial application 22982
for employment in a position that involves providing home and 22983
community-based services, the chief administrator of a waiver 22984
agency shall inform the applicant of both of the following: 22985

(1) That a review of the databases listed in division (E) 22986
of this section will be conducted to determine whether the 22987
waiver agency is prohibited by division (C) (1) of this section 22988
from employing the applicant in the position; 22989

(2) That, unless the database review reveals that the 22990
applicant may not be employed in the position, a criminal 22991
records check of the applicant will be conducted and the 22992
applicant is required to provide a set of the applicant's 22993
fingerprint impressions as part of the criminal records check. 22994

(E) As a condition of employing any applicant in a 22995
position that involves providing home and community-based 22996
services, the chief administrator of a waiver agency shall 22997
conduct a database review of the applicant in accordance with 22998
rules authorized by this section. If rules authorized by this 22999
section so require, the chief administrator of a waiver agency 23000

shall conduct a database review of an employee in accordance 23001
with the rules as a condition of continuing to employ the 23002
employee in a position that involves providing home and 23003
community-based services. A database review shall determine 23004
whether the applicant or employee is included in any of the 23005
following: 23006

(1) The excluded parties list system that is maintained by 23007
the United States general services administration pursuant to 23008
subpart 9.4 of the federal acquisition regulation and available 23009
at the federal web site known as the system for award 23010
management; 23011

(2) The list of excluded individuals and entities 23012
maintained by the office of inspector general in the United 23013
States department of health and human services pursuant to the 23014
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 23015
and 1320c-5; 23016

(3) The registry of ~~MR/DD~~ developmental disabilities 23017
employees established under section 5123.52 of the Revised Code; 23018

(4) The internet-based sex offender and child-victim 23019
offender database established under division (A)(11) of section 23020
2950.13 of the Revised Code; 23021

(5) The internet-based database of inmates established 23022
under section 5120.66 of the Revised Code; 23023

(6) The state nurse aide registry established under 23024
section 3721.32 of the Revised Code; 23025

(7) Any other database, if any, specified in rules 23026
authorized by this section. 23027

(F)(1) As a condition of employing any applicant in a 23028

position that involves providing home and community-based 23029
services, the chief administrator of a waiver agency shall 23030
require the applicant to request that the superintendent of the 23031
bureau of criminal identification and investigation conduct a 23032
criminal records check of the applicant. If rules authorized by 23033
this section so require, the chief administrator of a waiver 23034
agency shall require an employee to request that the 23035
superintendent conduct a criminal records check of the employee 23036
at times specified in the rules as a condition of continuing to 23037
employ the employee in a position that involves providing home 23038
and community-based services. However, a criminal records check 23039
is not required for an applicant or employee if the waiver 23040
agency is prohibited by division (C) (1) of this section from 23041
employing the applicant or continuing to employ the employee in 23042
a position that involves providing home and community-based 23043
services. If an applicant or employee for whom a criminal 23044
records check request is required by this section does not 23045
present proof of having been a resident of this state for the 23046
five-year period immediately prior to the date the criminal 23047
records check is requested or provide evidence that within that 23048
five-year period the superintendent has requested information 23049
about the applicant or employee from the federal bureau of 23050
investigation in a criminal records check, the chief 23051
administrator shall require the applicant or employee to request 23052
that the superintendent obtain information from the federal 23053
bureau of investigation as part of the criminal records check. 23054
Even if an applicant or employee for whom a criminal records 23055
check request is required by this section presents proof of 23056
having been a resident of this state for the five-year period, 23057
the chief administrator may require the applicant or employee to 23058
request that the superintendent include information from the 23059
federal bureau of investigation in the criminal records check. 23060

(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator.

(3) A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(G)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The waiver agency is not prohibited by division (C)(1)

of this section from employing the applicant in a position that 23090
involves providing home and community-based services. 23091

(b) The chief administrator of the waiver agency requires 23092
the applicant to request a criminal records check regarding the 23093
applicant in accordance with division (F)(1) of this section not 23094
later than five business days after the applicant begins 23095
conditional employment. 23096

(2) A waiver agency that employs an applicant 23097
conditionally under division (G)(1) of this section shall 23098
terminate the applicant's employment if the results of the 23099
criminal records check, other than the results of any request 23100
for information from the federal bureau of investigation, are 23101
not obtained within the period ending sixty days after the date 23102
the request for the criminal records check is made. Regardless 23103
of when the results of the criminal records check are obtained, 23104
if the results indicate that the applicant has been convicted of 23105
or has pleaded guilty to a disqualifying offense, the waiver 23106
agency shall terminate the applicant's employment unless 23107
circumstances specified in rules authorized by this section 23108
exist that permit the waiver agency to employ the applicant and 23109
the waiver agency chooses to employ the applicant. 23110

(H) The report of any criminal records check conducted 23111
pursuant to a request made under this section is not a public 23112
record for the purposes of section 149.43 of the Revised Code 23113
and shall not be made available to any person other than the 23114
following: 23115

(1) The applicant or employee who is the subject of the 23116
criminal records check or the representative of the applicant or 23117
employee; 23118

- (2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative; 23119
23120
23121
- (3) The medicaid director and the staff of the department who are involved in the administration of the medicaid program; 23122
23123
- (4) The director of aging or the director's designee if the waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor; 23124
23125
23126
- (5) An individual receiving or deciding whether to receive home and community-based services from the subject of the criminal records check; 23127
23128
23129
- (6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following: 23130
23131
- (a) A denial of employment of the applicant or employee; 23132
- (b) Employment or unemployment benefits of the applicant or employee; 23133
23134
- (c) A civil or criminal action regarding the medicaid program. 23135
23136
- (I) The medicaid director shall adopt rules under section 5164.02 of the Revised Code to implement this section. 23137
23138
- (1) The rules may do the following: 23139
- (a) Require employees to undergo database reviews and criminal records checks under this section; 23140
23141
- (b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements; 23142
23143
23144
- (c) For the purpose of division (E) (7) of this section, 23145

specify other databases that are to be checked as part of a 23146
database review conducted under this section. 23147

(2) The rules shall specify all of the following: 23148

(a) The procedures for conducting a database review under 23149
this section; 23150

(b) If the rules require employees to undergo database 23151
reviews and criminal records checks under this section, the 23152
times at which the database reviews and criminal records checks 23153
are to be conducted; 23154

(c) If the rules specify other databases to be checked as 23155
part of a database review, the circumstances under which a 23156
waiver agency is prohibited from employing an applicant or 23157
continuing to employ an employee who is found by the database 23158
review to be included in one or more of those databases; 23159

(d) The circumstances under which a waiver agency may 23160
employ an applicant or employee who is found by a criminal 23161
records check required by this section to have been convicted of 23162
or have pleaded guilty to a disqualifying offense. 23163

(J) The amendments made by H.B. 487 of the 129th general 23164
assembly to this section do not preclude the department of 23165
medicaid from taking action against a person for failure to 23166
comply with former division (H) of this section as that division 23167
existed on the day preceding January 1, 2013. 23168

Sec. 5164.881. The medicaid director, in consultation with 23169
the director of developmental disabilities, may develop and 23170
implement within the medicaid program a system under which 23171
eligible individuals with chronic conditions, as defined in the 23172
"Social Security Act," section 1945 (h) (1), 42 U.S.C. 1396w-4(h) 23173
(1), who also have ~~mental retardation or other~~ developmental 23174

disabilities may receive health home services, as defined in the 23175
"Social Security Act," section 1945 (h) (4), 42 U.S.C. 1396w-4(h) 23176
(4). Any such system shall focus on the needs of individuals and 23177
have as its goal improving services and outcomes under the 23178
medicaid program by improving integration of long-term care 23179
services and supportive services with primary and acute health 23180
care services. 23181

In developing any system under this section, the directors 23182
shall consult with representatives of county boards of 23183
developmental disabilities, the Ohio provider resource 23184
association, and the arc of Ohio. The directors may consult with 23185
any other individuals or entities that have an interest in the 23186
well being of individuals with developmental disabilities. 23187

Sec. 5165.01. As used in this chapter: 23188

(A) "Affiliated operator" means an operator affiliated 23189
with either of the following: 23190

(1) The exiting operator for whom the affiliated operator 23191
is to assume liability for the entire amount of the exiting 23192
operator's debt under the medicaid program or the portion of the 23193
debt that represents the franchise permit fee the exiting 23194
operator owes; 23195

(2) The entering operator involved in the change of 23196
operator with the exiting operator specified in division (A) (1) 23197
of this section. 23198

(B) "Allowable costs" are a nursing facility's costs that 23199
the department of medicaid determines are reasonable. Fines paid 23200
under sections 5165.60 to 5165.89 and section 5165.99 of the 23201
Revised Code are not allowable costs. 23202

(C) "Ancillary and support costs" means all reasonable 23203

costs incurred by a nursing facility other than direct care 23204
costs, tax costs, or capital costs. "Ancillary and support 23205
costs" includes, but is not limited to, costs of activities, 23206
social services, pharmacy consultants, habilitation supervisors, 23207
qualified ~~mental retardation~~ intellectual disability 23208
professionals, program directors, medical and habilitation 23209
records, program supplies, incontinence supplies, food, 23210
enterals, dietary supplies and personnel, laundry, housekeeping, 23211
security, administration, medical equipment, utilities, 23212
liability insurance, bookkeeping, purchasing department, human 23213
resources, communications, travel, dues, license fees, 23214
subscriptions, home office costs not otherwise allocated, legal 23215
services, accounting services, minor equipment, maintenance and 23216
repairs, help-wanted advertising, informational advertising, 23217
start-up costs, organizational expenses, other interest, 23218
property insurance, employee training and staff development, 23219
employee benefits, payroll taxes, and workers' compensation 23220
premiums or costs for self-insurance claims and related costs as 23221
specified in rules adopted under section 5165.02 of the Revised 23222
Code, for personnel listed in this division. "Ancillary and 23223
support costs" also means the cost of equipment, including 23224
vehicles, acquired by operating lease executed before December 23225
1, 1992, if the costs are reported as administrative and general 23226
costs on the nursing facility's cost report for the cost 23227
reporting period ending December 31, 1992. 23228

(D) (1) "Capital costs" means the actual expense incurred 23229
by a nursing facility for all of the following: 23230

(a) Depreciation and interest on any capital assets that 23231
cost five hundred dollars or more per item, including the 23232
following: 23233

(i) Buildings;	23234
(ii) Building improvements;	23235
(iii) Except as provided in division (C) of this section, equipment;	23236 23237
(iv) Transportation equipment.	23238
(b) Amortization and interest on land improvements and leasehold improvements;	23239 23240
(c) Amortization of financing costs;	23241
(d) Lease and rent of land, buildings, and equipment.	23242
(2) The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	23243 23244 23245
(E) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	23246 23247 23248
(F) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.	23249 23250 23251 23252
(G) "Change of operator" means an entering operator becoming the operator of a nursing facility in the place of the exiting operator.	23253 23254 23255
(1) Actions that constitute a change of operator include the following:	23256 23257
(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;	23258 23259 23260

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred;	23261 23262 23263 23264 23265
(c) A lease of the nursing facility to the entering operator or the exiting operator's termination of the exiting operator's lease;	23266 23267 23268
(d) If the exiting operator is a partnership, dissolution of the partnership;	23269 23270
(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:	23271 23272 23273
(i) The change in composition does not cause the partnership's dissolution under state law.	23274 23275
(ii) The partners agree that the change in composition does not constitute a change in operator.	23276 23277
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	23278 23279 23280 23281 23282
(2) The following, alone, do not constitute a change of operator:	23283 23284
(a) A contract for an entity to manage a nursing facility as the operator's agent, subject to the operator's approval of daily operating and management decisions;	23285 23286 23287
(b) A change of ownership, lease, or termination of a	23288

lease of real property or personal property associated with a 23289
nursing facility if an entering operator does not become the 23290
operator in place of an exiting operator; 23291

(c) If the operator is a corporation, a change of one or 23292
more members of the corporation's governing body or transfer of 23293
ownership of one or more shares of the corporation's stock, if 23294
the same corporation continues to be the operator. 23295

(H) "Cost center" means the following: 23296

(1) Ancillary and support costs; 23297

(2) Capital costs; 23298

(3) Direct care costs; 23299

(4) Tax costs. 23300

(I) "Custom wheelchair" means a wheelchair to which both 23301
of the following apply: 23302

(1) It has been measured, fitted, or adapted in 23303
consideration of either of the following: 23304

(a) The body size or disability of the individual who is 23305
to use the wheelchair; 23306

(b) The individual's period of need for, or intended use 23307
of, the wheelchair. 23308

(2) It has customized features, modifications, or 23309
components, such as adaptive seating and positioning systems, 23310
that the supplier who assembled the wheelchair, or the 23311
manufacturer from which the wheelchair was ordered, added or 23312
made in accordance with the instructions of the physician of the 23313
individual who is to use the wheelchair. 23314

(J) (1) "Date of licensure" means the following: 23315

(a) In the case of a nursing facility that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, the date the nursing facility was originally so licensed;

(b) In the case of a nursing facility that was not required by law to be licensed as a nursing home when it originally began to be operated as a nursing home, the date it first began to be operated as a nursing home, regardless of the date the nursing facility was first licensed as a nursing home.

(2) If, after a nursing facility's original date of licensure, more nursing home beds are added to the nursing facility, the nursing facility has a different date of licensure for the additional beds. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the continuing beds already located in that part of the nursing facility;

(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed as a nursing home.

(3) The definition of "date of licensure" in this section applies in determinations of nursing facilities' medicaid payment rates but does not apply in determinations of nursing facilities' franchise permit fees.

(K) "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section 5165.10 of

the Revised Code have been subjected to a desk review under 23345
section 5165.108 of the Revised Code and preliminarily 23346
determined to be allowable costs. 23347

(L) "Direct care costs" means all of the following costs 23348
incurred by a nursing facility: 23349

(1) Costs for registered nurses, licensed practical 23350
nurses, and nurse aides employed by the nursing facility; 23351

(2) Costs for direct care staff, administrative nursing 23352
staff, medical directors, respiratory therapists, and except as 23353
provided in division (L)(8) of this section, other persons 23354
holding degrees qualifying them to provide therapy; 23355

(3) Costs of purchased nursing services; 23356

(4) Costs of quality assurance; 23357

(5) Costs of training and staff development, employee 23358
benefits, payroll taxes, and workers' compensation premiums or 23359
costs for self-insurance claims and related costs as specified 23360
in rules adopted under section 5165.02 of the Revised Code, for 23361
personnel listed in divisions (L)(1), (2), (4), and (8) of this 23362
section; 23363

(6) Costs of consulting and management fees related to 23364
direct care; 23365

(7) Allocated direct care home office costs; 23366

(8) Costs of habilitation staff (other than habilitation 23367
supervisors), medical supplies, emergency oxygen, over-the- 23368
counter pharmacy products, behavioral and mental health 23369
services, physical therapists, physical therapy assistants, 23370
occupational therapists, occupational therapy assistants, speech 23371
therapists, audiologists, habilitation supplies, and universal 23372

precautions supplies;	23373
(9) Until January 1, 2014, costs of oxygen, wheelchairs, and resident transportation;	23374 23375
(10) Beginning January 1, 2014, costs of both of the following:	23376 23377
(a) Emergency oxygen;	23378
(b) Wheelchairs other than the following:	23379
(i) Custom wheelchairs;	23380
(ii) Repairs to and replacements of custom wheelchairs and parts that are made in accordance with the instructions of the physician of the individual who uses the custom wheelchair.	23381 23382 23383
(11) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5165.02 of the Revised Code.	23384 23385 23386
(M) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.	23387 23388
(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.	23389 23390 23391
(O) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.	23392 23393 23394
(P) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.	23395 23396 23397
(Q) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to	23398 23399

accept new medicaid residents other than the individuals who 23400
reside in the nursing facility on the day before the effective 23401
date of the voluntary withdrawal of participation. 23402

(R) "Entering operator" means the person or government 23403
entity that will become the operator of a nursing facility when 23404
a change of operator occurs or following an involuntary 23405
termination. 23406

(S) "Exiting operator" means any of the following: 23407

(1) An operator that will cease to be the operator of a 23408
nursing facility on the effective date of a change of operator; 23409

(2) An operator that will cease to be the operator of a 23410
nursing facility on the effective date of a facility closure; 23411

(3) An operator of a nursing facility that is undergoing 23412
or has undergone a voluntary withdrawal of participation; 23413

(4) An operator of a nursing facility that is undergoing 23414
or has undergone an involuntary termination. 23415

(T) (1) Subject to divisions (T) (2) and (3) of this 23416
section, "facility closure" means either of the following: 23417

(a) Discontinuance of the use of the building, or part of 23418
the building, that houses the facility as a nursing facility 23419
that results in the relocation of all of the nursing facility's 23420
residents; 23421

(b) Conversion of the building, or part of the building, 23422
that houses a nursing facility to a different use with any 23423
necessary license or other approval needed for that use being 23424
obtained and one or more of the nursing facility's residents 23425
remaining in the building, or part of the building, to receive 23426
services under the new use. 23427

(2) A facility closure occurs regardless of any of the following:	23428 23429
(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;	23430 23431 23432 23433
(b) The nursing facility's residents relocating to another of the operator's nursing facilities;	23434 23435
(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the transfer of part of the nursing facility's survey findings to another of the operator's nursing facilities;	23436 23437 23438 23439
(d) Any action the department of health takes regarding the nursing facility's license under Chapter 3721. of the Revised Code.	23440 23441 23442
(3) A facility closure does not occur if all of the nursing facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs.	23443 23444 23445 23446 23447
(U) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.	23448 23449
(V) "Franchise permit fee" means the fee imposed by sections 5168.40 to 5168.56 of the Revised Code.	23450 23451
(W) "Inpatient days" means both of the following:	23452
(1) All days during which a resident, regardless of payment source, occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity;	23453 23454 23455

- (2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code. 23456
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- (X) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request. 23458
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- (Y) "Low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data. 23462
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- (Z) "Maintenance and repair expenses" means a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the costs of ordinary repairs such as painting and wallpapering. 23469
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- (AA) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds. 23476
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- (BB) "Medicaid days" means both of the following: 23479
- (1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity; 23480
23481
23482
23483
- (2) Fifty per cent of the days for which payment is made 23484

under section 5165.34 of the Revised Code. 23485

(CC) (1) "New nursing facility" means a nursing facility 23486
for which the provider obtains an initial provider agreement 23487
following medicaid certification of the nursing facility by the 23488
director of health, including such a nursing facility that 23489
replaces one or more nursing facilities for which a provider 23490
previously held a provider agreement. 23491

(2) "New nursing facility" does not mean a nursing 23492
facility for which the entering operator seeks a provider 23493
agreement pursuant to section 5165.511 or 5165.512 or (pursuant 23494
to section 5165.515) section 5165.07 of the Revised Code. 23495

(DD) "Nursing facility" has the same meaning as in the 23496
"Social Security Act," section 1919(a), 42 U.S.C. 1396r(a). 23497

(EE) "Nursing facility services" has the same meaning as 23498
in the "Social Security Act," section 1905(f), 42 U.S.C. 23499
1396d(f). 23500

(FF) "Nursing home" has the same meaning as in section 23501
3721.01 of the Revised Code. 23502

(GG) "Operator" means the person or government entity 23503
responsible for the daily operating and management decisions for 23504
a nursing facility. 23505

(HH) (1) "Owner" means any person or government entity that 23506
has at least five per cent ownership or interest, either 23507
directly, indirectly, or in any combination, in any of the 23508
following regarding a nursing facility: 23509

(a) The land on which the nursing facility is located; 23510

(b) The structure in which the nursing facility is 23511
located; 23512

(c) Any mortgage, contract for deed, or other obligation 23513
secured in whole or in part by the land or structure on or in 23514
which the nursing facility is located; 23515

(d) Any lease or sublease of the land or structure on or 23516
in which the nursing facility is located. 23517

(2) "Owner" does not mean a holder of a debenture or bond 23518
related to the nursing facility and purchased at public issue or 23519
a regulated lender that has made a loan related to the nursing 23520
facility unless the holder or lender operates the nursing 23521
facility directly or through a subsidiary. 23522

(II) "Per diem" means a nursing facility's actual, 23523
allowable costs in a given cost center in a cost reporting 23524
period, divided by the nursing facility's inpatient days for 23525
that cost reporting period. 23526

(JJ) "Provider" means an operator with a provider 23527
agreement. 23528

(KK) "Provider agreement" means a provider agreement, as 23529
defined in section 5164.01 of the Revised Code, that is between 23530
the department of medicaid and the operator of a nursing 23531
facility for the provision of nursing facility services under 23532
the medicaid program. 23533

(LL) "Purchased nursing services" means services that are 23534
provided in a nursing facility by registered nurses, licensed 23535
practical nurses, or nurse aides who are not employees of the 23536
nursing facility. 23537

(MM) "Reasonable" means that a cost is an actual cost that 23538
is appropriate and helpful to develop and maintain the operation 23539
of patient care facilities and activities, including normal 23540
standby costs, and that does not exceed what a prudent buyer 23541

pays for a given item or services. Reasonable costs may vary 23542
from provider to provider and from time to time for the same 23543
provider. 23544

(NN) "Related party" means an individual or organization 23545
that, to a significant extent, has common ownership with, is 23546
associated or affiliated with, has control of, or is controlled 23547
by, the provider. 23548

(1) An individual who is a relative of an owner is a 23549
related party. 23550

(2) Common ownership exists when an individual or 23551
individuals possess significant ownership or equity in both the 23552
provider and the other organization. Significant ownership or 23553
equity exists when an individual or individuals possess five per 23554
cent ownership or equity in both the provider and a supplier. 23555
Significant ownership or equity is presumed to exist when an 23556
individual or individuals possess ten per cent ownership or 23557
equity in both the provider and another organization from which 23558
the provider purchases or leases real property. 23559

(3) Control exists when an individual or organization has 23560
the power, directly or indirectly, to significantly influence or 23561
direct the actions or policies of an organization. 23562

(4) An individual or organization that supplies goods or 23563
services to a provider shall not be considered a related party 23564
if all of the following conditions are met: 23565

(a) The supplier is a separate bona fide organization. 23566

(b) A substantial part of the supplier's business activity 23567
of the type carried on with the provider is transacted with 23568
others than the provider and there is an open, competitive 23569
market for the types of goods or services the supplier 23570

furnishes.	23571
(c) The types of goods or services are commonly obtained	23572
by other nursing facilities from outside organizations and are	23573
not a basic element of patient care ordinarily furnished	23574
directly to patients by nursing facilities.	23575
(d) The charge to the provider is in line with the charge	23576
for the goods or services in the open market and no more than	23577
the charge made under comparable circumstances to others by the	23578
supplier.	23579
(OO) "Relative of owner" means an individual who is	23580
related to an owner of a nursing facility by one of the	23581
following relationships:	23582
(1) Spouse;	23583
(2) Natural parent, child, or sibling;	23584
(3) Adopted parent, child, or sibling;	23585
(4) Stepparent, stepchild, stepbrother, or stepsister;	23586
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-	23587
law, brother-in-law, or sister-in-law;	23588
(6) Grandparent or grandchild;	23589
(7) Foster caregiver, foster child, foster brother, or	23590
foster sister.	23591
(PP) "Residents' rights advocate" has the same meaning as	23592
in section 3721.10 of the Revised Code.	23593
(QQ) "Skilled nursing facility" has the same meaning as in	23594
the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-	23595
3(a).	23596

(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.	23597 23598
(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.	23599 23600 23601
(TT) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.	23602 23603
(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.	23604 23605
(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.	23606 23607 23608 23609
Sec. 5166.20. (A) The department of medicaid may create the following:	23610 23611
(1) One or more medicaid waiver components under which home and community-based services are provided to individuals with mental retardation or other developmental disability <u>disabilities</u> as an alternative to placement in ICFs/IID;	23612 23613 23614 23615
(2) One or more medicaid waiver components under which home and community-based services are provided in the form of any of the following:	23616 23617 23618
(a) Early intervention and supportive services for children under three years of age who have developmental delays or disabilities the department determines are significant;	23619 23620 23621
(b) Therapeutic services for children who have autism;	23622
(c) Specialized habilitative services for individuals who	23623

are eighteen years of age or older and have autism. 23624

(B) No medicaid waiver component created pursuant to 23625
division (A) (2) (b) or (c) of this section shall provide services 23626
that are available under another medicaid waiver component. No 23627
medicaid waiver component created pursuant to division (A) (2) (b) 23628
of this section shall provide services to an individual that the 23629
individual is eligible to receive through an individualized 23630
education program as defined in section 3323.01 of the Revised 23631
Code. 23632

(C) The director of developmental disabilities and 23633
director of health may request that the department of medicaid 23634
create one or more medicaid waiver components under this 23635
section. 23636

(D) Before creating a medicaid waiver component under this 23637
section, the department of medicaid shall seek, accept, and 23638
consider public comments. 23639

Sec. 5166.21. The department of medicaid shall enter into 23640
a contract with the department of developmental disabilities 23641
under section 5162.35 of the Revised Code with regard to one or 23642
more of the medicaid waiver components created by the department 23643
of medicaid under section 5166.20 of the Revised Code. The 23644
contract shall include the medicaid waiver component known as 23645
the transitions developmental disabilities waiver. The contract 23646
shall provide for the department of developmental disabilities 23647
to administer the components in accordance with the terms of the 23648
federal medicaid waivers authorizing the components. The 23649
contract shall include a schedule for the department of 23650
developmental disabilities to begin administering the 23651
transitions developmental disabilities waiver. 23652

If the department of developmental disabilities or the 23653
department of medicaid denies an individual's application for 23654
home and community-based services provided under any of these 23655
medicaid components, the department that denied the services 23656
shall give timely notice to the individual that the individual 23657
may appeal pursuant to section 5160.31 of the Revised Code. 23658

The departments of developmental disabilities and medicaid 23659
may approve, reduce, deny, or terminate a medicaid service 23660
included in the ~~individualized~~ individual service plan developed 23661
for a medicaid recipient eligible for home and community-based 23662
services provided under any of these medicaid components. The 23663
departments shall consider the recommendations a county board of 23664
developmental disabilities makes under division (A) (1) (c) of 23665
section 5126.055 of the Revised Code. If either department 23666
approves, reduces, denies, or terminates a medicaid service, 23667
that department shall give timely notice to the medicaid 23668
recipient that the recipient may appeal pursuant to section 23669
5160.31 of the Revised Code. 23670

If supported living, as defined in section 5126.01 of the 23671
Revised Code, is to be provided as a medicaid service under any 23672
of these components, any person or government entity with a 23673
current, valid provider agreement and a current, valid 23674
certificate under section 5123.161 of the Revised Code may 23675
provide the medicaid service. 23676

If a medicaid service is to be provided under any of these 23677
components by a residential facility, as defined in section 23678
5123.19 of the Revised Code, any person or government entity 23679
with a current, valid provider agreement and a current, valid 23680
license under section 5123.19 of the Revised Code may provide 23681
the medicaid service. 23682

Sec. 5166.22. (A) Subject to division (B) of this section, 23683
when the department of developmental disabilities allocates 23684
enrollment numbers to a county board of developmental 23685
disabilities for home and community-based services specified in 23686
division (A) (1) of section 5166.20 of the Revised Code and 23687
provided under any of the medicaid waiver components that the 23688
department administers under section 5166.21 of the Revised 23689
Code, the department shall consider all of the following: 23690

(1) The number of individuals with ~~mental retardation or~~ 23691
~~other developmental disability~~ disabilities who are on a waiting 23692
list the county board establishes under section 5126.042 of the 23693
Revised Code for those services and are given priority on the 23694
waiting list; 23695

(2) The implementation component required by division (A) 23696
(3) of section 5126.054 of the Revised Code of the county 23697
board's plan approved under section 5123.046 of the Revised 23698
Code; 23699

(3) Anything else the department considers necessary to 23700
enable county boards to provide those services to individuals in 23701
accordance with the priority requirements for waiting lists 23702
established under section 5126.042 of the Revised Code for those 23703
services. 23704

(B) Division (A) of this section applies to home and 23705
community-based services provided under the medicaid waiver 23706
component known as the transitions developmental disabilities 23707
waiver only to the extent, if any, provided by the contract 23708
required by section 5166.21 of the Revised Code regarding the 23709
component. 23710

Sec. 5168.68. There is hereby created in the state 23711

treasury the home and community-based services for ~~the mentally-~~ 23712
~~retarded and developmentally disabled persons with developmental~~ 23713
disabilities fund. All installment payments and penalties paid 23714
by an ICF/IID under sections 5168.63 and 5168.65 of the Revised 23715
Code shall be deposited into the fund. As soon as possible after 23716
the end of each quarter, the medicaid director shall certify to 23717
the director of budget and management the amount of money that 23718
is in the fund as of the last day of that quarter. On receipt of 23719
a certification, the director of budget and management shall 23720
transfer the amount so certified from the home and community- 23721
based services for ~~the mentally retarded and developmentally-~~ 23722
~~disabled persons with developmental disabilities~~ fund to the 23723
department of developmental disabilities operating and services 23724
fund created under section 5168.69 of the Revised Code. 23725

Sec. 5301.22. As used in this section, "incompetent 23726
person" means a person who is so mentally impaired, as a result 23727
of a mental or physical illness or disability, ~~or mental-~~ 23728
~~retardation~~ as a result of an intellectual disability, or as a 23729
result of chronic substance abuse, that the person is incapable 23730
of taking proper care of the person's self or property or fails 23731
to provide for the person's family or other persons for whom the 23732
person is charged by law to provide. 23733

No agreement described in section 5301.21 of the Revised 23734
Code shall be executed by a minor or incompetent person, but it 23735
may be executed and delivered for record, on such a person's 23736
behalf, by the person's guardian. When executed, acknowledged, 23737
delivered for record, and recorded, such agreement shall be as 23738
effectual against such minor or incompetent person, as if the 23739
person had been under no disability, and had performed such acts 23740
personally. An owner, not under any of such disabilities, may 23741
perform all such acts by an attorney in fact. The power of such 23742

attorney must be in writing and first recorded in the county 23743
recorder's office. 23744

Sec. 5305.17. As used in this section and sections 5305.18 23745
to 5305.22 of the Revised Code, "incompetent person" means a 23746
person who is so mentally impaired, as a result of a mental or 23747
physical illness or disability, ~~or mental retardation~~ as a result 23748
of an intellectual disability, or as a result of chronic 23749
substance abuse, that the person is incapable of taking proper 23750
care of the person's self or property or fails to provide for 23751
the person's family or other persons for whom the person is 23752
charged by law to provide. 23753

The guardian of a surviving spouse who has been adjudged 23754
to be an incompetent person may appear and answer for such 23755
incompetent person in an action under section 5305.15 of the 23756
Revised Code, subject to the approval of the court in which it 23757
is pending. Such answer has the same effect as if such spouse 23758
answered personally. The guardian shall be liable to such 23759
spouse, or the heirs, for all damage or loss sustained by the 23760
guardian's fraud or collusion, notwithstanding the approval of 23761
the court. 23762

Sec. 5307.19. As used in this section and section 5307.20 23763
of the Revised Code, "incompetent person" means a person who is 23764
so mentally impaired, as a result of a mental or physical 23765
illness or disability, ~~or mental retardation~~ as a result of an 23766
intellectual disability, or as a result of chronic substance 23767
abuse, that the person is incapable of taking proper care of the 23768
person's self or property or fails to provide for the person's 23769
family or other persons for whom the person is charged by law to 23770
provide. 23771

The guardian of a minor or incompetent person, on behalf 23772

of the guardian's ward, may perform any act, matter, or thing 23773
respecting the partition of an estate which such ward could do 23774
under sections 5307.01 to 5307.25 of the Revised Code, if the 23775
ward were of age and of sound mind. On behalf of such ward, the 23776
guardian may elect to take the estate, when it cannot be divided 23777
without injury, and make payments therefor on the ward's behalf. 23778

Sec. 5310.12. As used in this section, "incompetent 23779
person" means a person who is so mentally impaired, as a result 23780
of a mental or physical illness or disability, ~~or mental~~ 23781
~~retardation~~ as a result of an intellectual disability, or as a 23782
result of chronic substance abuse, that the person is incapable 23783
of taking proper care of the person's self or property or fails 23784
to provide for the person's family or other persons for whom the 23785
person is charged by law to provide. 23786

No action or proceeding for compensation from the 23787
assurance fund provided for in section 5310.05 of the Revised 23788
Code for, or by reason of, any deprivation, loss, or damage 23789
shall be made, brought or taken, except within a period of six 23790
years from the time when the right to bring such action or 23791
proceeding first accrued. If at the time when such right of 23792
action first accrues the person entitled to bring such action or 23793
take such proceedings is within the age of eighteen years, an 23794
incompetent person, imprisoned, or absent from the United States 23795
in the service of the United States or of this state, such 23796
person or anyone claiming from, by, or under the person, may 23797
bring the action at any time within two years after such 23798
disability is removed. 23799

Sec. 5321.01. As used in this chapter: 23800

(A) "Tenant" means a person entitled under a rental 23801
agreement to the use and occupancy of residential premises to 23802

the exclusion of others. 23803

(B) "Landlord" means the owner, lessor, or sublessor of 23804
residential premises, the agent of the owner, lessor, or 23805
sublessor, or any person authorized by the owner, lessor, or 23806
sublessor to manage the premises or to receive rent from a 23807
tenant under a rental agreement. 23808

(C) "Residential premises" means a dwelling unit for 23809
residential use and occupancy and the structure of which it is a 23810
part, the facilities and appurtenances in it, and the grounds, 23811
areas, and facilities for the use of tenants generally or the 23812
use of which is promised the tenant. "Residential premises" 23813
includes a dwelling unit that is owned or operated by a college 23814
or university. "Residential premises" does not include any of 23815
the following: 23816

(1) Prisons, jails, workhouses, and other places of 23817
incarceration or correction, including, but not limited to, 23818
halfway houses or residential arrangements that are used or 23819
occupied as a requirement of a community control sanction, a 23820
post-release control sanction, or parole; 23821

(2) Hospitals and similar institutions with the primary 23822
purpose of providing medical services, and homes licensed 23823
pursuant to Chapter 3721. of the Revised Code; 23824

(3) Tourist homes, hotels, motels, recreational vehicle 23825
parks, recreation camps, combined park-camps, temporary park- 23826
camps, and other similar facilities where circumstances indicate 23827
a transient occupancy; 23828

(4) Elementary and secondary boarding schools, where the 23829
cost of room and board is included as part of the cost of 23830
tuition; 23831

(5) Orphanages and similar institutions;	23832
(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants;	23833 23834 23835
(7) Dwelling units subject to sections 3733.41 to 3733.49 of the Revised Code;	23836 23837
(8) Occupancy by an owner of a condominium unit;	23838
(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:	23839 23840 23841 23842 23843 23844 23845
(a) The occupancy is for a period of less than sixty days.	23846
(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:	23847 23848 23849 23850
(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of mentally ill persons, developmentally disabled persons <u>with developmental disabilities</u> , adults or juveniles convicted of criminal offenses, or persons suffering from substance abuse;	23851 23852 23853 23854 23855 23856
(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons.	23857 23858
(10) Emergency shelters operated by organizations exempt	23859

from federal income taxation under section 501(c)(3) of the 23860
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 23861
501, as amended, for persons whose circumstances indicate a 23862
transient occupancy, including homeless people, victims of 23863
domestic violence, and juvenile runaways. 23864

(D) "Rental agreement" means any agreement or lease, 23865
written or oral, which establishes or modifies the terms, 23866
conditions, rules, or any other provisions concerning the use 23867
and occupancy of residential premises by one of the parties. 23868

(E) "Security deposit" means any deposit of money or 23869
property to secure performance by the tenant under a rental 23870
agreement. 23871

(F) "Dwelling unit" means a structure or the part of a 23872
structure that is used as a home, residence, or sleeping place 23873
by one person who maintains a household or by two or more 23874
persons who maintain a common household. 23875

(G) "Controlled substance" has the same meaning as in 23876
section 3719.01 of the Revised Code. 23877

(H) "Student tenant" means a person who occupies a 23878
dwelling unit owned or operated by the college or university at 23879
which the person is a student, and who has a rental agreement 23880
that is contingent upon the person's status as a student. 23881

(I) "Recreational vehicle park," "recreation camp," 23882
"combined park-camp," and "temporary park-camp" have the same 23883
meanings as in section 3729.01 of the Revised Code. 23884

(J) "Community control sanction" has the same meaning as 23885
in section 2929.01 of the Revised Code. 23886

(K) "Post-release control sanction" has the same meaning 23887

as in section 2967.01 of the Revised Code.	23888
(L) "School premises" has the same meaning as in section 2925.01 of the Revised Code.	23889 23890
(M) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	23891 23892 23893
(N) "Preschool or child day-care center premises" has the the same meaning as in section 2950.034 of the Revised Code.	23894 23895
Sec. 5705.05. The purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made. The taxing authority of a political subdivision may include in such levy the amounts required for carrying into effect any of the general or special powers granted by law to such subdivision, including the acquisition or construction of permanent improvements and the payment of judgments, but excluding the payment of debt charges and, in the case of counties, the construction, reconstruction, resurfacing, or repair of roads and bridges. The power to include in the general levy for current expenses additional amounts for purposes for which a special tax is authorized shall not affect the right or obligation to levy such special tax. Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include:	23896 23897 23898 23899 23900 23901 23902 23903 23904 23905 23906 23907 23908 23909 23910 23911 23912
(A) The amounts certified to be necessary for the payment of final judgments;	23913 23914
(B) The amounts necessary for general, special, and primary elections;	23915 23916

(C) The amounts necessary for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision;

(D) In the case of municipal corporations, the amounts necessary for the maintenance, operation, and repair of public buildings, wharves, bridges, parks, and streets, for the prevention, control, and abatement of air pollution, and for a sanitary fund;

(E) In the case of counties, the amounts necessary for the maintenance, operation, and repair of public buildings, for providing or maintaining senior citizens services or facilities, for the relief and support of the poor, for the relief of needy blind, for the support of mental health, ~~mental retardation~~, or developmental disability services, for the relief of honorably discharged soldiers, indigent soldiers, sailors, and marines, for the operation and maintenance and the acquisition, construction, or improvement of permanent improvements, including, without limitation, the acquisition and improvement of land and buildings owned or used by a county land reutilization corporation organized under Chapter 1724. of the Revised Code, for mothers' pension fund, support of soil and water conservation districts, watershed conservancy districts, and educational television, for the prevention, control, and abatement of air pollution, and for the county's share of the compensation paid judges;

(F) In the case of a school district, the amounts necessary for tuition, the state teachers retirement system, and the maintenance, operation, and repair of schools;

(G) In the case of a township, the amounts necessary for the relief of the poor and for the prevention, control, and

abatement of air pollution. 23947

This section does not require the inclusion within the 23948
general levy of amounts for any purpose for which a special levy 23949
is authorized by section 5705.06 of the Revised Code. 23950

Sec. 5705.091. The board of county commissioners of each 23951
county shall establish a county developmental disabilities 23952
general fund. Notwithstanding section 5705.10 of the Revised 23953
Code, proceeds from levies under section 5705.222 and division 23954
(L) of section 5705.19 of the Revised Code shall be deposited to 23955
the credit of the county developmental disabilities general 23956
fund. Accounts shall be established within the county 23957
developmental disabilities general fund for each of the several 23958
particular purposes of the levies as specified in the 23959
resolutions under which the levies were approved, and proceeds 23960
from different levies that were approved for the same particular 23961
purpose shall be credited to accounts for that purpose. Other 23962
money received by the county for the purposes of Chapters 3323. 23963
and 5126. of the Revised Code and not required by state or 23964
federal law to be deposited to the credit of a different fund 23965
shall also be deposited to the credit of the county 23966
developmental disabilities general fund, in an account 23967
appropriate to the particular purpose for which the money was 23968
received. Unless otherwise provided by law, an unexpended 23969
balance at the end of a fiscal year in any account in the county 23970
developmental disabilities general fund shall be appropriated 23971
the next fiscal year to the same fund. 23972

A county board of developmental disabilities may request, 23973
by resolution, that the board of county commissioners establish 23974
a county developmental disabilities capital fund for money to be 23975
used for acquisition, construction, or improvement of capital 23976

facilities or acquisition of capital equipment used in providing 23977
services to ~~mentally retarded and developmentally disabled~~ 23978
persons with developmental disabilities. The county board of 23979
developmental disabilities shall transmit a certified copy of 23980
the resolution to the board of county commissioners. Upon 23981
receiving the resolution, the board of county commissioners 23982
shall establish a county developmental disabilities capital 23983
fund. 23984

Sec. 5705.19. This section does not apply to school 23985
districts, county school financing districts, or lake facilities 23986
authorities. 23987

The taxing authority of any subdivision at any time and in 23988
any year, by vote of two-thirds of all the members of the taxing 23989
authority, may declare by resolution and certify the resolution 23990
to the board of elections not less than ninety days before the 23991
election upon which it will be voted that the amount of taxes 23992
that may be raised within the ten-mill limitation will be 23993
insufficient to provide for the necessary requirements of the 23994
subdivision and that it is necessary to levy a tax in excess of 23995
that limitation for any of the following purposes: 23996

(A) For current expenses of the subdivision, except that 23997
the total levy for current expenses of a detention facility 23998
district or district organized under section 2151.65 of the 23999
Revised Code shall not exceed two mills and that the total levy 24000
for current expenses of a combined district organized under 24001
sections 2151.65 and 2152.41 of the Revised Code shall not 24002
exceed four mills; 24003

(B) For the payment of debt charges on certain described 24004
bonds, notes, or certificates of indebtedness of the subdivision 24005
issued subsequent to January 1, 1925; 24006

(C) For the debt charges on all bonds, notes, and	24007
certificates of indebtedness issued and authorized to be issued	24008
prior to January 1, 1925;	24009
(D) For a public library of, or supported by, the	24010
subdivision under whatever law organized or authorized to be	24011
supported;	24012
(E) For a municipal university, not to exceed two mills	24013
over the limitation of one mill prescribed in section 3349.13 of	24014
the Revised Code;	24015
(F) For the construction or acquisition of any specific	24016
permanent improvement or class of improvements that the taxing	24017
authority of the subdivision may include in a single bond issue;	24018
(G) For the general construction, reconstruction,	24019
resurfacing, and repair of streets, roads, and bridges in	24020
municipal corporations, counties, or townships;	24021
(H) For parks and recreational purposes;	24022
(I) For the purpose of providing and maintaining fire	24023
apparatus, appliances, buildings, or sites therefor, or sources	24024
of water supply and materials therefor, or the establishment and	24025
maintenance of lines of fire alarm telegraph, or the payment of	24026
firefighting companies or permanent, part-time, or volunteer	24027
firefighting, emergency medical service, administrative, or	24028
communications personnel to operate the same, including the	24029
payment of any employer contributions required for such	24030
personnel under section 145.48 or 742.34 of the Revised Code, or	24031
the purchase of ambulance equipment, or the provision of	24032
ambulance, paramedic, or other emergency medical services	24033
operated by a fire department or firefighting company;	24034
(J) For the purpose of providing and maintaining motor	24035

vehicles, communications, other equipment, buildings, and sites 24036
for such buildings used directly in the operation of a police 24037
department, or the payment of salaries of permanent or part-time 24038
police, communications, or administrative personnel to operate 24039
the same, including the payment of any employer contributions 24040
required for such personnel under section 145.48 or 742.33 of 24041
the Revised Code, or the payment of the costs incurred by 24042
townships as a result of contracts made with other political 24043
subdivisions in order to obtain police protection, or the 24044
provision of ambulance or emergency medical services operated by 24045
a police department; 24046

(K) For the maintenance and operation of a county home or 24047
detention facility; 24048

(L) For community ~~mental retardation and~~ developmental 24049
disabilities programs and services pursuant to Chapter 5126. of 24050
the Revised Code, except that the procedure for such levies 24051
shall be as provided in section 5705.222 of the Revised Code; 24052

(M) For regional planning; 24053

(N) For a county's share of the cost of maintaining and 24054
operating schools, district detention facilities, forestry 24055
camps, or other facilities, or any combination thereof, 24056
established under section 2151.65 or 2152.41 of the Revised Code 24057
or both of those sections; 24058

(O) For providing for flood defense, providing and 24059
maintaining a flood wall or pumps, and other purposes to prevent 24060
floods; 24061

(P) For maintaining and operating sewage disposal plants 24062
and facilities; 24063

(Q) For the purpose of purchasing, acquiring, 24064

constructing, enlarging, improving, equipping, repairing,	24065
maintaining, or operating, or any combination of the foregoing,	24066
a county transit system pursuant to sections 306.01 to 306.13 of	24067
the Revised Code, or of making any payment to a board of county	24068
commissioners operating a transit system or a county transit	24069
board pursuant to section 306.06 of the Revised Code;	24070
(R) For the subdivision's share of the cost of acquiring	24071
or constructing any schools, forestry camps, detention	24072
facilities, or other facilities, or any combination thereof,	24073
under section 2151.65 or 2152.41 of the Revised Code or both of	24074
those sections;	24075
(S) For the prevention, control, and abatement of air	24076
pollution;	24077
(T) For maintaining and operating cemeteries;	24078
(U) For providing ambulance service, emergency medical	24079
service, or both;	24080
(V) For providing for the collection and disposal of	24081
garbage or refuse, including yard waste;	24082
(W) For the payment of the police officer employers'	24083
contribution or the firefighter employers' contribution required	24084
under sections 742.33 and 742.34 of the Revised Code;	24085
(X) For the construction and maintenance of a drainage	24086
improvement pursuant to section 6131.52 of the Revised Code;	24087
(Y) For providing or maintaining senior citizens services	24088
or facilities as authorized by section 307.694, 307.85, 505.70,	24089
or 505.706 or division (EE) of section 717.01 of the Revised	24090
Code;	24091
(Z) For the provision and maintenance of zoological park	24092

services and facilities as authorized under section 307.76 of	24093
the Revised Code;	24094
(AA) For the maintenance and operation of a free public	24095
museum of art, science, or history;	24096
(BB) For the establishment and operation of a 9-1-1	24097
system, as defined in section 128.01 of the Revised Code;	24098
(CC) For the purpose of acquiring, rehabilitating, or	24099
developing rail property or rail service. As used in this	24100
division, "rail property" and "rail service" have the same	24101
meanings as in section 4981.01 of the Revised Code. This	24102
division applies only to a county, township, or municipal	24103
corporation.	24104
(DD) For the purpose of acquiring property for,	24105
constructing, operating, and maintaining community centers as	24106
provided for in section 755.16 of the Revised Code;	24107
(EE) For the creation and operation of an office or joint	24108
office of economic development, for any economic development	24109
purpose of the office, and to otherwise provide for the	24110
establishment and operation of a program of economic development	24111
pursuant to sections 307.07 and 307.64 of the Revised Code, or	24112
to the extent that the expenses of a county land reutilization	24113
corporation organized under Chapter 1724. of the Revised Code	24114
are found by the board of county commissioners to constitute the	24115
promotion of economic development, for the payment of such	24116
operations and expenses;	24117
(FF) For the purpose of acquiring, establishing,	24118
constructing, improving, equipping, maintaining, or operating,	24119
or any combination of the foregoing, a township airport, landing	24120
field, or other air navigation facility pursuant to section	24121

505.15 of the Revised Code; 24122

(GG) For the payment of costs incurred by a township as a 24123
result of a contract made with a county pursuant to section 24124
505.263 of the Revised Code in order to pay all or any part of 24125
the cost of constructing, maintaining, repairing, or operating a 24126
water supply improvement; 24127

(HH) For a board of township trustees to acquire, other 24128
than by appropriation, an ownership interest in land, water, or 24129
wetlands, or to restore or maintain land, water, or wetlands in 24130
which the board has an ownership interest, not for purposes of 24131
recreation, but for the purposes of protecting and preserving 24132
the natural, scenic, open, or wooded condition of the land, 24133
water, or wetlands against modification or encroachment 24134
resulting from occupation, development, or other use, which may 24135
be styled as protecting or preserving "greenspace" in the 24136
resolution, notice of election, or ballot form. Except as 24137
otherwise provided in this division, land is not acquired for 24138
purposes of recreation, even if the land is used for 24139
recreational purposes, so long as no building, structure, or 24140
fixture used for recreational purposes is permanently attached 24141
or affixed to the land. Except as otherwise provided in this 24142
division, land that previously has been acquired in a township 24143
for these greenspace purposes may subsequently be used for 24144
recreational purposes if the board of township trustees adopts a 24145
resolution approving that use and no building, structure, or 24146
fixture used for recreational purposes is permanently attached 24147
or affixed to the land. The authorization to use greenspace land 24148
for recreational use does not apply to land located in a 24149
township that had a population, at the time it passed its first 24150
greenspace levy, of more than thirty-eight thousand within a 24151
county that had a population, at that time, of at least eight 24152

hundred sixty thousand.	24153
(II) For the support by a county of a crime victim	24154
assistance program that is provided and maintained by a county	24155
agency or a private, nonprofit corporation or association under	24156
section 307.62 of the Revised Code;	24157
(JJ) For any or all of the purposes set forth in divisions	24158
(I) and (J) of this section. This division applies only to a	24159
township.	24160
(KK) For a countywide public safety communications system	24161
under section 307.63 of the Revised Code. This division applies	24162
only to counties.	24163
(LL) For the support by a county of criminal justice	24164
services under section 307.45 of the Revised Code;	24165
(MM) For the purpose of maintaining and operating a jail	24166
or other detention facility as defined in section 2921.01 of the	24167
Revised Code;	24168
(NN) For purchasing, maintaining, or improving, or any	24169
combination of the foregoing, real estate on which to hold, and	24170
the operating expenses of, agricultural fairs operated by a	24171
county agricultural society or independent agricultural society	24172
under Chapter 1711. of the Revised Code. This division applies	24173
only to a county.	24174
(OO) For constructing, rehabilitating, repairing, or	24175
maintaining sidewalks, walkways, trails, bicycle pathways, or	24176
similar improvements, or acquiring ownership interests in land	24177
necessary for the foregoing improvements;	24178
(PP) For both of the purposes set forth in divisions (G)	24179
and (OO) of this section.	24180

(QQ) For both of the purposes set forth in divisions (H) 24181
and (HH) of this section. This division applies only to a 24182
township. 24183

(RR) For the legislative authority of a municipal 24184
corporation, board of county commissioners of a county, or board 24185
of township trustees of a township to acquire agricultural 24186
easements, as defined in section 5301.67 of the Revised Code, 24187
and to supervise and enforce the easements. 24188

(SS) For both of the purposes set forth in divisions (BB) 24189
and (KK) of this section. This division applies only to a 24190
county. 24191

(TT) For the maintenance and operation of a facility that 24192
is organized in whole or in part to promote the sciences and 24193
natural history under section 307.761 of the Revised Code. 24194

(UU) For the creation and operation of a county land 24195
reutilization corporation and for any programs or activities of 24196
the corporation found by the board of directors of the 24197
corporation to be consistent with the purposes for which the 24198
corporation is organized; 24199

(VV) For construction and maintenance of improvements and 24200
expenses of soil and water conservation district programs under 24201
Chapter 1515. of the Revised Code; 24202

(WW) For the OSU extension fund created under section 24203
3335.35 of the Revised Code for the purposes prescribed under 24204
section 3335.36 of the Revised Code for the benefit of the 24205
citizens of a county. This division applies only to a county. 24206

(XX) For a municipal corporation that withdraws or 24207
proposes by resolution to withdraw from a regional transit 24208
authority under section 306.55 of the Revised Code to provide 24209

transportation services for the movement of persons within, 24210
from, or to the municipal corporation; 24211

(YY) For any combination of the purposes specified in 24212
divisions (NN), (VV), and (WW) of this section. This division 24213
applies only to a county. 24214

The resolution shall be confined to the purpose or 24215
purposes described in one division of this section, to which the 24216
revenue derived therefrom shall be applied. The existence in any 24217
other division of this section of authority to levy a tax for 24218
any part or all of the same purpose or purposes does not 24219
preclude the use of such revenues for any part of the purpose or 24220
purposes of the division under which the resolution is adopted. 24221

The resolution shall specify the amount of the increase in 24222
rate that it is necessary to levy, the purpose of that increase 24223
in rate, and the number of years during which the increase in 24224
rate shall be in effect, which may or may not include a levy 24225
upon the duplicate of the current year. The number of years may 24226
be any number not exceeding five, except as follows: 24227

(1) When the additional rate is for the payment of debt 24228
charges, the increased rate shall be for the life of the 24229
indebtedness. 24230

(2) When the additional rate is for any of the following, 24231
the increased rate shall be for a continuing period of time: 24232

(a) For the current expenses for a detention facility 24233
district, a district organized under section 2151.65 of the 24234
Revised Code, or a combined district organized under sections 24235
2151.65 and 2152.41 of the Revised Code; 24236

(b) For providing a county's share of the cost of 24237
maintaining and operating schools, district detention 24238

facilities, forestry camps, or other facilities, or any 24239
combination thereof, established under section 2151.65 or 24240
2152.41 of the Revised Code or under both of those sections. 24241

(3) When the additional rate is for either of the 24242
following, the increased rate may be for a continuing period of 24243
time: 24244

(a) For the purposes set forth in division (I), (J), (U), 24245
or (KK) of this section; 24246

(b) For the maintenance and operation of a joint 24247
recreation district. 24248

(4) When the increase is for the purpose or purposes set 24249
forth in division (D), (G), (H), (Z), (CC), or (PP) of this 24250
section, the tax levy may be for any specified number of years 24251
or for a continuing period of time, as set forth in the 24252
resolution. 24253

A levy for one of the purposes set forth in division (G), 24254
(I), (J), or (U) of this section may be reduced pursuant to 24255
section 5705.261 or 5705.31 of the Revised Code. A levy for one 24256
of the purposes set forth in division (G), (I), (J), or (U) of 24257
this section may also be terminated or permanently reduced by 24258
the taxing authority if it adopts a resolution stating that the 24259
continuance of the levy is unnecessary and the levy shall be 24260
terminated or that the millage is excessive and the levy shall 24261
be decreased by a designated amount. 24262

A resolution of a detention facility district, a district 24263
organized under section 2151.65 of the Revised Code, or a 24264
combined district organized under both sections 2151.65 and 24265
2152.41 of the Revised Code may include both current expenses 24266
and other purposes, provided that the resolution shall apportion 24267

the annual rate of levy between the current expenses and the 24268
other purpose or purposes. The apportionment need not be the 24269
same for each year of the levy, but the respective portions of 24270
the rate actually levied each year for the current expenses and 24271
the other purpose or purposes shall be limited by the 24272
apportionment. 24273

Whenever a board of county commissioners, acting either as 24274
the taxing authority of its county or as the taxing authority of 24275
a sewer district or subdistrict created under Chapter 6117. of 24276
the Revised Code, by resolution declares it necessary to levy a 24277
tax in excess of the ten-mill limitation for the purpose of 24278
constructing, improving, or extending sewage disposal plants or 24279
sewage systems, the tax may be in effect for any number of years 24280
not exceeding twenty, and the proceeds of the tax, 24281
notwithstanding the general provisions of this section, may be 24282
used to pay debt charges on any obligations issued and 24283
outstanding on behalf of the subdivision for the purposes 24284
enumerated in this paragraph, provided that any such obligations 24285
have been specifically described in the resolution. 24286

A resolution adopted by the legislative authority of a 24287
municipal corporation that is for the purpose in division (XX) 24288
of this section may be combined with the purpose provided in 24289
section 306.55 of the Revised Code, by vote of two-thirds of all 24290
members of the legislative authority. The legislative authority 24291
may certify the resolution to the board of elections as a 24292
combined question. The question appearing on the ballot shall be 24293
as provided in section 5705.252 of the Revised Code. 24294

The resolution shall go into immediate effect upon its 24295
passage, and no publication of the resolution is necessary other 24296
than that provided for in the notice of election. 24297

When the electors of a subdivision or, in the case of a 24298
qualifying library levy for the support of a library association 24299
or private corporation, the electors of the association library 24300
district, have approved a tax levy under this section, the 24301
taxing authority of the subdivision may anticipate a fraction of 24302
the proceeds of the levy and issue anticipation notes in 24303
accordance with section 5705.191 or 5705.193 of the Revised 24304
Code. 24305

Sec. 5705.222. (A) At any time the board of county 24306
commissioners of any county by a majority vote of the full 24307
membership may declare by resolution and certify to the board of 24308
elections of the county that the amount of taxes which may be 24309
raised within the ten-mill limitation by levies on the current 24310
tax duplicate will be insufficient to provide the necessary 24311
requirements of the county board of developmental disabilities 24312
established pursuant to Chapter 5126. of the Revised Code and 24313
that it is necessary to levy a tax in excess of such limitation 24314
for the operation of programs and services by county boards of 24315
developmental disabilities and for the acquisition, 24316
construction, renovation, financing, maintenance, and operation 24317
of ~~mental retardation and~~ developmental disabilities facilities. 24318

Such resolution shall conform to section 5705.19 of the 24319
Revised Code, except that the increased rate may be in effect 24320
for any number of years not exceeding ten or for a continuing 24321
period of time. 24322

The resolution shall be certified and submitted in the 24323
manner provided in section 5705.25 of the Revised Code, except 24324
that it may be placed on the ballot in any election, and shall 24325
be certified to the board of elections not less than ninety days 24326
before the election at which it will be voted upon. 24327

If the majority of the electors voting on a levy for the support of the programs and services of the county board of developmental disabilities vote in favor of the levy, the board of county commissioners may levy a tax within the county at the additional rate outside the ten-mill limitation during the specified or continuing period, for the purpose stated in the resolution. The county board of developmental disabilities, within its budget and with the approval of the board of county commissioners through annual appropriations, shall use the proceeds of a levy approved under this section solely for the purposes authorized by this section.

(B) When electors have approved a tax levy under this section, the county commissioners may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

(C) The county auditor, upon receipt of a resolution from the county board of developmental disabilities, shall establish a capital improvements account or a reserve balance account, or both, as specified in the resolution. The capital improvements account shall be a contingency account for the necessary acquisition, replacement, renovation, or construction of facilities and movable and fixed equipment. Upon the request of the county board of developmental disabilities, moneys not needed to pay for current expenses may be appropriated to this account, in amounts such that this account does not exceed twenty-five per cent of the replacement value of all capital facilities and equipment currently used by the county board of developmental disabilities for ~~mental retardation and~~ developmental disabilities programs and services. Other moneys available for current capital expenses from federal, state, or

local sources may also be appropriated to this account. 24359

The reserve balance account shall contain those moneys 24360
that are not needed to pay for current operating expenses and 24361
not deposited in the capital improvements account but that will 24362
be needed to pay for operating expenses in the future. Upon the 24363
request of a county board of developmental disabilities, the 24364
board of county commissioners may appropriate moneys to the 24365
reserve balance account. 24366

Sec. 5709.40. (A) As used in this section: 24367

(1) "Blighted area" and "impacted city" have the same 24368
meanings as in section 1728.01 of the Revised Code. 24369

(2) "Business day" means a day of the week excluding 24370
Saturday, Sunday, and a legal holiday as defined under section 24371
1.14 of the Revised Code. 24372

(3) "Housing renovation" means a project carried out for 24373
residential purposes. 24374

(4) "Improvement" means the increase in the assessed value 24375
of any real property that would first appear on the tax list and 24376
duplicate of real and public utility property after the 24377
effective date of an ordinance adopted under this section were 24378
it not for the exemption granted by that ordinance. 24379

(5) "Incentive district" means an area not more than three 24380
hundred acres in size enclosed by a continuous boundary in which 24381
a project is being, or will be, undertaken and having one or 24382
more of the following distress characteristics: 24383

(a) At least fifty-one per cent of the residents of the 24384
district have incomes of less than eighty per cent of the median 24385
income of residents of the political subdivision in which the 24386

district is located, as determined in the same manner specified 24387
under section 119(b) of the "Housing and Community Development 24388
Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 24389

(b) The average rate of unemployment in the district 24390
during the most recent twelve-month period for which data are 24391
available is equal to at least one hundred fifty per cent of the 24392
average rate of unemployment for this state for the same period. 24393

(c) At least twenty per cent of the people residing in the 24394
district live at or below the poverty level as defined in the 24395
federal Housing and Community Development Act of 1974, 42 U.S.C. 24396
5301, as amended, and regulations adopted pursuant to that act. 24397

(d) The district is a blighted area. 24398

(e) The district is in a situational distress area as 24399
designated by the director of development services under 24400
division (F) of section 122.23 of the Revised Code. 24401

(f) As certified by the engineer for the political 24402
subdivision, the public infrastructure serving the district is 24403
inadequate to meet the development needs of the district as 24404
evidenced by a written economic development plan or urban 24405
renewal plan for the district that has been adopted by the 24406
legislative authority of the subdivision. 24407

(g) The district is comprised entirely of unimproved land 24408
that is located in a distressed area as defined in section 24409
122.23 of the Revised Code. 24410

(6) "Project" means development activities undertaken on 24411
one or more parcels, including, but not limited to, 24412
construction, expansion, and alteration of buildings or 24413
structures, demolition, remediation, and site development, and 24414
any building or structure that results from those activities. 24415

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. For this purpose, "parcel that is used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared

to be a public purpose may be exempted from real property 24447
taxation for a period of not more than ten years. The ordinance 24448
shall specify the percentage of the improvement to be exempted 24449
from taxation and the life of the exemption. 24450

An ordinance adopted or amended under this division shall 24451
designate the specific public infrastructure improvements made, 24452
to be made, or in the process of being made by the municipal 24453
corporation that directly benefit, or that once made will 24454
directly benefit, the parcels for which improvements are 24455
declared to be a public purpose. The service payments provided 24456
for in section 5709.42 of the Revised Code shall be used to 24457
finance the public infrastructure improvements designated in the 24458
ordinance, for the purpose described in division (D) (1) of this 24459
section or as provided in section 5709.43 of the Revised Code. 24460

(C) (1) The legislative authority of a municipal 24461
corporation may adopt an ordinance creating an incentive 24462
district and declaring improvements to parcels within the 24463
district to be a public purpose and, except as provided in 24464
division (F) of this section, exempt from taxation as provided 24465
in this section, but no legislative authority of a municipal 24466
corporation that has a population that exceeds twenty-five 24467
thousand, as shown by the most recent federal decennial census, 24468
shall adopt an ordinance that creates an incentive district if 24469
the sum of the taxable value of real property in the proposed 24470
district for the preceding tax year and the taxable value of all 24471
real property in the municipal corporation that would have been 24472
taxable in the preceding year were it not for the fact that the 24473
property was in an existing incentive district and therefore 24474
exempt from taxation exceeds twenty-five per cent of the taxable 24475
value of real property in the municipal corporation for the 24476
preceding tax year. The ordinance shall delineate the boundary 24477

of the district and specifically identify each parcel within the 24478
district. A district may not include any parcel that is or has 24479
been exempted from taxation under division (B) of this section 24480
or that is or has been within another district created under 24481
this division. An ordinance may create more than one such 24482
district, and more than one ordinance may be adopted under 24483
division (C) (1) of this section. 24484

(2) Not later than thirty days prior to adopting an 24485
ordinance under division (C) (1) of this section, if the 24486
municipal corporation intends to apply for exemptions from 24487
taxation under section 5709.911 of the Revised Code on behalf of 24488
owners of real property located within the proposed incentive 24489
district, the legislative authority of a municipal corporation 24490
shall conduct a public hearing on the proposed ordinance. Not 24491
later than thirty days prior to the public hearing, the 24492
legislative authority shall give notice of the public hearing 24493
and the proposed ordinance by first class mail to every real 24494
property owner whose property is located within the boundaries 24495
of the proposed incentive district that is the subject of the 24496
proposed ordinance. 24497

(3) (a) An ordinance adopted under division (C) (1) of this 24498
section shall specify the life of the incentive district and the 24499
percentage of the improvements to be exempted, shall designate 24500
the public infrastructure improvements made, to be made, or in 24501
the process of being made, that benefit or serve, or, once made, 24502
will benefit or serve parcels in the district. The ordinance 24503
also shall identify one or more specific projects being, or to 24504
be, undertaken in the district that place additional demand on 24505
the public infrastructure improvements designated in the 24506
ordinance. The project identified may, but need not be, the 24507
project under division (C) (3) (b) of this section that places 24508

real property in use for commercial or industrial purposes. 24509
Except as otherwise permitted under that division, the service 24510
payments provided for in section 5709.42 of the Revised Code 24511
shall be used to finance the designated public infrastructure 24512
improvements, for the purpose described in division (D) (1) or 24513
(E) of this section, or as provided in section 5709.43 of the 24514
Revised Code. 24515

An ordinance adopted under division (C) (1) of this section 24516
on or after March 30, 2006, shall not designate police or fire 24517
equipment as public infrastructure improvements, and no service 24518
payment provided for in section 5709.42 of the Revised Code and 24519
received by the municipal corporation under the ordinance shall 24520
be used for police or fire equipment. 24521

(b) An ordinance adopted under division (C) (1) of this 24522
section may authorize the use of service payments provided for 24523
in section 5709.42 of the Revised Code for the purpose of 24524
housing renovations within the incentive district, provided that 24525
the ordinance also designates public infrastructure improvements 24526
that benefit or serve the district, and that a project within 24527
the district places real property in use for commercial or 24528
industrial purposes. Service payments may be used to finance or 24529
support loans, deferred loans, and grants to persons for the 24530
purpose of housing renovations within the district. The 24531
ordinance shall designate the parcels within the district that 24532
are eligible for housing renovation. The ordinance shall state 24533
separately the amounts or the percentages of the expected 24534
aggregate service payments that are designated for each public 24535
infrastructure improvement and for the general purpose of 24536
housing renovations. 24537

(4) Except with the approval of the board of education of 24538

each city, local, or exempted village school district within the 24539
territory of which the incentive district is or will be located, 24540
and subject to division (E) of this section, the life of an 24541
incentive district shall not exceed ten years, and the 24542
percentage of improvements to be exempted shall not exceed 24543
seventy-five per cent. With approval of the board of education, 24544
the life of a district may be not more than thirty years, and 24545
the percentage of improvements to be exempted may be not more 24546
than one hundred per cent. The approval of a board of education 24547
shall be obtained in the manner provided in division (D) of this 24548
section. 24549

(D) (1) If the ordinance declaring improvements to a parcel 24550
to be a public purpose or creating an incentive district 24551
specifies that payments in lieu of taxes provided for in section 24552
5709.42 of the Revised Code shall be paid to the city, local, or 24553
exempted village, and joint vocational school district in which 24554
the parcel or incentive district is located in the amount of the 24555
taxes that would have been payable to the school district if the 24556
improvements had not been exempted from taxation, the percentage 24557
of the improvement that may be exempted from taxation may exceed 24558
seventy-five per cent, and the exemption may be granted for up 24559
to thirty years, without the approval of the board of education 24560
as otherwise required under division (D) (2) of this section. 24561

(2) Improvements with respect to a parcel may be exempted 24562
from taxation under division (B) of this section, and 24563
improvements to parcels within an incentive district may be 24564
exempted from taxation under division (C) of this section, for 24565
up to ten years or, with the approval under this paragraph of 24566
the board of education of the city, local, or exempted village 24567
school district within which the parcel or district is located, 24568
for up to thirty years. The percentage of the improvement 24569

exempted from taxation may, with such approval, exceed seventy- 24570
five per cent, but shall not exceed one hundred per cent. Not 24571
later than forty-five business days prior to adopting an 24572
ordinance under this section declaring improvements to be a 24573
public purpose that is subject to approval by a board of 24574
education under this division, the legislative authority shall 24575
deliver to the board of education a notice stating its intent to 24576
adopt an ordinance making that declaration. The notice regarding 24577
improvements with respect to a parcel under division (B) of this 24578
section shall identify the parcels for which improvements are to 24579
be exempted from taxation, provide an estimate of the true value 24580
in money of the improvements, specify the period for which the 24581
improvements would be exempted from taxation and the percentage 24582
of the improvement that would be exempted, and indicate the date 24583
on which the legislative authority intends to adopt the 24584
ordinance. The notice regarding improvements to parcels within 24585
an incentive district under division (C) of this section shall 24586
delineate the boundaries of the district, specifically identify 24587
each parcel within the district, identify each anticipated 24588
improvement in the district, provide an estimate of the true 24589
value in money of each such improvement, specify the life of the 24590
district and the percentage of improvements that would be 24591
exempted, and indicate the date on which the legislative 24592
authority intends to adopt the ordinance. The board of 24593
education, by resolution adopted by a majority of the board, may 24594
approve the exemption for the period or for the exemption 24595
percentage specified in the notice; may disapprove the exemption 24596
for the number of years in excess of ten, may disapprove the 24597
exemption for the percentage of the improvement to be exempted 24598
in excess of seventy-five per cent, or both; or may approve the 24599
exemption on the condition that the legislative authority and 24600
the board negotiate an agreement providing for compensation to 24601

the school district equal in value to a percentage of the amount 24602
of taxes exempted in the eleventh and subsequent years of the 24603
exemption period or, in the case of exemption percentages in 24604
excess of seventy-five per cent, compensation equal in value to 24605
a percentage of the taxes that would be payable on the portion 24606
of the improvement in excess of seventy-five per cent were that 24607
portion to be subject to taxation, or other mutually agreeable 24608
compensation. If an agreement is negotiated between the 24609
legislative authority and the board to compensate the school 24610
district for all or part of the taxes exempted, including 24611
agreements for payments in lieu of taxes under section 5709.42 24612
of the Revised Code, the legislative authority shall compensate 24613
the joint vocational school district within which the parcel or 24614
district is located at the same rate and under the same terms 24615
received by the city, local, or exempted village school 24616
district. 24617

(3) The board of education shall certify its resolution to 24618
the legislative authority not later than fourteen days prior to 24619
the date the legislative authority intends to adopt the 24620
ordinance as indicated in the notice. If the board of education 24621
and the legislative authority negotiate a mutually acceptable 24622
compensation agreement, the ordinance may declare the 24623
improvements a public purpose for the number of years specified 24624
in the ordinance or, in the case of exemption percentages in 24625
excess of seventy-five per cent, for the exemption percentage 24626
specified in the ordinance. In either case, if the board and the 24627
legislative authority fail to negotiate a mutually acceptable 24628
compensation agreement, the ordinance may declare the 24629
improvements a public purpose for not more than ten years, and 24630
shall not exempt more than seventy-five per cent of the 24631
improvements from taxation. If the board fails to certify a 24632

resolution to the legislative authority within the time 24633
prescribed by this division, the legislative authority thereupon 24634
may adopt the ordinance and may declare the improvements a 24635
public purpose for up to thirty years, or, in the case of 24636
exemption percentages proposed in excess of seventy-five per 24637
cent, for the exemption percentage specified in the ordinance. 24638
The legislative authority may adopt the ordinance at any time 24639
after the board of education certifies its resolution approving 24640
the exemption to the legislative authority, or, if the board 24641
approves the exemption on the condition that a mutually 24642
acceptable compensation agreement be negotiated, at any time 24643
after the compensation agreement is agreed to by the board and 24644
the legislative authority. 24645

(4) If a board of education has adopted a resolution 24646
waiving its right to approve exemptions from taxation under this 24647
section and the resolution remains in effect, approval of 24648
exemptions by the board is not required under division (D) of 24649
this section. If a board of education has adopted a resolution 24650
allowing a legislative authority to deliver the notice required 24651
under division (D) of this section fewer than forty-five 24652
business days prior to the legislative authority's adoption of 24653
the ordinance, the legislative authority shall deliver the 24654
notice to the board not later than the number of days prior to 24655
such adoption as prescribed by the board in its resolution. If a 24656
board of education adopts a resolution waiving its right to 24657
approve agreements or shortening the notification period, the 24658
board shall certify a copy of the resolution to the legislative 24659
authority. If the board of education rescinds such a resolution, 24660
it shall certify notice of the rescission to the legislative 24661
authority. 24662

(5) If the legislative authority is not required by 24663

division (D) of this section to notify the board of education of 24664
the legislative authority's intent to declare improvements to be 24665
a public purpose, the legislative authority shall comply with 24666
the notice requirements imposed under section 5709.83 of the 24667
Revised Code, unless the board has adopted a resolution under 24668
that section waiving its right to receive such a notice. 24669

(E) (1) If a proposed ordinance under division (C) (1) of 24670
this section exempts improvements with respect to a parcel 24671
within an incentive district for more than ten years, or the 24672
percentage of the improvement exempted from taxation exceeds 24673
seventy-five per cent, not later than forty-five business days 24674
prior to adopting the ordinance the legislative authority of the 24675
municipal corporation shall deliver to the board of county 24676
commissioners of the county within which the incentive district 24677
will be located a notice that states its intent to adopt an 24678
ordinance creating an incentive district. The notice shall 24679
include a copy of the proposed ordinance, identify the parcels 24680
for which improvements are to be exempted from taxation, provide 24681
an estimate of the true value in money of the improvements, 24682
specify the period of time for which the improvements would be 24683
exempted from taxation, specify the percentage of the 24684
improvements that would be exempted from taxation, and indicate 24685
the date on which the legislative authority intends to adopt the 24686
ordinance. 24687

(2) The board of county commissioners, by resolution 24688
adopted by a majority of the board, may object to the exemption 24689
for the number of years in excess of ten, may object to the 24690
exemption for the percentage of the improvement to be exempted 24691
in excess of seventy-five per cent, or both. If the board of 24692
county commissioners objects, the board may negotiate a mutually 24693
acceptable compensation agreement with the legislative 24694

authority. In no case shall the compensation provided to the 24695
board exceed the property taxes forgone due to the exemption. If 24696
the board of county commissioners objects, and the board and 24697
legislative authority fail to negotiate a mutually acceptable 24698
compensation agreement, the ordinance adopted under division (C) 24699
(1) of this section shall provide to the board compensation in 24700
the eleventh and subsequent years of the exemption period equal 24701
in value to not more than fifty per cent of the taxes that would 24702
be payable to the county or, if the board's objection includes 24703
an objection to an exemption percentage in excess of seventy- 24704
five per cent, compensation equal in value to not more than 24705
fifty per cent of the taxes that would be payable to the county, 24706
on the portion of the improvement in excess of seventy-five per 24707
cent, were that portion to be subject to taxation. The board of 24708
county commissioners shall certify its resolution to the 24709
legislative authority not later than thirty days after receipt 24710
of the notice. 24711

(3) If the board of county commissioners does not object 24712
or fails to certify its resolution objecting to an exemption 24713
within thirty days after receipt of the notice, the legislative 24714
authority may adopt the ordinance, and no compensation shall be 24715
provided to the board of county commissioners. If the board 24716
timely certifies its resolution objecting to the ordinance, the 24717
legislative authority may adopt the ordinance at any time after 24718
a mutually acceptable compensation agreement is agreed to by the 24719
board and the legislative authority, or, if no compensation 24720
agreement is negotiated, at any time after the legislative 24721
authority agrees in the proposed ordinance to provide 24722
compensation to the board of fifty per cent of the taxes that 24723
would be payable to the county in the eleventh and subsequent 24724
years of the exemption period or on the portion of the 24725

improvement in excess of seventy-five per cent, were that 24726
portion to be subject to taxation. 24727

(F) Service payments in lieu of taxes that are 24728
attributable to any amount by which the effective tax rate of 24729
either a renewal levy with an increase or a replacement levy 24730
exceeds the effective tax rate of the levy renewed or replaced, 24731
or that are attributable to an additional levy, for a levy 24732
authorized by the voters for any of the following purposes on or 24733
after January 1, 2006, and which are provided pursuant to an 24734
ordinance creating an incentive district under division (C) (1) 24735
of this section that is adopted on or after January 1, 2006, 24736
shall be distributed to the appropriate taxing authority as 24737
required under division (C) of section 5709.42 of the Revised 24738
Code in an amount equal to the amount of taxes from that 24739
additional levy or from the increase in the effective tax rate 24740
of such renewal or replacement levy that would have been payable 24741
to that taxing authority from the following levies were it not 24742
for the exemption authorized under division (C) of this section: 24743

(1) A tax levied under division (L) of section 5705.19 or 24744
section 5705.191 of the Revised Code for community ~~mental-~~ 24745
~~retardation and~~ developmental disabilities programs and services 24746
pursuant to Chapter 5126. of the Revised Code; 24747

(2) A tax levied under division (Y) of section 5705.19 of 24748
the Revised Code for providing or maintaining senior citizens 24749
services or facilities; 24750

(3) A tax levied under section 5705.22 of the Revised Code 24751
for county hospitals; 24752

(4) A tax levied by a joint-county district or by a county 24753
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 24754

for alcohol, drug addiction, and mental health services or facilities;	24755 24756
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	24757 24758
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	24759 24760 24761
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	24762 24763 24764 24765
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	24766 24767 24768
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	24769 24770 24771 24772
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	24773 24774
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;	24775 24776 24777 24778 24779
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	24780 24781
(G) An exemption from taxation granted under this section	24782

commences with the tax year specified in the ordinance so long 24783
as the year specified in the ordinance commences after the 24784
effective date of the ordinance. If the ordinance specifies a 24785
year commencing before the effective date of the resolution or 24786
specifies no year whatsoever, the exemption commences with the 24787
tax year in which an exempted improvement first appears on the 24788
tax list and duplicate of real and public utility property and 24789
that commences after the effective date of the ordinance. In 24790
lieu of stating a specific year, the ordinance may provide that 24791
the exemption commences in the tax year in which the value of an 24792
improvement exceeds a specified amount or in which the 24793
construction of one or more improvements is completed, provided 24794
that such tax year commences after the effective date of the 24795
ordinance. With respect to the exemption of improvements to 24796
parcels under division (B) of this section, the ordinance may 24797
allow for the exemption to commence in different tax years on a 24798
parcel-by-parcel basis, with a separate exemption term specified 24799
for each parcel. 24800

Except as otherwise provided in this division, the 24801
exemption ends on the date specified in the ordinance as the 24802
date the improvement ceases to be a public purpose or the 24803
incentive district expires, or ends on the date on which the 24804
public infrastructure improvements and housing renovations are 24805
paid in full from the municipal public improvement tax increment 24806
equivalent fund established under division (A) of section 24807
5709.43 of the Revised Code, whichever occurs first. The 24808
exemption of an improvement with respect to a parcel or within 24809
an incentive district may end on a later date, as specified in 24810
the ordinance, if the legislative authority and the board of 24811
education of the city, local, or exempted village school 24812
district within which the parcel or district is located have 24813

entered into a compensation agreement under section 5709.82 of 24814
the Revised Code with respect to the improvement, and the board 24815
of education has approved the term of the exemption under 24816
division (D) (2) of this section, but in no case shall the 24817
improvement be exempted from taxation for more than thirty 24818
years. Exemptions shall be claimed and allowed in the same 24819
manner as in the case of other real property exemptions. If an 24820
exemption status changes during a year, the procedure for the 24821
apportionment of the taxes for that year is the same as in the 24822
case of other changes in tax exemption status during the year. 24823

(H) Additional municipal financing of public 24824
infrastructure improvements and housing renovations may be 24825
provided by any methods that the municipal corporation may 24826
otherwise use for financing such improvements or renovations. If 24827
the municipal corporation issues bonds or notes to finance the 24828
public infrastructure improvements and housing renovations and 24829
pledges money from the municipal public improvement tax 24830
increment equivalent fund to pay the interest on and principal 24831
of the bonds or notes, the bonds or notes are not subject to 24832
Chapter 133. of the Revised Code. 24833

(I) The municipal corporation, not later than fifteen days 24834
after the adoption of an ordinance under this section, shall 24835
submit to the director of development services a copy of the 24836
ordinance. On or before the thirty-first day of March of each 24837
year, the municipal corporation shall submit a status report to 24838
the director of development services. The report shall indicate, 24839
in the manner prescribed by the director, the progress of the 24840
project during each year that an exemption remains in effect, 24841
including a summary of the receipts from service payments in 24842
lieu of taxes; expenditures of money from the funds created 24843
under section 5709.43 of the Revised Code; a description of the 24844

public infrastructure improvements and housing renovations 24845
financed with such expenditures; and a quantitative summary of 24846
changes in employment and private investment resulting from each 24847
project. 24848

(J) Nothing in this section shall be construed to prohibit 24849
a legislative authority from declaring to be a public purpose 24850
improvements with respect to more than one parcel. 24851

(K) If a parcel is located in a new community district in 24852
which the new community authority imposes a community 24853
development charge on the basis of rentals received from leases 24854
of real property as described in division (L) (2) of section 24855
349.01 of the Revised Code, the parcel may not be exempted from 24856
taxation under this section. 24857

Sec. 5709.73. (A) As used in this section and section 24858
5709.74 of the Revised Code: 24859

(1) "Business day" means a day of the week excluding 24860
Saturday, Sunday, and a legal holiday as defined in section 1.14 24861
of the Revised Code. 24862

(2) "Further improvements" or "improvements" means the 24863
increase in the assessed value of real property that would first 24864
appear on the tax list and duplicate of real and public utility 24865
property after the effective date of a resolution adopted under 24866
this section were it not for the exemption granted by that 24867
resolution. For purposes of division (B) of this section, 24868
"improvements" do not include any property used or to be used 24869
for residential purposes. For this purpose, "property that is 24870
used or to be used for residential purposes" means property 24871
that, as improved, is used or to be used for purposes that would 24872
cause the tax commissioner to classify the property as 24873

residential property in accordance with rules adopted by the 24874
commissioner under section 5713.041 of the Revised Code. 24875

(3) "Housing renovation" means a project carried out for 24876
residential purposes. 24877

(4) "Incentive district" has the same meaning as in 24878
section 5709.40 of the Revised Code, except that a blighted area 24879
is in the unincorporated area of a township. 24880

(5) "Project" and "public infrastructure improvement" have 24881
the same meanings as in section 5709.40 of the Revised Code. 24882

(B) A board of township trustees may, by unanimous vote, 24883
adopt a resolution that declares to be a public purpose any 24884
public infrastructure improvements made that are necessary for 24885
the development of certain parcels of land located in the 24886
unincorporated area of the township. Except with the approval 24887
under division (D) of this section of the board of education of 24888
each city, local, or exempted village school district within 24889
which the improvements are located, the resolution may exempt 24890
from real property taxation not more than seventy-five per cent 24891
of further improvements to a parcel of land that directly 24892
benefits from the public infrastructure improvements, for a 24893
period of not more than ten years. The resolution shall specify 24894
the percentage of the further improvements to be exempted and 24895
the life of the exemption. 24896

(C) (1) A board of township trustees may adopt, by 24897
unanimous vote, a resolution creating an incentive district and 24898
declaring improvements to parcels within the district to be a 24899
public purpose and, except as provided in division (F) of this 24900
section, exempt from taxation as provided in this section, but 24901
no board of township trustees of a township that has a 24902

population that exceeds twenty-five thousand, as shown by the 24903
most recent federal decennial census, shall adopt a resolution 24904
that creates an incentive district if the sum of the taxable 24905
value of real property in the proposed district for the 24906
preceding tax year and the taxable value of all real property in 24907
the township that would have been taxable in the preceding year 24908
were it not for the fact that the property was in an existing 24909
incentive district and therefore exempt from taxation exceeds 24910
twenty-five per cent of the taxable value of real property in 24911
the township for the preceding tax year. The district shall be 24912
located within the unincorporated area of the township and shall 24913
not include any territory that is included within a district 24914
created under division (B) of section 5709.78 of the Revised 24915
Code. The resolution shall delineate the boundary of the 24916
district and specifically identify each parcel within the 24917
district. A district may not include any parcel that is or has 24918
been exempted from taxation under division (B) of this section 24919
or that is or has been within another district created under 24920
this division. A resolution may create more than one district, 24921
and more than one resolution may be adopted under division (C) 24922
(1) of this section. 24923

(2) Not later than thirty days prior to adopting a 24924
resolution under division (C) (1) of this section, if the 24925
township intends to apply for exemptions from taxation under 24926
section 5709.911 of the Revised Code on behalf of owners of real 24927
property located within the proposed incentive district, the 24928
board shall conduct a public hearing on the proposed resolution. 24929
Not later than thirty days prior to the public hearing, the 24930
board shall give notice of the public hearing and the proposed 24931
resolution by first class mail to every real property owner 24932
whose property is located within the boundaries of the proposed 24933

incentive district that is the subject of the proposed 24934
resolution. 24935

(3) (a) A resolution adopted under division (C) (1) of this 24936
section shall specify the life of the incentive district and the 24937
percentage of the improvements to be exempted, shall designate 24938
the public infrastructure improvements made, to be made, or in 24939
the process of being made, that benefit or serve, or, once made, 24940
will benefit or serve parcels in the district. The resolution 24941
also shall identify one or more specific projects being, or to 24942
be, undertaken in the district that place additional demand on 24943
the public infrastructure improvements designated in the 24944
resolution. The project identified may, but need not be, the 24945
project under division (C) (3) (b) of this section that places 24946
real property in use for commercial or industrial purposes. 24947

A resolution adopted under division (C) (1) of this section 24948
on or after March 30, 2006, shall not designate police or fire 24949
equipment as public infrastructure improvements, and no service 24950
payment provided for in section 5709.74 of the Revised Code and 24951
received by the township under the resolution shall be used for 24952
police or fire equipment. 24953

(b) A resolution adopted under division (C) (1) of this 24954
section may authorize the use of service payments provided for 24955
in section 5709.74 of the Revised Code for the purpose of 24956
housing renovations within the incentive district, provided that 24957
the resolution also designates public infrastructure 24958
improvements that benefit or serve the district, and that a 24959
project within the district places real property in use for 24960
commercial or industrial purposes. Service payments may be used 24961
to finance or support loans, deferred loans, and grants to 24962
persons for the purpose of housing renovations within the 24963

district. The resolution shall designate the parcels within the 24964
district that are eligible for housing renovations. The 24965
resolution shall state separately the amount or the percentages 24966
of the expected aggregate service payments that are designated 24967
for each public infrastructure improvement and for the purpose 24968
of housing renovations. 24969

(4) Except with the approval of the board of education of 24970
each city, local, or exempted village school district within the 24971
territory of which the incentive district is or will be located, 24972
and subject to division (E) of this section, the life of an 24973
incentive district shall not exceed ten years, and the 24974
percentage of improvements to be exempted shall not exceed 24975
seventy-five per cent. With approval of the board of education, 24976
the life of a district may be not more than thirty years, and 24977
the percentage of improvements to be exempted may be not more 24978
than one hundred per cent. The approval of a board of education 24979
shall be obtained in the manner provided in division (D) of this 24980
section. 24981

(D) Improvements with respect to a parcel may be exempted 24982
from taxation under division (B) of this section, and 24983
improvements to parcels within an incentive district may be 24984
exempted from taxation under division (C) of this section, for 24985
up to ten years or, with the approval of the board of education 24986
of the city, local, or exempted village school district within 24987
which the parcel or district is located, for up to thirty years. 24988
The percentage of the improvements exempted from taxation may, 24989
with such approval, exceed seventy-five per cent, but shall not 24990
exceed one hundred per cent. Not later than forty-five business 24991
days prior to adopting a resolution under this section declaring 24992
improvements to be a public purpose that is subject to approval 24993
by a board of education under this division, the board of 24994

township trustees shall deliver to the board of education a 24995
notice stating its intent to adopt a resolution making that 24996
declaration. The notice regarding improvements with respect to a 24997
parcel under division (B) of this section shall identify the 24998
parcels for which improvements are to be exempted from taxation, 24999
provide an estimate of the true value in money of the 25000
improvements, specify the period for which the improvements 25001
would be exempted from taxation and the percentage of the 25002
improvements that would be exempted, and indicate the date on 25003
which the board of township trustees intends to adopt the 25004
resolution. The notice regarding improvements made under 25005
division (C) of this section to parcels within an incentive 25006
district shall delineate the boundaries of the district, 25007
specifically identify each parcel within the district, identify 25008
each anticipated improvement in the district, provide an 25009
estimate of the true value in money of each such improvement, 25010
specify the life of the district and the percentage of 25011
improvements that would be exempted, and indicate the date on 25012
which the board of township trustees intends to adopt the 25013
resolution. The board of education, by resolution adopted by a 25014
majority of the board, may approve the exemption for the period 25015
or for the exemption percentage specified in the notice; may 25016
disapprove the exemption for the number of years in excess of 25017
ten, may disapprove the exemption for the percentage of the 25018
improvements to be exempted in excess of seventy-five per cent, 25019
or both; or may approve the exemption on the condition that the 25020
board of township trustees and the board of education negotiate 25021
an agreement providing for compensation to the school district 25022
equal in value to a percentage of the amount of taxes exempted 25023
in the eleventh and subsequent years of the exemption period or, 25024
in the case of exemption percentages in excess of seventy-five 25025
per cent, compensation equal in value to a percentage of the 25026

taxes that would be payable on the portion of the improvements 25027
in excess of seventy-five per cent were that portion to be 25028
subject to taxation, or other mutually agreeable compensation. 25029

The board of education shall certify its resolution to the 25030
board of township trustees not later than fourteen days prior to 25031
the date the board of township trustees intends to adopt the 25032
resolution as indicated in the notice. If the board of education 25033
and the board of township trustees negotiate a mutually 25034
acceptable compensation agreement, the resolution may declare 25035
the improvements a public purpose for the number of years 25036
specified in the resolution or, in the case of exemption 25037
percentages in excess of seventy-five per cent, for the 25038
exemption percentage specified in the resolution. In either 25039
case, if the board of education and the board of township 25040
trustees fail to negotiate a mutually acceptable compensation 25041
agreement, the resolution may declare the improvements a public 25042
purpose for not more than ten years, and shall not exempt more 25043
than seventy-five per cent of the improvements from taxation. If 25044
the board of education fails to certify a resolution to the 25045
board of township trustees within the time prescribed by this 25046
section, the board of township trustees thereupon may adopt the 25047
resolution and may declare the improvements a public purpose for 25048
up to thirty years or, in the case of exemption percentages 25049
proposed in excess of seventy-five per cent, for the exemption 25050
percentage specified in the resolution. The board of township 25051
trustees may adopt the resolution at any time after the board of 25052
education certifies its resolution approving the exemption to 25053
the board of township trustees, or, if the board of education 25054
approves the exemption on the condition that a mutually 25055
acceptable compensation agreement be negotiated, at any time 25056
after the compensation agreement is agreed to by the board of 25057

education and the board of township trustees. If a mutually 25058
acceptable compensation agreement is negotiated between the 25059
board of township trustees and the board of education, including 25060
agreements for payments in lieu of taxes under section 5709.74 25061
of the Revised Code, the board of township trustees shall 25062
compensate the joint vocational school district within which the 25063
parcel or district is located at the same rate and under the 25064
same terms received by the city, local, or exempted village 25065
school district. 25066

If a board of education has adopted a resolution waiving 25067
its right to approve exemptions from taxation under this section 25068
and the resolution remains in effect, approval of such 25069
exemptions by the board of education is not required under 25070
division (D) of this section. If a board of education has 25071
adopted a resolution allowing a board of township trustees to 25072
deliver the notice required under division (D) of this section 25073
fewer than forty-five business days prior to adoption of the 25074
resolution by the board of township trustees, the board of 25075
township trustees shall deliver the notice to the board of 25076
education not later than the number of days prior to the 25077
adoption as prescribed by the board of education in its 25078
resolution. If a board of education adopts a resolution waiving 25079
its right to approve exemptions or shortening the notification 25080
period, the board of education shall certify a copy of the 25081
resolution to the board of township trustees. If the board of 25082
education rescinds the resolution, it shall certify notice of 25083
the rescission to the board of township trustees. 25084

If the board of township trustees is not required by 25085
division (D) of this section to notify the board of education of 25086
the board of township trustees' intent to declare improvements 25087
to be a public purpose, the board of township trustees shall 25088

comply with the notice requirements imposed under section 25089
5709.83 of the Revised Code before taking formal action to adopt 25090
the resolution making that declaration, unless the board of 25091
education has adopted a resolution under that section waiving 25092
its right to receive the notice. 25093

(E) (1) If a proposed resolution under division (C) (1) of 25094
this section exempts improvements with respect to a parcel 25095
within an incentive district for more than ten years, or the 25096
percentage of the improvement exempted from taxation exceeds 25097
seventy-five per cent, not later than forty-five business days 25098
prior to adopting the resolution the board of township trustees 25099
shall deliver to the board of county commissioners of the county 25100
within which the incentive district is or will be located a 25101
notice that states its intent to adopt a resolution creating an 25102
incentive district. The notice shall include a copy of the 25103
proposed resolution, identify the parcels for which improvements 25104
are to be exempted from taxation, provide an estimate of the 25105
true value in money of the improvements, specify the period of 25106
time for which the improvements would be exempted from taxation, 25107
specify the percentage of the improvements that would be 25108
exempted from taxation, and indicate the date on which the board 25109
of township trustees intends to adopt the resolution. 25110

(2) The board of county commissioners, by resolution 25111
adopted by a majority of the board, may object to the exemption 25112
for the number of years in excess of ten, may object to the 25113
exemption for the percentage of the improvement to be exempted 25114
in excess of seventy-five per cent, or both. If the board of 25115
county commissioners objects, the board may negotiate a mutually 25116
acceptable compensation agreement with the board of township 25117
trustees. In no case shall the compensation provided to the 25118
board of county commissioners exceed the property taxes foregone 25119

due to the exemption. If the board of county commissioners 25120
objects, and the board of county commissioners and board of 25121
township trustees fail to negotiate a mutually acceptable 25122
compensation agreement, the resolution adopted under division 25123
(C) (1) of this section shall provide to the board of county 25124
commissioners compensation in the eleventh and subsequent years 25125
of the exemption period equal in value to not more than fifty 25126
per cent of the taxes that would be payable to the county or, if 25127
the board of county commissioner's objection includes an 25128
objection to an exemption percentage in excess of seventy-five 25129
per cent, compensation equal in value to not more than fifty per 25130
cent of the taxes that would be payable to the county, on the 25131
portion of the improvement in excess of seventy-five per cent, 25132
were that portion to be subject to taxation. The board of county 25133
commissioners shall certify its resolution to the board of 25134
township trustees not later than thirty days after receipt of 25135
the notice. 25136

(3) If the board of county commissioners does not object 25137
or fails to certify its resolution objecting to an exemption 25138
within thirty days after receipt of the notice, the board of 25139
township trustees may adopt its resolution, and no compensation 25140
shall be provided to the board of county commissioners. If the 25141
board of county commissioners timely certifies its resolution 25142
objecting to the trustees' resolution, the board of township 25143
trustees may adopt its resolution at any time after a mutually 25144
acceptable compensation agreement is agreed to by the board of 25145
county commissioners and the board of township trustees, or, if 25146
no compensation agreement is negotiated, at any time after the 25147
board of township trustees agrees in the proposed resolution to 25148
provide compensation to the board of county commissioners of 25149
fifty per cent of the taxes that would be payable to the county 25150

in the eleventh and subsequent years of the exemption period or 25151
on the portion of the improvement in excess of seventy-five per 25152
cent, were that portion to be subject to taxation. 25153

(F) Service payments in lieu of taxes that are 25154
attributable to any amount by which the effective tax rate of 25155
either a renewal levy with an increase or a replacement levy 25156
exceeds the effective tax rate of the levy renewed or replaced, 25157
or that are attributable to an additional levy, for a levy 25158
authorized by the voters for any of the following purposes on or 25159
after January 1, 2006, and which are provided pursuant to a 25160
resolution creating an incentive district under division (C) (1) 25161
of this section that is adopted on or after January 1, 2006, 25162
shall be distributed to the appropriate taxing authority as 25163
required under division (C) of section 5709.74 of the Revised 25164
Code in an amount equal to the amount of taxes from that 25165
additional levy or from the increase in the effective tax rate 25166
of such renewal or replacement levy that would have been payable 25167
to that taxing authority from the following levies were it not 25168
for the exemption authorized under division (C) of this section: 25169

(1) A tax levied under division (L) of section 5705.19 or 25170
section 5705.191 of the Revised Code for community ~~mental-~~ 25171
~~retardation and~~ developmental disabilities programs and services 25172
pursuant to Chapter 5126. of the Revised Code; 25173

(2) A tax levied under division (Y) of section 5705.19 of 25174
the Revised Code for providing or maintaining senior citizens 25175
services or facilities; 25176

(3) A tax levied under section 5705.22 of the Revised Code 25177
for county hospitals; 25178

(4) A tax levied by a joint-county district or by a county 25179

under section 5705.19, 5705.191, or 5705.221 of the Revised Code	25180
for alcohol, drug addiction, and mental health services or	25181
families;	25182
(5) A tax levied under section 5705.23 of the Revised Code	25183
for library purposes;	25184
(6) A tax levied under section 5705.24 of the Revised Code	25185
for the support of children services and the placement and care	25186
of children;	25187
(7) A tax levied under division (Z) of section 5705.19 of	25188
the Revised Code for the provision and maintenance of zoological	25189
park services and facilities under section 307.76 of the Revised	25190
Code;	25191
(8) A tax levied under section 511.27 or division (H) of	25192
section 5705.19 of the Revised Code for the support of township	25193
park districts;	25194
(9) A tax levied under division (A), (F), or (H) of	25195
section 5705.19 of the Revised Code for parks and recreational	25196
purposes of a joint recreation district organized pursuant to	25197
division (B) of section 755.14 of the Revised Code;	25198
(10) A tax levied under section 1545.20 or 1545.21 of the	25199
Revised Code for park district purposes;	25200
(11) A tax levied under section 5705.191 of the Revised	25201
Code for the purpose of making appropriations for public	25202
assistance; human or social services; public relief; public	25203
welfare; public health and hospitalization; and support of	25204
general hospitals;	25205
(12) A tax levied under section 3709.29 of the Revised	25206
Code for a general health district program.	25207

(G) An exemption from taxation granted under this section 25208
commences with the tax year specified in the resolution so long 25209
as the year specified in the resolution commences after the 25210
effective date of the resolution. If the resolution specifies a 25211
year commencing before the effective date of the resolution or 25212
specifies no year whatsoever, the exemption commences with the 25213
tax year in which an exempted improvement first appears on the 25214
tax list and duplicate of real and public utility property and 25215
that commences after the effective date of the resolution. In 25216
lieu of stating a specific year, the resolution may provide that 25217
the exemption commences in the tax year in which the value of an 25218
improvement exceeds a specified amount or in which the 25219
construction of one or more improvements is completed, provided 25220
that such tax year commences after the effective date of the 25221
resolution. With respect to the exemption of improvements to 25222
parcels under division (B) of this section, the resolution may 25223
allow for the exemption to commence in different tax years on a 25224
parcel-by-parcel basis, with a separate exemption term specified 25225
for each parcel. 25226

Except as otherwise provided in this division, the 25227
exemption ends on the date specified in the resolution as the 25228
date the improvement ceases to be a public purpose or the 25229
incentive district expires, or ends on the date on which the 25230
public infrastructure improvements and housing renovations are 25231
paid in full from the township public improvement tax increment 25232
equivalent fund established under section 5709.75 of the Revised 25233
Code, whichever occurs first. The exemption of an improvement 25234
with respect to a parcel or within an incentive district may end 25235
on a later date, as specified in the resolution, if the board of 25236
township trustees and the board of education of the city, local, 25237
or exempted village school district within which the parcel or 25238

district is located have entered into a compensation agreement 25239
under section 5709.82 of the Revised Code with respect to the 25240
improvement and the board of education has approved the term of 25241
the exemption under division (D) of this section, but in no case 25242
shall the improvement be exempted from taxation for more than 25243
thirty years. The board of township trustees may, by majority 25244
vote, adopt a resolution permitting the township to enter into 25245
such agreements as the board finds necessary or appropriate to 25246
provide for the construction or undertaking of public 25247
infrastructure improvements and housing renovations. Any 25248
exemption shall be claimed and allowed in the same or a similar 25249
manner as in the case of other real property exemptions. If an 25250
exemption status changes during a tax year, the procedure for 25251
the apportionment of the taxes for that year is the same as in 25252
the case of other changes in tax exemption status during the 25253
year. 25254

(H) The board of township trustees may issue the notes of 25255
the township to finance all costs pertaining to the construction 25256
or undertaking of public infrastructure improvements and housing 25257
renovations made pursuant to this section. The notes shall be 25258
signed by the board and attested by the signature of the 25259
township fiscal officer, shall bear interest not to exceed the 25260
rate provided in section 9.95 of the Revised Code, and are not 25261
subject to Chapter 133. of the Revised Code. The resolution 25262
authorizing the issuance of the notes shall pledge the funds of 25263
the township public improvement tax increment equivalent fund 25264
established pursuant to section 5709.75 of the Revised Code to 25265
pay the interest on and principal of the notes. The notes, which 25266
may contain a clause permitting prepayment at the option of the 25267
board, shall be offered for sale on the open market or given to 25268
the vendor or contractor if no sale is made. 25269

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development services a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development services. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L) (2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on

private property, or stormwater and flood remediation projects 25300
may do so provided that the board currently is a party to a 25301
hold-harmless agreement with the board of education of the city, 25302
local, or exempted village school district within the territory 25303
of which are located the parcels that are subject to an 25304
exemption. For the purposes of this division, a "hold-harmless 25305
agreement" means an agreement under which the board of township 25306
trustees agrees to compensate the school district for one 25307
hundred per cent of the tax revenue that the school district 25308
would have received from further improvements to parcels 25309
designated in the resolution were it not for the exemption 25310
granted by the resolution. 25311

Sec. 5709.78. (A) A board of county commissioners may, by 25312
resolution, declare improvements to certain parcels of real 25313
property located in the unincorporated territory of the county 25314
to be a public purpose. Except with the approval under division 25315
(C) of this section of the board of education of each city, 25316
local, or exempted village school district within which the 25317
improvements are located, not more than seventy-five per cent of 25318
an improvement thus declared to be a public purpose may be 25319
exempted from real property taxation, for a period of not more 25320
than ten years. The resolution shall specify the percentage of 25321
the improvement to be exempted and the life of the exemption. 25322

A resolution adopted under this division shall designate 25323
the specific public infrastructure improvements made, to be 25324
made, or in the process of being made by the county that 25325
directly benefit, or that once made will directly benefit, the 25326
parcels for which improvements are declared to be a public 25327
purpose. The service payments provided for in section 5709.79 of 25328
the Revised Code shall be used to finance the public 25329
infrastructure improvements designated in the resolution, or as 25330

provided in section 5709.80 of the Revised Code. 25331

(B) (1) A board of county commissioners may adopt a 25332
resolution creating an incentive district and declaring 25333
improvements to parcels within the district to be a public 25334
purpose and, except as provided in division (E) of this section, 25335
exempt from taxation as provided in this section, but no board 25336
of county commissioners of a county that has a population that 25337
exceeds twenty-five thousand, as shown by the most recent 25338
federal decennial census, shall adopt a resolution that creates 25339
an incentive district if the sum of the taxable value of real 25340
property in the proposed district for the preceding tax year and 25341
the taxable value of all real property in the county that would 25342
have been taxable in the preceding year were it not for the fact 25343
that the property was in an existing incentive district and 25344
therefore exempt from taxation exceeds twenty-five per cent of 25345
the taxable value of real property in the county for the 25346
preceding tax year. The district shall be located within the 25347
unincorporated territory of the county and shall not include any 25348
territory that is included within a district created under 25349
division (C) of section 5709.73 of the Revised Code. The 25350
resolution shall delineate the boundary of the district and 25351
specifically identify each parcel within the district. A 25352
district may not include any parcel that is or has been exempted 25353
from taxation under division (A) of this section or that is or 25354
has been within another district created under this division. A 25355
resolution may create more than one such district, and more than 25356
one resolution may be adopted under division (B) (1) of this 25357
section. 25358

(2) Not later than thirty days prior to adopting a 25359
resolution under division (B) (1) of this section, if the county 25360
intends to apply for exemptions from taxation under section 25361

5709.911 of the Revised Code on behalf of owners of real 25362
property located within the proposed incentive district, the 25363
board of county commissioners shall conduct a public hearing on 25364
the proposed resolution. Not later than thirty days prior to the 25365
public hearing, the board shall give notice of the public 25366
hearing and the proposed resolution by first class mail to every 25367
real property owner whose property is located within the 25368
boundaries of the proposed incentive district that is the 25369
subject of the proposed resolution. The board also shall provide 25370
the notice by first class mail to the clerk of each township in 25371
which the proposed incentive district will be located. 25372

(3) (a) A resolution adopted under division (B) (1) of this 25373
section shall specify the life of the incentive district and the 25374
percentage of the improvements to be exempted, shall designate 25375
the public infrastructure improvements made, to be made, or in 25376
the process of being made, that benefit or serve, or, once made, 25377
will benefit or serve parcels in the district. The resolution 25378
also shall identify one or more specific projects being, or to 25379
be, undertaken in the district that place additional demand on 25380
the public infrastructure improvements designated in the 25381
resolution. The project identified may, but need not be, the 25382
project under division (B) (3) (b) of this section that places 25383
real property in use for commercial or industrial purposes. 25384

A resolution adopted under division (B) (1) of this section 25385
on or after March 30, 2006, shall not designate police or fire 25386
equipment as public infrastructure improvements, and no service 25387
payment provided for in section 5709.79 of the Revised Code and 25388
received by the county under the resolution shall be used for 25389
police or fire equipment. 25390

(b) A resolution adopted under division (B) (1) of this 25391

section may authorize the use of service payments provided for 25392
in section 5709.79 of the Revised Code for the purpose of 25393
housing renovations within the incentive district, provided that 25394
the resolution also designates public infrastructure 25395
improvements that benefit or serve the district, and that a 25396
project within the district places real property in use for 25397
commercial or industrial purposes. Service payments may be used 25398
to finance or support loans, deferred loans, and grants to 25399
persons for the purpose of housing renovations within the 25400
district. The resolution shall designate the parcels within the 25401
district that are eligible for housing renovations. The 25402
resolution shall state separately the amount or the percentages 25403
of the expected aggregate service payments that are designated 25404
for each public infrastructure improvement and for the purpose 25405
of housing renovations. 25406

(4) Except with the approval of the board of education of 25407
each city, local, or exempted village school district within the 25408
territory of which the incentive district is or will be located, 25409
and subject to division (D) of this section, the life of an 25410
incentive district shall not exceed ten years, and the 25411
percentage of improvements to be exempted shall not exceed 25412
seventy-five per cent. With approval of the board of education, 25413
the life of a district may be not more than thirty years, and 25414
the percentage of improvements to be exempted may be not more 25415
than one hundred per cent. The approval of a board of education 25416
shall be obtained in the manner provided in division (C) of this 25417
section. 25418

(C) (1) Improvements with respect to a parcel may be 25419
exempted from taxation under division (A) of this section, and 25420
improvements to parcels within an incentive district may be 25421
exempted from taxation under division (B) of this section, for 25422

up to ten years or, with the approval of the board of education 25423
of each city, local, or exempted village school district within 25424
which the parcel or district is located, for up to thirty years. 25425
The percentage of the improvements exempted from taxation may, 25426
with such approval, exceed seventy-five per cent, but shall not 25427
exceed one hundred per cent. Not later than forty-five business 25428
days prior to adopting a resolution under this section declaring 25429
improvements to be a public purpose that is subject to the 25430
approval of a board of education under this division, the board 25431
of county commissioners shall deliver to the board of education 25432
a notice stating its intent to adopt a resolution making that 25433
declaration. The notice regarding improvements with respect to a 25434
parcel under division (A) of this section shall identify the 25435
parcels for which improvements are to be exempted from taxation, 25436
provide an estimate of the true value in money of the 25437
improvements, specify the period for which the improvements 25438
would be exempted from taxation and the percentage of the 25439
improvements that would be exempted, and indicate the date on 25440
which the board of county commissioners intends to adopt the 25441
resolution. The notice regarding improvements to parcels within 25442
an incentive district under division (B) of this section shall 25443
delineate the boundaries of the district, specifically identify 25444
each parcel within the district, identify each anticipated 25445
improvement in the district, provide an estimate of the true 25446
value in money of each such improvement, specify the life of the 25447
district and the percentage of improvements that would be 25448
exempted, and indicate the date on which the board of county 25449
commissioners intends to adopt the resolution. The board of 25450
education, by resolution adopted by a majority of the board, may 25451
approve the exemption for the period or for the exemption 25452
percentage specified in the notice; may disapprove the exemption 25453
for the number of years in excess of ten, may disapprove the 25454

exemption for the percentage of the improvements to be exempted 25455
in excess of seventy-five per cent, or both; or may approve the 25456
exemption on the condition that the board of county 25457
commissioners and the board of education negotiate an agreement 25458
providing for compensation to the school district equal in value 25459
to a percentage of the amount of taxes exempted in the eleventh 25460
and subsequent years of the exemption period or, in the case of 25461
exemption percentages in excess of seventy-five per cent, 25462
compensation equal in value to a percentage of the taxes that 25463
would be payable on the portion of the improvements in excess of 25464
seventy-five per cent were that portion to be subject to 25465
taxation, or other mutually agreeable compensation. 25466

(2) The board of education shall certify its resolution to 25467
the board of county commissioners not later than fourteen days 25468
prior to the date the board of county commissioners intends to 25469
adopt its resolution as indicated in the notice. If the board of 25470
education and the board of county commissioners negotiate a 25471
mutually acceptable compensation agreement, the resolution of 25472
the board of county commissioners may declare the improvements a 25473
public purpose for the number of years specified in that 25474
resolution or, in the case of exemption percentages in excess of 25475
seventy-five per cent, for the exemption percentage specified in 25476
the resolution. In either case, if the board of education and 25477
the board of county commissioners fail to negotiate a mutually 25478
acceptable compensation agreement, the resolution may declare 25479
the improvements a public purpose for not more than ten years, 25480
and shall not exempt more than seventy-five per cent of the 25481
improvements from taxation. If the board of education fails to 25482
certify a resolution to the board of county commissioners within 25483
the time prescribed by this section, the board of county 25484
commissioners thereupon may adopt the resolution and may declare 25485

the improvements a public purpose for up to thirty years or, in 25486
the case of exemption percentages proposed in excess of seventy- 25487
five per cent, for the exemption percentage specified in the 25488
resolution. The board of county commissioners may adopt the 25489
resolution at any time after the board of education certifies 25490
its resolution approving the exemption to the board of county 25491
commissioners, or, if the board of education approves the 25492
exemption on the condition that a mutually acceptable 25493
compensation agreement be negotiated, at any time after the 25494
compensation agreement is agreed to by the board of education 25495
and the board of county commissioners. If a mutually acceptable 25496
compensation agreement is negotiated between the board of county 25497
commissioners and the board of education, including agreements 25498
for payments in lieu of taxes under section 5709.79 of the 25499
Revised Code, the board of county commissioners shall compensate 25500
the joint vocational school district within which the parcel or 25501
district is located at the same rate and under the same terms 25502
received by the city, local, or exempted village school 25503
district. 25504

(3) If a board of education has adopted a resolution 25505
waiving its right to approve exemptions from taxation under this 25506
section and the resolution remains in effect, approval of such 25507
exemptions by the board of education is not required under 25508
division (C) of this section. If a board of education has 25509
adopted a resolution allowing a board of county commissioners to 25510
deliver the notice required under division (C) of this section 25511
fewer than forty-five business days prior to approval of the 25512
resolution by the board of county commissioners, the board of 25513
county commissioners shall deliver the notice to the board of 25514
education not later than the number of days prior to such 25515
approval as prescribed by the board of education in its 25516

resolution. If a board of education adopts a resolution waiving 25517
its right to approve exemptions or shortening the notification 25518
period, the board of education shall certify a copy of the 25519
resolution to the board of county commissioners. If the board of 25520
education rescinds such a resolution, it shall certify notice of 25521
the rescission to the board of county commissioners. 25522

(D) (1) If a proposed resolution under division (B) (1) of 25523
this section exempts improvements with respect to a parcel 25524
within an incentive district for more than ten years, or the 25525
percentage of the improvement exempted from taxation exceeds 25526
seventy-five per cent, not later than forty-five business days 25527
prior to adopting the resolution the board of county 25528
commissioners shall deliver to the board of township trustees of 25529
any township within which the incentive district is or will be 25530
located a notice that states its intent to adopt a resolution 25531
creating an incentive district. The notice shall include a copy 25532
of the proposed resolution, identify the parcels for which 25533
improvements are to be exempted from taxation, provide an 25534
estimate of the true value in money of the improvements, specify 25535
the period of time for which the improvements would be exempted 25536
from taxation, specify the percentage of the improvements that 25537
would be exempted from taxation, and indicate the date on which 25538
the board intends to adopt the resolution. 25539

(2) The board of township trustees, by resolution adopted 25540
by a majority of the board, may object to the exemption for the 25541
number of years in excess of ten, may object to the exemption 25542
for the percentage of the improvement to be exempted in excess 25543
of seventy-five per cent, or both. If the board of township 25544
trustees objects, the board of township trustees may negotiate a 25545
mutually acceptable compensation agreement with the board of 25546
county commissioners. In no case shall the compensation provided 25547

to the board of township trustees exceed the property taxes 25548
forgone due to the exemption. If the board of township trustees 25549
objects, and the board of township trustees and the board of 25550
county commissioners fail to negotiate a mutually acceptable 25551
compensation agreement, the resolution adopted under division 25552
(B)(1) of this section shall provide to the board of township 25553
trustees compensation in the eleventh and subsequent years of 25554
the exemption period equal in value to not more than fifty per 25555
cent of the taxes that would be payable to the township or, if 25556
the board of township trustee's objection includes an objection 25557
to an exemption percentage in excess of seventy-five per cent, 25558
compensation equal in value to not more than fifty per cent of 25559
the taxes that would be payable to the township on the portion 25560
of the improvement in excess of seventy-five per cent, were that 25561
portion to be subject to taxation. The board of township 25562
trustees shall certify its resolution to the board of county 25563
commissioners not later than thirty days after receipt of the 25564
notice. 25565

(3) If the board of township trustees does not object or 25566
fails to certify a resolution objecting to an exemption within 25567
thirty days after receipt of the notice, the board of county 25568
commissioners may adopt its resolution, and no compensation 25569
shall be provided to the board of township trustees. If the 25570
board of township trustees certifies its resolution objecting to 25571
the commissioners' resolution, the board of county commissioners 25572
may adopt its resolution at any time after a mutually acceptable 25573
compensation agreement is agreed to by the board of county 25574
commissioners and the board of township trustees. If the board 25575
of township trustees certifies a resolution objecting to the 25576
commissioners' resolution, the board of county commissioners may 25577
adopt its resolution at any time after a mutually acceptable 25578

compensation agreement is agreed to by the board of county 25579
commissioners and the board of township trustees, or, if no 25580
compensation agreement is negotiated, at any time after the 25581
board of county commissioners in the proposed resolution to 25582
provide compensation to the board of township trustees of fifty 25583
per cent of the taxes that would be payable to the township in 25584
the eleventh and subsequent years of the exemption period or on 25585
the portion of the improvement in excess of seventy-five per 25586
cent, were that portion to be subject to taxation. 25587

(E) Service payments in lieu of taxes that are 25588
attributable to any amount by which the effective tax rate of 25589
either a renewal levy with an increase or a replacement levy 25590
exceeds the effective tax rate of the levy renewed or replaced, 25591
or that are attributable to an additional levy, for a levy 25592
authorized by the voters for any of the following purposes on or 25593
after January 1, 2006, and which are provided pursuant to a 25594
resolution creating an incentive district under division (B) (1) 25595
of this section that is adopted on or after January 1, 2006, 25596
shall be distributed to the appropriate taxing authority as 25597
required under division (D) of section 5709.79 of the Revised 25598
Code in an amount equal to the amount of taxes from that 25599
additional levy or from the increase in the effective tax rate 25600
of such renewal or replacement levy that would have been payable 25601
to that taxing authority from the following levies were it not 25602
for the exemption authorized under division (B) of this section: 25603

(1) A tax levied under division (L) of section 5705.19 or 25604
section 5705.191 of the Revised Code for community ~~mental-~~ 25605
~~retardation~~ and developmental disabilities programs and services 25606
pursuant to Chapter 5126. of the Revised Code; 25607

(2) A tax levied under division (Y) of section 5705.19 of 25608

the Revised Code for providing or maintaining senior citizens services or facilities;	25609 25610
(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;	25611 25612
(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;	25613 25614 25615 25616
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	25617 25618
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	25619 25620 25621
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	25622 25623 25624 25625
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	25626 25627 25628
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	25629 25630 25631 25632
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	25633 25634
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public	25635 25636

assistance; human or social services; public relief; public 25637
welfare; public health and hospitalization; and support of 25638
general hospitals; 25639

(12) A tax levied under section 3709.29 of the Revised 25640
Code for a general health district program. 25641

(F) An exemption from taxation granted under this section 25642
commences with the tax year specified in the resolution so long 25643
as the year specified in the resolution commences after the 25644
effective date of the resolution. If the resolution specifies a 25645
year commencing before the effective date of the resolution or 25646
specifies no year whatsoever, the exemption commences with the 25647
tax year in which an exempted improvement first appears on the 25648
tax list and duplicate of real and public utility property and 25649
that commences after the effective date of the resolution. In 25650
lieu of stating a specific year, the resolution may provide that 25651
the exemption commences in the tax year in which the value of an 25652
improvement exceeds a specified amount or in which the 25653
construction of one or more improvements is completed, provided 25654
that such tax year commences after the effective date of the 25655
resolution. With respect to the exemption of improvements to 25656
parcels under division (A) of this section, the resolution may 25657
allow for the exemption to commence in different tax years on a 25658
parcel-by-parcel basis, with a separate exemption term specified 25659
for each parcel. 25660

Except as otherwise provided in this division, the 25661
exemption ends on the date specified in the resolution as the 25662
date the improvement ceases to be a public purpose or the 25663
incentive district expires, or ends on the date on which the 25664
county can no longer require annual service payments in lieu of 25665
taxes under section 5709.79 of the Revised Code, whichever 25666

occurs first. The exemption of an improvement with respect to a 25667
parcel or within an incentive district may end on a later date, 25668
as specified in the resolution, if the board of commissioners 25669
and the board of education of the city, local, or exempted 25670
village school district within which the parcel or district is 25671
located have entered into a compensation agreement under section 25672
5709.82 of the Revised Code with respect to the improvement, and 25673
the board of education has approved the term of the exemption 25674
under division (C) (1) of this section, but in no case shall the 25675
improvement be exempted from taxation for more than thirty 25676
years. Exemptions shall be claimed and allowed in the same or a 25677
similar manner as in the case of other real property exemptions. 25678
If an exemption status changes during a tax year, the procedure 25679
for the apportionment of the taxes for that year is the same as 25680
in the case of other changes in tax exemption status during the 25681
year. 25682

(G) If the board of county commissioners is not required 25683
by this section to notify the board of education of the board of 25684
county commissioners' intent to declare improvements to be a 25685
public purpose, the board of county commissioners shall comply 25686
with the notice requirements imposed under section 5709.83 of 25687
the Revised Code before taking formal action to adopt the 25688
resolution making that declaration, unless the board of 25689
education has adopted a resolution under that section waiving 25690
its right to receive such a notice. 25691

(H) The county, not later than fifteen days after the 25692
adoption of a resolution under this section, shall submit to the 25693
director of development services a copy of the resolution. On or 25694
before the thirty-first day of March of each year, the county 25695
shall submit a status report to the director of development 25696
services. The report shall indicate, in the manner prescribed by 25697

the director, the progress of the project during each year that 25698
an exemption remains in effect, including a summary of the 25699
receipts from service payments in lieu of taxes; expenditures of 25700
money from the fund created under section 5709.80 of the Revised 25701
Code; a description of the public infrastructure improvements 25702
and housing renovations financed with such expenditures; and a 25703
quantitative summary of changes in employment and private 25704
investment resulting from each project. 25705

(I) Nothing in this section shall be construed to prohibit 25706
a board of county commissioners from declaring to be a public 25707
purpose improvements with respect to more than one parcel. 25708

(J) If a parcel is located in a new community district in 25709
which the new community authority imposes a community 25710
development charge on the basis of rentals received from leases 25711
of real property as described in division (L) (2) of section 25712
349.01 of the Revised Code, the parcel may not be exempted from 25713
taxation under this section. 25714

Sec. 5711.07. Personal property used in business shall be 25715
listed and assessed in the taxing district in which such 25716
business is carried on. If such business is carried on in more 25717
than one taxing district in the same county, the return shall 25718
set forth the amount of the property used therein which is 25719
situated in each taxing district in such county, and the value 25720
of all the personal property used in business shall be 25721
apportioned to and assessed in each of such taxing districts in 25722
proportion to the value of the personal property situated 25723
therein. Domestic animals not used in business shall be listed 25724
and assessed in the taxing district where kept. Ships, vessels, 25725
boats, and aircraft, and shares and interests therein, shall be 25726
listed and assessed in the taxing district in which the owner 25727

resides. All other taxable property shall be listed and assessed 25728
in the municipal corporation in which the owner resides, or, if 25729
the owner resides outside a municipal corporation, then in the 25730
county in which the owner resides except as provided in sections 25731
5711.01 to 5711.36 of the Revised Code. Whenever, under such 25732
sections, taxable property required by this section to be listed 25733
and assessed in the taxing district or county in which the owner 25734
resides is required to be listed by a fiduciary, such property 25735
shall be listed and assessed by such fiduciary in the taxing 25736
district or county in which such fiduciary resides, or, in the 25737
case of joint fiduciaries, in which either such fiduciary 25738
resides; but such property belonging to the estate of a deceased 25739
resident of this state shall be listed and assessed in the 25740
taxing district or county in which the deceased resident resided 25741
at the time of death, regardless of the residence of the 25742
deceased resident's executors, administrators, or personal 25743
representatives, and such property belonging to a ward, minor, 25744
incompetent person, or beneficiary of a trust residing in this 25745
state, title, custody, or possession of which is vested in a 25746
nonresident fiduciary, shall be listed and assessed in the 25747
taxing district or county in which such ward, minor, incompetent 25748
person, or beneficiary resides. 25749

As used in this section, "incompetent person" means a 25750
person who is so mentally impaired, as a result of a mental or 25751
physical illness or disability, ~~or mental retardation~~ as a result 25752
of an intellectual disability, or as a result of chronic 25753
substance abuse, that the person is incapable of taking proper 25754
care of the person's self or property or fails to provide for 25755
the person's family or other persons for whom the person is 25756
charged by law to provide. 25757

Sec. 5747.03. (A) All money collected under this chapter 25758

arising from the taxes imposed by section 5747.02 or 5747.41 of 25759
the Revised Code shall be credited to the general revenue fund, 25760
except that the treasurer of state shall, at the beginning of 25761
each calendar quarter, credit to the Ohio political party fund, 25762
pursuant to section 3517.16 of the Revised Code, an amount equal 25763
to the total dollar value realized from the taxpayer exercise of 25764
the income tax checkoff option on tax forms processed during the 25765
preceding calendar quarter. 25766

(B) (1) Following the crediting of moneys pursuant to 25767
division (A) of this section, the remainder deposited in the 25768
general revenue fund shall be distributed pursuant to division 25769
(F) of section 321.24 and section 323.156 of the Revised Code; 25770
to make subsidy payments to institutions of higher education 25771
from appropriations to the Ohio board of regents; to support 25772
expenditures for programs and services for the mentally ill, 25773
~~mentally retarded, developmentally disabled~~persons with 25774
developmental disabilities, and the elderly; for primary and 25775
secondary education; for medical assistance; and for any other 25776
purposes authorized by law, subject to the limitation that at 25777
least fifty per cent of the income tax collected by the state 25778
from the tax imposed by section 5747.02 of the Revised Code 25779
shall be returned pursuant to Section 9 of Article XII, Ohio 25780
Constitution. 25781

(2) To ensure that such constitutional requirement is 25782
satisfied the tax commissioner shall, on or before the thirtieth 25783
day of June of each year, from the best information available to 25784
the tax commissioner, determine and certify for each county to 25785
the director of budget and management the amount of taxes 25786
collected under this chapter from the tax imposed under section 25787
5747.02 of the Revised Code during the preceding calendar year 25788
that are required to be returned to the county by Section 9 of 25789

Article XII, Ohio Constitution. The director shall provide for 25790
payment from the general revenue fund to the county in the 25791
amount, if any, that the sum of the amount so certified for that 25792
county exceeds the sum of the following: 25793

(a) The sum of the payments from the general revenue fund 25794
for the preceding calendar year credited to the county's 25795
undivided income tax fund pursuant to division (F) of section 25796
321.24 and section 323.156 of the Revised Code or made directly 25797
from the general revenue fund to political subdivisions located 25798
in the county; 25799

(b) The sum of the amounts from the general revenue fund 25800
distributed in the county during the preceding calendar year for 25801
subsidy payments to institutions of higher education from 25802
appropriations to the Ohio board of regents; for programs and 25803
services for mentally ill persons, ~~mentally retarded,~~ 25804
~~developmentally disabled persons with developmental~~ 25805
disabilities, and elderly persons; for primary and secondary 25806
education; and for medical assistance. 25807

(c) In the case of payments made by the director under 25808
this division in 2007, the total amount distributed to the 25809
county during the preceding calendar year from the local 25810
government fund and the local government revenue assistance 25811
fund, and, in the case of payments made by the director under 25812
this division in subsequent calendar years, the amount 25813
distributed to the county from the local government fund; 25814

(d) In the case of payments made by the director under 25815
this division, the total amount distributed to the county during 25816
the preceding calendar year from the public library fund. 25817

Payments under this division shall be credited to the 25818

county's undivided income tax fund, except that, notwithstanding 25819
section 5705.14 of the Revised Code, such payments may be 25820
transferred by the board of county commissioners to the county 25821
general fund by resolution adopted with the affirmative vote of 25822
two-thirds of the members thereof. 25823

(C) All payments received in each month from taxes imposed 25824
under Chapter 5748. of the Revised Code and any penalties or 25825
interest thereon shall be paid into the school district income 25826
tax fund, which is hereby created in the state treasury, except 25827
that an amount equal to the following portion of such payments 25828
shall be paid into the general school district income tax 25829
administrative fund, which is hereby created in the state 25830
treasury: 25831

(1) One and three-quarters of one per cent of those 25832
received in fiscal year 1996; 25833

(2) One and one-half per cent of those received in fiscal 25834
year 1997 and thereafter. 25835

Money in the school district income tax administrative 25836
fund shall be used by the tax commissioner to defray costs 25837
incurred in administering the school district's income tax, 25838
including the cost of providing employers with information 25839
regarding the rate of tax imposed by any school district. Any 25840
moneys remaining in the fund after such use shall be deposited 25841
in the school district income tax fund. 25842

All interest earned on moneys in the school district 25843
income tax fund shall be credited to the fund. 25844

(D) (1) (a) Within thirty days of the end of each calendar 25845
quarter ending on the last day of March, June, September, and 25846
December, the director of budget and management shall make a 25847

payment from the school district income tax fund to each school 25848
district for which school district income tax revenue was 25849
received during that quarter. The amount of the payment shall 25850
equal the balance in the school district's account at the end of 25851
that quarter. 25852

(b) After a school district ceases to levy an income tax, 25853
the director of budget and management shall adjust the payments 25854
under division (D) (1) (a) of this section to retain sufficient 25855
money in the school district's account to pay refunds. For the 25856
calendar quarters ending on the last day of March and December 25857
of the calendar year following the last calendar year the tax is 25858
levied, the director shall make the payments in the amount 25859
required under division (D) (1) (a) of this section. For the 25860
calendar quarter ending on the last day of June of the calendar 25861
year following the last calendar year the tax is levied, the 25862
director shall make a payment equal to nine-tenths of the 25863
balance in the account at the end of that quarter. For the 25864
calendar quarter ending on the last day of September of the 25865
calendar year following the last calendar year the tax is 25866
levied, the director shall make no payment. For the second and 25867
succeeding calendar years following the last calendar year the 25868
tax is levied, the director shall make one payment each year, 25869
within thirty days of the last day of June, in an amount equal 25870
to the balance in the district's account on the last day of 25871
June. 25872

(2) Moneys paid to a school district under this division 25873
shall be deposited in its school district income tax fund. All 25874
interest earned on moneys in the school district income tax fund 25875
shall be apportioned by the tax commissioner pro rata among the 25876
school districts in the proportions and at the times the 25877
districts are entitled to receive payments under this division. 25878

Sec. 5815.28. (A) As used in this section:	25879
(1) "Ascertainable standard" includes a standard in a trust instrument requiring the trustee to provide for the care, comfort, maintenance, welfare, education, or general well-being of the beneficiary.	25880 25881 25882 25883
(2) "Disability" means any substantial, medically determinable impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least twelve months, except that "disability" does not include an impairment that is the result of abuse of alcohol or drugs.	25884 25885 25886 25887 25888 25889
(3) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	25890 25891
(4) "Supplemental services" means services specified by rule of the department of mental health and addiction services under section 5119.10 of the Revised Code or the department of developmental disabilities under section 5123.04 of the Revised Code that are provided to an individual with a disability in addition to services the individual is eligible to receive under programs authorized by federal or state law.	25892 25893 25894 25895 25896 25897 25898
(B) Any person may create a trust under this section to provide funding for supplemental services for the benefit of another individual who meets either of the following conditions:	25899 25900 25901
(1) The individual has a physical or mental disability and is eligible to receive services through the department of developmental disabilities or a county board of developmental disabilities;	25902 25903 25904 25905
(2) The individual has a mental disability and is eligible to receive services through the department of mental health and	25906 25907

addiction services or a board of alcohol, drug addiction, and 25908
mental health services. 25909

The trust may confer discretion upon the trustee and may 25910
contain specific instructions or conditions governing the 25911
exercise of the discretion. 25912

(C) The general division of the court of common pleas and 25913
the probate court of the county in which the beneficiary of a 25914
trust authorized by division (B) of this section resides or is 25915
confined have concurrent original jurisdiction to hear and 25916
determine actions pertaining to the trust. In any action 25917
pertaining to the trust in a court of common pleas or probate 25918
court and in any appeal of the action, all of the following 25919
apply to the trial or appellate court: 25920

(1) The court shall render determinations consistent with 25921
the testator's or other settlor's intent in creating the trust, 25922
as evidenced by the terms of the trust instrument. 25923

(2) The court may order the trustee to exercise discretion 25924
that the trust instrument confers upon the trustee only if the 25925
instrument contains specific instructions or conditions 25926
governing the exercise of that discretion and the trustee has 25927
failed to comply with the instructions or conditions. In issuing 25928
an order pursuant to this division, the court shall require the 25929
trustee to exercise the trustee's discretion only in accordance 25930
with the instructions or conditions. 25931

(3) The court may order the trustee to maintain the trust 25932
and distribute assets in accordance with rules adopted by the 25933
director of mental health and addiction services under section 25934
5119.10 of the Revised Code or the director of developmental 25935
disabilities under section 5123.04 of the Revised Code if the 25936

trustee has failed to comply with such rules. 25937

(D) To the extent permitted by federal law and subject to 25938
the provisions of division (C) (2) of this section pertaining to 25939
the enforcement of specific instructions or conditions governing 25940
a trustee's discretion, a trust authorized by division (B) of 25941
this section that confers discretion upon the trustee shall not 25942
be considered an asset or resource of the beneficiary, the 25943
beneficiary's estate, the settlor, or the settlor's estate and 25944
shall be exempt from the claims of creditors, political 25945
subdivisions, the state, other governmental entities, and other 25946
claimants against the beneficiary, the beneficiary's estate, the 25947
settlor, or the settlor's estate, including claims regarding the 25948
medicaid program or based on provisions of Chapters 5121. or 25949
5123. of the Revised Code and claims sought to be satisfied by 25950
way of a civil action, subrogation, execution, garnishment, 25951
attachment, judicial sale, or other legal process, if all of the 25952
following apply: 25953

(1) At the time the trust is created, the trust principal 25954
does not exceed the maximum amount determined under division (E) 25955
of this section; 25956

(2) The trust instrument contains a statement of the 25957
settlor's intent, or otherwise clearly evidences the settlor's 25958
intent, that the beneficiary does not have authority to compel 25959
the trustee under any circumstances to furnish the beneficiary 25960
with minimal or other maintenance or support, to make payments 25961
from the principal of the trust or from the income derived from 25962
the principal, or to convert any portion of the principal into 25963
cash, whether pursuant to an ascertainable standard specified in 25964
the instrument or otherwise; 25965

(3) The trust instrument provides that trust assets can be 25966

used only to provide supplemental services, as defined by rule 25967
of the director of mental health and addiction services under 25968
section 5119.10 of the Revised Code or the director of 25969
developmental disabilities under section 5123.04 of the Revised 25970
Code, to the beneficiary; 25971

(4) The trust is maintained and assets are distributed in 25972
accordance with rules adopted by the director of mental health 25973
and addiction services under section 5119.10 of the Revised Code 25974
or the director of developmental disabilities under section 25975
5123.04 of the Revised Code; 25976

(5) The trust instrument provides that on the death of the 25977
beneficiary, a portion of the remaining assets of the trust, 25978
which shall be not less than fifty per cent of such assets, will 25979
be deposited to the credit of the services fund for individuals 25980
with mental illness created by section 5119.51 of the Revised 25981
Code or the services fund for individuals with ~~mental~~ 25982
~~retardation and~~ developmental disabilities created by section 25983
5123.40 of the Revised Code. 25984

(E) In 1994, the trust principal maximum amount for a 25985
trust created under this section shall be two hundred thousand 25986
dollars. The maximum amount for a trust created under this 25987
section prior to November 11, 1994, may be increased to two 25988
hundred thousand dollars. 25989

In 1995, the maximum amount for a trust created under this 25990
section shall be two hundred two thousand dollars. Each year 25991
thereafter, the maximum amount shall be the prior year's amount 25992
plus two thousand dollars. 25993

(F) This section does not limit or otherwise affect the 25994
creation, validity, interpretation, or effect of any trust that 25995

is not created under this section. 25996

(G) Once a trustee takes action on a trust created by a 25997
settlor under this section and disburses trust funds on behalf 25998
of the beneficiary of the trust, then the trust may not be 25999
terminated or otherwise revoked by a particular event or 26000
otherwise without payment into the services fund created 26001
pursuant to section 5119.51 or 5123.40 of the Revised Code of an 26002
amount that is equal to the disbursements made on behalf of the 26003
beneficiary for medical care by the state from the date the 26004
trust vests but that is not more than fifty per cent of the 26005
trust corpus. 26006

Sec. 5815.35. (A) (1) As used in this division, "fiduciary" 26007
means any person, association, or corporation, other than a 26008
trustee of a testamentary trust, an assignee or trustee for an 26009
insolvent debtor, or a guardian under Chapter 5905. of the 26010
Revised Code, that is appointed by and accountable to the 26011
probate court, and that is acting in a fiduciary capacity for 26012
another or charged with duties in relation to any property, 26013
interest, or estate for another's benefit. A fiduciary also 26014
includes an agency under contract with the department of 26015
developmental disabilities for the provision of protective 26016
service under sections 5123.55 to 5123.59 of the Revised Code, 26017
when appointed by and accountable to the probate court as a 26018
guardian or trustee for a ~~mentally retarded or developmentally-~~ 26019
~~disabled person~~ with a developmental disability. 26020

(2) A fiduciary who enters a contract as fiduciary on or 26021
after March 22, 1984, is not personally liable on that contract, 26022
unless the contract otherwise specifies, if the contract is 26023
within the fiduciary's authority and the fiduciary discloses 26024
that the contract is being entered into in a fiduciary capacity. 26025

In a contract, the words "fiduciary" or "as fiduciary" or other words that indicate one's fiduciary capacity following the name or signature of a fiduciary are sufficient disclosure for purposes of this division.

(B) (1) As used in this division, "partnership" includes a partnership composed of only general partners and a partnership composed of general and limited partners.

(2) Subject to division (D) of this section, an executor or administrator who acquires, in a fiduciary capacity, a general partnership interest upon the death of a general partner of a partnership is not personally liable for any debt, obligation, or liability of the partnership that arises from the executor's or administrator's actions, except as provided in this division, as a general partner, or for any debt, obligation, or liability of the partnership for which the executor or administrator otherwise would be personally liable because the executor or administrator holds the general partnership interest, if the executor or administrator discloses that the general partnership interest is held by the executor or administrator in a fiduciary capacity. This immunity does not apply if an executor or administrator causes loss or injury to a person who is not a partner in the partnership by a wrongful act or omission. This immunity is not available to an executor or administrator who holds a general partnership interest in a fiduciary capacity if the spouse or any lineal descendants of the executor or administrator, or the executor or administrator other than in a fiduciary capacity, holds any interest in the partnership.

A partnership certificate that is filed pursuant to Chapter 1777. or another chapter of the Revised Code and that

indicates that an executor or administrator holds a general 26056
partnership interest in a fiduciary capacity by the use 26057
following the name or signature of the executor or administrator 26058
of the words "executor under the will of (name of decedent)" or 26059
"administrator of the estate of (name of decedent)" or other 26060
words that indicate the executor's or administrator's fiduciary 26061
capacity constitutes a sufficient disclosure for purposes of 26062
this division. 26063

If a partnership certificate is not required to be filed 26064
pursuant to Chapter 1776. or 1777. or another chapter of the 26065
Revised Code, a sufficient disclosure for purposes of this 26066
division can be made by an executor or administrator if a 26067
certificate that satisfies the following requirements is filed 26068
with the recorder of the county in which the partnership's 26069
principal office or place of business is situated and with the 26070
recorder of each county in which the partnership owns real 26071
estate: 26072

(a) The certificate shall state in full the names of all 26073
persons holding interests in the partnership and their places of 26074
residence; 26075

(b) The certificate shall be signed by all persons who are 26076
general partners in the partnership, and shall be acknowledged 26077
by a person authorized to take acknowledgements of deeds; 26078

(c) The certificate shall use the words "executor under 26079
the will of (name of decedent)" or "administrator of the estate 26080
of (name of decedent)" or other words that indicate the 26081
executor's or administrator's fiduciary capacity, following the 26082
name or signature of the executor or administrator. 26083

A contract or other written instrument delivered to a 26084

party that contracts with the partnership in which an executor 26085
or administrator holds a general partnership interest in a 26086
fiduciary capacity, that indicates that the executor or 26087
administrator so holds the interest, constitutes a disclosure 26088
for purposes of this division with respect to transactions 26089
between the party and the partnership. If a disclosure has been 26090
made by a certificate in accordance with this division, a 26091
disclosure for purposes of this division with respect to such 26092
transactions exists regardless of whether a contract or other 26093
instrument indicates the executor or administrator holds the 26094
general partnership interest in a fiduciary capacity. 26095

If an executor or administrator acquires, in a fiduciary 26096
capacity, a general partnership interest, the decedent's estate 26097
is liable for debts, obligations, or liabilities of the 26098
partnership. 26099

(C) An estate that includes a general partnership interest 26100
is not liable for the debts, obligations, or liabilities of a 26101
partnership in which another estate has a general partnership 26102
interest, merely because the executor or administrator of the 26103
estates holds a general partnership interest in both of the 26104
partnerships in the executor's or administrator's fiduciary 26105
capacities. 26106

(D) Divisions (B) and (C) of this section apply to general 26107
partnership interests held by executors or administrators in 26108
their fiduciary capacities prior to and on or after March 22, 26109
1984. If an appropriate disclosure is made pursuant to division 26110
(B) of this section, the immunity acquired under that division 26111
extends only to debts, obligations, and liabilities of the 26112
partnership arising on and after the date of the disclosure and 26113
to debts, obligations, and liabilities of the partnership that 26114

arose prior to the acquisition of the general partnership 26115
interest by the executor or administrator becoming a general 26116
partner. 26117

(E) The liability limitations in this section apply to 26118
fiduciaries as partners notwithstanding the broader personal 26119
liabilities otherwise imposed by any partnership law. 26120

(F) If an estate or other fund held by a fiduciary is 26121
identified as a partner, the reference is deemed to be to, and 26122
the partner is, the current executor, administrator, or other 26123
fiduciary of the estate or other fund and their successors as 26124
executors, administrators, or other fiduciaries. 26125

Section 2. That existing sections 1.02, 121.22, 121.37, 26126
135.801, 145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 26127
173.25, 173.27, 173.38, 173.381, 305.07, 307.02, 313.12, 325.07, 26128
711.23, 1751.01, 1751.14, 2101.17, 2101.24, 2108.521, 2109.01, 26129
2111.01, 2111.10, 2111.49, 2151.011, 2151.281, 2151.353, 26130
2151.414, 2151.415, 2151.421, 2151.425, 2151.651, 2152.02, 26131
2152.12, 2152.14, 2152.51, 2152.52, 2152.54, 2152.56, 2152.811, 26132
2305.111, 2311.14, 2317.021, 2503.37, 2721.05, 2744.01, 2901.13, 26133
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5123.0412, 5123.0413, 5123.0417, 5123.0418, 5123.081, 5123.092, 26146
5123.093, 5123.122, 5123.165, 5123.169, 5123.17, 5123.171, 26147
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5123.351, 5123.36, 5123.37, 5123.374, 5123.375, 5123.40, 26149
5123.41, 5123.42, 5123.421, 5123.422, 5123.43, 5123.44, 26150
5123.441, 5123.45, 5123.451, 5123.47, 5123.50, 5123.51, 5123.52, 26151
5123.541, 5123.542, 5123.55, 5123.57, 5123.58, 5123.601, 26152
5123.61, 5123.611, 5123.612, 5123.614, 5123.62, 5123.63, 26153
5123.64, 5123.65, 5123.651, 5123.67, 5123.69, 5123.701, 5123.71, 26154
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5126.059, 5126.0510, 5126.08, 5126.082, 5126.11, 5126.15, 26160
5126.22, 5126.25, 5126.30, 5126.31, 5126.33, 5126.333, 5126.40, 26161
5126.46, 5126.49, 5126.52, 5126.55, 5126.58, 5139.06, 5139.08, 26162
5139.12, 5139.27, 5139.39, 5139.54, 5164.25, 5164.342, 5164.881, 26163
5165.01, 5166.20, 5166.21, 5166.22, 5168.68, 5301.22, 5305.17, 26164
5307.19, 5310.12, 5321.01, 5705.05, 5705.091, 5705.19, 5705.222, 26165
5709.40, 5709.73, 5709.78, 5711.07, 5747.03, 5815.28, and 26166
5815.35 of the Revised Code are hereby repealed. 26167

Section 3. The General Assembly, applying the principle 26168
stated in division (B) of section 1.52 of the Revised Code that 26169
amendments are to be harmonized if reasonably capable of 26170
simultaneous operation, finds that the following sections, 26171
presented in this act as composites of the sections as amended 26172
by the acts indicated, are the resulting versions of the 26173
sections in effect prior to the effective date of the sections 26174
as presented in this act: 26175

Section 2151.414 of the Revised Code as amended by both 26176
Am. Sub. H.B. 130 and Am. Sub. H.B. 213 of the 130th General 26177
Assembly. 26178

Section 3323.05 of the Revised Code as amended by both Am. 26179
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 26180

Section 3791.031 of the Revised Code as amended by both 26181
Am. Sub. H.B. 117 and Am. Sub. S.B. 162 of the 121st General 26182
Assembly. 26183

Section 5123.61 of the Revised Code as amended by both 26184
Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General 26185
Assembly. 26186

Section 5705.05 of the Revised Code as amended by both 26187
Sub. H.B. 458 and Sub. S.B. 353 of the 127th General Assembly. 26188

Section 4. Under this act, it is the intent of the General 26189
Assembly to remove references in the Revised Code to the term 26190
"mental retardation" and derivations of that term, to replace 26191
those references with the term "intellectual disability" and 26192
corresponding derivations of that term, and to do so without a 26193
resulting change in meaning. 26194