

**As Passed by the Senate**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. H. B. No. 595**

**Representatives Cupp, Rezabek**

**Cosponsors: Representatives Seitz, Riedel, Manning, Anielski, Ashford, Blessing,  
Brown, Craig, Dever, Ginter, Green, Hambley, Holmes, Leland, Miller, Perales,  
Rogers, Wiggam, Wilkin**

**Senators Coley, Bacon, Brown, Dolan, Gardner, Hackett, Huffman, Kunze,  
McColley, Obhof, O'Brien, Peterson, Sykes, Tavares, Terhar, Thomas, Williams,  
Wilson, Yuko**

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**A BILL**

To amend sections 313.14, 1901.26, 1907.24, 1  
2101.24, 2105.19, 2107.01, 2107.05, 2107.07, 2  
2107.08, 2107.09, 2107.10, 2107.11, 2107.12, 3  
2107.16, 2107.18, 2107.20, 2107.22, 2107.33, 4  
2107.52, 2107.71, 2109.41, 2129.05, 2137.01, 5  
2323.30, 2323.31, 2323.33, 2701.09, 2721.03, 6  
3105.011, 3109.06, 4705.09, 5163.21, 5802.03, 7  
5806.04, 5808.19, and 5815.16, to enact sections 8  
2111.182, 2111.52, 2113.032, 2151.233, 2151.234, 9  
2151.235, 2151.236, 2323.311, 2746.10, 3109.061, 10  
5802.05, 5817.01, 5817.02, 5817.03, 5817.04, 11  
5817.05, 5817.06, 5817.07, 5817.08, 5817.09, 12  
5817.10, 5817.11, 5817.12, 5817.13, and 5817.14, 13  
and to repeal sections 2107.081, 2107.082, 14  
2107.083, 2107.084, and 2107.085 of the Revised 15  
Code to permit nonelderly, disabled applicants 16  
or recipients of Medicaid benefits or their 17  
spouses to establish their own special needs 18  
trust on or after December 13, 2016, to specify 19

domestic relations and juvenile court	20
jurisdiction in certain matters, and relative to	21
procedures for the waiver of certain fees for	22
indigent litigants in civil actions, procedures	23
for a testator to file a declaratory judgment	24
action to declare the validity of a will prior	25
to death and the settlor of a trust to file such	26
an action to declare its validity, exceptions to	27
antilapse provisions in class gifts in wills and	28
trusts, admission of authenticated copies of	29
wills of persons not domiciled in Ohio,	30
incorporation of a written trust into a will,	31
testimony of witnesses in admission of will to	32
probate, trusts for a minor, arbitration of	33
trust disputes, the creation of county and	34
multicounty guardianship services boards, the	35
coroner's disposition of person dying of	36
suspicious or unusual death, an application for	37
the release of medical records and medical	38
billing records, adding involuntary manslaughter	39
not resulting from a felony vehicular homicide	40
offense to the list of offenses excluding an	41
individual from inheriting from a decedent,	42
attorney-client privilege when the client is	43
acting as a fiduciary, and the placement of	44
fiduciary funds in interest on lawyer's trust	45
accounts.	46

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

**Section 1.** That sections 313.14, 1901.26, 1907.24, 47  
2101.24, 2105.19, 2107.01, 2107.05, 2107.07, 2107.08, 2107.09, 48  
2107.10, 2107.11, 2107.12, 2107.16, 2107.18, 2107.20, 2107.22, 49  
2107.33, 2107.52, 2107.71, 2109.41, 2129.05, 2137.01, 2323.30, 50  
2323.31, 2323.33, 2701.09, 2721.03, 3105.011, 3109.06, 4705.09, 51  
5163.21, 5802.03, 5806.04, 5808.19, and 5815.16 be amended and 52  
sections 2111.182, 2111.52, 2113.032, 2151.233, 2151.234, 53  
2151.235, 2151.236, 2323.311, 2746.10, 3109.061, 5802.05, 54  
5817.01, 5817.02, 5817.03, 5817.04, 5817.05, 5817.06, 5817.07, 55  
5817.08, 5817.09, 5817.10, 5817.11, 5817.12, 5817.13, and 56  
5817.14 of the Revised Code be enacted to read as follows: 57

**Sec. 313.14.** (A) (1) The coroner shall make a reasonable 58  
effort to notify any known relatives of a deceased person who 59  
meets death in the manner described by section 313.12 of the 60  
Revised Code by letter or otherwise. ~~The next of kin, other~~ 61  
~~relatives, or friends of the deceased person, in the order~~ 62  
~~named, shall have prior right as to disposition of the body of~~ 63  
~~such deceased person. If relatives of the deceased are unknown,~~ 64  
~~the coroner shall make a diligent effort to ascertain the next~~ 65  
~~of kin, other relatives, or friends of the deceased person~~ 66  
coroner shall also make a reasonable effort to determine the 67  
identity of the person who has been assigned the rights of 68  
disposition for the deceased person under sections 2108.70 to 69  
2108.90 of the Revised Code and shall notify that person. After 70  
the coroner has completed the performance of the coroner's legal 71  
duties with respect to the body of the deceased person, the 72  
coroner shall return the body to that person. 73

(2) The coroner shall take charge and possession of all 74  
moneys, clothing, and other valuable personal effects of ~~such~~ 75  
the deceased person, found in connection with or pertaining to 76  
~~such~~ the body, and shall store ~~such~~ the possessions in the 77

county coroner's office or such other suitable place as is 78  
provided for ~~such-that~~ storage by the board of county 79  
commissioners. If the coroner considers it advisable, the 80  
coroner may, after taking adequate precautions for the security 81  
of ~~such-those~~ possessions, store the possessions where the 82  
coroner finds them until other storage space becomes available. 83  
The person who has been assigned the rights of disposition for 84  
the deceased person under sections 2108.70 to 2108.90 of the 85  
Revised Code may request the coroner to give those possessions 86  
to that person. After the person who has been assigned the 87  
rights of disposition for the deceased person under sections 88  
2108.70 to 2108.90 of the Revised Code, upon the person's 89  
request under this division, receives the possessions of the 90  
deceased person from the coroner, that person shall deliver the 91  
possessions to the executor or administrator of the estate of 92  
the deceased person or to any other person who is legally 93  
entitled to any of those possessions. 94

(B) In cases in which the cost of the burial is paid by 95  
the county, after using such of the clothing as is necessary in 96  
the burial of the body, the coroner shall sell at public auction 97  
the valuable personal effects of ~~such-the~~ deceased persons, 98  
found in connection with or pertaining to the unclaimed dead 99  
body, except firearms, which shall be disposed of as provided in 100  
division (C) of this section. The coroner shall make a verified 101  
inventory of ~~such-the~~ effects and they shall be sold within 102  
eighteen months after burial, or after delivery of ~~such-the~~ body 103  
in accordance with section 1713.34 of the Revised Code. All 104  
moneys derived from ~~such-the~~ sale shall be deposited in the 105  
county treasury. A notice of ~~such-the~~ sale shall be given in one 106  
newspaper of general circulation in the county, for five days in 107  
succession, and the sale shall be held immediately thereafter. 108

The cost of such advertisement and notices shall be paid by the 109  
board upon the submission of a verified statement ~~therefor~~ for 110  
that cost, certified to the coroner. 111

(C) If a firearm is included in the personal effects of a 112  
deceased person who meets death in the manner described by 113  
section 313.12 of the Revised Code, the coroner shall deliver 114  
the firearm to the chief of police of the municipal corporation 115  
within which the body is found, or to the sheriff of the county 116  
if the body is not found within a municipal corporation. Upon 117  
delivery of the firearm to the chief of police or the sheriff, 118  
the chief of police or sheriff shall give the coroner a receipt 119  
for the firearm that states the date of delivery and an accurate 120  
description of the firearm. The firearm shall be used for 121  
evidentiary purposes only. 122

The person who has been assigned the rights of disposition 123  
for the deceased ~~person's next of kin or other relative~~ person 124  
under sections 2108.70 to 2108.90 of the Revised Code may 125  
request that the firearm be given to ~~the next of kin or other~~ 126  
~~relative~~ that person once the firearm is no longer needed for 127  
evidentiary purposes. The chief of police or the sheriff shall 128  
give the firearm to ~~the next of kin or other relative~~ that 129  
person who requested the firearm only if the ~~next of kin or~~ 130  
~~other relative~~ person may lawfully possess the firearm under 131  
applicable law of this state or the United States. The chief of 132  
police or the sheriff shall keep a record identifying the ~~next~~ 133  
~~of kin or other relative~~ person to whom the firearm is given, 134  
the date the firearm was given to ~~the next of kin or other~~ 135  
~~relative~~ that person, and an accurate description of the 136  
firearm. The person to whom the firearm is given upon the 137  
person's request under this division shall deliver the firearm 138  
to the executor or administrator of the estate of the deceased 139

person or to any other person who is legally entitled to the 140  
firearm. 141

If ~~a next of kin or other relative~~ the person who has been 142  
assigned the rights of disposition for the deceased person under 143  
sections 2108.70 to 2108.90 of the Revised Code does not request 144  
the firearm or is not entitled to possess the firearm, the 145  
firearm shall be used at the discretion of the chief of police 146  
or the sheriff. 147

(D) This section does not invalidate section 1713.34 of 148  
the Revised Code. 149

**Sec. 1901.26.** (A) Subject to division (E) of this section, 150  
costs in a municipal court shall be fixed and taxed as follows: 151

(1) (a) The municipal court shall require an advance 152  
deposit for the filing of any new civil action or proceeding 153  
when required by division (C) of this section, subject to its 154  
waiver pursuant to that division, and in all other cases, by 155  
rule, shall establish a schedule of fees and costs to be taxed 156  
in any civil or criminal action or proceeding. 157

(b) (i) The legislative authority of a municipal 158  
corporation may by ordinance establish a schedule of fees to be 159  
taxed as costs in any civil, criminal, or traffic action or 160  
proceeding in a municipal court for the performance by officers 161  
or other employees of the municipal corporation's police 162  
department or marshal's office of any of the services specified 163  
in sections 311.17 and 509.15 of the Revised Code. No fee in the 164  
schedule shall be higher than the fee specified in section 165  
311.17 of the Revised Code for the performance of the same 166  
service by the sheriff. If a fee established in the schedule 167  
conflicts with a fee for the same service established in another 168

section of the Revised Code or a rule of court, the fee 169  
established in the other section of the Revised Code or the rule 170  
of court shall apply. 171

(ii) When an officer or employee of a municipal police 172  
department or marshal's office performs in a civil, criminal, or 173  
traffic action or proceeding in a municipal court a service 174  
specified in section 311.17 or 509.15 of the Revised Code for 175  
which a taxable fee has been established under this or any other 176  
section of the Revised Code, the applicable legal fees and any 177  
other extraordinary expenses, including overtime, provided for 178  
the service shall be taxed as costs in the case. The clerk of 179  
the court shall pay those legal fees and other expenses, when 180  
collected, into the general fund of the municipal corporation 181  
that employs the officer or employee. 182

(iii) If a bailiff of a municipal court performs in a 183  
civil, criminal, or traffic action or proceeding in that court a 184  
service specified in section 311.17 or 509.15 of the Revised 185  
Code for which a taxable fee has been established under this 186  
section or any other section of the Revised Code, the fee for 187  
the service is the same and is taxable to the same extent as if 188  
the service had been performed by an officer or employee of the 189  
police department or marshal's office of the municipal 190  
corporation in which the court is located. The clerk of that 191  
court shall pay the fee, when collected, into the general fund 192  
of the entity or entities that fund the bailiff's salary, in the 193  
same prorated amount as the salary is funded. 194

(iv) Division (A) (1) (b) of this section does not authorize 195  
or require any officer or employee of a police department or 196  
marshal's office of a municipal corporation or any bailiff of a 197  
municipal court to perform any service not otherwise authorized 198

by law. 199

(2) The municipal court, by rule, may require an advance 200  
deposit for the filing of any civil action or proceeding and 201  
publication fees as provided in section 2701.09 of the Revised 202  
Code. The court ~~may~~ shall waive the requirement for advance 203  
~~deposit upon affidavit or other evidence that a party is unable~~ 204  
~~to make the required deposit for a party that the court~~ 205  
determines qualifies as an indigent litigant as set forth in 206  
section 2323.311 of the Revised Code. 207

(3) When a jury trial is demanded in any civil action or 208  
proceeding, the party making the demand may be required to make 209  
an advance deposit as fixed by rule of court, unless, ~~upon~~ 210  
~~affidavit or other evidence,~~ the court ~~concludes that the party~~ 211  
~~is unable to make the required deposit~~ determines that the party 212  
qualifies as an indigent litigant as set forth in section 213  
2323.311 of the Revised Code. If a jury is called, the fees of a 214  
jury shall be taxed as costs. 215

(4) In any civil or criminal action or proceeding, each 216  
witness shall receive twelve dollars for each full day's 217  
attendance and six dollars for each half day's attendance. Each 218  
witness in a municipal court that is not a county-operated 219  
municipal court also shall receive fifty and one-half cents for 220  
each mile necessarily traveled to and from the witness's place 221  
of residence to the action or proceeding. 222

(5) A reasonable charge for driving, towing, carting, 223  
storing, keeping, and preserving motor vehicles and other 224  
personal property recovered or seized in any proceeding may be 225  
taxed as part of the costs in a trial of the cause, in an amount 226  
that shall be fixed by rule of court. 227



(6) Chattel property seized under any writ or process 228  
issued by the court shall be preserved pending final disposition 229  
for the benefit of all persons interested and may be placed in 230  
storage when necessary or proper for that preservation. The 231  
custodian of any chattel property so stored shall not be 232  
required to part with the possession of the property until a 233  
reasonable charge, to be fixed by the court, is paid. 234

(7) The municipal court, as it determines, may refund all 235  
deposits and advance payments of fees and costs, including those 236  
for jurors and summoning jurors, when they have been paid by the 237  
losing party. 238

(8) Charges for the publication of legal notices required 239  
by statute or order of court may be taxed as part of the costs, 240  
as provided by section 7.13 of the Revised Code. 241

(B) (1) (a) The municipal court may determine that, for the 242  
efficient operation of the court, additional funds are necessary 243  
to acquire and pay for special projects of the court including, 244  
but not limited to, the acquisition of additional facilities or 245  
the rehabilitation of existing facilities, the acquisition of 246  
equipment, the hiring and training of staff, community service 247  
programs, mediation or dispute resolution services, the 248  
employment of magistrates, the training and education of judges, 249  
acting judges, and magistrates, and other related services. Upon 250  
that determination, the court by rule may charge a fee, in 251  
addition to all other court costs, on the filing of each 252  
criminal cause, civil action or proceeding, or judgment by 253  
confession. 254

(b) If the municipal court offers a special program or 255  
service in cases of a specific type, the municipal court by rule 256  
may assess an additional charge in a case of that type, over and 257

above court costs, to cover the special program or service. The 258  
municipal court shall adjust the special assessment 259  
periodically, but not retroactively, so that the amount assessed 260  
in those cases does not exceed the actual cost of providing the 261  
service or program. 262

(c) Any fee or charge assessed under division (B)(1)(a) or 263  
(b) of this section on the filing of a civil action or 264  
proceeding shall be waived if the court determines that the 265  
person on whom the fee or charge is assessed qualifies as an 266  
indigent litigant as set forth in section 2323.311 of the 267  
Revised Code. 268

(d) All moneys collected under division (B) of this 269  
section shall be paid to the county treasurer if the court is a 270  
county-operated municipal court or to the city treasurer if the 271  
court is not a county-operated municipal court for deposit into 272  
either a general special projects fund or a fund established for 273  
a specific special project. Moneys from a fund of that nature 274  
shall be disbursed upon an order of the court in an amount no 275  
greater than the actual cost to the court of a project. If a 276  
specific fund is terminated because of the discontinuance of a 277  
program or service established under division (B) of this 278  
section, the municipal court may order that moneys remaining in 279  
the fund be transferred to an account established under this 280  
division for a similar purpose. 281

(2) As used in division (B) of this section: 282

(a) "Criminal cause" means a charge alleging the violation 283  
of a statute or ordinance, or subsection of a statute or 284  
ordinance, that requires a separate finding of fact or a 285  
separate plea before disposition and of which the defendant may 286  
be found guilty, whether filed as part of a multiple charge on a 287

single summons, citation, or complaint or as a separate charge 288  
on a single summons, citation, or complaint. "Criminal cause" 289  
does not include separate violations of the same statute or 290  
ordinance, or subsection of the same statute or ordinance, 291  
unless each charge is filed on a separate summons, citation, or 292  
complaint. 293

(b) "Civil action or proceeding" means any civil 294  
litigation that must be determined by judgment entry. 295

(C) The municipal court shall collect in all its divisions 296  
except the small claims division the sum of twenty-six dollars 297  
as additional filing fees in each new civil action or proceeding 298  
for the charitable public purpose of providing financial 299  
assistance to legal aid societies that operate within the state 300  
and to support the office of the state public defender. The 301  
municipal court shall collect in its small claims division the 302  
sum of eleven dollars as additional filing fees in each new 303  
civil action or proceeding for the charitable public purpose of 304  
providing financial assistance to legal aid societies that 305  
operate within the state and to support the office of the state 306  
public defender. This division does not apply to any execution 307  
on a judgment, proceeding in aid of execution, or other post- 308  
judgment proceeding arising out of a civil action. The filing 309  
fees required to be collected under this division shall be in 310  
addition to any other court costs imposed in the action or 311  
proceeding and shall be collected at the time of the filing of 312  
the action or proceeding. The court shall not waive the payment 313  
of the additional filing fees in a new civil action or 314  
proceeding unless the court waives the advanced payment of all 315  
filing fees in the action or proceeding for the party that the 316  
court determines is qualified as an indigent litigant as set 317  
forth in section 2323.311 of the Revised Code. All such moneys 318

collected during a month except for an amount equal to up to one 319  
per cent of those moneys retained to cover administrative costs 320  
shall be transmitted on or before the twentieth day of the 321  
following month by the clerk of the court to the treasurer of 322  
state in a manner prescribed by the treasurer of state or by the 323  
Ohio legal assistance foundation. The treasurer of state shall 324  
deposit four per cent of the funds collected under this division 325  
to the credit of the civil case filing fee fund established 326  
under section 120.07 of the Revised Code and ninety-six per cent 327  
of the funds collected under this division to the credit of the 328  
legal aid fund established under section 120.52 of the Revised 329  
Code. 330

The court may retain up to one per cent of the moneys it 331  
collects under this division to cover administrative costs, 332  
including the hiring of any additional personnel necessary to 333  
implement this division. If the court fails to transmit to the 334  
treasurer of state the moneys the court collects under this 335  
division in a manner prescribed by the treasurer of state or by 336  
the Ohio legal assistance foundation, the court shall forfeit 337  
the moneys the court retains under this division to cover 338  
administrative costs, including the hiring of any additional 339  
personnel necessary to implement this division, and shall 340  
transmit to the treasurer of state all moneys collected under 341  
this division, including the forfeited amount retained for 342  
administrative costs, for deposit in the legal aid fund. 343

(D) In the Cleveland municipal court, reasonable charges 344  
for investigating titles of real estate to be sold or disposed 345  
of under any writ or process of the court may be taxed as part 346  
of the costs. 347

(E) Under the circumstances described in sections 2969.21 348

to 2969.27 of the Revised Code, the clerk of the municipal court 349  
shall charge the fees and perform the other duties specified in 350  
those sections. 351

(F) As used in this section: 352

(1) "Full day's attendance" means a day on which a witness 353  
is required or requested to be present at an action or 354  
proceeding before and after twelve noon, regardless of whether 355  
the witness actually testifies. 356

(2) "Half day's attendance" means a day on which a witness 357  
is required or requested to be present at an action or 358  
proceeding either before or after twelve noon, but not both, 359  
regardless of whether the witness actually testifies. 360

**Sec. 1907.24.** (A) Subject to division (C) of this section, 361  
a county court shall fix and tax fees and costs as follows: 362

(1) The county court shall require an advance deposit for 363  
the filing of any new civil action or proceeding when required 364  
by division (C) of this section, subject to its waiver pursuant 365  
to that division, and, in all other cases, shall establish a 366  
schedule of fees and costs to be taxed in any civil or criminal 367  
action or proceeding. 368

(2) The county court by rule may require an advance 369  
deposit for the filing of a civil action or proceeding and 370  
publication fees as provided in section 2701.09 of the Revised 371  
Code. The court ~~may shall~~ waive an advance deposit requirement 372  
~~upon the presentation of an affidavit or other evidence that~~ 373  
~~establishes that a party is unable to make the requisite deposit~~ 374  
for a party that the court determines qualifies as an indigent 375  
litigant as set forth in section 2323.311 of the Revised Code. 376

(3) When a party demands a jury trial in a civil action or 377

proceeding, the county court may require the party to make an advance deposit as fixed by rule of court, unless the court concludes, ~~on the basis of an affidavit or other evidence presented by the party, that the party is unable to make the requisite deposit~~ determines that the party qualifies as an indigent litigant as set forth in section 2323.311 of the Revised Code. If a jury is called, the county court shall tax the fees of a jury as costs.

(4) In a civil or criminal action or proceeding, the county court shall fix the fees of witnesses in accordance with sections 2335.06 and 2335.08 of the Revised Code.

(5) A county court may tax as part of the costs in a trial of the cause, in an amount fixed by rule of court, a reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in a proceeding.

(6) The court shall preserve chattel property seized under a writ or process issued by the court pending final disposition for the benefit of all interested persons. The court may place the chattel property in storage when necessary or proper for its preservation. The custodian of chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The county court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) The court may tax as part of costs charges for the publication of legal notices required by statute or order of

court, as provided by section 7.13 of the Revised Code. 407

(B) (1) (a) The county court may determine that, for the 408  
efficient operation of the court, additional funds are necessary 409  
to acquire and pay for special projects of the court including, 410  
but not limited to, the acquisition of additional facilities or 411  
the rehabilitation of existing facilities, the acquisition of 412  
equipment, the hiring and training of staff, community service 413  
programs, mediation or dispute resolution services, the 414  
employment of magistrates, the training and education of judges, 415  
acting judges, and magistrates, and other related services. Upon 416  
that determination, the court by rule may charge a fee, in 417  
addition to all other court costs, on the filing of each 418  
criminal cause, civil action or proceeding, or judgment by 419  
confession. 420

(b) If the county court offers a special program or 421  
service in cases of a specific type, the county court by rule 422  
may assess an additional charge in a case of that type, over and 423  
above court costs, to cover the special program or service. The 424  
county court shall adjust the special assessment periodically, 425  
but not retroactively, so that the amount assessed in those 426  
cases does not exceed the actual cost of providing the service 427  
or program. 428

(c) Any fee or charge assessed under division (B) (1) (a) or 429  
(b) of this section on the filing of a civil action or 430  
proceeding shall be waived if the court determines that the 431  
person on whom the fee or charge is assessed qualifies as an 432  
indigent litigant as set forth in section 2323.311 of the 433  
Revised Code. 434

(d) All moneys collected under division (B) of this 435  
section shall be paid to the county treasurer for deposit into 436

either a general special projects fund or a fund established for 437  
a specific special project. Moneys from a fund of that nature 438  
shall be disbursed upon an order of the court in an amount no 439  
greater than the actual cost to the court of a project. If a 440  
specific fund is terminated because of the discontinuance of a 441  
program or service established under division (B) of this 442  
section, the county court may order that moneys remaining in the 443  
fund be transferred to an account established under this 444  
division for a similar purpose. 445

(2) As used in division (B) of this section: 446

(a) "Criminal cause" means a charge alleging the violation 447  
of a statute or ordinance, or subsection of a statute or 448  
ordinance, that requires a separate finding of fact or a 449  
separate plea before disposition and of which the defendant may 450  
be found guilty, whether filed as part of a multiple charge on a 451  
single summons, citation, or complaint or as a separate charge 452  
on a single summons, citation, or complaint. "Criminal cause" 453  
does not include separate violations of the same statute or 454  
ordinance, or subsection of the same statute or ordinance, 455  
unless each charge is filed on a separate summons, citation, or 456  
complaint. 457

(b) "Civil action or proceeding" means any civil 458  
litigation that must be determined by judgment entry. 459

(c) Subject to division (E) of this section, the county 460  
court shall collect in all its divisions except the small claims 461  
division the sum of twenty-six dollars as additional filing fees 462  
in each new civil action or proceeding for the charitable public 463  
purpose of providing financial assistance to legal aid societies 464  
that operate within the state and to support the office of the 465  
state public defender. Subject to division (E) of this section, 466



the county court shall collect in its small claims division the 467  
sum of eleven dollars as additional filing fees in each new 468  
civil action or proceeding for the charitable public purpose of 469  
providing financial assistance to legal aid societies that 470  
operate within the state and to support the office of the state 471  
public defender. This division does not apply to any execution 472  
on a judgment, proceeding in aid of execution, or other post- 473  
judgment proceeding arising out of a civil action. The filing 474  
fees required to be collected under this division shall be in 475  
addition to any other court costs imposed in the action or 476  
proceeding and shall be collected at the time of the filing of 477  
the action or proceeding. The court shall not waive the payment 478  
of the additional filing fees in a new civil action or 479  
proceeding unless the court waives the advanced payment of all 480  
filing fees in the action or proceeding for the party that the 481  
court determines is qualified as an indigent litigant as set 482  
forth in section 2323.311 of the Revised Code. All such moneys 483  
collected during a month except for an amount equal to up to one 484  
per cent of those moneys retained to cover administrative costs 485  
shall be transmitted on or before the twentieth day of the 486  
following month by the clerk of the court to the treasurer of 487  
state in a manner prescribed by the treasurer of state or by the 488  
Ohio legal assistance foundation. The treasurer of state shall 489  
deposit four per cent of the funds collected under this division 490  
to the credit of the civil case filing fee fund established 491  
under section 120.07 of the Revised Code and ninety-six per cent 492  
of the funds collected under this division to the credit of the 493  
legal aid fund established under section 120.52 of the Revised 494  
Code. 495

The court may retain up to one per cent of the moneys it 496  
collects under this division to cover administrative costs, 497

including the hiring of any additional personnel necessary to 498  
implement this division. If the court fails to transmit to the 499  
treasurer of state the moneys the court collects under this 500  
division in a manner prescribed by the treasurer of state or by 501  
the Ohio legal assistance foundation, the court shall forfeit 502  
the moneys the court retains under this division to cover 503  
administrative costs, including the hiring of any additional 504  
personnel necessary to implement this division, and shall 505  
transmit to the treasurer of state all moneys collected under 506  
this division, including the forfeited amount retained for 507  
administrative costs, for deposit in the legal aid fund. 508

(D) The county court shall establish by rule a schedule of 509  
fees for miscellaneous services performed by the county court or 510  
any of its judges in accordance with law. If judges of the court 511  
of common pleas perform similar services, the fees prescribed in 512  
the schedule shall not exceed the fees for those services 513  
prescribed by the court of common pleas. 514

(E) Under the circumstances described in sections 2969.21 515  
to 2969.27 of the Revised Code, the clerk of the county court 516  
shall charge the fees and perform the other duties specified in 517  
those sections. 518

**Sec. 2101.24.** (A) (1) Except as otherwise provided by law, 519  
the probate court has exclusive jurisdiction: 520

(a) To take the proof of wills and to admit to record 521  
authenticated copies of wills executed, proved, and allowed in 522  
the courts of any other state, territory, or country. If the 523  
probate judge is unavoidably absent, any judge of the court of 524  
common pleas may take proof of wills and approve bonds to be 525  
given, but the record of these acts shall be preserved in the 526  
usual records of the probate court. 527

(b) To grant and revoke letters testamentary and of administration;	528 529
(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;	530 531 532
(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;	533 534 535
(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;	536 537 538
(f) To grant marriage licenses;	539
(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, 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;	540 541 542 543 544 545
(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;	546 547 548
(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;	549 550 551 552
(j) To authorize the completion of real property contracts on petition of executors and administrators;	553 554
(k) To construe wills;	555

(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to <del>section 2107.084</del> <u>Chapter 5817.</u> of the Revised Code;	556 557 558
(m) To direct and control the conduct of fiduciaries and settle their accounts;	559 560
(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;	561 562 563
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	564 565
(p) To hear and determine actions to contest the validity of wills;	566 567
(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;	568 569 570
(r) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	571 572
(s) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	573 574
(t) 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;	575 576 577
(u) 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;	578 579 580
(v) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised	581 582

Code;	583
(w) To hear and determine complaints that pertain to the	584
use or continuation, or the withholding or withdrawal, of life-	585
sustaining treatment in connection with certain patients	586
allegedly in a terminal condition or in a permanently	587
unconscious state pursuant to division (E) of section 2133.08 of	588
the Revised Code, in accordance with that division;	589
(x) To hear and determine applications that pertain to the	590
withholding or withdrawal of nutrition and hydration from	591
certain patients allegedly in a permanently unconscious state	592
pursuant to section 2133.09 of the Revised Code, in accordance	593
with that section;	594
(y) To hear and determine applications of attending	595
physicians in accordance with division (B) of section 2133.15 of	596
the Revised Code;	597
(z) To hear and determine actions relative to the use or	598
continuation of comfort care in connection with certain	599
principals under durable powers of attorney for health care,	600
declarants under declarations, or patients in accordance with	601
division (E) of either section 1337.16 or 2133.12 of the Revised	602
Code;	603
(aa) To hear and determine applications for an order	604
relieving an estate from administration under section 2113.03 of	605
the Revised Code;	606
(bb) To hear and determine applications for an order	607
granting a summary release from administration under section	608
2113.031 of the Revised Code;	609
(cc) To hear and determine actions relating to the	610
exercise of the right of disposition, in accordance with section	611

2108.90 of the Revised Code; 612

(dd) To hear and determine actions relating to the 613  
disinterment and reinterment of human remains under section 614  
517.23 of the Revised Code; 615

(ee) To hear and determine petitions for an order for 616  
treatment of a person suffering from alcohol and other drug 617  
abuse filed under section 5119.93 of the Revised Code and to 618  
order treatment of that nature in accordance with, and take 619  
other actions afforded to the court under, sections 5119.90 to 620  
5119.98 of the Revised Code. 621

(2) In addition to the exclusive jurisdiction conferred 622  
upon the probate court by division (A) (1) of this section, the 623  
probate court shall have exclusive jurisdiction over a 624  
particular subject matter if both of the following apply: 625

(a) Another section of the Revised Code expressly confers 626  
jurisdiction over that subject matter upon the probate court. 627

(b) No section of the Revised Code expressly confers 628  
jurisdiction over that subject matter upon any other court or 629  
agency. 630

(B) (1) The probate court has concurrent jurisdiction with, 631  
and the same powers at law and in equity as, the general 632  
division of the court of common pleas to issue writs and orders, 633  
and to hear and determine actions as follows: 634

(a) If jurisdiction relative to a particular subject 635  
matter is stated to be concurrent in a section of the Revised 636  
Code or has been construed by judicial decision to be 637  
concurrent, any action that involves that subject matter; 638

(b) Any action that involves an inter vivos trust; a trust 639

created pursuant to section 5815.28 of the Revised Code; a 640  
charitable trust or foundation; subject to divisions (A) (1) (t) 641  
and (y) of this section, a power of attorney, including, but not 642  
limited to, a durable power of attorney; the medical treatment 643  
of a competent adult; or a writ of habeas corpus; 644

(c) Subject to section 2101.31 of the Revised Code, any 645  
action with respect to a probate estate, guardianship, trust, or 646  
post-death dispute that involves any of the following: 647

(i) A designation or removal of a beneficiary of a life 648  
insurance policy, annuity contract, retirement plan, brokerage 649  
account, security account, bank account, real property, or 650  
tangible personal property; 651

(ii) A designation or removal of a payable-on-death 652  
beneficiary or transfer-on-death beneficiary; 653

(iii) A change in the title to any asset involving a joint 654  
and survivorship interest; 655

(iv) An alleged gift; 656

(v) The passing of assets upon the death of an individual 657  
otherwise than by will, intestate succession, or trust. 658

(2) Any action that involves a concurrent jurisdiction 659  
subject matter and that is before the probate court may be 660  
transferred by the probate court, on its order, to the general 661  
division of the court of common pleas. 662

(3) Notwithstanding that the probate court has exclusive 663  
jurisdiction to render declaratory judgments under Chapter 5817. 664  
of the Revised Code, the probate court may transfer the 665  
proceeding to the general division of the court of common pleas 666  
pursuant to division (A) of section 5817.04 of the Revised Code. 667

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

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

**Sec. 2105.19.** (A) Except as provided in division (C) of this section, no person who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of section 2903.01, 2903.02, or 2903.03 of the Revised Code or a violation of division (A) of section 2903.04 of the Revised Code that is not a proximate result of a felony violation of section 2903.06 of the Revised Code, or of an existing or former law of any other state, the United States, or a foreign nation, substantially equivalent to a violation of or complicity in the violation of any of these sections, no person who is indicted for a violation of or complicity in the violation of any of those sections or laws and subsequently is adjudicated incompetent to stand trial on that charge, and no juvenile who is found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of any of those sections or laws, shall in any way benefit by the death. All property of the decedent, and all money, insurance proceeds, or other property or benefits payable or distributable in respect of the decedent's death, shall pass or be paid or distributed as if the person who caused the death of the decedent had predeceased the decedent.

(B) A person prohibited by division (A) of this section



from benefiting by the death of another is a constructive 698  
trustee for the benefit of those entitled to any property or 699  
benefit that the person has obtained, or over which the person 700  
has exerted control, because of the decedent's death. A person 701  
who purchases any such property or benefit from the constructive 702  
trustee, for value, in good faith, and without notice of the 703  
constructive trustee's disability under division (A) of this 704  
section, acquires good title, but the constructive trustee is 705  
accountable to the beneficiaries for the proceeds or value of 706  
the property or benefit. 707

(C) A person who is prohibited from benefiting from a 708  
death pursuant to division (A) of this section either because 709  
the person was adjudicated incompetent to stand trial or was 710  
found not guilty by reason of insanity, or the person's guardian 711  
appointed pursuant to Chapter 2111. of the Revised Code or other 712  
legal representative, may file a complaint to declare the 713  
person's right to benefit from the death in the probate court in 714  
which the decedent's estate is being administered or that 715  
released the estate from administration. The complaint shall be 716  
filed no later than sixty days after the person is adjudicated 717  
incompetent to stand trial or found not guilty by reason of 718  
insanity. The court shall notify each person who is a devisee or 719  
legatee under the decedent's will, or if there is no will, each 720  
person who is an heir of the decedent pursuant to section 721  
2105.06 of the Revised Code that a complaint of that nature has 722  
been filed within ten days after the filing of the complaint. 723  
The person who files the complaint, and each person who is 724  
required to be notified of the filing of the complaint under 725  
this division, is entitled to a jury trial in the action. To 726  
assert the right, the person desiring a jury trial shall demand 727  
a jury in the manner prescribed in the Civil Rules. 728

A person who files a complaint pursuant to this division 729  
shall be restored to the person's right to benefit from the 730  
death unless the court determines, by a preponderance of the 731  
evidence, that the person would have been convicted of a 732  
violation of, or complicity in the violation of, section 733  
2903.01, 2903.02, or 2903.03 of the Revised Code or a violation 734  
of division (A) of section 2903.04 of the Revised Code that is 735  
not a proximate result of a felony violation of section 2903.06 736  
of the Revised Code, or of a law of another state, the United 737  
States, or a foreign nation that is substantially similar to any 738  
of those sections, if the person had been brought to trial in 739  
the case in which the person was adjudicated incompetent or if 740  
the person were not insane at the time of the commission of the 741  
offense. 742

**Sec. 2107.01.** As used in Chapters 2101. to 2131. of the 743  
Revised Code: 744

(A) "Will" includes codicils to wills admitted to probate, 745  
lost, spoliated, or destroyed wills, and instruments ~~admitted to~~ 746  
~~probate~~ declared valid under division (A)(1) of section 2107.081- 747  
5817.10 of the Revised Code, but "will" does not include inter 748  
vivos trusts or other instruments that have not been admitted to 749  
probate. 750

(B) "Testator" means any person who makes a will. 751

**Sec. 2107.05.** (A) An existing document, book, record, or 752  
memorandum may be incorporated in a will by reference, if 753  
referred to as being in existence at the time the will is 754  
executed. That document, book, record, or memorandum shall be 755  
deposited in the probate court when the will is probated or 756  
within thirty days after the will is probated, unless the court 757  
grants an extension of time for good cause shown. A copy may be 758

substituted for the original document, book, record, or 759  
memorandum if the copy is certified to be correct by a person 760  
authorized to take acknowledgments. 761

(B) Notwithstanding division (A) of this section, if a 762  
will incorporates a trust instrument only in the event that a 763  
bequest or devise to the trust is ineffective, the trust 764  
instrument shall be deposited in the probate court not later 765  
than thirty days after the final determination that such bequest 766  
or devise is ineffective. 767

(C) If a testator intends to incorporate a trust 768  
instrument in a will, the testator's will shall manifest that 769  
intent through the use of the term "incorporate," "made a part 770  
of," or similar language. In the absence of such clear and 771  
express intent, a trust instrument shall not be incorporated 772  
into or made a part of the will. Any language in the testator's 773  
will that only identifies a trust shall not be sufficient to 774  
manifest an intent to incorporate that trust instrument by 775  
reference in the will. 776

(D) The amendment of this section by adding divisions (B) 777  
and (C) applies, and shall be construed as applying, to the 778  
wills of testators who die on or after the effective date of 779  
this amendment. 780

**Sec. 2107.07.** A will may be deposited by the testator, or 781  
by some person for the testator, in the office of the judge of 782  
the probate court in the county in which the testator lives, 783  
before or after the death of the testator, and if deposited 784  
after the death of the testator, with or without applying for 785  
its probate. Upon the payment of the fee of twenty-five dollars 786  
to the court, the judge shall receive, keep, and give a 787  
certificate of deposit for the will. That will shall be safely 788

kept until delivered or disposed of as provided by section 789  
2107.08 of the Revised Code. If the will is not delivered or 790  
disposed of as provided in that section within one hundred years 791  
after the date the will was deposited, the judge may dispose of 792  
the will in any manner the judge considers feasible. The judge 793  
shall retain an electronic copy of the will prior to its 794  
disposal after one hundred years under this section. 795

Every will that is so deposited shall be enclosed in a 796  
sealed envelope that shall be indorsed with the name of the 797  
testator. The judge shall indorse on the envelope the date of 798  
delivery and the person by whom the will was delivered. The 799  
envelope may be indorsed with the name of a person to whom it is 800  
to be delivered after the death of the testator. The will shall 801  
not be opened or read until delivered to a person entitled to 802  
receive it, until the testator files a complaint in the probate 803  
court for a declaratory judgment of the validity of the will 804  
pursuant to section ~~2107.081~~5817.02 of the Revised Code, or 805  
until otherwise disposed of as provided in section 2107.08 of 806  
the Revised Code. Subject to section 2107.08 of the Revised 807  
Code, the deposited will shall not be a public record until the 808  
time that an application is filed to probate it. 809

**Sec. 2107.08.** During the lifetime of a testator, the 810  
testator's will, deposited according to section 2107.07 of the 811  
Revised Code, shall be delivered only to the testator, to some 812  
person authorized by the testator by a written order, or to a 813  
probate court for a determination of its validity when the 814  
testator so requests. After the testator's death, the will shall 815  
be delivered to the person named in the indorsement on the 816  
envelope of the will, if there is a person named who demands it. 817  
If the testator has filed a complaint in the probate court for a 818  
judgment declaring the validity of the will pursuant to section 819

~~2107.081-5817.02~~ of the Revised Code and ~~the court has rendered~~ 820  
~~the a judgment is rendered pursuant to division (A) (1) of~~ 821  
section 5817.10 of the Revised Code declaring the will valid, 822  
~~the probate judge with possession of the court who rendered the~~ 823  
judgment shall deliver the will to the proper probate court as 824  
determined under section 2107.11 of the Revised Code, upon the 825  
death of the testator, for probate. 826

If no person named in the indorsement demands the will and 827  
it is not one that has been declared valid pursuant to division 828  
(A) (1) of section ~~2107.084-5817.10~~ of the Revised Code, it shall 829  
be publicly opened in the probate court within one month after 830  
notice of the testator's death and retained in the office of the 831  
probate judge until offered for probate. If the jurisdiction 832  
belongs to any other probate court, the will shall be delivered 833  
to the person entitled to its custody, to be presented for 834  
probate in the other court. If the probate judge who opens the 835  
will has jurisdiction of it, the probate judge immediately shall 836  
give notice of its existence to the executor named in the will 837  
or, if any, to the persons holding a power to nominate an 838  
executor as described in section 2107.65 of the Revised Code, 839  
or, if it is the case, to the executor named in the will and to 840  
the persons holding a power to nominate a coexecutor as 841  
described in that section. If no executor is named and no 842  
persons hold a power to nominate an executor as described in 843  
that section, the probate judge shall give notice to other 844  
persons immediately interested. 845

**Sec. 2107.09.** (A) If real property is devised or personal 846  
property is bequeathed by a will, the executor or any interested 847  
person may cause the will to be brought before the probate court 848  
of the county in which the decedent was domiciled. By judicial 849  
order, the court may compel the person having the custody or 850

control of the will to produce it before the court for the 851  
purpose of being proved. 852

If the person having the custody or control of the will 853  
intentionally conceals or withholds it or neglects or refuses to 854  
produce it for probate without reasonable cause, the person may 855  
be committed to the county jail and kept in custody until the 856  
will is produced. The person also shall be liable to any party 857  
aggrieved for the damages sustained by that neglect or refusal. 858

Any judicial order issued pursuant to this section may be 859  
issued into any county in the state and shall be served and 860  
returned by the officer to whom it is delivered. 861

The officer to whom the process is delivered shall be 862  
liable for neglect in its service or return in the same manner 863  
as sheriffs are liable for neglect in not serving or returning a 864  
capias issued upon an indictment. 865

(B) In the case of a will that has been declared valid 866  
pursuant to division (A) (1) of section 2107.084-5817.10 of the 867  
Revised Code, the ~~probate judge~~ of the probate court or of the 868  
general division of the court of common pleas to which the 869  
proceeding was transferred pursuant to division (A) of section 870  
5817.04 of the Revised Code who made the declaration ~~or who has~~  
~~possession of the will~~ shall cause ~~the will and the judgment~~ 871  
declaring ~~validity~~ the will valid to be brought before the 872  
proper probate court as determined by section 2107.11 of the 873  
Revised Code at a time after the death of the testator. If the 874  
death of the testator is brought to the attention of the ~~probate~~  
applicable judge by an interested party, the judge shall cause 875  
the judgment declaring the will valid to be brought before the 876  
proper probate court at that time. 877  
878  
879

**Sec. 2107.10.** (A) No property or right, testate or 880  
intestate, shall pass to a beneficiary named in a will who knows 881  
of the existence of the will for one year after the death of the 882  
testator and has the power to control it and, without reasonable 883  
cause, intentionally conceals or withholds it or neglects or 884  
refuses within that one year to cause it to be offered for or 885  
admitted to probate. The property devised or bequeathed to that 886  
beneficiary shall pass as if the beneficiary had predeceased the 887  
testator. 888

(B) No property or right, testate or intestate, passes to 889  
a beneficiary named in a will when the will was declared valid 890  
~~and filed with a probate judge by a court pursuant to division~~ 891  
~~(A) (1) of section 2107.084-5817.10~~ of the Revised Code, the 892  
declaration ~~and filing~~ took place in a county different from the 893  
county in which the will of the testator would be probated under 894  
section 2107.11 of the Revised Code, and the named beneficiary 895  
knew of the declaration ~~and filing~~ and of the death of the 896  
testator and did not notify the ~~probate judge with whom of the~~ 897  
~~court in which the will was filed~~ declared valid. This division 898  
does not preclude a named beneficiary from acquiring property or 899  
rights from the estate of the testator for failing to notify a 900  
~~probate judge of that court~~ if the named beneficiary reasonably 901  
believes that the judge has previously been notified of the 902  
testator's death. 903

**Sec. 2107.11.** (A) A will shall be admitted to probate: 904

(1) In the county in this state in which the testator was 905  
domiciled at the time of the testator's death; 906

(2) In any county of this state where any real property or 907  
personal property of the testator is located if, at the time of 908  
the testator's death, the testator was not domiciled in this 909

state, and provided that the will has not previously been 910  
admitted to probate in this state or in the state of the 911  
testator's domicile; 912

(3) In the county of this state in which a ~~probate~~ court 913  
rendered a judgment declaring that the will was valid ~~and in~~ 914  
~~which the will was filed with the probate court pursuant to~~ 915  
division (A) (1) of section 5817.10 of the Revised Code. 916

(B) For the purpose of division (A) (2) of this section, 917  
intangible personal property is located in the place where the 918  
instrument evidencing a debt, obligation, stock, or chose in 919  
action is located or if there is no instrument of that nature 920  
where the debtor resides. 921

**Sec. 2107.12.** When a will is presented for probate or for 922  
a declaratory judgment of its validity pursuant to ~~section~~ 923  
~~2107.081~~ Chapter 5817. of the Revised Code, persons interested 924  
in its outcome may contest the jurisdiction of the court to 925  
entertain the application. Preceding a hearing of a contest as 926  
to jurisdiction, all parties named in such will as legatees, 927  
 devisees, trustees, or executors shall have notice ~~thereof~~ of 928  
the hearing in such manner as may be ordered by the court. 929

When ~~such~~ that contest is made, the parties may call 930  
witnesses and shall be heard upon the question involved. The 931  
decision of the court as to its jurisdiction may be reviewed on 932  
error. 933

**Sec. 2107.16.** (A) When offered for probate, a will may be 934  
admitted to probate and allowed upon such proof as would be 935  
satisfactory, and in like manner as if an absent or incompetent 936  
witness were dead: 937

(1) If it appears to the probate court that a witness to 938



such will has gone to parts unknown; 939

(2) If the witness was competent at the time of attesting 940  
its execution and afterward became incompetent; 941

(3) If testimony of a witness cannot be obtained within a 942  
reasonable time. 943

(B) When offered for probate, a will shall be admitted to 944  
probate and allowed when there has been a prior judgment by a 945  
~~probate court~~ declaring that the will is valid pursuant to 946  
division (A) (1) of section 2107.084-5817.10 of the Revised Code, 947  
if the will ~~has not been removed from the possession of the~~ 948  
~~probate judge and has not been modified or revoked under~~ 949  
~~division (C) or (D) of section 2107.084 of the Revised Code.~~ 950

**Sec. 2107.18.** The probate court shall admit a will to 951  
probate if it appears from the face of the will, or if the 952  
probate court requires, in its discretion, the testimony of the 953  
witnesses to a will and it appears from that testimony, that the 954  
execution of the will complies with the law in force at the time 955  
of the execution of the will in the jurisdiction in which the 956  
testator was physically present when it was executed, with the 957  
law in force in this state at the time of the death of the 958  
testator, or with the law in force in the jurisdiction in which 959  
the testator was domiciled at the time of the testator's death. 960

The probate court shall admit a will to probate when there 961  
has been a prior judgment by a ~~probate court~~ declaring that the 962  
will is valid, rendered pursuant to division (A) (1) of section 963  
2107.084-5817.10 of the Revised Code, if the will ~~has not been~~ 964  
~~removed from the possession of the probate judge and has not~~ 965  
~~been modified or revoked under division (C) or (D) of section~~ 966  
~~2107.084 of the Revised Code.~~ 967

**Sec. 2107.20.** When admitted to probate every will shall be 968  
filed in the office of the probate judge and recorded, together 969  
with any testimony or prior judgment of a ~~probate~~ court 970  
declaring the will valid pursuant to division (A)(1) of section 971  
5817.10 of the Revised Code, by the judge or the clerk of the 972  
probate court in a book to be kept for that purpose. 973

A copy of the recorded will, with a copy of the order of 974  
probate annexed to the copy of the recorded will, certified by 975  
the judge under seal of the judge's court, shall be as effectual 976  
in all cases as the original would be, if established by proof. 977

**Sec. 2107.22.** (A) (1) (a) When a will has been admitted to 978  
probate by a probate court and another will of later date is 979  
presented to the same court for probate, notice of the will of 980  
later date shall be given to those persons required to be 981  
notified under section 2107.19 of the Revised Code, and to the 982  
fiduciaries and beneficiaries under the will of earlier date. 983  
The probate court may admit the will of later date to probate 984  
the same as if no earlier will had been so admitted if it 985  
appears from the face of the will of later date, or if an 986  
interested person makes a demand as described in division (A) (1) 987  
(b) of this section and it appears from the testimony of the 988  
witnesses to the will given in accordance with that division, 989  
that the execution of the will complies with the law in force at 990  
the time of the execution of the will in the jurisdiction in 991  
which the testator was physically present when it was executed, 992  
with the law in force in this state at the time of the death of 993  
the testator, or with the law in force in the jurisdiction in 994  
which the testator was domiciled at the time of the testator's 995  
death. 996

(b) Upon the demand of a person interested in having a 997

will of later date admitted to probate, the probate court shall 998  
cause at least two of the witnesses to the will of later date, 999  
and any other witnesses that the interested person desires to 1000  
have appear, to come before the probate court and provide 1001  
testimony. If the interested person so requests, the probate 1002  
court shall issue a subpoena to compel the presence of any such 1003  
witness before the probate court to provide testimony. 1004

Witnesses before the probate court pursuant to this 1005  
division shall be examined, and may be cross-examined, in open 1006  
court, and their testimony shall be reduced to writing and then 1007  
filed in the records of the probate court pertaining to the 1008  
testator's estate. 1009

(2) When an authenticated copy of a will has been admitted 1010  
to record by a probate court, and an authenticated copy of a 1011  
will of later date that was executed and proved as required by 1012  
law, is presented to the same court for record, it shall be 1013  
admitted to record in the same manner as if no authenticated 1014  
copy of the will of earlier date had been so admitted. 1015

(3) If a probate court admits a will of later date to 1016  
probate, or an authenticated copy of a will of later date to 1017  
record, its order shall operate as a revocation of the order 1018  
admitting the will of earlier date to probate, or shall operate 1019  
as a revocation of the order admitting the authenticated copy of 1020  
the will of earlier date to record. The probate court shall 1021  
enter on the record of the earlier will a marginal note "later 1022  
will admitted to probate ..." (giving the date admitted). 1023

(B) When a will that has been declared valid pursuant to 1024  
division (A) (1) of section 2107.084-5817.10 of the Revised Code 1025  
has been admitted to probate by a probate court, and an 1026  
authenticated copy of another will of later date that was 1027

executed and proved as required by law is presented to the same 1028  
court for record, the will of later date shall be admitted the 1029  
same as if no other will had been admitted and the proceedings 1030  
shall continue as provided in this section. 1031

**Sec. 2107.33.** (A) A will shall be revoked in the following 1032  
manners: 1033

(1) By the testator by tearing, canceling, obliterating, 1034  
or destroying it with the intention of revoking it; 1035

(2) By some person, at the request of the testator and in 1036  
the testator's presence, by tearing, canceling, obliterating, or 1037  
destroying it with the intention of revoking it; 1038

(3) By some person tearing, canceling, obliterating, or 1039  
destroying it pursuant to the testator's express written 1040  
direction; 1041

(4) By some other written will or codicil, executed as 1042  
prescribed by this chapter; 1043

(5) By some other writing that is signed, attested, and 1044  
subscribed in the manner provided by this chapter. 1045

~~(B) A will that has been declared valid and is in the 1046  
possession of a probate judge also may be revoked according to 1047  
division (C) of section 2107.084 of the Revised Code. 1048~~

~~(C) If a testator removes a will that has been declared 1049  
valid and is in the possession of a probate judge pursuant to 1050  
section 2107.084 of the Revised Code from the possession of the 1051  
judge, the declaration of validity that was rendered no longer 1052  
has any effect. 1053~~

~~(D) If after executing a will, a testator is divorced, 1054  
obtains a dissolution of marriage, has the testator's marriage 1055~~

annulled, or, upon actual separation from the testator's spouse, 1056  
enters into a separation agreement pursuant to which the parties 1057  
intend to fully and finally settle their prospective property 1058  
rights in the property of the other, whether by expected 1059  
inheritance or otherwise, any disposition or appointment of 1060  
property made by the will to the former spouse or to a trust 1061  
with powers created by or available to the former spouse, any 1062  
provision in the will conferring a general or special power of 1063  
appointment on the former spouse, and any nomination in the will 1064  
of the former spouse as executor, trustee, or guardian shall be 1065  
revoked unless the will expressly provides otherwise. 1066

~~(E)~~ (C) Property prevented from passing to a former spouse 1067  
or to a trust with powers created by or available to the former 1068  
spouse because of revocation by this section shall pass as if 1069  
the former spouse failed to survive the decedent, and other 1070  
provisions conferring some power or office on the former spouse 1071  
shall be interpreted as if the spouse failed to survive the 1072  
decedent. If provisions are revoked solely by this section, they 1073  
shall be deemed to be revived by the testator's remarriage with 1074  
the former spouse or upon the termination of a separation 1075  
agreement executed by them. 1076

~~(F)~~ (D) A bond, agreement, or covenant made by a testator, 1077  
for a valuable consideration, to convey property previously 1078  
devised or bequeathed in a will does not revoke the devise or 1079  
bequest. The property passes by the devise or bequest, subject 1080  
to the remedies on the bond, agreement, or covenant, for a 1081  
specific performance or otherwise, against the devisees or 1082  
legatees, that might be had by law against the heirs of the 1083  
testator, or the testator's next of kin, if the property had 1084  
descended to them. 1085

~~(G)~~-(E) A testator's revocation of a will shall be valid 1086  
only if the testator, at the time of the revocation, has the 1087  
same capacity as the law requires for the execution of a will. 1088

~~(H)~~-(F) As used in this section: 1089

(1) "Trust with powers created by or available to the 1090  
former spouse" means a trust that is revocable by the former 1091  
spouse, with respect to which the former spouse has a power of 1092  
withdrawal, or with respect to which the former spouse may take 1093  
a distribution that is not subject to an ascertainable standard 1094  
but does not mean a trust in which those powers of the former 1095  
spouse are revoked by section 5815.31 of the Revised Code or 1096  
similar provisions in the law of another state. 1097

(2) "Ascertainable standard" means a standard that is 1098  
related to a trust beneficiary's health, maintenance, support, 1099  
or education. 1100

**Sec. 2107.52.** (A) As used in this section: 1101

(1) "Class member" means an individual who fails to 1102  
survive the testator but who would have taken under a devise in 1103  
the form of a class gift had the individual survived the 1104  
testator. 1105

(2) "Descendant of a grandparent" means an individual who 1106  
qualifies as a descendant of a grandparent of the testator or of 1107  
the donor of a power of appointment under either of the 1108  
following: 1109

(a) The rules of construction applicable to a class gift 1110  
created in the testator's will if the devise or the exercise of 1111  
the power of appointment is in the form of a class gift; 1112

(b) The rules for intestate succession if the devise or 1113

the exercise of the power of appointment is not in the form of a class gift. 1114  
1115

(3) "Devise" means an alternative devise, a devise in the form of a class gift, or an exercise of a power of appointment. 1116  
1117

(4) "Devisee" means any of the following: 1118

(a) A class member if the devise is in the form of a class gift; 1119  
1120

(b) An individual or class member who was deceased at the time the testator executed the testator's will or an individual or class member who was then living but who failed to survive the testator; 1121  
1122  
1123  
1124

(c) An appointee under a power of appointment exercised by the testator's will. 1125  
1126

(5) "Per stirpes" means that the shares of the descendants of a devisee who does not survive the testator are determined in the same way they would have been determined under division (A) of section 2105.06 of the Revised Code if the devisee had died intestate and unmarried on the date of the testator's death. 1127  
1128  
1129  
1130  
1131

(6) "Stepchild" means a child of the surviving, deceased, or former spouse of the testator or of the donor of a power of appointment and not of the testator or donor. 1132  
1133  
1134

(7) "Surviving devisee" or "surviving descendant" means a devisee or descendant, whichever is applicable, who survives the testator by at least one hundred twenty hours. 1135  
1136  
1137

(8) "Testator" includes the donee of a power of appointment if the power is exercised in the testator's will. 1138  
1139

(B) (1) As used in "surviving descendants" in divisions (B) 1140

(2) (a) and (b) of this section, "descendants" means the 1141  
descendants of a deceased devisee or class member under the 1142  
applicable division who would take under a class gift created in 1143  
the testator's will. 1144

(2) Unless a contrary intent appears in the will, if a 1145  
devisee fails to survive the testator and is a grandparent, a 1146  
descendant of a grandparent, or a stepchild of either the 1147  
testator or the donor of a power of appointment exercised by the 1148  
testator's will, either of the following applies: 1149

(a) If the devise is not in the form of a class gift and 1150  
the deceased devisee leaves surviving descendants, a substitute 1151  
gift is created in the devisee's surviving descendants. The 1152  
surviving descendants take, per stirpes, the property to which 1153  
the devisee would have been entitled had the devisee survived 1154  
the testator. 1155

(b) If the devise is in the form of a class gift, other 1156  
than a devise to "issue," "descendants," "heirs of the body," 1157  
"heirs," "next of kin," "relatives," or "family," or a class 1158  
described by language of similar import that includes more than 1159  
one generation, a substitute gift is created in the surviving 1160  
descendants of any deceased devisee. The property to which the 1161  
devisees would have been entitled had all of them survived the 1162  
testator passes to the surviving devisees and the surviving 1163  
descendants of the deceased devisees. Each surviving devisee 1164  
takes the share to which the surviving devisee would have been 1165  
entitled had the deceased devisees survived the testator. Each 1166  
deceased devisee's surviving descendants who are substituted for 1167  
the deceased devisee take, per stirpes, the share to which the 1168  
deceased devisee would have been entitled had the deceased 1169  
devisee survived the testator. For purposes of division (B) (2) 1170



(b) of this section, "deceased devisee" means a class member who 1171  
failed to survive the testator by at least one hundred twenty 1172  
hours and left one or more surviving descendants. 1173

(C) For purposes of this section, each of the following 1174  
applies: 1175

(1) Attaching the word "surviving" or "living" to a 1176  
devise, such as a gift "to my surviving (or living) children," 1177  
is not, in the absence of other language in the will or other 1178  
evidence to the contrary, a sufficient indication of an intent 1179  
to negate the application of division (B) of this section. 1180

(2) Attaching other words of survivorship to a devise, 1181  
such as "to my child, if my child survives me," is, in the 1182  
absence of other language in the will or other evidence to the 1183  
contrary, a sufficient indication of an intent to negate the 1184  
application of division (B) of this section. 1185

(3) A residuary clause is not a sufficient indication of 1186  
an intent to negate the application of division (B) of this 1187  
section unless the will specifically provides that upon lapse or 1188  
failure the nonresiduary devise, or nonresiduary devises in 1189  
general, pass under the residuary clause. 1190

(4) Unless the language creating a power of appointment 1191  
expressly excludes the substitution of the descendants of an 1192  
appointee for the appointee, a surviving descendant of a 1193  
deceased appointee of a power of appointment may be substituted 1194  
for the appointee under this section, whether or not the 1195  
descendant is an object of the power of appointment. 1196

(D) Except as provided in division (A), (B), or (C) of 1197  
this section, each of the following applies: 1198

(1) A devise, other than a residuary devise, that fails 1199

for any reason becomes a part of the residue. 1200

(2) If the residue is devised to two or more persons, the 1201  
share of a residuary devisee that fails for any reason passes to 1202  
the other residuary devisee, or to other residuary devisees in 1203  
proportion to the interest of each in the remaining part of the 1204  
residue. 1205

(3) If a residuary devise fails for any reason in its 1206  
entirety, the residue passes by intestate succession. 1207

(E) This section applies only to outright devises and 1208  
appointments. Devises and appointments in trust, including to a 1209  
testamentary trust, are subject to section 5808.19 of the 1210  
Revised Code. 1211

(F) This section applies to wills of decedents who die on 1212  
or after ~~the effective date of this section~~ March 22, 2012. 1213

**Sec. 2107.71.** (A) A person interested in a will or codicil 1214  
admitted to probate in the probate court that has not been 1215  
declared valid by judgment of a ~~probate court~~ pursuant to 1216  
division (A) (1) of section 2107.084-5817.10 of the Revised Code 1217  
~~or that has been declared valid by judgment of a probate court~~ 1218  
~~pursuant to section 2107.084 of the Revised Code but has been~~ 1219  
~~removed from the possession of the probate judge,~~ may contest 1220  
its validity by filing a complaint in the probate court in the 1221  
county in which the will or codicil was admitted to probate. 1222

(B) Except as otherwise provided in this division, no 1223  
person may contest the validity of any will or codicil as to 1224  
facts decided if it was submitted to a probate court by the 1225  
testator during the testator's lifetime and declared valid by 1226  
judgment of ~~the probate a court and filed with the judge of the~~ 1227  
~~probate court~~ pursuant to division (A) (1) of section 2107.084- 1228

~~5817.10~~ of the Revised Code ~~and if the will was not removed from~~ 1229  
~~the possession of the probate judge.~~ A person may contest the 1230  
validity of that will, ~~modification,~~ or codicil as to those 1231  
facts if the person is one who should have been named a party 1232  
defendant in the action in which the will, ~~modification,~~ or 1233  
codicil was declared valid, pursuant to division (A) of section 1234  
~~2107.081 or 2107.084~~ 5817.05 of the Revised Code, and if the 1235  
person was not named a defendant and properly served in that 1236  
action. Upon the filing of a complaint contesting the validity 1237  
of a will or codicil that is authorized by this division, the 1238  
court shall proceed with the action ~~in the same manner as if the~~ 1239  
~~will, modification, or codicil had not been previously declared~~ 1240  
~~valid under sections 2107.081 to 2107.085 of the Revised Code.~~ 1241

(C) No person may introduce, as evidence in an action 1242  
authorized by this section contesting the validity of a will, 1243  
the fact that the testator of the will did not file a complaint 1244  
for a judgment declaring its validity under ~~section 2107.081~~ 1245  
Chapter 5817. of the Revised Code. 1246

**Sec. 2109.41.** (A) Immediately after appointment and 1247  
throughout the ~~administration of a trust~~ term of the 1248  
appointment, but subject to section 2109.372 of the Revised Code 1249  
and except as provided in division (C) of this section, every 1250  
fiduciary, pending payment of current obligations of the 1251  
fiduciary's trust or estate, distribution, or investment 1252  
pursuant to law, shall deposit all funds received by the 1253  
fiduciary in the fiduciary's name as such fiduciary in one or 1254  
more depositories. Each depository shall be a bank, savings 1255  
bank, savings and loan association, or credit union located in 1256  
this state. A corporate fiduciary, authorized to receive 1257  
deposits of fiduciaries, may be the ~~depository~~ depository of 1258  
funds held by it as fiduciary. All deposits made pursuant to 1259

division (A) of this section shall be in such class of account 1260  
as will be most advantageous to the trust or estate, and each 1261  
depository shall pay interest at the highest rate customarily 1262  
paid to its patrons on deposits in accounts of the same class. 1263

(B) The placing of funds in such depositories under the 1264  
joint control of the fiduciary and a surety on the bond of the 1265  
fiduciary shall not increase the liability of the fiduciary. 1266

(C) A fiduciary of a trust or estate may transfer funds 1267  
received by the fiduciary in the fiduciary's name as such 1268  
fiduciary to the fiduciary's attorney for deposit in an interest 1269  
on lawyer's trust account established under division (A) (1) (b) 1270  
of section 4705.09 of the Revised Code that is maintained by the 1271  
attorney if ~~both of the following conditions are satisfied:~~ 1272

~~(1) The the attorney, in consultation with the fiduciary,~~ 1273  
~~has determined that the funds are nominal in amount and or will~~ 1274  
~~be held in the interest on lawyer's trust account for a short~~ 1275  
~~period of time.~~ 1276

~~(2) The probate court, upon petition by the fiduciary, has~~ 1277  
~~approved the deposit.~~ 1278

(D) Notwithstanding any contrary provision in this 1279  
chapter, a probate court examining a trust or estate may only 1280  
access the account information of an interest on lawyer's trust 1281  
account created under this section for purposes of obtaining 1282  
information related to that particular trust or estate and shall 1283  
not access records of the interest on lawyer's trust account 1284  
that pertain to assets of any other estate or trust held in the 1285  
interest on lawyer's trust account. 1286

Sec. 2111.182. If a minor is entitled to money or property 1287  
whether by settlement or judgment for personal injury or damage 1288

to tangible or intangible property, inheritance or otherwise, 1289  
the probate court may order that all or a portion of the amount 1290  
received by the minor be deposited into a trust for the benefit 1291  
of that beneficiary until the beneficiary reaches twenty-five 1292  
years of age, and order the distribution of the amount in 1293  
accordance with the provisions of the trust. Prior to the 1294  
appointment as a trustee of a trust created pursuant to this 1295  
section, the person to be appointed shall be approved by a 1296  
parent or guardian of the minor beneficiary of the trust, unless 1297  
otherwise ordered by the probate court. 1298

**Sec. 2111.52.** (A) A probate court may accept funds or 1299  
other program assistance from, or charge fees for services 1300  
described in division (C) of this section rendered to, 1301  
individuals, corporations, agencies, or organizations, 1302  
including, but not limited to, a county board of alcohol, drug 1303  
addiction, and mental health services or a county board of 1304  
developmental disabilities, unless a county board of alcohol, 1305  
drug addiction, and mental health services or a county board of 1306  
developmental disabilities does not agree to the payment of 1307  
those fees. Any funds or fees received by the probate court 1308  
under this division shall be paid into the county treasury and 1309  
credited to a fund to be known as the county probate court 1310  
guardianship services fund. 1311

(B) The probate courts of two or more counties may accept 1312  
funds or other program assistance from, or charge fees for 1313  
services described in division (C) of this section rendered to, 1314  
individuals, corporations, agencies, or organizations, 1315  
including, but not limited to, a county board of alcohol, drug 1316  
addiction, and mental health services or a county board of 1317  
developmental disabilities, unless a county board of alcohol, 1318  
drug addiction, and mental health services or a county board of 1319

developmental disabilities does not agree to the payment of 1320  
those fees. Any funds or fees received by the probate courts of 1321  
two or more counties under this division shall be paid into the 1322  
county treasury of one or more of the counties and credited to a 1323  
fund to be known as the multicounty probate court guardianship 1324  
services fund. 1325

(C) The moneys in a county or multicounty probate court 1326  
guardianship services fund shall be used for services to help 1327  
ensure the treatment of any person who is under the care of a 1328  
county board of alcohol, drug addiction, and mental health 1329  
services or a county board of developmental disabilities, or any 1330  
other guardianships. These services include, but are not limited 1331  
to, involuntary commitment proceedings and the establishment and 1332  
management of adult guardianships, including all associated 1333  
expenses, for wards who are under the care of a county board of 1334  
alcohol, drug addiction, and mental health services, a county 1335  
board of developmental disabilities, or any other guardianships. 1336

(D) If a judge of a probate court determines that some of 1337  
the moneys in the county or multicounty probate court 1338  
guardianship services fund are needed for the efficient 1339  
operation of the county or multicounty guardianship service 1340  
board created under division (F) of this section, the moneys may 1341  
be used for the acquisition of equipment, the hiring and 1342  
training of staff, community services programs, volunteer 1343  
guardianship training services, the employment of magistrates, 1344  
and any other services necessary for the fulfillment of the 1345  
duties of the county or multicounty guardianship service board. 1346

(E) The moneys in the county or multicounty probate court 1347  
guardianship services fund that may be used in part for the 1348  
establishment and management of adult guardianships under 1349

division (C) of this section may be utilized to establish a 1350  
county or multicounty guardianship service. 1351

(F) (1) A county or multicounty guardianship service under 1352  
division (E) of this section is established by creating a county 1353  
or multicounty guardianship service board. The judge of the 1354  
probate court shall appoint one member. The board of directors 1355  
of a participating county board of developmental disabilities 1356  
shall appoint one member. The board of directors of a 1357  
participating county board of alcohol, drug addiction, and 1358  
mental health services shall appoint one member. Additional 1359  
members of the guardianship service board may be added if the 1360  
member or members of a guardianship service board unanimously 1361  
agree. If neither the county board of developmental disabilities 1362  
nor the county board of alcohol, drug addiction, and mental 1363  
health services chooses to participate in the guardianship 1364  
service board, the probate court may appoint additional members 1365  
to the guardianship service board. The term of appointment of 1366  
each member is four years. 1367

(2) The county or multicounty guardianship services board 1368  
may appoint a director of the board. The board shall determine 1369  
the compensation of the director based on the availability of 1370  
funds contained in the county or multicounty probate court 1371  
guardianship services fund. 1372

(3) The county or multicounty guardianship services board 1373  
may receive appointments from one or more county probate courts 1374  
to serve as guardians of both the person and estate of wards. 1375  
The director or any designee of a county or multicounty 1376  
guardianship services board may act on behalf of the board in 1377  
relation to all guardianship matters. 1378

(4) The director of a county or multicounty guardianship 1379

services board may hire employees subject to available funds in 1380  
the county or multicounty probate court guardianship services 1381  
fund. 1382

(5) The county or multicounty guardianship services board 1383  
may charge a reasonable fee for services provided to wards. A 1384  
probate judge shall approve any fees charged by the board under 1385  
division (F) (5) of this section. 1386

(6) The county or multicounty guardianship services board 1387  
that is created under division (F) (1) of this section shall 1388  
promulgate all rules and regulations necessary for the efficient 1389  
operation of the board and the county or multicounty 1390  
guardianship services. 1391

**Sec. 2113.032.** Any person who is eligible to be appointed 1392  
as a personal representative of an estate under the law of this 1393  
state or named as executor in a will may file an application 1394  
with the probate court in the county in which the decedent 1395  
resided seeking the release of the decedent's medical records 1396  
and medical billing records for use in evaluating a potential 1397  
wrongful death, personal injury, or survivorship action on 1398  
behalf of the decedent. The application shall include a 1399  
decedent's estate form listing the decedent's known surviving 1400  
spouse, children, next of kin, legatees, and devisees, if any. 1401  
The application may be filed prior to the filing of any 1402  
application for authority to administer the decedent's estate. 1403  
Nothing in this section requires that an application to 1404  
administer the decedent's estate be filed if no estate is needed 1405  
to be administered, unless otherwise required by law. The 1406  
probate court shall send a copy of the application to those 1407  
persons listed on the decedent's estate form described in this 1408  
section unless otherwise directed by the court. Upon the filing 1409



of the application and the payment of a filing fee as determined 1410  
by the court, and not earlier than ten days following the 1411  
probate court's transmission of a copy of the application to 1412  
those persons listed on the decedent's estate form, the probate 1413  
court may order that the medical records and medical billing 1414  
records be released without a hearing or with a hearing if 1415  
needed. The court's order shall direct all medical providers 1416  
that provided medical care or treatment to the decedent to 1417  
release those medical records and medical billing records to the 1418  
applicant for the limited purpose of deciding whether or not to 1419  
file a wrongful death, personal injury, or survivorship action. 1420  
The medical records and medical billing records are confidential 1421  
and shall not be made available for public viewing unless 1422  
otherwise provided for by law or subsequent court order. Upon 1423  
obtaining the requested applicable records, and before the 1424  
expiration of the applicable statute of limitations, the 1425  
applicant shall file a report with the court certifying that all 1426  
requested medical records and medical billing records have been 1427  
received and shall indicate whether an administration of the 1428  
decedent's estate will be filed. 1429

**Sec. 2129.05.** Authenticated copies of wills of persons not 1430  
domiciled in this state, executed and proved according to the 1431  
laws of any state or territory of the United States, relative to 1432  
property in this state, may be admitted to record in the probate 1433  
court of a county where a part of that property is situated. The 1434  
authenticated copies, so recorded, shall be as valid as wills 1435  
made in this state. 1436

When such a will, or authenticated copy, is admitted to 1437  
record, a copy of the will or of the authenticated copy, with 1438  
the copy of the order to record it annexed to that copy, 1439  
certified by the probate judge under the seal of the probate 1440

court, may be filed and recorded in the office of the probate 1441  
judge of any other county where a part of the property is 1442  
situated, and it shall be as effectual as the authenticated copy 1443  
of the will would be if approved and admitted to record by the 1444  
court. 1445

**Sec. 2137.01.** As used in this chapter: 1446

(A) "Account" means an arrangement under a terms-of- 1447  
service agreement in which a custodian carries, maintains, 1448  
processes, receives, or stores a digital asset of the user or 1449  
provides goods or services to the user. 1450

(B) "Agent" means a person granted authority to act for a 1451  
principal under a power of attorney, whether denominated as 1452  
agent, attorney in fact, or otherwise. 1453

(C) "Carries" means engages in the transmission of an 1454  
electronic communication. 1455

(D) "Catalogue of electronic communications" means 1456  
information that identifies each person with which a user has 1457  
had an electronic communication, the time and date of the 1458  
communication, and the electronic address of the person. 1459

(E) "Content of an electronic communication" means 1460  
information concerning the substance or meaning of the 1461  
communication that meets all of the following conditions: 1462

(1) It has been sent or received by a user. 1463

(2) It is in electronic storage by a custodian providing 1464  
an electronic-communication service to the public or is carried 1465  
or maintained by a custodian providing a remote-computing 1466  
service to the public. 1467

(3) It is not readily accessible to the public. 1468

(F) "Court" means the probate court for all matters in 1469  
which the court has exclusive jurisdiction under section 2101.24 1470  
of the Revised Code. "Court" also includes the probate court or 1471  
the general division of the court of common pleas for matters in 1472  
which such courts have concurrent jurisdiction under section 1473  
2101.24 of the Revised Code. 1474

(G) "Custodian" means a person that carries, maintains, 1475  
processes, receives, or stores a digital asset of a user. 1476

(H) "Designated recipient" means a person chosen by a user 1477  
using an online tool to administer digital assets of the user. 1478

(I) "Digital asset" means an electronic record in which an 1479  
individual has a right or interest. "Digital asset" does not 1480  
include an underlying asset or liability unless the asset or 1481  
liability is itself an electronic record. 1482

(J) "Electronic" means relating to technology having 1483  
electrical, digital, magnetic, wireless, optical, 1484  
electromagnetic, or similar capabilities. 1485

(K) "Electronic communication" has the same meaning as in 1486  
18 U.S.C. 2510(12), as amended. 1487

(L) "Electronic-communication service" means a custodian 1488  
that provides to a user the ability to send or receive an 1489  
electronic communication. 1490

(M) "Fiduciary" means an original, additional, or 1491  
successor agent, guardian, personal representative, or trustee. 1492

(N) (1) "Guardian" means any person, association, or 1493  
corporation appointed by the probate court to have the care and 1494  
management of the person, the estate, or the person and the 1495  
estate of an incompetent or minor. When applicable, "guardian" 1496

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 both of the following:

(a) 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) A conservator appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of the Revised Code.

(2) "Guardian" does not include a guardian under sections 5905.01 to 5905.19 of the Revised Code.

(O) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(P) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(Q) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental agency or instrumentality, public corporation, or any other legal or commercial entity.

(R) "Personal representative" means an executor, administrator, special administrator, or other person acting

under the authority of the probate court to perform 1526  
substantially the same function under the law of this state. 1527  
"Personal representative" also includes a commissioner in a 1528  
release of assets from administration under section 2113.03 of 1529  
the Revised Code and an applicant for summary release from 1530  
administration under section 2113.031 of the Revised Code. 1531

(S) "Power of attorney" means a writing or other record 1532  
that grants authority to an agent to act in the place of the 1533  
principal. 1534

(T) "Principal" means an individual who grants authority 1535  
to an agent in a power of attorney. 1536

(U) "Record" means information that is inscribed on a 1537  
tangible medium or that is stored in an electronic or other 1538  
medium and is retrievable in perceivable form. 1539

(V) "Remote-computing service" means a custodian that 1540  
provides to a user computer-processing services or the storage 1541  
of digital assets by means of an electronic communications 1542  
system, as defined in 18 U.S.C. 2510(14), as amended. 1543

(W) "Terms-of-service agreement" means an agreement that 1544  
controls the relationship between a user and a custodian. 1545

(X) "Trustee" means a fiduciary with legal title to 1546  
property pursuant to an agreement or declaration that creates a 1547  
beneficial interest in another. "Trustee" includes an original, 1548  
additional, and successor trustee and a cotrustee. 1549

(Y) "User" means a person that has an account with a 1550  
custodian. 1551

(Z) "Ward" means any person for whom a guardian is acting 1552  
or for whom the probate court is acting pursuant to section 1553

2111.50 of the Revised Code. "Ward" includes a person for whom a conservator has been appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of the Revised Code.

(AA) "Will" includes codicils to wills admitted to probate, lost, spoliated, or destroyed wills, and instruments admitted to probate under ~~section 2107.081~~ Chapter 5817. of the Revised Code. "Will" does not include inter vivos trusts or other instruments that have not been admitted to probate.

Sec. 2151.233. The juvenile court shall not exercise jurisdiction under division (A)(2), (A)(11), or (B)(4) of section 2151.23 of the Revised Code or section 2151.231 of the Revised Code to determine custody or support regarding a child if any of the following apply:

(A) The child's parents are married.

(B) The child's parents are not married and there is an existing order for custody or support regarding the child or the child's sibling over which the juvenile court does not have jurisdiction.

(C) The determination is ancillary to the parents' pending action for divorce, dissolution of marriage, annulment, or legal separation.

Sec. 2151.234. Section 2151.233 of the Revised Code shall not affect the authority of the juvenile court to issue a custody order under division (A)(1) of section 2151.23 of the Revised Code granting custody of the child to a relative or placing a child under a kinship care agreement.

Sec. 2151.235. (A) A juvenile court may transfer jurisdiction over an action or an order it has issued for child

support or custody as follows: 1583

(1) To the appropriate common pleas court with domestic relations jurisdiction, if the parents of the child subject to the action or order are married and not parties to a proceeding described in division (A) (3) of this section; 1584  
1585  
1586  
1587

(2) To the appropriate common pleas court with domestic relations jurisdiction, if the parents of the child are not married and there is an existing order for custody or support regarding the child or the child's sibling over which the juvenile court does not have jurisdiction; 1588  
1589  
1590  
1591  
1592

(3) To the common pleas court exercising jurisdiction over a pending divorce, dissolution of marriage, legal separation, or annulment proceeding to which the parents of the child subject to the action or order are parties; 1593  
1594  
1595  
1596

(4) To the common pleas court exercising jurisdiction over a protection order issued under section 3113.31 of the Revised Code if the child or parents of the child are subject to both a child support order and the protection order. 1597  
1598  
1599  
1600

(B) Jurisdiction of the action or order described in division (A) of this section shall be transferred and the receiving court shall have exclusive jurisdiction over the action or order if the following requirements are met: 1601  
1602  
1603  
1604

(1) The common pleas court with domestic relations jurisdiction, juvenile court, or an interested party makes a motion to transfer jurisdiction; 1605  
1606  
1607

(2) The court receiving jurisdiction consents to the transfer; 1608  
1609

(3) The juvenile court certifies all or part of the record 1610

in the action or related to the order to the court receiving 1611  
jurisdiction. 1612

(C) This section applies to all orders in effect, and all 1613  
actions or proceedings pending or initiated, on or after the 1614  
effective date of H.B. 595 of the 132nd general assembly. 1615

**Sec. 2151.236.** If a child is subject to a support order 1616  
issued by a common pleas court with domestic relations 1617  
jurisdiction and if a juvenile court adjudicates the child to be 1618  
delinquent, unruly, abused, neglected, or dependent and grants 1619  
custody of the child to an individual or entity other than as 1620  
set forth in the order issued by the common pleas court with 1621  
domestic relations jurisdiction, the juvenile court shall notify 1622  
the common pleas court with domestic relations jurisdiction and 1623  
the child support enforcement agency serving the county of that 1624  
court. The child support enforcement agency shall review the 1625  
child support order pursuant to sections 3119.60 and 3119.63 to 1626  
3119.76 of the Revised Code. 1627

**Sec. 2323.30.** In all actions in which the plaintiff is a 1628  
nonresident of the county in which the action is brought, a 1629  
partnership suing by its company name, an insolvent corporation, 1630  
or any party required to furnish security under section 2323.31 1631  
of the Revised Code, the plaintiff shall deposit cash or furnish 1632  
security for costs. The surety must be a resident of the county 1633  
and approved by the clerk. The obligation of the surety shall be 1634  
complete by indorsing the summons or signing ~~his~~ the surety's 1635  
name on the petition as surety for costs. The surety shall be 1636  
bound for the payment of the costs which are adjudged against 1637  
the plaintiff in the court in which the action is brought, or in 1638  
any other court to which it is carried, and for all the costs 1639  
taxed against the plaintiff in such action, whether ~~he~~ the 1640



plaintiff obtains a judgment or not. When a plaintiff makes 1641  
affidavit of inability either to give security or a cash deposit 1642  
to secure costs, an application to be qualified as an indigent 1643  
litigant as set forth in section 2323.311 of the Revised Code, 1644  
the clerk shall receive and file the ~~petition~~ civil action or 1645  
proceeding. ~~Such affidavit shall be filed with it and treated as~~ 1646  
are similar papers. If the court approves the application, the 1647  
clerk shall waive the cash deposit or the security under this 1648  
section, and the court shall proceed on the action or 1649  
proceeding. If the court denies the application, the clerk shall 1650  
retain the filing of the civil action or proceeding, and the 1651  
court shall issue an order granting the applicant whose 1652  
application is denied thirty days to make the required cash 1653  
deposit or security prior to any dismissal or other action on 1654  
the filing. 1655

**Sec. 2323.31.** The court of common pleas by rule may 1656  
require an advance deposit for the filing of any civil action or 1657  
proceeding or of any responsive action by the defendant. On the 1658  
motion of ~~the defendant~~ any party, and if satisfied that such 1659  
deposit is insufficient, the court may require it to be 1660  
increased from time to time, so as to secure all costs that may 1661  
accrue in the cause, or may require personal security to be 1662  
given; ~~but~~. However, if a plaintiff party makes an affidavit of 1663  
inability either to prepay or give security for costs 1664  
application to be qualified as an indigent litigant as set forth 1665  
in section 2323.311 of the Revised Code, the clerk of the court 1666  
shall receive and file the ~~petition~~ civil action or proceeding 1667  
or the responsive action by the defendant. ~~Such affidavit shall~~ 1668  
be filed with the petition, and treated as are similar papers in 1669  
such cases. If the court approves the application, the clerk 1670  
shall waive the advance deposit or personal security under this 1671

section and the court shall proceed with the action or 1672  
proceeding or the defendant's responsive action. If the court 1673  
denies the application, the clerk shall retain the filing of the 1674  
civil action or proceeding or the defendant's responsive action, 1675  
and the court shall issue an order granting the applicant whose 1676  
application is denied thirty days to make the required deposit 1677  
or personal security prior to any dismissal or other action on 1678  
the filing of the civil action or proceeding or the defendant's 1679  
responsive action. 1680

**Sec. 2323.311.** (A) For purposes of this section, "indigent 1681  
litigant" means a litigant who is unable to make an advance 1682  
deposit or security for fees or costs as set forth in a civil 1683  
action or proceeding. 1684

(B) (1) In order to qualify as an indigent litigant, the 1685  
applicant shall file with the court in which a civil action or 1686  
proceeding is filed an affidavit of indigency in a form approved 1687  
by the supreme court, or, until that court approves such a form, 1688  
a form that requests substantially the same financial 1689  
information as the financial disclosure and affidavit of 1690  
indigency form used by the public defender for the appointment 1691  
of counsel in a criminal case. 1692

(2) The applicant's attorney, or if the litigant is 1693  
proceeding pro se, the applicant shall file the affidavit of 1694  
indigency with the court in which the civil action or proceeding 1695  
is filed. 1696

(3) Upon the filing of a civil action or proceeding and 1697  
the affidavit of indigency under division (B) (1) of this 1698  
section, the clerk of the court shall accept the action or 1699  
proceeding for filing. 1700

(4) A judge or magistrate of the court shall review the 1701  
affidavit of indigency as filed pursuant to division (B) (2) of 1702  
this section and shall approve or deny the applicant's 1703  
application to qualify as an indigent litigant. The judge or 1704  
magistrate shall approve the application if the applicant's 1705  
gross income does not exceed one hundred eighty-seven and five- 1706  
tenths per cent of the federal poverty guidelines as determined 1707  
by the United States department of health and human services for 1708  
the state of Ohio and the applicant's monthly expenses are equal 1709  
to or in excess of the applicant's liquid assets as specified in 1710  
division (C) (2) of section 120-1-03 of the Administrative Code, 1711  
as amended, or a substantially similar provision. If the 1712  
application is approved, the clerk shall waive the advance 1713  
deposit or security and the court shall proceed with the civil 1714  
action or proceeding. If the application is denied, the clerk 1715  
shall retain the filing of the action or proceeding, and the 1716  
court shall issue an order granting the applicant whose 1717  
application is denied thirty days to make the required advance 1718  
deposit or security, prior to any dismissal or other action on 1719  
the filing of the civil action or proceeding. 1720

(5) Following the filing of the civil action or proceeding 1721  
with the clerk, the judge or magistrate, at any time while the 1722  
action or proceeding is pending and on the motion of an 1723  
applicant, on the motion of the opposing party, or on the 1724  
court's own motion, may conduct a hearing to inquire into the 1725  
applicant's status as an indigent litigant. The judge or 1726  
magistrate shall affirm the applicant's status as an indigent 1727  
litigant if the applicant's gross income does not exceed one 1728  
hundred eighty-seven and five-tenths per cent of the federal 1729  
poverty guidelines as determined by the United States department 1730  
of health and human services for the state of Ohio and the 1731

applicant's monthly expenses are equal to or in excess of the 1732  
applicant's liquid assets as specified in division (C)(2) of 1733  
section 120-1-03 of the Administrative Code, as amended, or a 1734  
substantially similar provision. If the court finds that the 1735  
applicant qualifies as an indigent litigant, the court shall 1736  
proceed with the action or proceeding. If the court finds that 1737  
the applicant does not qualify as an indigent litigant or no 1738  
longer qualifies as an indigent litigant if previously so 1739  
qualified as provided in division (B)(4) of this section, the 1740  
clerk shall retain the filing of the action or proceeding, and 1741  
the court shall issue an order granting the applicant whose 1742  
motion is denied thirty days to make a required deposit or 1743  
security, prior to any dismissal or other action on the filing 1744  
or pendency of the civil action or proceeding. 1745

(6) Nothing in this section shall prevent a court from 1746  
approving or affirming an application to qualify as an indigent 1747  
litigant for an applicant whose gross income exceeds one hundred 1748  
eighty-seven and five-tenths per cent of the federal poverty 1749  
guidelines as determined by the United States department of 1750  
health and human services for the state of Ohio, or whose liquid 1751  
assets equal or exceed the applicant's monthly expenses as 1752  
specified in division (C)(2) of section 120-1-03 of the 1753  
Administrative Code, as amended, or a substantially similar 1754  
provision. 1755

(7) Any indigency finding by the court under this section 1756  
shall excuse the indigent litigant from the obligation to prepay 1757  
any subsequent fee or cost arising in the civil case or 1758  
proceeding unless the court addresses the payment or nonpayment 1759  
of that fee or cost specifically in a court order. 1760

(C) If the indigent litigant as the prevailing party 1761

proceeds with an execution on the court's judgment as set forth 1762  
in Chapter 2327., 2329., 2331., or 2333. of the Revised Code, in 1763  
order to provide for the recovery of applicable costs, any 1764  
payment on any execution of the judgment in favor of the 1765  
indigent litigant shall be made through the clerk of the court. 1766  
The clerk shall apply that payment to any outstanding costs 1767  
prior to any disbursement of funds to the indigent litigant. The 1768  
requirement described in this division may be waived upon entry 1769  
of the court by the judge or magistrate. The remedy set forth in 1770  
this division shall not be the exclusive remedy of the clerk of 1771  
court for the payment of costs. The clerk shall have all 1772  
remedies available under the law. 1773

**Sec. 2323.33.** (A) If security for costs is not given in a 1774  
case mentioned in sections 2323.30 to 2323.32, ~~inclusive,~~ of the 1775  
Revised Code, at any time before the commencement of the trial, 1776  
on motion of the defendant, and notice to the plaintiff, the 1777  
court shall dismiss the action, unless in a reasonable time, 1778  
which it may allow, security is given. 1779

(B) This section does not apply if a party makes an 1780  
application under section 2323.30 or 2323.31 of the Revised Code 1781  
to qualify as an indigent litigant as set forth in section 1782  
2323.311 of the Revised Code. 1783

**Sec. 2701.09.** In any county in which a daily law journal 1784  
is printed, the judges of the courts of record, other than the 1785  
court of appeals, shall jointly designate such daily law journal 1786  
as the journal in which shall be published all calendars of the 1787  
courts of record in such county, which calendars shall contain 1788  
the numbers and titles of causes, and names of attorneys 1789  
appearing ~~therein~~ in the causes, together with the motion 1790  
dockets and such particulars and notices respecting causes, as 1791

may be specified by the judges, and each notice required to be 1792  
published by any of ~~such those~~ judges. 1793

In all cases, proceedings, administrations of estates, 1794  
assignments, and matters pending in any of the courts of record 1795  
of ~~such the~~ counties in which legal notices or advertisements 1796  
are required to be published, ~~such the~~ law journal shall, once a 1797  
week and on the same day of the week, publish an abstract of 1798  
each such legal advertisement, but the jurisdiction over, or 1799  
irregularity of, a proceeding, trial, or judgment shall not be 1800  
affected by anything ~~therein~~ in the abstract of legal 1801  
advertising. 1802

For the publication of such calendars, motion dockets, and 1803  
notices, the fees for which are not fixed by law, the publisher 1804  
of the paper shall receive a sum to be fixed by the judges for 1805  
each case brought, to be paid in advance by the party filing the 1806  
petition, transcripts for appeal, or lien, unless the party is 1807  
determined by the court to qualify as an indigent litigant as 1808  
set forth in section 2323.311 of the Revised Code, to be taxed 1809  
in the costs and collected as other costs. For the publication 1810  
of abstracts of legal advertising ~~such the~~ publisher shall 1811  
receive a sum to be fixed by the judges for each case, 1812  
proceeding, or matter, in which such advertising is had, to be 1813  
taxed and collected as a part of the costs ~~thereof~~ of the case, 1814  
proceeding, or matter. 1815

**Sec. 2721.03.** Subject to division (B) of section 2721.02 1816  
of the Revised Code, any person interested under a deed, will, 1817  
written contract, or other writing constituting a contract or 1818  
any person whose rights, status, or other legal relations are 1819  
affected by a constitutional provision, statute, rule as defined 1820  
in section 119.01 of the Revised Code, municipal ordinance, 1821

township resolution, contract, or franchise may have determined 1822  
any question of construction or validity arising under the 1823  
instrument, constitutional provision, statute, rule, ordinance, 1824  
resolution, contract, or franchise and obtain a declaration of 1825  
rights, status, or other legal relations under it. 1826

The testator of a will may have the validity of the will 1827  
determined at any time during the testator's lifetime pursuant 1828  
to ~~sections 2107.081 to 2107.085 Chapter 5817.~~ of the Revised 1829  
Code. The settlor of a trust may have the validity of the trust 1830  
determined at any time during the settlor's lifetime pursuant to 1831  
Chapter 5817. of the Revised Code. 1832

Sec. 2746.10. If with respect to the filing of any civil 1833  
action or proceeding or of a responsive action by a defendant in 1834  
any court of record, a party qualifies as an indigent litigant 1835  
as set forth in section 2323.311 of the Revised Code, the clerk 1836  
of the court shall receive and file the civil action or 1837  
proceeding or the defendant's responsive action and the court 1838  
shall waive any advance deposit or security for filing of the 1839  
civil action or proceeding or the defendant's responsive action, 1840  
any payment in advance for any taxable costs, including fees for 1841  
publication or service of process by other means, and any 1842  
payment in advance of any fee required in connection with 1843  
prosecuting or advancing the civil action or proceeding or the 1844  
defendant's responsive action. 1845

Sec. 3105.011. (A) The court of common pleas including 1846  
divisions of courts of domestic relations, has full equitable 1847  
powers and jurisdiction appropriate to the determination of all 1848  
domestic relations matters. This section is not a determination 1849  
by the general assembly that such equitable powers and 1850  
jurisdiction do not exist with respect to any such matter. 1851

(B) For purposes of this section, "domestic relations matters" means both of the following: 1852  
1853

(1) Any matter committed to the jurisdiction of the division of domestic relations of common pleas courts under section 2301.03 of the Revised Code; 1854  
1855  
1856

(2) Actions and proceedings under Chapters 3105., 3109., 3111., 3113., 3115., 3119., 3121., 3123., 3125., and 3127. of the Revised Code. 1857  
1858  
1859

**Sec. 3109.06.** Except as provided in division (K) of 1860  
section 2301.03 of the Revised Code, any court, other than a 1861  
juvenile court, that has jurisdiction in any case respecting the 1862  
allocation of parental rights and responsibilities for the care 1863  
of a child under eighteen years of age and the designation of 1864  
the child's place of residence and legal custodian or in any 1865  
case respecting the support of a child under eighteen years of 1866  
age, may, on its own motion or on motion of any interested 1867  
party, ~~with the consent of the juvenile court,~~ certify the 1868  
record in the case or so much of the record and such further 1869  
information, in narrative form or otherwise, as the court deems 1870  
necessary or the juvenile court requests, to the juvenile court 1871  
for further proceedings; upon the certification, the juvenile 1872  
court shall have exclusive jurisdiction. 1873

In cases in which the court of common pleas finds the 1874  
parents unsuitable to have the parental rights and 1875  
responsibilities for the care of the child or children and 1876  
unsuitable to provide the place of residence and to be the legal 1877  
custodian of the child or children, consent of the juvenile 1878  
court shall not be required to such certification. This section 1879  
applies to actions pending on August 28, 1951. 1880



In any case in which a court of common pleas, or other court having jurisdiction, has issued an order that allocates parental rights and responsibilities for the care of minor children and designates their place of residence and legal custodian of minor children, has made an order for support of minor children, or has done both, the jurisdiction of the court shall not abate upon the death of the person awarded custody but shall continue for all purposes during the minority of the children. The court, upon its own motion or the motion of either parent or of any interested person acting on behalf of the children, may proceed to make further disposition of the case in the best interests of the children and subject to sections 3109.42 to 3109.48 of the Revised Code. If the children are under eighteen years of age, it may certify them, pursuant to this section, to the juvenile court of any county for further proceedings. After certification to a juvenile court, the jurisdiction of the court of common pleas, or other court, shall cease, except as to any payments of spousal support due for the spouse and support payments due and unpaid for the children at the time of the certification.

Any disposition made pursuant to this section, whether by a juvenile court after a case is certified to it, or by any court upon the death of a person awarded custody of a child, shall be made in accordance with sections 3109.04 and 3109.42 to 3109.48 of the Revised Code. If an appeal is taken from a decision made pursuant to this section that allocates parental rights and responsibilities for the care of a minor child and designates the child's place of residence and legal custodian, the court of appeals shall give the case calendar priority and handle it expeditiously.

**Sec. 3109.061.** Nothing in sections 2151.233 to 2151.236

and 2301.03 of the Revised Code shall be construed to prevent a 1912  
domestic relations court from certifying a case to a juvenile 1913  
court under division (D) (2) of section 3109.04 of the Revised 1914  
Code or section 3109.06 of the Revised Code. Consent of the 1915  
juvenile court shall not be required for the certification. 1916

**Sec. 4705.09.** (A) (1) ~~(a)~~ Any person admitted to the 1917  
practice of law in this state by order of the supreme court in 1918  
accordance with its prescribed and published rules, or any law 1919  
firm or legal professional association, may establish and 1920  
maintain an interest-bearing trust account, for purposes of 1921  
depositing client funds held by the attorney, firm, or 1922  
association that are nominal in amount or are to be held by the 1923  
attorney, firm, or association for a short period of time, with 1924  
any bank, savings bank, or savings and loan association that is 1925  
authorized to do business in this state and is insured by the 1926  
federal deposit insurance corporation or the successor to that 1927  
corporation, or any credit union insured by the national credit 1928  
union administration operating under the "Federal Credit Union 1929  
Act," 84 Stat. 994 (1970), 12 ~~U.S.C.A.~~ U.S.C. 1751, or insured 1930  
by a credit union share guaranty corporation established under 1931  
Chapter 1761. of the Revised Code. Each account established 1932  
under this division shall be in the name of the attorney, firm, 1933  
or association that established and is maintaining it and shall 1934  
be identified as an IOLTA or an interest on lawyer's trust 1935  
account. The name of the account may contain additional 1936  
identifying features to distinguish it from other trust accounts 1937  
established and maintained by the attorney, firm, or 1938  
association. 1939

~~(b) Any person admitted to the practice of law in this~~ 1940  
~~state by order of the supreme court in accordance with its~~ 1941  
~~prescribed and published rules, or any law firm or legal~~ 1942

~~professional association, may establish and maintain an~~ 1943  
~~interest-bearing trust account, for purposes of depositing funds~~ 1944  
~~received by a client, in the client's name as fiduciary of a~~ 1945  
~~trust or estate, with any bank, savings bank, or savings and~~ 1946  
~~loan association that is authorized to do business in this state~~ 1947  
~~and is insured by the federal deposit insurance corporation or~~ 1948  
~~the successor to that corporation, or any credit union insured~~ 1949  
~~by the national credit union administration operating under the~~ 1950  
~~"Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A.~~ 1951  
~~1751, or insured by a credit union share guaranty corporation~~ 1952  
~~established under Chapter 1761. of the Revised Code. Each~~ 1953  
~~account established under this division shall be in the name of~~ 1954  
~~the attorney, firm, or association that established and is~~ 1955  
~~maintaining it and shall be identified as an IOLTA or an~~ 1956  
~~interest on lawyer's trust account. The name of the account~~ 1957  
~~shall contain additional identifying features to distinguish it~~ 1958  
~~from other trust accounts established and maintained by the~~ 1959  
~~attorney, firm, or association and to distinguish it from an~~ 1960  
~~IOLTA established and maintained under division (A) (1) (a) of~~ 1961  
~~this section.~~ 1962

~~No funds received by a client, in the client's name as~~ 1963  
~~fiduciary of a trust or estate, shall be deposited into an IOLTA~~ 1964  
~~established under division (A) (1) (b) of this section unless the~~ 1965  
~~deposit has been approved by the probate court under section~~ 1966  
~~2109.41 of the Revised Code.~~ 1967

~~Notwithstanding any contrary provision in Chapter 2109. of~~ 1968  
~~the Revised Code, a probate court examining a trust or estate~~ 1969  
~~may only access the account information of an IOLTA created~~ 1970  
~~under this section for purposes of obtaining information related~~ 1971  
~~to that particular trust or estate and shall not access records~~ 1972  
~~of the IOLTA that pertain to assets of any other estate or trust~~ 1973

~~held in the IOLTA.~~ 1974

(2) Each attorney who receives funds belonging to a client 1975  
shall do one of the following: 1976

(a) Establish and maintain one or more interest-bearing 1977  
trust accounts in accordance with division (A)(1) of this 1978  
section or maintain one or more interest-bearing trust accounts 1979  
previously established in accordance with that division, and 1980  
deposit all client funds held that are nominal in amount or are 1981  
to be held by the attorney for a short period of time in the 1982  
account or accounts; 1983

(b) If the attorney is affiliated with a law firm or legal 1984  
professional association, comply with division (A)(2)(a) of this 1985  
section or deposit all client funds held that are nominal in 1986  
amount or are to be held by the attorney for a short period of 1987  
time in one or more interest-bearing trust accounts established 1988  
and maintained by the firm or association in accordance with 1989  
division (A)(1) of this section. 1990

(3) No funds belonging to any attorney, firm, or legal 1991  
professional association shall be deposited in any interest- 1992  
bearing trust account established under division (A)(1) or (2) 1993  
of this section, except that funds sufficient to pay or enable a 1994  
waiver of depository institution service charges on the account 1995  
shall be deposited in the account and other funds belonging to 1996  
the attorney, firm, or association may be deposited as 1997  
authorized by the Code of Professional Responsibility adopted by 1998  
the supreme court. The determinations of whether funds held are 1999  
nominal or more than nominal in amount and of whether funds are 2000  
to be held for a short period or longer than a short period of 2001  
time rests in the sound judgment of the particular attorney. No 2002  
imputation of professional misconduct shall arise from the 2003

attorney's exercise of judgment in these matters. 2004

(B) All interest earned on funds deposited in an interest-bearing trust account established under division (A) (1) or (2) of this section shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned on funds deposited in an interest-bearing trust account established under division (A) (1) or (2) of this section shall be paid to, or inure to the benefit of, the attorney, the attorney's law firm or legal professional association, the client or other person who owns or has a beneficial ownership of the funds deposited, or any other person other than in accordance with this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code. 2005  
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(C) No liability arising out of any act or omission by any attorney, law firm, or legal professional association with respect to any interest-bearing trust account established under division (A) (1) or (2) of this section shall be imputed to the depository institution. 2018  
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(D) The supreme court may adopt and enforce rules of professional conduct that pertain to the use, by attorneys, law firms, or legal professional associations, of interest-bearing trust accounts established under division (A) (1) or (2) of this section, and that pertain to the enforcement of division (A) (2) of this section. Any rules adopted by the supreme court under this authority shall conform to the provisions of this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code. 2023  
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**Sec. 5163.21.** (A) (1) This section applies only to either of the following: 2032  
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(a) Initial eligibility determinations for the medicaid program;	2034 2035
(b) An appeal from an initial eligibility determination pursuant to section 5160.31 of the Revised Code.	2036 2037
(2) (a) Except as provided in division (A) (2) (b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.	2038 2039 2040 2041
(b) The prohibition in division (A) (2) (a) of this section does not apply to an appeal described in division (A) (1) (b) of this section.	2042 2043 2044
(B) As used in this section:	2045
(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.	2046 2047 2048 2049 2050 2051
(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:	2052 2053 2054 2055 2056
(a) The property in the trust is held, managed, retained, or administered by a trustee.	2057 2058
(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.	2059 2060 2061

(c) The trustee holds identifiable property for the beneficiary.	2062 2063
(3) "Grantor" is a person who creates a trust, including all of the following:	2064 2065
(a) An individual;	2066
(b) An individual's spouse;	2067
(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;	2068 2069 2070
(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.	2071 2072 2073
(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.	2074 2075
(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.	2076 2077
(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.	2078 2079 2080
(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.	2081 2082
(8) "Recipient" is an individual who receives medicaid or the individual's spouse.	2083 2084
(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:	2085 2086 2087
(a) A trust that provides that the trust can be terminated	2088

only by a court; 2089

(b) A trust that terminates on the happening of an event, 2090  
but only if the event occurs at the direction or control of the 2091  
grantor, beneficiary, or trustee. 2092

(10) "Irrevocable trust" is a trust that cannot be revoked 2093  
by the grantor or terminated by a court and that terminates only 2094  
on the occurrence of an event outside of the control or 2095  
direction of the beneficiary or grantor. 2096

(11) "Payment" is any disbursement from the principal or 2097  
income of the trust, including actual cash, noncash or property 2098  
disbursements, or the right to use and occupy real property. 2099

(12) "Payments to or for the benefit of the applicant or 2100  
recipient" is a payment to any person resulting in a direct or 2101  
indirect benefit to the applicant or recipient. 2102

(13) "Testamentary trust" is a trust that is established 2103  
by a will and does not take effect until after the death of the 2104  
person who created the trust. 2105

(C) (1) If an applicant or recipient is a beneficiary of a 2106  
trust, the applicant or recipient shall submit a complete copy 2107  
of the trust instrument to the county department of job and 2108  
family services and the department of medicaid. A copy shall be 2109  
considered complete if it contains all pages of the trust 2110  
instrument and all schedules, attachments, and accounting 2111  
statements referenced in or associated with the trust. The copy 2112  
is confidential and is not subject to disclosure under section 2113  
149.43 of the Revised Code. 2114

(2) On receipt of a copy of a trust instrument or 2115  
otherwise determining that an applicant or recipient is a 2116  
beneficiary of a trust, the county department of job and family 2117



services shall determine what type of trust it is and shall 2118  
treat the trust in accordance with the appropriate provisions of 2119  
this section and rules adopted under section 5163.02 of the 2120  
Revised Code governing trusts. The county department of job and 2121  
family services may determine that any of the following is the 2122  
case regarding the trust or portion of the trust: 2123

(a) It is a resource available to the applicant or 2124  
recipient; 2125

(b) It contains income available to the applicant or 2126  
recipient; 2127

(c) Divisions (C) (2) (a) and (b) of this section are both 2128  
applicable; 2129

(d) Neither division (C) (2) (a) nor (b) of this section is 2130  
applicable. 2131

(3) Except as provided in division (F) of this section, a 2132  
trust or portion of a trust that is a resource available to the 2133  
applicant or recipient or contains income available to the 2134  
applicant or recipient shall be counted for purposes of 2135  
determining medicaid eligibility. 2136

(D) (1) A trust or legal instrument or device similar to a 2137  
trust shall be considered a medicaid qualifying trust if all of 2138  
the following apply: 2139

(a) The trust was established on or prior to August 10, 2140  
1993. 2141

(b) The trust was not established by a will. 2142

(c) The trust was established by an applicant or 2143  
recipient. 2144

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust. 2145  
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(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient. 2147  
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(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust. 2150  
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(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income. 2160  
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(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following: 2164  
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(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid; 2166  
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(b) Whether or not the trustee actually exercises discretion. 2169  
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(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an 2171  
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improper disposition of assets and shall be subject to section 2174  
5163.30 of the Revised Code and rules to implement that section 2175  
adopted under section 5163.02 of the Revised Code. 2176

(6) The baseline date for the look-back period for 2177  
disposition of assets involving a medicaid qualifying trust 2178  
shall be the date on which the applicant or recipient is both 2179  
institutionalized and first applies for medicaid. 2180

(E) (1) A trust or legal instrument or device similar to a 2181  
trust shall be considered a self-settled trust if all of the 2182  
following apply: 2183

(a) The trust was established on or after August 11, 1993. 2184

(b) The trust was not established by a will. 2185

(c) The trust was established by an applicant or 2186  
recipient, spouse of an applicant or recipient, or a person, 2187  
including a court or administrative body, with legal authority 2188  
to act in place of or on behalf of an applicant, recipient, or 2189  
spouse, or acting at the direction or on request of an 2190  
applicant, recipient, or spouse. 2191

(2) A trust that meets the requirements of division (E) (1) 2192  
of this section and is a revocable trust shall be treated by the 2193  
county department of job and family services as follows: 2194

(a) The corpus of the trust shall be considered a resource 2195  
available to the applicant or recipient. 2196

(b) Payments from the trust to or for the benefit of the 2197  
applicant or recipient shall be considered unearned income of 2198  
the applicant or recipient. 2199

(c) Any other payments from the trust shall be considered 2200  
an improper disposition of assets and shall be subject to 2201

section 5163.30 of the Revised Code and rules to implement that 2202  
section adopted under section 5163.02 of the Revised Code. 2203

(3) A trust that meets the requirements of division (E)(1) 2204  
of this section and is an irrevocable trust shall be treated by 2205  
the county department of job and family services as follows: 2206

(a) If there are any circumstances under which payment 2207  
from the trust could be made to or for the benefit of the 2208  
applicant or recipient, including a payment that can be made 2209  
only in the future, the portion from which payments could be 2210  
made shall be considered a resource available to the applicant 2211  
or recipient. The county department of job and family services 2212  
shall not take into account when payments can be made. 2213

(b) Any payment that is actually made to or for the 2214  
benefit of the applicant or recipient from either the corpus or 2215  
income shall be considered unearned income. 2216

(c) If a payment is made to someone other than to the 2217  
applicant or recipient and the payment is not for the benefit of 2218  
the applicant or recipient, the payment shall be considered an 2219  
improper disposition of assets and shall be subject to section 2220  
5163.30 of the Revised Code and rules to implement that section 2221  
adopted under section 5163.02 of the Revised Code. 2222

(d) The date of the disposition shall be the later of the 2223  
date of establishment of the trust or the date of the occurrence 2224  
of the event. 2225

(e) When determining the value of the disposed asset under 2226  
this provision, the value of the trust shall be its value on the 2227  
date payment to the applicant or recipient was foreclosed. 2228

(f) Any income earned or other resources added subsequent 2229  
to the foreclosure date shall be added to the total value of the 2230

trust.	2231
(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.	2232 2233 2234 2235
(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.	2236 2237
(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted under section 5163.02 of the Revised Code governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.	2238 2239 2240 2241 2242 2243
(5) The availability of a self-settled trust shall be considered without regard to any of the following:	2244 2245
(a) The purpose for which the trust is established;	2246
(b) Whether the trustees have exercised or may exercise discretion under the trust;	2247 2248
(c) Any restrictions on when or whether distributions may be made from the trust;	2249 2250
(d) Any restrictions on the use of distributions from the trust.	2251 2252
(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.	2253 2254 2255 2256
(F) The principal or income from any of the following	2257

shall not be a resource available to the applicant or recipient: 2258

(1) (a) A special needs trust that meets all of the 2259  
following requirements: 2260

(i) The trust contains assets of an applicant or recipient 2261  
under sixty-five years of age and may contain the assets of 2262  
other individuals. 2263

(ii) The applicant or recipient is disabled as defined in 2264  
rules adopted under section 5163.02 of the Revised Code. 2265

(iii) The trust is established for the benefit of the 2266  
applicant or recipient by any of the following: the applicant or 2267  
recipient, if established on or after December 13, 2016; a 2268  
parent, grandparent, or legal guardian, of the applicant or 2269  
recipient; or a court. 2270

(iv) The trust requires that on the death of the applicant 2271  
or recipient the state will receive all amounts remaining in the 2272  
trust up to an amount equal to the total amount of medicaid 2273  
payments made on behalf of the applicant or recipient. 2274

(b) If a special needs trust meets the requirements of 2275  
division (F) (1) (a) of this section and has been established for 2276  
a disabled applicant or recipient under sixty-five years of age, 2277  
the exemption for the trust granted pursuant to division (F) of 2278  
this section shall continue after the disabled applicant or 2279  
recipient becomes sixty-five years of age if the applicant or 2280  
recipient continues to be disabled as defined in rules adopted 2281  
under section 5163.02 of the Revised Code. Except for income 2282  
earned by the trust, the grantor shall not add to or otherwise 2283  
augment the trust after the applicant or recipient attains 2284  
sixty-five years of age. An addition or augmentation of the 2285  
trust by the applicant or recipient with the applicant's own 2286

assets after the applicant or recipient attains sixty-five years	2287
of age shall be treated as an improper disposition of assets.	2288
(c) Cash distributions to the applicant or recipient shall	2289
be counted as unearned income. All other distributions from the	2290
trust shall be treated as provided in rules adopted under	2291
section 5163.02 of the Revised Code governing in-kind income.	2292
(d) Transfers of assets to a special needs trust shall not	2293
be treated as an improper transfer of resources. An asset held	2294
prior to the transfer to the trust shall be considered as a	2295
resource available to the applicant or recipient, income	2296
available to the applicant or recipient, or both a resource and	2297
income available to the individual.	2298
(2) (a) A qualifying income trust that meets all of the	2299
following requirements:	2300
(i) The trust is composed only of pension, social	2301
security, and other income to the applicant or recipient,	2302
including accumulated interest in the trust.	2303
(ii) The income is received by the individual and the	2304
right to receive the income is not assigned or transferred to	2305
the trust.	2306
(iii) The trust requires that on the death of the	2307
applicant or recipient the state will receive all amounts	2308
remaining in the trust up to an amount equal to the total amount	2309
of medicaid payments made on behalf of the applicant or	2310
recipient.	2311
(b) No resources shall be used to establish or augment the	2312
trust.	2313
(c) If an applicant or recipient has irrevocably	2314

transferred or assigned the applicant's or recipient's right to 2315  
receive income to the trust, the trust shall not be considered a 2316  
qualifying income trust by the county department of job and 2317  
family services. 2318

(d) Income placed in a qualifying income trust shall not 2319  
be counted in determining an applicant's or recipient's 2320  
eligibility for medicaid. The recipient of the funds may place 2321  
any income directly into a qualifying income trust without those 2322  
funds adversely affecting the applicant's or recipient's 2323  
eligibility for medicaid. Income generated by the trust that 2324  
remains in the trust shall not be considered as income to the 2325  
applicant or recipient. 2326

(e) All income placed in a qualifying income trust shall 2327  
be combined with any income available to the individual that is 2328  
not placed in the trust to arrive at a base income figure to be 2329  
used for spend down calculations. 2330

(f) The base income figure shall be used for post- 2331  
eligibility deductions, including personal needs allowance, 2332  
monthly income allowance, family allowance, and medical expenses 2333  
not subject to third party payment. Any income remaining shall 2334  
be used toward payment of patient liability. Payments made from 2335  
a qualifying income trust shall not be combined with the base 2336  
income figure for post-eligibility calculations. 2337

(g) The base income figure shall be used when determining 2338  
the spend down budget for the applicant or recipient. Any income 2339  
remaining after allowable deductions are permitted as provided 2340  
under rules adopted under section 5163.02 of the Revised Code 2341  
shall be considered the applicant's or recipient's spend down 2342  
liability. 2343



(3) (a) A pooled trust that meets all of the following requirements:	2344
	2345
(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted under section 5163.02 of the Revised Code.	2346
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(ii) The trust is established and managed by a nonprofit organization.	2349
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(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.	2351
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(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.	2355
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(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the beneficiary.	2359
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(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.	2365
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	2368
(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income	2369
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available to the applicant or recipient, or both a resource and 2373  
income available to the applicant or recipient. 2374

(4) A supplemental services trust that meets the 2375  
requirements of section 5815.28 of the Revised Code and to which 2376  
all of the following apply: 2377

(a) A person may establish a supplemental services trust 2378  
pursuant to section 5815.28 of the Revised Code only for another 2379  
person who is eligible to receive services through one of the 2380  
following agencies: 2381

(i) The department of developmental disabilities; 2382

(ii) A county board of developmental disabilities; 2383

(iii) The department of mental health and addiction 2384  
services; 2385

(iv) A board of alcohol, drug addiction, and mental health 2386  
services. 2387

(b) A county department of job and family services shall 2388  
not determine eligibility for another agency's program. An 2389  
applicant or recipient shall do one of the following: 2390

(i) Provide documentation from one of the agencies listed 2391  
in division (F) (4) (a) of this section that establishes that the 2392  
applicant or recipient was determined to be eligible for 2393  
services from the agency at the time of the creation of the 2394  
trust; 2395

(ii) Provide an order from a court of competent 2396  
jurisdiction that states that the applicant or recipient was 2397  
eligible for services from one of the agencies listed in 2398  
division (F) (4) (a) of this section at the time of the creation 2399  
of the trust. 2400

(c) At the time the trust is created, the trust principal 2401  
does not exceed the maximum amount permitted. The maximum amount 2402  
permitted in calendar year 2006 is two hundred twenty-two 2403  
thousand dollars. Each year thereafter, the maximum amount 2404  
permitted is the prior year's amount plus two thousand dollars. 2405

(d) A county department of job and family services shall 2406  
review the trust to determine whether it complies with the 2407  
provisions of section 5815.28 of the Revised Code. 2408

(e) Payments from supplemental services trusts shall be 2409  
exempt as long as the payments are for supplemental services as 2410  
defined in rules adopted under section 5163.02 of the Revised 2411  
Code. All supplemental services shall be purchased by the 2412  
trustee and shall not be purchased through direct cash payments 2413  
to the beneficiary. 2414

(f) If a trust is represented as a supplemental services 2415  
trust and a county department of job and family services 2416  
determines that the trust does not meet the requirements 2417  
provided in division (F) (4) of this section and section 5815.28 2418  
of the Revised Code, the county department of job and family 2419  
services shall not consider it an exempt trust. 2420

(G) (1) A trust or legal instrument or device similar to a 2421  
trust shall be considered a trust established by an individual 2422  
for the benefit of the applicant or recipient if all of the 2423  
following apply: 2424

(a) The trust is created by a person other than the 2425  
applicant or recipient. 2426

(b) The trust names the applicant or recipient as a 2427  
beneficiary. 2428

(c) The trust is funded with assets or property in which 2429

the applicant or recipient has never held an ownership interest 2430  
prior to the establishment of the trust. 2431

(2) Any portion of a trust that meets the requirements of 2432  
division (G)(1) of this section shall be a resource available to 2433  
the applicant or recipient only if the trust permits the trustee 2434  
to expend principal, corpus, or assets of the trust for the 2435  
applicant's or recipient's medical care, care, comfort, 2436  
maintenance, health, welfare, general well being, or any 2437  
combination of these purposes. 2438

(3) A trust that meets the requirements of division (G)(1) 2439  
of this section shall be considered a resource available to the 2440  
applicant or recipient even if the trust contains any of the 2441  
following types of provisions: 2442

(a) A provision that prohibits the trustee from making 2443  
payments that would supplant or replace medicaid or other public 2444  
assistance; 2445

(b) A provision that prohibits the trustee from making 2446  
payments that would impact or have an effect on the applicant's 2447  
or recipient's right, ability, or opportunity to receive 2448  
medicaid or other public assistance; 2449

(c) A provision that attempts to prevent the trust or its 2450  
corpus or principal from being a resource available to the 2451  
applicant or recipient. 2452

(4) A trust that meets the requirements of division (G)(1) 2453  
of this section shall not be counted as a resource available to 2454  
the applicant or recipient if at least one of the following 2455  
circumstances applies: 2456

(a) If a trust contains a clear statement requiring the 2457  
trustee to preserve a portion of the trust for another 2458

beneficiary or remainderman, that portion of the trust shall not 2459  
be counted as a resource available to the applicant or 2460  
recipient. Terms of a trust that grant discretion to preserve a 2461  
portion of the trust shall not qualify as a clear statement 2462  
requiring the trustee to preserve a portion of the trust. 2463

(b) If a trust contains a clear statement requiring the 2464  
trustee to use a portion of the trust for a purpose other than 2465  
medical care, care, comfort, maintenance, welfare, or general 2466  
well being of the applicant or recipient, that portion of the 2467  
trust shall not be counted as a resource available to the 2468  
applicant or recipient. Terms of a trust that grant discretion 2469  
to limit the use of a portion of the trust shall not qualify as 2470  
a clear statement requiring the trustee to use a portion of the 2471  
trust for a particular purpose. 2472

(c) If a trust contains a clear statement limiting the 2473  
trustee to making fixed periodic payments, the trust shall not 2474  
be counted as a resource available to the applicant or recipient 2475  
and payments shall be treated in accordance with rules adopted 2476  
under section 5163.02 of the Revised Code governing income. 2477  
Terms of a trust that grant discretion to limit payments shall 2478  
not qualify as a clear statement requiring the trustee to make 2479  
fixed periodic payments. 2480

(d) If a trust contains a clear statement that requires 2481  
the trustee to terminate the trust if it is counted as a 2482  
resource available to the applicant or recipient, the trust 2483  
shall not be counted as such. Terms of a trust that grant 2484  
discretion to terminate the trust do not qualify as a clear 2485  
statement requiring the trustee to terminate the trust. 2486

(e) If a person obtains a judgment from a court of 2487  
competent jurisdiction that expressly prevents the trustee from 2488

using part or all of the trust for the medical care, care, 2489  
comfort, maintenance, welfare, or general well being of the 2490  
applicant or recipient, the trust or that portion of the trust 2491  
subject to the court order shall not be counted as a resource 2492  
available to the applicant or recipient. 2493

(f) If a trust is specifically exempt from being counted 2494  
as a resource available to the applicant or recipient by a 2495  
provision of the Revised Code, rules, or federal law, the trust 2496  
shall not be counted as such. 2497

(g) If an applicant or recipient presents a final judgment 2498  
from a court demonstrating that the applicant or recipient was 2499  
unsuccessful in a civil action against the trustee to compel 2500  
payments from the trust, the trust shall not be counted as a 2501  
resource available to the applicant or recipient. 2502

(h) If an applicant or recipient presents a final judgment 2503  
from a court demonstrating that in a civil action against the 2504  
trustee the applicant or recipient was only able to compel 2505  
limited or periodic payments, the trust shall not be counted as 2506  
a resource available to the applicant or recipient and payments 2507  
shall be treated in accordance with rules adopted under section 2508  
5163.02 of the Revised Code governing income. 2509

(i) If an applicant or recipient provides written 2510  
documentation showing that the cost of a civil action brought to 2511  
compel payments from the trust would be cost prohibitive, the 2512  
trust shall not be counted as a resource available to the 2513  
applicant or recipient. 2514

(5) Any actual payments to the applicant or recipient from 2515  
a trust that meet the requirements of division (G)(1) of this 2516  
section, including trusts that are not counted as a resource 2517

available to the applicant or recipient, shall be treated as 2518  
provided in rules adopted under section 5163.02 of the Revised 2519  
Code governing income. Payments to any person other than the 2520  
applicant or recipient shall not be considered income to the 2521  
applicant or recipient. Payments from the trust to a person 2522  
other than the applicant or recipient shall not be considered an 2523  
improper disposition of assets. 2524

**Sec. 5802.03.** ~~The~~ (A) Except as otherwise provided in 2525  
division (B) of this section, the probate division of the court 2526  
of common pleas has concurrent jurisdiction with, and the same 2527  
powers at law and in equity as, the general division of the 2528  
court of common pleas to issue writs and orders and to hear and 2529  
determine any action that involves an inter vivos trust. 2530

(B) The probate division of the court of common pleas has 2531  
exclusive jurisdiction to render declaratory judgments under 2532  
Chapter 5817. of the Revised Code. However, the probate division 2533  
of the court of common pleas may transfer a declaratory judgment 2534  
proceeding under that chapter to the general division of the 2535  
court of common pleas pursuant to division (A) of section 2536  
5817.04 of the Revised Code. 2537

**Sec. 5802.05.** (A) A provision in the terms of a trust, 2538  
excluding a testamentary trust, that requires the arbitration of 2539  
disputes, other than disputes of the validity of all or a part 2540  
of a trust instrument, between or among the beneficiaries and a 2541  
fiduciary under the trust, or a combination of those persons or 2542  
entities, is enforceable. 2543

(B) Unless otherwise specified in the terms of the trust, 2544  
a trust provision requiring arbitration as described in division 2545  
(A) of this section shall be presumed to require binding 2546  
arbitration under Chapter 2711. of the Revised Code. 2547

<b>Sec. 5806.04.</b> (A) <del>Any Subject to division (E) of this</del>	2548
<u>section, any</u> of the following actions pertaining to a revocable	2549
trust that is made irrevocable by the death of the settlor of	2550
the trust shall be commenced by the earlier of the date that is	2551
two years after the date of the death of the settlor of the	2552
trust or that is six months from the date on which the trustee	2553
sends the person bringing the action a copy of the trust	2554
instrument and a notice informing the person of the trust's	2555
existence, of the trustee's name and address, and of the time	2556
allowed under this division for commencing an action:	2557
(1) An action to contest the validity of the trust;	2558
(2) An action to contest the validity of any amendment to	2559
the trust that was made during the lifetime of the settlor of	2560
the trust;	2561
(3) An action to contest the revocation of the trust	2562
during the lifetime of the settlor of the trust;	2563
(4) An action to contest the validity of any transfer made	2564
to the trust during the lifetime of the settlor of the trust.	2565
(B) Upon the death of the settlor of a revocable trust	2566
that was made irrevocable by the death of the settlor, the	2567
trustee, without liability, may proceed to distribute the trust	2568
property in accordance with the terms of the trust unless either	2569
of the following applies:	2570
(1) The trustee has actual knowledge of a pending action	2571
to contest the validity of the trust, any amendment to the	2572
trust, the revocation of the trust, or any transfer made to the	2573
trust during the lifetime of the settlor of the trust.	2574
(2) The trustee receives written notification from a	2575
potential contestant of a potential action to contest the	2576



validity of the trust, any amendment to the trust, the 2577  
revocation of the trust, or any transfer made to the trust 2578  
during the lifetime of the settlor of the trust, and the action 2579  
is actually filed within ninety days after the written 2580  
notification was given to the trustee. 2581

(C) If a distribution of trust property is made pursuant 2582  
to division (B) of this section, a beneficiary of the trust 2583  
shall return any distribution to the extent that it exceeds the 2584  
distribution to which the beneficiary is entitled if the trust, 2585  
an amendment to the trust, or a transfer made to the trust later 2586  
is determined to be invalid. 2587

(D) This section applies only to revocable trusts that are 2588  
made irrevocable by the death of the settlor of the trust if the 2589  
grantor dies on or after July 23, 2002. 2590

(E) Except as otherwise provided in this division, no 2591  
person may contest the validity of any trust as to facts decided 2592  
if the trust was submitted to a probate court by the settlor 2593  
during the settlor's lifetime and declared valid by the judgment 2594  
of a court pursuant to division (B)(1) of section 5817.10 of the 2595  
Revised Code. A person may contest the validity of that trust as 2596  
to those facts if the person is one who should have been named a 2597  
party defendant in the action in which the trust was declared 2598  
valid, pursuant to division (A) of section 5817.06 of the 2599  
Revised Code, and if the person was not named a defendant and 2600  
properly served in that action. 2601

**Sec. 5808.19.** (A) As used in this section, unless 2602  
otherwise provided in any other provision in this section: 2603

(1) "Beneficiary" means the beneficiary of a future 2604  
interest and includes a class member if the future interest is 2605

in the form of a class gift. 2606

(2) "Class member" means an individual who fails to 2607  
survive the distribution date by at least one hundred twenty 2608  
hours but who would have taken under a future interest in the 2609  
form of a class gift had the individual survived the 2610  
distribution date by at least one hundred twenty hours. 2611

(3) "Descendant of a grandparent of the transferor" means 2612  
an individual who would qualify as a descendant of a grandparent 2613  
of the transferor under the rules of construction that would 2614  
apply to a class gift under the transferor's will to the 2615  
descendants of the transferor's grandparent. 2616

(4) "Distribution date," with respect to a future 2617  
interest, means the time when the future interest is to take 2618  
effect in possession or enjoyment. The distribution date need 2619  
not occur at the beginning or end of a calendar day but may 2620  
occur at a time during the course of a day. 2621

(5) "Future interest" means an alternative future interest 2622  
or a future interest in the form of a class gift. 2623

(6) "Future interest under the terms of a trust" means a 2624  
future interest that was created by a transfer creating a trust 2625  
or a transfer to an existing trust, or by an exercise of a power 2626  
of appointment to an existing trust, that directs the 2627  
continuance of an existing trust, designates a beneficiary of an 2628  
existing trust, or creates a trust. 2629

(7) "Per stirpes" means that the shares of the descendants 2630  
of a beneficiary who does not survive the distribution date by 2631  
at least one hundred twenty hours are determined in the same way 2632  
they would have been determined under division (A) of section 2633  
2105.06 of the Revised Code if the beneficiary had died 2634

intestate and unmarried on the distribution date. 2635

(8) "Revocable trust" means a trust that was revocable 2636  
immediately before the settlor's death by the settlor alone or 2637  
by the settlor with the consent of any person other than a 2638  
person holding an adverse interest. A trust's characterization 2639  
as revocable is not affected by the settlor's lack of capacity 2640  
to exercise the power of revocation, regardless of whether an 2641  
agent of the settlor under a power of attorney, or a guardian of 2642  
the person or estate of the settlor, was serving. 2643

(9) "Stepchild" means a child of the surviving, deceased, 2644  
or former spouse of the transferor and not of the transferor. 2645

(10) "Transferor" means any of the following: 2646

(a) The donor and donee of a power of appointment, if the 2647  
future interest was in property as a result of the exercise of a 2648  
power of appointment; 2649

(b) The testator, if the future interest was devised by 2650  
will; 2651

(c) The settlor, if the future interest was conveyed by 2652  
inter vivos trust. 2653

(B) (1) (a) As used in "surviving descendants" in divisions 2654  
(B) (2) (b) (i) and (ii) of this section, "descendants" means the 2655  
descendants of a deceased beneficiary or class member who would 2656  
take under a class gift created in the trust. 2657

(b) As used in divisions (B) (2) (b) (i) and (ii) of this 2658  
section, "surviving beneficiaries" or "surviving descendants" 2659  
means beneficiaries or descendants, whichever is applicable, who 2660  
survive the distribution date by at least one hundred twenty 2661  
hours. 2662

(2) Unless a contrary intent appears in the instrument 2663  
creating a future interest under the terms of a trust, each of 2664  
the following applies: 2665

(a) A future interest under the terms of a trust is 2666  
contingent on the beneficiary's surviving the distribution date 2667  
by at least one hundred twenty hours. 2668

(b) If a beneficiary of a future interest under the terms 2669  
of a trust does not survive the distribution date by at least 2670  
one hundred twenty hours and if the beneficiary is a grandparent 2671  
of the transferor, a descendant of a grandparent of the 2672  
transferor, or a stepchild of the transferor, either of the 2673  
following applies: 2674

(i) If the future interest is not in the form of a class 2675  
gift and the deceased beneficiary leaves surviving descendants, 2676  
a substitute gift is created in the beneficiary's surviving 2677  
descendants. The surviving descendants take, per stirpes, the 2678  
property to which the beneficiary would have been entitled had 2679  
the beneficiary survived the distribution date by at least one 2680  
hundred twenty hours. 2681

(ii) If the future interest is in the form of a class 2682  
gift, other than a future interest to "issue," "descendants," 2683  
"heirs of the body," "heirs," "next of kin," "relatives," or 2684  
"family," or a class described by language of similar import 2685  
that includes more than one generation, a substitute gift is 2686  
created in the surviving descendants of the deceased beneficiary 2687  
or beneficiaries. The property to which the beneficiaries would 2688  
have been entitled had all of them survived the distribution 2689  
date by at least one hundred twenty hours passes to the 2690  
surviving beneficiaries and the surviving descendants of the 2691  
deceased beneficiaries. Each surviving beneficiary takes the 2692

share to which the surviving beneficiary would have been 2693  
entitled had the deceased beneficiaries survived the 2694  
distribution date by at least one hundred twenty hours. Each 2695  
deceased beneficiary's surviving descendants who are substituted 2696  
for the deceased beneficiary take, per stirpes, the share to 2697  
which the deceased beneficiary would have been entitled had the 2698  
deceased beneficiary survived the distribution date by at least 2699  
one hundred twenty hours. For purposes of division (B) (2) (b) (ii) 2700  
of this section, "deceased beneficiary" means a class member who 2701  
failed to survive the distribution date by at least one hundred 2702  
twenty hours and left one or more surviving descendants. 2703

(C) For purposes of this section, each of the following 2704  
applies: 2705

(1) Describing a class of beneficiaries as "surviving" or 2706  
"living," without specifying when the beneficiaries must be 2707  
surviving or living, such as a gift "for my spouse for life, 2708  
then to my surviving (or living) children," is not, in the 2709  
absence of other language in the trust instrument or other 2710  
evidence to the contrary, a sufficient indication of an intent 2711  
to negate the application of division (B) (2) (b) of this section. 2712

(2) Subject to division (C) (1) of this section, attaching 2713  
words of survivorship to a future interest under the terms of a 2714  
trust, such as "for my spouse for life, then to my children who 2715  
survive my spouse" or "for my spouse for life, then to my then- 2716  
living children" is, in the absence of other language in the 2717  
trust instrument or other evidence to the contrary, a sufficient 2718  
indication of an intent to negate the application of division 2719  
(B) (2) (b) of this section. Words of survivorship under division 2720  
(C) (2) of this section include words of survivorship that relate 2721  
to the distribution date or to an earlier or an unspecified 2722

time, whether those words of survivorship are expressed as 2723  
condition-precedent, condition-subsequent, or in any other form. 2724

(3) A residuary clause in a will is not a sufficient 2725  
indication of an intent that is contrary to the application of 2726  
this section, whether or not the will specifically provides that 2727  
lapsed or failed devises are to pass under the residuary clause. 2728  
A residuary clause in a revocable trust instrument is not a 2729  
sufficient indication of an intent that is contrary to the 2730  
application of this section unless the distribution date is the 2731  
date of the settlor's death and the revocable trust instrument 2732  
specifically provides that upon lapse or failure the 2733  
nonresiduary devise, or nonresiduary devises in general, pass 2734  
under the residuary clause. 2735

(D) If, after the application of divisions (B) and (C) of 2736  
this section there is no surviving taker of the property, and a 2737  
contrary intent does not appear in the instrument creating the 2738  
future interest, the property passes in the following order: 2739

(1) If the future interest was created by the exercise of 2740  
a power of appointment, the property passes under the donor's 2741  
gift-in-default clause, if any, which clause is treated as 2742  
creating a future interest under the terms of a trust. 2743

(2) If no taker is produced under division (D)(1) of this 2744  
section and the trust was created in a nonresiduary devise in 2745  
the transferor's will or in a codicil to the transferor's will, 2746  
the property passes under the residuary clause in the 2747  
transferor's will. For purposes of division (D)(2) of this 2748  
section, the residuary clause is treated as creating a future 2749  
interest under the terms of a trust. 2750

(3) If no taker is produced under divisions (D)(1) and (2) 2751

of this section, the transferor is deceased, and the trust was 2752  
created in a nonresiduary gift under the terms of a revocable 2753  
trust of the transferor, the property passes under the residuary 2754  
clause in the transferor's revocable trust instrument. For 2755  
purposes of division (D) (3) of this section, the residuary 2756  
clause in the transferor's revocable trust instrument is treated 2757  
as creating a future interest under the terms of a trust. 2758

(4) If no taker is produced under divisions (D) (1), (2), 2759  
and (3) of this section, the property passes to those persons 2760  
who would succeed to the transferor's intestate estate and in 2761  
the shares as provided in the intestate succession law of the 2762  
transferor's domicile if the transferor died on the distribution 2763  
date. Notwithstanding division (A) (10) of this section, for 2764  
purposes of division (D) (4) of this section, if the future 2765  
interest was created by the exercise of a power of appointment, 2766  
"transferor" means the donor if the power is a nongeneral power, 2767  
or the donee if the power is a general power. 2768

(E) This section applies to all trusts that become 2769  
irrevocable on or after ~~the effective date of this section~~ March 2770  
22, 2012. This section does not apply to any trust that was 2771  
irrevocable before ~~the effective date of this section~~ March 22, 2772  
2012, even if property was added to the trust on or after ~~that~~ 2773  
~~effective date~~ March 22, 2012. 2774

**Sec. 5815.16.** (A) Absent an express agreement to the 2775  
contrary, an attorney who performs legal services for a 2776  
fiduciary, by reason of the attorney performing those legal 2777  
services for the fiduciary, has no duty or obligation in 2778  
contract, tort, or otherwise to any third party to whom the 2779  
fiduciary owes fiduciary obligations. 2780

(B) Any communication between an attorney and a client who 2781

is acting as a fiduciary is privileged and protected from 2782  
disclosure to third parties to whom the fiduciary owes fiduciary 2783  
duties to the same extent as if the client was not acting as a 2784  
fiduciary. 2785

(C) As used in this section, "fiduciary" means a trustee 2786  
under an express trust or an executor or administrator of a 2787  
decedent's estate. 2788

**Sec. 5817.01. As used in this chapter:** 2789

(A) (1) "Beneficiary under a trust" means either of the 2790  
following: 2791

(a) Any person that has a present or future beneficial 2792  
interest in a trust, whether vested or contingent; 2793

(b) Any person that, in a capacity other than that of 2794  
trustee, holds a power of appointment over trust property, but 2795  
does not include the class of permitted appointees among whom 2796  
the power holder may appoint. 2797

(2) "Beneficiary under a trust" includes a charitable 2798  
organization that is expressly designated in the terms of the 2799  
trust to receive distributions, but does not include any 2800  
charitable organization that is not expressly designated in the 2801  
terms of the trust to receive distributions, but to whom the 2802  
trustee may in its discretion make distributions. 2803

(B) (1) "Beneficiary under a will" means either of the 2804  
following: 2805

(a) Any person designated in a will to receive a 2806  
testamentary disposition of real or personal property; 2807

(b) Any person that, in a capacity other than that of 2808  
executor, holds a power of appointment over estate assets, but 2809



does not include the class of permitted appointees among whom 2810  
the power holder may appoint. 2811

(2) "Beneficiary under a will" includes a charitable 2812  
organization that is expressly designated in the terms of the 2813  
will to receive testamentary distributions, but does not include 2814  
any charitable organization that is not expressly designated in 2815  
the terms of the will to receive distributions, but to whom the 2816  
executor may in its discretion make distributions. 2817

(C) "Court" means the probate court of the county in which 2818  
the complaint under section 5817.02 or 5817.03 of the Revised 2819  
Code is filed or the general division of the court of common 2820  
pleas to which the probate court transfers the proceeding under 2821  
division (A) of section 5817.04 of the Revised Code. 2822

(D) "Related trust" means a trust for which both of the 2823  
following apply: 2824

(1) The testator is the settlor of the trust. 2825

(2) The trust is named as a beneficiary in the will in 2826  
accordance with section 2107.63 of the Revised Code. 2827

(E) "Related will" means a will for which both of the 2828  
following apply: 2829

(1) The testator is the settlor of a trust. 2830

(2) The will names the trust as a beneficiary in 2831  
accordance with section 2107.63 of the Revised Code. 2832

(F) "Trust" means an inter vivos revocable or irrevocable 2833  
trust instrument to which, at the time the complaint for 2834  
declaration of validity is filed under section 5817.03 of the 2835  
Revised Code, either of the following applies: 2836

(1) The settlor resides in, or is domiciled in, this 2837  
state. 2838

(2) The trust's principal place of administration is in 2839  
this state. 2840

**Sec. 5817.02.** (A) A testator may file a complaint with the 2841  
probate court to determine before the testator's death that the 2842  
testator's will is a valid will subject only to subsequent 2843  
revocation or modification of the will. The right to file a 2844  
complaint for a determination of the validity of a testator's 2845  
will under this chapter, or to voluntarily dismiss a complaint 2846  
once filed, is personal to the testator and may not be exercised 2847  
by the testator's guardian or an agent under the testator's 2848  
power of attorney. 2849

(B) A testator who desires to obtain a validity 2850  
determination as to the testator's will shall file a complaint 2851  
to determine the validity of both the will and any related 2852  
trust. 2853

(C) The failure of a testator to file a complaint for a 2854  
judgment declaring the validity of a will shall not be construed 2855  
as evidence or an admission that the will is not valid. 2856

(D) A complaint for a determination of the validity of a 2857  
testator's will shall be accompanied by an express written 2858  
waiver of the testator's physician-patient privilege provided in 2859  
division (B) of section 2317.02 of the Revised Code. 2860

**Sec. 5817.03.** (A) A settlor may file a complaint with the 2861  
probate court to determine before the settlor's death that the 2862  
settlor's trust is valid and enforceable under its terms, 2863  
subject only to a subsequent revocation or modification of the 2864  
trust. The right to file a complaint for a determination of the 2865

validity of a settlor's trust under this chapter, or to 2866  
voluntarily dismiss a complaint once filed, is personal to the 2867  
settlor and may not be exercised by the settlor's guardian or an 2868  
agent under the settlor's power of attorney. 2869

(B) A settlor who desires to obtain a validity 2870  
determination as to the settlor's trust shall file a complaint 2871  
to determine the validity of both the trust and the related 2872  
will. 2873

(C) The failure of a settlor to file a complaint for a 2874  
judgment declaring the validity of a trust shall not be 2875  
construed as evidence or an admission that the trust is not 2876  
valid. 2877

(D) A complaint for a determination of the validity of a 2878  
settlor's trust shall be accompanied by an express written 2879  
waiver of the settlor's physician-patient privilege provided in 2880  
division (B) of section 2317.02 of the Revised Code. 2881

**Sec. 5817.04.** (A) A complaint to determine the validity of 2882  
a will or a trust shall be filed with the probate court. The 2883  
probate judge, upon the motion of a party or the judge's own 2884  
motion, may transfer the proceeding to the general division of 2885  
the court of common pleas. 2886

(B) The venue for a complaint under section 5817.02 of the 2887  
Revised Code is either of the following: 2888

(1) The probate court of the county in this state where 2889  
the testator is domiciled; 2890

(2) If the testator is not domiciled in this state, the 2891  
probate court of any county in this state where any real 2892  
property or personal property of the testator is located or, if 2893  
there is no such property, the probate court of any county in 2894

this state. 2895

(C) The venue for a complaint under section 5817.03 of the 2896  
Revised Code is either of the following: 2897

(1) The probate court of the county in this state where 2898  
the settlor resides or is domiciled; 2899

(2) If the settlor does not reside or is not domiciled in 2900  
this state, the probate court of the county in this state in 2901  
which the trust's principal place of administration is located. 2902

**Sec. 5817.05.** (A) A complaint under section 5817.02 of the 2903  
Revised Code shall name as party defendants all of the 2904  
following, as applicable: 2905

(1) The testator's spouse; 2906

(2) The testator's children; 2907

(3) The testator's heirs who would take property pursuant 2908  
to section 2105.06 of the Revised Code had the testator died 2909  
intestate at the time the complaint is filed; 2910

(4) The testator's beneficiaries under the will; 2911

(5) Any beneficiary under the testator's most recent prior 2912  
will. 2913

(B) A complaint under section 5817.02 of the Revised Code 2914  
may name as a party defendant any other person that the testator 2915  
believes may have a pecuniary interest in the determination of 2916  
the validity of the testator's will. 2917

(C) A complaint under section 5817.02 of the Revised Code 2918  
may contain all or any of the following: 2919

(1) A statement that a copy of the will has been filed 2920  
with the court; 2921

<u>(2) A statement that the will is in writing;</u>	2922
<u>(3) A statement that the will was signed by the testator,</u>	2923
<u>or was signed in the testator's name by another person in the</u>	2924
<u>testator's conscious presence and at the testator's express</u>	2925
<u>direction;</u>	2926
<u>(4) A statement that the will was signed in the conscious</u>	2927
<u>presence of the testator by two or more competent individuals,</u>	2928
<u>each of whom either witnessed the testator sign the will, or</u>	2929
<u>heard the testator acknowledge signing the will;</u>	2930
<u>(5) A statement that the will was executed with the</u>	2931
<u>testator's testamentary intent;</u>	2932
<u>(6) A statement that the testator had testamentary</u>	2933
<u>capacity;</u>	2934
<u>(7) A statement that the testator executed the will free</u>	2935
<u>from undue influence, not under restraint or duress, and in the</u>	2936
<u>exercise of the testator's free will;</u>	2937
<u>(8) A statement that the execution of the will was not the</u>	2938
<u>result of fraud or mistake;</u>	2939
<u>(9) The names and addresses of the testator and all of the</u>	2940
<u>defendants and, if any of the defendants are minors, their ages;</u>	2941
<u>(10) A statement that the will has not been revoked or</u>	2942
<u>modified;</u>	2943
<u>(11) A statement that the testator is familiar with the</u>	2944
<u>contents of the will.</u>	2945
<b><u>Sec. 5817.06.</u></b> (A) <u>A complaint under section 5817.03 of the</u>	2946
<u>Revised Code shall name as party defendants the following, as</u>	2947
<u>applicable:</u>	2948

<u>(1) The settlor's spouse;</u>	2949
<u>(2) The settlor's children;</u>	2950
<u>(3) The settlor's heirs who would take property pursuant</u>	2951
<u>to section 2105.06 of the Revised Code had the settlor died</u>	2952
<u>intestate at the time the complaint is filed;</u>	2953
<u>(4) The trustee or trustees under the trust;</u>	2954
<u>(5) The beneficiaries under the trust;</u>	2955
<u>(6) If the trust amends, amends and restates, or replaces</u>	2956
<u>a prior trust, any beneficiary under the settlor's most recent</u>	2957
<u>prior trust.</u>	2958
<u>(B) A complaint under section 5817.03 of the Revised Code</u>	2959
<u>may name as a party defendant any other person that the settlor</u>	2960
<u>believes may have a pecuniary interest in the determination of</u>	2961
<u>the validity of the settlor's trust.</u>	2962
<u>(C) A complaint under section 5817.03 of the Revised Code</u>	2963
<u>may contain all or any of the following:</u>	2964
<u>(1) A statement that a copy of the trust has been filed</u>	2965
<u>with the court;</u>	2966
<u>(2) A statement that the trust is in writing and was</u>	2967
<u>signed by the settlor;</u>	2968
<u>(3) A statement that the trust was executed with the</u>	2969
<u>intent to create a trust;</u>	2970
<u>(4) A statement that the settlor had the legal capacity to</u>	2971
<u>enter into and establish the trust;</u>	2972
<u>(5) A statement that the trust has a definite beneficiary</u>	2973
<u>or is one of the following:</u>	2974

<u>(a) A charitable trust;</u>	2975
<u>(b) A trust for the care of an animal as provided in section 5804.08 of the Revised Code;</u>	2976 2977
<u>(c) A trust for a noncharitable purpose as provided in section 5804.09 of the Revised Code.</u>	2978 2979
<u>(6) A statement that the trustee of the trust has duties to perform;</u>	2980 2981
<u>(7) A statement that the same person is not the sole trustee and sole beneficiary of the trust;</u>	2982 2983
<u>(8) A statement that the settlor executed the trust free from undue influence, not under restraint or duress, and in the exercise of the settlor's free will;</u>	2984 2985 2986
<u>(9) A statement that execution of the trust was not the result of fraud or mistake;</u>	2987 2988
<u>(10) The names and addresses of the settlor and all of the defendants and, if any of the defendants are minors, their ages;</u>	2989 2990
<u>(11) A statement that the trust has not been revoked or modified;</u>	2991 2992
<u>(12) A statement that the settlor is familiar with the contents of the trust.</u>	2993 2994
<u>Sec. 5817.07. (A) Service of process, with a copy of the complaint and the will, and a copy of the related trust, if applicable, shall be made on every party defendant named in the complaint filed under section 5817.02 of the Revised Code, as provided in the applicable Rules of Civil Procedure.</u>	2995 2996 2997 2998 2999
<u>(B) Service of process, with a copy of the complaint and the trust, and a copy of the related will, if applicable, shall</u>	3000 3001

be made on every party defendant named in the complaint filed 3002  
under section 5817.03 of the Revised Code, as provided in the 3003  
applicable Rules of Civil Procedure. 3004

**Sec. 5817.08.** (A) After a complaint is filed under section 3005  
5817.02 or 5817.03 of the Revised Code, the court shall fix a 3006  
time and place for a hearing. 3007

(B) Notice of the hearing shall be given to the testator 3008  
or settlor, as applicable, and to all party defendants, as 3009  
provided in the applicable Rules of Civil Procedure. 3010

(C) The hearing shall be adversarial in nature and shall 3011  
be conducted pursuant to sections 2101.31 and 2721.10 of the 3012  
Revised Code, except as otherwise provided in this chapter. 3013

**Sec. 5817.09.** (A) The testator or settlor has the burden 3014  
of establishing prima facie proof of the execution of the will 3015  
or trust, as applicable. A person who opposes the complaint has 3016  
the burden of establishing one or more of the following: 3017

(1) The lack of testamentary intent or the intent to 3018  
create a trust, as the case may be; 3019

(2) The lack of the testator's testamentary capacity, or 3020  
the settlor's legal capacity to enter into and establish the 3021  
trust; 3022

(3) Undue influence, restraint, or duress on the testator 3023  
or settlor; 3024

(4) Fraud or mistake in the execution of the will or 3025  
trust; 3026

(5) Revocation of the will or trust. 3027

(B) A party to the proceeding has the ultimate burden of 3028



persuasion as to the matters for which the party has the initial 3029  
burden of proof. 3030

Sec. 5817.10. (A) (1) The court shall declare the will 3031  
valid if it finds all of the following: 3032

(a) The will was properly executed pursuant to section 3033  
2107.03 of the Revised Code or under any prior law of this state 3034  
that was in effect at the time of execution. 3035

(b) The testator had the requisite testamentary capacity, 3036  
was free from undue influence, and was not under restraint or 3037  
duress. 3038

(c) The execution of the will was not the result of fraud 3039  
or mistake. 3040

(2) After the testator's death, unless the will is 3041  
modified or revoked after the court's declaration under division 3042  
(A) (1) of this section, the will has full legal effect as the 3043  
instrument of the disposition of the testator's estate and shall 3044  
be admitted to probate upon request. 3045

(B) (1) The court shall declare the trust valid if it finds 3046  
all of the following: 3047

(a) The trust meets the requirements of section 5804.02 of 3048  
the Revised Code. 3049

(b) The settlor had the legal capacity to enter into and 3050  
establish the trust, was free from undue influence, and was not 3051  
under restraint or duress. 3052

(c) The execution of the trust was not the result of fraud 3053  
or mistake. 3054

(2) Unless the trust is modified or revoked after the 3055

court's declaration, the trust has full legal effect. 3056

(C) The court may, if it finds the will or trust to be 3057  
valid, attach a copy of the valid document to the court's 3058  
judgment entry, but failure to do so shall not affect the 3059  
determination of validity of the will or trust. 3060

Sec. 5817.11. (A) Unless the will or trust is modified or 3061  
revoked, and except as otherwise provided in this section, no 3062  
person may contest the validity of a will or trust that is 3063  
declared valid in a proceeding pursuant to this chapter. 3064

(B) The failure to name a necessary defendant under 3065  
division (A) of section 5817.05 of the Revised Code is not 3066  
jurisdictional. A declaration of a will's validity under this 3067  
chapter shall be binding upon all defendants who were named or 3068  
represented, and properly served pursuant to division (A) of 3069  
section 5817.07 of the Revised Code, notwithstanding the failure 3070  
to name a necessary defendant. However, if a person is one who 3071  
should have been named a party defendant in the action in which 3072  
the will was declared valid and if the person was not named a 3073  
defendant and properly served in that action, that person, after 3074  
the testator's death, may contest the validity of a will 3075  
declared valid. 3076

(C) The failure to name a necessary defendant under 3077  
division (A) of section 5817.06 of the Revised Code is not 3078  
jurisdictional. A declaration of a trust's validity under this 3079  
chapter shall be binding upon all defendants who were named or 3080  
represented, and properly served pursuant to division (B) of 3081  
section 5817.07 of the Revised Code, notwithstanding the failure 3082  
to name a necessary defendant. However, if a person is one who 3083  
should have been named a party defendant in the action in which 3084  
the trust was declared valid and if the person was not named a 3085

defendant and properly served in that action, that person may 3086  
contest the validity of a trust declared valid. 3087

(D) In determining whether a person was a party defendant 3088  
and properly served in an action to declare a will or trust 3089  
valid under this chapter, the representation rules of Chapter 3090  
5803. of the Revised Code shall be applied, and a person 3091  
represented in the action under those rules is bound by the 3092  
declaration of validity even if, by the time of the testator's 3093  
death, or the challenge to the trust, the representing person 3094  
has died or would no longer be able to represent the person to 3095  
be represented in the proceeding under this chapter. 3096

**Sec. 5817.12.** (A) After a declaration of a will's validity 3097  
under division (A) (1) of section 5817.10 of the Revised Code, 3098  
the will may be modified by a later will or codicil executed 3099  
according to the laws of this state or another state, and the 3100  
will may be revoked under section 2107.33 of the Revised Code or 3101  
other applicable law. 3102

(B) The revocation by a later will, or other document 3103  
under section 2107.33 of the Revised Code, of a will that has 3104  
been declared valid under division (A) (1) of section 5817.10 of 3105  
the Revised Code does not affect the will or the prior 3106  
declaration of its validity if the later will or other document 3107  
is found by a court of competent jurisdiction to be invalid due 3108  
to the testator's lack of testamentary capacity, or undue 3109  
influence, restraint, or duress on the testator, or otherwise. 3110

(C) The amendment by a later codicil of a will that has 3111  
been declared valid under division (A) (1) of section 5817.10 of 3112  
the Revised Code does not affect the will or the prior 3113  
declaration of its validity except as provided by the codicil. 3114  
However, the codicil is not considered validated under this 3115

chapter unless its validity is also declared as provided in this 3116  
chapter. 3117

**Sec. 5817.13.** (A) After a declaration of a trust's 3118  
validity under division (B)(1) of section 5817.10 of the Revised 3119  
Code, the trust may be modified, terminated, revoked, or 3120  
reformed under sections 5804.10 to 5804.16 of the Revised Code, 3121  
or other applicable law. 3122

(B) The modification, termination, revocation, or 3123  
reformation by a new trust or other document of a trust that has 3124  
been declared valid under division (B)(1) of section 5817.10 of 3125  
the Revised Code does not affect the trust or the prior 3126  
declaration of its validity if the later trust or other document 3127  
is found by a court of competent jurisdiction to be invalid due 3128  
to the settlor's lack of capacity, or undue influence, 3129  
restraint, or duress on the settlor, or otherwise. 3130

(C) An amendment of a trust that has been declared valid 3131  
under division (B)(1) of section 5817.10 of the Revised Code 3132  
does not affect the trust or the prior declaration of its 3133  
validity except as provided by the amendment. However, the 3134  
amendment is not considered validated under this chapter unless 3135  
its validity is also declared as provided in this chapter. 3136

**Sec. 5817.14.** (A) The finding of facts by a court in a 3137  
proceeding brought under this chapter is not admissible as 3138  
evidence in any proceeding other than a proceeding brought to 3139  
determine the validity of a will or trust. 3140

(B) The determination or judgment rendered in a proceeding 3141  
under this chapter is not binding upon the parties to that 3142  
proceeding in any action that is not brought to determine the 3143  
validity of a will or trust. 3144

(C) The failure of a testator to file a complaint for a judgment declaring the validity of a will that the testator has executed is not admissible as evidence in any proceeding to determine the validity of that will or any other will executed by the testator.

(D) The failure of a settlor to file a complaint for a judgment declaring the validity of a trust that the settlor has executed is not admissible as evidence in any proceeding to determine the validity of that trust or any other trust executed by the settlor.

**Section 2.** That existing sections 313.14, 1901.26, 1907.24, 2101.24, 2105.19, 2107.01, 2107.05, 2107.07, 2107.08, 2107.09, 2107.10, 2107.11, 2107.12, 2107.16, 2107.18, 2107.20, 2107.22, 2107.33, 2107.52, 2107.71, 2109.41, 2129.05, 2137.01, 2323.30, 2323.31, 2323.33, 2701.09, 2721.03, 3105.011, 3109.06, 4705.09, 5163.21, 5802.03, 5806.04, 5808.19, and 5815.16 and sections 2107.081, 2107.082, 2107.083, 2107.084, and 2107.085 of the Revised Code are hereby repealed.

**Section 3.** This act's amendment of section 2107.05 of the Revised Code is intended to abrogate the holdings of the Ohio Supreme Court in *Hageman v. Cleveland Trust Company*, 45 Ohio St.2d 178 (1976) and the Ohio Second District Court of Appeals in *Gehrke v. Senkiw*, 2016 Ohio 2657 (2016).

**Section 4.** Section 2101.24 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 23 of the 130th General Assembly and Sub. H.B. 158 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the

composite is the resulting version of the section in effect	3175
prior to the effective date of the section as presented in this	3176
act.	3177