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H. B. No. 7

Representatives Grendell, Stewart

Cosponsors: Representatives Dean, Seitz, Miranda, Roemer, Skindell, Pavliga, Schmidt, Galonski, Lampton, Brown, Callender, Carruthers, Click, Crossman, Fraizer, Ginter, Gross, Hall, Hicks-Hudson, Hillyer, Kick, Lightbody, Miller, A., Miller, J., Patton, Plummer, Sheehy, Sobecki, Swearingen, Troy, White, Young, B., Young, T., Speaker Cupp

A BILL

To amend sections 1721.21, 2101.15, 2106.13,	1
2108.05, 2108.06, 2108.07, 2108.23, 2108.24,	2
2108.34, 2111.10, 2111.50, 2133.07, 2701.10,	3
2717.01, 5122.15, 5804.11, 5805.06, 5816.02,	4
5816.05, 5816.06, 5816.09, 5816.10, and 5816.14;	5
to amend, for the purpose of adopting a new	6
section number as indicated in parentheses,	7
section 2717.01 (2717.02); to enact new section	8
2717.01 and sections 2717.03, 2717.04, 2717.05,	9
2717.06, 2717.07, 2717.08, 2717.09, 2717.10,	10
2717.11, 2717.13, 2717.14, 2717.16, 2717.18, and	11
2717.19; and to repeal section 2133.16 of the	12
Revised Code to make changes in the Probate Law,	13
the Guardianship Law, the Ohio Trust Code, the	14
Ohio Legacy Trust Act, the laws regarding	15
cemetery endowment care trusts, referral of	16
actions to a retired judge, involuntary mental	17
health placements, and change of name	18
procedures.	19

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

Section 1. That sections 1721.21, 2101.15, 2106.13, 20
2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 2111.10, 21
2111.50, 2133.07, 2701.10, 5122.15, 5804.11, 5805.06, 5816.02, 22
5816.05, 5816.06, 5816.09, 5816.10, and 5816.14 be amended; 23
section 2717.01 (2717.02) be amended for the purpose of adopting 24
a new section number as indicated in parentheses; and new 25
section 2717.01 and sections 2717.03, 2717.04, 2717.05, 2717.06, 26
2717.07, 2717.08, 2717.09, 2717.10, 2717.11, 2717.13, 2717.14, 27
2717.16, 2717.18, and 2717.19 of the Revised Code be enacted to 28
read as follows: 29

Sec. 1721.21. (A) As used in this section: 30

(1) "Person" means any corporation, company, partnership, 31
individual, or other entity owning or operating a cemetery for 32
the disposition of human remains. 33

(2) "Cemetery" means any one or a combination of more than 34
one of the following: 35

(a) A burial ground for earth interments; 36

(b) A mausoleum for crypt entombments; 37

(c) A columbarium for the deposit of cremated remains; 38

(d) A scattering ground for the spreading of cremated 39
remains. 40

(3) "Interment" means the disposition of human remains by 41
earth burial, entombment, or inurnment. 42

(4) "Burial right" means the right of earth interment. 43

(5) "Entombment right" means the right of entombment in a 44
mausoleum. 45

(6) "Columbarium right" means the right of inurnment in a 46
columbarium for cremated remains. 47

(7) "Human remains" means any part of the body of a 48
deceased human being, in any stage of decomposition or state of 49
preservation, or the remaining bone fragments from the body of a 50
deceased human being that has been reduced by cremation or 51
alternative disposition. 52

(B) No person shall operate or continue to operate any 53
cemetery in this state unless an endowment care trust is 54
established and maintained as required by this section. 55

(C) Any person desiring to operate any cemetery that is 56
organized or developed after July 1, 1970, before offering to 57
sell or selling any burial lot, burial right, entombment right, 58
or columbarium right in that cemetery, shall first establish an 59
endowment care trust, segregated from other assets, and place in 60
that fund a minimum of fifty thousand dollars in cash or in 61
bonds of the United States, this state, or any county or 62
municipal corporation of this state. 63

Whenever any person described in this division has placed 64
another fifty thousand dollars in the endowment care trust out 65
of gross sales proceeds, in addition to the deposit required by 66
this division, that person, after submitting proof of this fact 67
to the trustees of the endowment care trust, may be paid a 68
distribution in the sum of fifty thousand dollars from the 69
endowment care trust. 70

(D) Any person desiring to operate or to continue to 71
operate any cemetery after July 1, 1970, shall place into the 72

endowment care trust as required by this section not less than 73
ten per cent of the gross sales proceeds received from the sale 74
of any burial lot, burial right, entombment right, or 75
columbarium right. This percentage shall be placed in the 76
endowment care trust no later than thirty days following the 77
month in which the entire gross sales are received. 78

(E) The trustees of the endowment care trust shall consist 79
of at least three individuals who have been residents of the 80
county in which the cemetery is located for at least one year, 81
or a trust company licensed under Chapter 1111. of the Revised 82
Code or a national bank or federal savings association that has 83
securities pledged in accordance with section 1111.04 of the 84
Revised Code. If the trustees are not a financial institution or 85
trust company, the trustees shall be bonded by a fidelity bond, 86
or insured under an insurance policy less any deductible, in an 87
aggregate amount of not less than one hundred per cent of the 88
funds held by the trustees. The trustees or their agent shall, 89
on a continuous basis, keep exact records as to the amount of 90
funds under any joint account or trust instrument being held for 91
the individual beneficiaries showing the amount paid, the amount 92
deposited and invested, and accruals and income. 93

The funds of the endowment care trust shall be held and 94
invested in the manner in which trust funds are permitted to be 95
held and invested pursuant to sections 2109.37 and 2109.371 of 96
the Revised Code or, if provided for in the instrument creating 97
the trust, pursuant to the Ohio Uniform Prudent Investor Act. 98

(F) Any person offering to sell or selling any burial lot, 99
burial right, entombment right, or columbarium right shall give 100
to the purchaser of the lot or right, at the time of sale, a 101
written agreement that identifies and unconditionally guarantees 102

to the purchaser the specific location of the lot or the 103
specific location to which the right applies. 104

(G) No person shall open or close any grave, crypt, or 105
niche for the interment of human remains in a cemetery without 106
the permission of the cemetery association or other entity 107
having control and management of the cemetery. 108

(H) Except as provided in division (G) of this section, 109
this section does not apply to a family cemetery as defined in 110
section 4767.02 of the Revised Code, to any cemetery that is 111
owned and operated entirely and exclusively by churches, 112
religious societies, established fraternal organizations, 113
municipal corporations, or other political subdivisions of the 114
state, or to a national cemetery. 115

(I) ~~The dividend and interest income distribution~~ from the 116
endowment care trust shall be used only to pay for the both of 117
the following: 118

(1) The cost and expenses incurred to establish, manage, 119
invest, and administer the records and the trust ~~and for the;~~ 120

(2) The maintenance, supervision, improvement, and 121
preservation of the grounds, lots, buildings, equipment, 122
statuary, and other real and personal property of the cemetery. 123

(J) (1) Annual reports of all the assets and investments of 124
the endowment care trust shall be prepared and maintained, and 125
shall be available for inspection at reasonable times by any 126
owner of interment rights in the cemetery. 127

(2) Every cemetery required to establish and maintain an 128
endowment care trust shall ensure each of the following: 129

(a) That the cemetery has deposited, at the time specified 130

in division (D) of this section, the amounts required by that 131
division in the cemetery's endowment care trust; 132

(b) ~~That only dividend and interest income have been paid~~ 133
~~from the endowment care trust, and the cemetery used the amounts~~ 134
withdrawn only for the purposes specified in division (I) of 135
this section; 136

(c) ~~That~~ Subject to division (K) (5) of this section, that 137
all principal and capital gains, less any payment of taxes 138
associated with such gains, have remained in the endowment care 139
trust; 140

(d) That the endowment care trust has not been used to 141
collateralize or guarantee loans and has not otherwise been 142
subjected to any consensual lien; 143

(e) That the endowment care trust is invested in 144
compliance with the investing standards set forth in sections 145
2109.37 and 2109.371 of the Revised Code, or, if provided for in 146
the instrument creating the trust, the Ohio Uniform Prudent 147
Investor Act. 148

(3) Every cemetery required to establish and maintain an 149
endowment care trust shall ~~file~~ do both of the following: 150

(a) File an affidavit annually with the division of real 151
estate of the department of commerce, in a form prescribed by 152
the division, certifying under oath the cemetery satisfied 153
division (J) (2) of this section; 154

(b) Notify the division of real estate of the department 155
of commerce, in a form prescribed by the division, of the 156
percentage of the unitrust distribution from the endowment care 157
trust, as described in divisions (K) (2) (a) (ii) and (b) of this 158
section. 159

(K) (1) Every cemetery shall choose the distribution of 160
either of the following from the endowment care trust: 161

(a) All net ordinary income, which includes collected 162
dividends, interest, and other income earned by the trust, 163
reduced by any expenses, including, but not limited to, taxes on 164
income, fees, commissions, and costs; 165

(b) A unitrust disbursement not exceeding five per cent of 166
the fair market value of the endowment care fund. "Fair market 167
value," for the purpose of division (K) (1) (b) of this section, 168
means the average of the net fair market value of the assets of 169
the endowment care trust as of the last trading day for each of 170
the three preceding fiscal year ends. 171

(2) (a) A cemetery that selects the unitrust disbursement 172
distribution method, as provided in division (K) (1) (b) of this 173
section, shall do both of the following: 174

(i) Deliver to the trustees of the endowment care trust 175
written instructions, including the disbursement percentage 176
selected, not later than sixty days prior to the beginning of a 177
calendar year; 178

(ii) Deliver to the division of real estate of the 179
department of commerce notification that the cemetery selected 180
the unitrust disbursement method and the percentage selected, in 181
compliance with division (J) (3) (b) of this section. 182

(b) The distribution method and, if a unitrust 183
disbursement, the disbursement percentage selected shall remain 184
in effect unless the cemetery notifies the trustees and the 185
division of real estate of the department of commerce of its 186
desire to effect a change. The trustees shall ensure that an 187
investment policy is in place whose goals and objectives are 188

supportive of the growth of the endowment care trust. 189

(3) Distributions from the endowment care trust shall be 190
made on a monthly, quarterly, semiannual, or annual basis, as 191
agreed upon by the cemetery and the trustees. If the trustees do 192
not receive written instructions from the cemetery informing the 193
trustees of the method of calculation and distribution chosen, 194
the trustees shall calculate and distribute the net income, as 195
earned, on a monthly basis. 196

(4) In order to withdraw a unitrust disbursement, the fair 197
market value of the endowment care trust after the disbursement 198
shall be greater than eighty per cent of the aggregate fair 199
market value of the endowment care trust as of the end of the 200
immediately preceding calendar year. Should this not be the 201
case, disbursement shall be limited for that year to net 202
ordinary income. 203

(5) The trustees shall pay reasonable operating expenses 204
and taxes of the endowment care trust itself. If the operating 205
expenses and taxes paid are greater than two and one-half per 206
cent of the fair market value for the preceding calendar year 207
end and the cemetery has selected a unitrust disbursement, the 208
trustees shall reduce the unitrust disbursement by the amount 209
exceeding two and one-half per cent. 210

Sec. 2101.15. In each case, examination, or proceeding, 211
the probate judge shall file an itemized account of fees 212
received or charged by the judge. ~~On the first~~ Not later than 213
the fifteenth day of January, in each year, the judge shall file 214
with the county auditor an account, certified by the judge, of 215
all fees received by the judge during the preceding year. No 216
judge shall fail to perform the duties imposed in this section. 217
At the instance of any person, the prosecuting attorney shall 218

institute and prosecute an action against the defaulting judge. 219

Sec. 2106.13. (A) If a person dies leaving a surviving 220
spouse and no minor children, leaving a surviving spouse and 221
minor children, or leaving minor children and no surviving 222
spouse, the surviving spouse, minor children, or both shall be 223
entitled to receive, subject to division (B) of this section, in 224
money or property the sum of forty thousand dollars as an 225
allowance for support. If the surviving spouse selected ~~one or~~ 226
~~more automobiles~~ more than one automobile under section 2106.18 227
of the Revised Code, the allowance for support prescribed by 228
this section shall be reduced by the value of the automobile 229
having the lowest value ~~if more than one automobile is of the~~ 230
automobiles so selected. The money or property set off as an 231
allowance for support shall be considered estate assets. 232

(B) The probate court shall order the distribution of the 233
allowance for support described in division (A) of this section 234
as follows: 235

(1) If the person died leaving a surviving spouse and no 236
minor children, one hundred per cent to the surviving spouse; 237

(2) If the person died leaving a surviving spouse and 238
minor children, and if all of the minor children are the 239
children of the surviving spouse, one hundred per cent to the 240
surviving spouse; 241

(3) If the person died leaving a surviving spouse and 242
minor children, and if not all of the minor children are 243
children of the surviving spouse, in equitable shares, as fixed 244
by the probate court in accordance with this division, to the 245
surviving spouse and the minor children who are not the children 246
of the surviving spouse. In determining equitable shares under 247

this division, the probate court shall do all of the following: 248

(a) Consider the respective needs of the surviving spouse, 249
the minor children who are children of the surviving spouse, and 250
the minor children who are not children of the surviving spouse; 251

(b) Allocate to the surviving spouse, the share that is 252
equitable in light of the needs of the surviving spouse and the 253
minor children who are children of the surviving spouse; 254

(c) Allocate to the minor children who are not children of 255
the surviving spouse, the share that is equitable in light of 256
the needs of those minor children. 257

(4) If the person died leaving minor children and no 258
surviving spouse, in equitable shares, as fixed by the probate 259
court in accordance with this division, to the minor children. 260
In determining equitable shares under this division, the probate 261
court shall consider the respective needs of the minor children 262
and allocate to each minor child the share that is equitable in 263
light of the child's needs. 264

(C) If the surviving spouse selected ~~one or more~~ 265
~~automobiles more than one automobile~~ under section 2106.18 of 266
the Revised Code, the probate court, in considering the 267
respective needs of the surviving spouse and the minor children 268
when allocating an allowance for support under division (B) (3) 269
of this section, shall consider the benefit derived by the 270
surviving spouse from the transfer of the automobile having the 271
lowest value ~~if more than one automobile is of the automobiles~~ 272
so selected. 273

(D) If, pursuant to this section, the probate court must 274
allocate the allowance for support, the administrator or 275
executor, within five months of the initial appointment of an 276

administrator or executor, shall file with the probate court an 277
application to allocate the allowance for support. 278

(E) The administrator or executor shall pay the allowance 279
for support unless a competent adult or a guardian with the 280
consent of the court having jurisdiction over the guardianship 281
waives the allowance for support to which the adult or the ward 282
represented by the guardian is entitled. 283

(F) For the purposes of this section, the value of an 284
automobile that a surviving spouse selects pursuant to section 285
2106.18 of the Revised Code is the value that the surviving 286
spouse specifies for the automobile in the affidavit executed 287
pursuant to division (B) of section 4505.10 of the Revised Code. 288

Sec. 2108.05. (A) A donor may make an anatomical gift by 289
doing any of the following: 290

(1) Authorizing a statement or symbol to be imprinted on 291
the donor's driver's license or identification card indicating 292
that the donor has certified a willingness to make an anatomical 293
gift; 294

~~(2) Specifying in the donor's will an intent to make an~~ 295
~~anatomical gift;~~ 296

~~(3) Specifying an intent to make an anatomical gift in the~~ 297
~~donor's declaration as described in section 2133.16 of the~~ 298
~~Revised Code;~~ 299

~~(4) During a terminal illness or injury of the donor,~~ 300
communicating in any manner to a minimum of two adults, at least 301
one of whom is a disinterested witness, that the donor intends 302
to make an anatomical gift; 303

~~(5)~~ (3) Following the procedure in division (B) of this 304

section. 305

(B) A donor or other person authorized to make an 306
anatomical gift under section 2108.04 of the Revised Code may 307
make a gift by a donor card or other record signed by the donor 308
or other person making the gift or by authorizing that a 309
statement or symbol indicating that the donor has certified a 310
willingness to make an anatomical gift be included in a donor 311
registry. If the donor or other person is physically unable to 312
sign a record, the record may be signed by another individual at 313
the direction of the donor or other person and shall do both of 314
the following: 315

(1) Be witnessed by at least two adults, at least one of 316
whom is a disinterested witness, who have signed at the request 317
of the donor or the other person; 318

(2) State that it has been signed and witnessed as 319
provided in division (B)(1) of this section. 320

(C) Once a donor has authorized a statement or symbol to 321
be imprinted on the donor's driver's license or identification 322
card indicating that the donor has certified a willingness to 323
make an anatomical gift, the donor does not need to recertify 324
the donor's willingness to make an anatomical gift upon renewal 325
of the driver's license or identification card. The 326
authorization shall remain in effect until the donor withdraws 327
that authorization. 328

(D) Revocation, suspension, expiration, or cancellation of 329
a driver's license or identification card upon which an 330
anatomical gift is indicated does not invalidate the gift. 331

~~(E) An anatomical gift made by will takes effect on the 332~~
~~donor's death whether or not the will is probated. Invalidation 333~~

~~of the will after the donor's death does not invalidate the~~ 334
~~gift.~~ 335

Sec. 2108.06. (A) Subject to section 2108.08 of the 336
Revised Code, an anatomical gift made under section 2108.04 of 337
the Revised Code may be amended by any of the following means: 338

(1) By a record signed by the donor or other person 339
authorized to make an anatomical gift under section 2108.04 of 340
the Revised Code; 341

(2) Subject to division (C) of this section, by a record 342
signed by another individual acting at the direction of the 343
donor or other person authorized to make an anatomical gift 344
under section 2108.04 of the Revised Code if the donor or other 345
person is physically unable to sign; 346

(3) By a later-executed document of gift that amends a 347
previous anatomical gift or portion of an anatomical gift, 348
either expressly or by inconsistency; 349

(4) By any form of communication during a terminal illness 350
or injury addressed to at least two adults; 351

(5) By a parent who is reasonably available, if the donor 352
is an unemancipated minor who has died; 353

~~(6) If made in a will, by the manner provided for~~ 354
~~amendment of wills or by any of the applicable means described~~ 355
~~in divisions (B)(1) to (5) of this section.~~ 356

(B) Subject to section 2108.08 of the Revised Code, an 357
anatomical gift made under section 2108.04 of the Revised Code 358
may be revoked by any of the following means: 359

(1) By a record signed by the donor or other person 360
authorized to make an anatomical gift under section 2108.04 of 361

the Revised Code; 362

(2) Subject to division (C) of this section, by a record 363
signed by another individual acting at the direction of the 364
donor or other person authorized to make an anatomical gift 365
under section 2108.04 of the Revised Code if the donor or other 366
person is physically unable to sign; 367

(3) By a later-executed document of gift that revokes a 368
previous anatomical gift or portion of an anatomical gift, 369
either expressly or by inconsistency; 370

(4) By any form of communication during a terminal illness 371
or injury addressed to at least two adults; 372

(5) By a parent who is reasonably available, if the donor 373
is an unemancipated minor who has died; 374

(6) By the destruction or cancellation of the document of 375
gift, or the portion of the document of gift, used to make the 376
gift, with the intent to revoke the gift; 377

~~(7) If made in a will, by the manner provided for 378~~
~~revocation of wills or by any of the applicable means described 379~~
~~in divisions (B) (1) to (6) of this section. 380~~

(C) A record signed pursuant to division (A) (2) or (B) (2) 381
of this section shall do both of the following: 382

(1) Be witnessed by a minimum of two adults who have 383
signed at the request of the donor or other person; 384

(2) State that it has been signed and witnessed as 385
provided in division (C) (1) of this section. 386

Sec. 2108.07. (A) An individual may refuse to make an 387
anatomical gift of the individual's body or part by doing any of 388

the following: 389

(1) Indicating a refusal in a record signed by either of 390
the following: 391

(a) The individual; 392

(b) Subject to division (B) of this section, another 393
individual acting at the direction of the individual, if the 394
individual is physically unable to sign. 395

~~(2) Indicating a refusal in the individual's will, whether 396
or not the will is admitted to probate or invalidated after the 397
individual's death; 398~~

~~(3) Indicating a refusal by any form of communication made 399
by the individual during the individual's terminal illness or 400
injury addressed to a minimum of two adults. 401~~

(B) A record signed pursuant to division (A) (1) (b) of this 402
section shall do both of the following: 403

(1) Be witnessed by at least two adults who have signed at 404
the request of the individual; 405

(2) State that it has been signed and witnessed as 406
provided in division (B) (1) of this section. 407

(C) An individual who has made a refusal may amend or 408
revoke the refusal by doing any of the following: 409

(1) Amending or revoking the refusal in the manner 410
provided in division (A) of this section for making a refusal; 411

(2) Subsequently making an anatomical gift pursuant to 412
section 2108.05 of the Revised Code that is inconsistent with 413
the refusal; 414

(3) Destroying or canceling the record evidencing the 415

refusal, or the portion of the record used to make the refusal, 416
with the intent to revoke the refusal. 417

(D) Except as provided in division (E) of this section, in 418
the absence of an express, contrary indication by the individual 419
set forth in the refusal, an individual's unrevoked refusal to 420
make an anatomical gift of the individual's body or part bars 421
all other persons from making an anatomical gift of the 422
individual's body or part. 423

(E) The parent of a deceased unemancipated minor who is 424
reasonably available may revoke a refusal made by the minor. 425

Sec. 2108.23. (A) (1) The bureau of motor vehicles shall 426
develop and maintain a donor registry that identifies each 427
individual who has agreed to make an anatomical gift by a 428
designation on a driver's license or identification card as 429
provided in division (A) (1) of section 2108.05 of the Revised 430
Code. The registry shall be fully operational not later than 431
July 1, 2002. 432

(2) Any person who provides to the bureau the form set 433
forth in division ~~(D) (2)~~ (C) (2) of section 2133.07 of the 434
Revised Code requesting to be included in the donor registry 435
shall be included. 436

(B) The bureau shall maintain the registry in a manner 437
that provides to organ procurement organizations, tissue banks, 438
and eye banks immediate access to the information in the 439
registry twenty-four hours a day and seven days a week. 440

(C) (1) The registrar of motor vehicles, in consultation 441
with the director of health and the second chance trust fund 442
advisory committee created under section 2108.35 of the Revised 443
Code, shall formulate proposed rules that specify all of the 444

following: 445

(a) The information to be included in the registry; 446

(b) A process, in accordance with division (B) of section 447
2108.06 of the Revised Code, for an individual to revoke the 448
individual's intent to make an anatomical gift and for updating 449
information in the registry; 450

(c) How the registry will be made available to organ 451
procurement organizations, tissue banks, and eye banks; 452

(d) Limitations on the use of and access to the registry; 453

(e) How information on organ, tissue, and eye donation 454
will be developed and disseminated to the public by the bureau 455
and the department of health; 456

(f) Anything else the registrar considers appropriate. 457

(2) In adopting the proposed rules under this division, 458
the registrar may consult with any person or entity that 459
expresses an interest in the matters to be dealt with in the 460
rules. 461

(3) Following formulation of the proposed rules, but not 462
later than January 1, 2002, the registrar shall adopt rules in 463
accordance with Chapter 119. of the Revised Code. 464

(D) The costs of developing and initially implementing the 465
registry shall be paid from the second chance trust fund created 466
in section 2108.34 of the Revised Code. 467

Sec. 2108.24. (A) As used in this section: 468

(1) "Advance health-care directive" means a durable power 469
of attorney for health care or a record signed by a prospective 470
donor containing the prospective donor's direction concerning a 471

health-care decision. 472

(2) ~~"Declaration" means a written document executed in~~ 473
~~accordance with section 2133.02 of the Revised Code.~~ 474

~~(3)~~ "Health care decision" means any decision regarding 475
the health care of the prospective donor. 476

(B) If a prospective donor has ~~a declaration or an~~ advance 477
health-care directive the terms of which are in conflict with 478
the express or implied terms of a potential anatomical gift with 479
regard to administration of measures necessary to ensure the 480
medical suitability of a part for transplantation or therapy and 481
the prospective donor is capable of resolving the conflict, 482
subject to division (G) of this section, the prospective donor's 483
attending physician shall confer with the prospective donor to 484
resolve the conflict. 485

(C) If a prospective donor has ~~a declaration or an~~ advance 486
health-care directive the terms of which are in conflict with 487
the express or implied terms of a potential anatomical gift with 488
regard to administration of measures necessary to ensure the 489
medical suitability of a part for transplantation or therapy and 490
the prospective donor is incapable of resolving the conflict, 491
one of the following shall apply depending on the circumstances: 492

(1) If the prospective donor has an agent, the agent 493
shall, subject to division (G) of this section, act for the 494
prospective donor to resolve the conflict. 495

(2) If the prospective donor does not have an agent, the 496
individual or class of individuals determined in the following 497
descending order of priority and subject to divisions (D), (E), 498
(F), and (G) of this section shall act for the prospective donor 499
to resolve the conflict: 500

(a) The prospective donor's surviving spouse;	501
(b) The prospective donor's surviving adult children;	502
(c) The prospective donor's surviving parent or parents;	503
(d) The prospective donor's surviving adult siblings;	504
(e) The prospective donor's surviving adult grandchildren;	505
(f) The prospective donor's surviving grandparent or grandparents;	506 507
(g) A surviving adult who exhibited special care and concern for the prospective donor;	508 509
(h) The prospective donor's guardians of the person;	510
(i) The persons, other than those in divisions (C) (2) (a) to (h) of this section, to whom the prospective donor has assigned the right of disposition for the prospective donor's body pursuant to section 2108.70 of the Revised Code or who have the right of disposition for the prospective donor's body at the time of death as described in section 2108.81 of the Revised Code.	511 512 513 514 515 516 517
(D) If an appropriate individual entitled to resolve a conflict between the terms of a prospective donor's declaration or advance health-care directive and the express or implied terms of a potential anatomical gift as described in division (C) of this section is not reasonably available to resolve the conflict, is incapacitated, or declines to resolve the conflict, the next priority individual or class of individuals specified in that division is authorized to resolve the conflict.	518 519 520 521 522 523 524 525
(E) If at least one individual in a class of individuals entitled to resolve a conflict between the terms of a	526 527

prospective donor's ~~declaration or~~ advance health-care directive 528
and the express or implied terms of a potential anatomical gift 529
is not reasonably available, is incapacitated, or declines to 530
resolve the conflict, the conflict shall be resolved by the 531
individual or individuals in the class who are reasonably 532
available, not incapacitated, and willing to resolve the 533
conflict. 534

(F) If individuals in a class of individuals determined in 535
accordance with division (C) (2) of this section disagree on how 536
a conflict between the terms of a prospective donor's 537
~~declaration or~~ advance health-care directive and the express or 538
implied terms of a potential anatomical gift should be resolved, 539
the opinion of the majority of the individuals who are 540
reasonably available, not incapacitated, and are willing to 541
resolve the conflict shall prevail. 542

(G) A conflict between the terms of a prospective donor's 543
~~declaration or~~ advance health-care directive and the express or 544
implied terms of a potential anatomical gift with regard to the 545
administration of measures necessary to ensure the medical 546
suitability of a part for transplantation or therapy shall be 547
resolved as expeditiously as possible. Information relevant to 548
the resolution of the conflict may be obtained from the 549
appropriate procurement organization and any other person 550
authorized to make an anatomical gift for the prospective donor 551
under section 2108.09 of the Revised Code. Before resolution of 552
the conflict, measures necessary to ensure the medical 553
suitability of the part shall not be withheld or withdrawn from 554
the prospective donor unless withholding or withdrawing the 555
measures is necessary for appropriate end-of-life care. 556

Sec. 2108.34. (A) There is hereby created in the state 557

treasury the second chance trust fund. The fund shall consist of 558
voluntary contributions deposited as provided in sections 559
4503.721, 4506.081, 4507.231, and 4507.501 of the Revised Code. 560
All investment earnings of the fund shall be credited to the 561
fund. 562

(B) The director of health shall use the money in the fund 563
only for the following purposes: 564

(1) Development and implementation of a campaign that 565
explains and promotes the second chance trust fund; 566

(2) Development and implementation of local and statewide 567
public education programs about organ, tissue, and eye donation, 568
including the informational material required to be provided 569
under sections 4506.081, 4507.231, and 4507.501 of the Revised 570
Code; 571

(3) Development and implementation of local and statewide 572
donor awareness programs in schools; 573

(4) Development and implementation of local and statewide 574
programs to recognize donor families; 575

(5) Development and distribution of materials promoting 576
organ, tissue, and eye donation; 577

(6) Cooperation with the Ohio Supreme Court, Ohio State 578
Bar Association, and law schools of this state to more 579
effectively educate attorneys about the donation of anatomical 580
gifts and to encourage them to assist their clients in donating 581
anatomical gifts through anatomical gift declarations, durable 582
powers of attorney for health care, ~~declarations as defined in~~ 583
~~section 2133.01 of the Revised Code, wills,~~ and any other 584
appropriate means; 585

(7) Cooperation with the state medical board, state 586
medical, osteopathic, and ophthalmological associations, and 587
colleges of medicine and osteopathic medicine in this state to 588
more effectively educate physicians about the donation of 589
anatomical gifts and to encourage them to assist their patients 590
in making declarations of anatomical gifts; 591

(8) Development of statewide hospital training programs to 592
encourage and facilitate compliance with sections 2108.14 and 593
2108.15 of the Revised Code; 594

(9) Reimbursement of the bureau of motor vehicles for the 595
administrative costs incurred in the performance of duties under 596
sections 4506.081, 4507.231, and 4507.501 of the Revised Code; 597

(10) Reimbursement of the department of health for 598
administrative costs incurred in the performance of duties under 599
this section and section 2108.35 of the Revised Code; 600

(11) Reimbursement of members of the second chance fund 601
advisory committee for actual and necessary expenses incurred in 602
the performance of official duties. 603

(C) The director shall make the materials developed under 604
division (B) (5) of this section available to other state 605
agencies. 606

(D) The director shall consider recommendations made by 607
the second chance trust fund advisory committee pursuant to 608
section 2108.35 of the Revised Code. The director shall 609
determine the appropriateness of and approve or disapprove 610
projects recommended by the advisory committee for funding and 611
approve or disapprove the disbursement of money from the second 612
chance trust fund. 613

Sec. 2111.10. (A) As used in this section, "developmental 614

disability" has the same meaning as in section 5123.01 of the
Revised Code.

(B) Any appointment of a corporation as guardian shall
apply to the estate only and not to the person, except that a
when either of the following applies:

(1) A nonprofit corporation organized under the laws of
this state and entitled to tax exempt status under section
501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085,
26 U.S.C.A. U.S.C. 501, as amended, that has a contract with the
department of developmental disabilities to provide protective
services may be appointed as a guardian of a person with a
developmental disability and may serve as guardian pursuant to
sections 5123.55 to 5123.59 of the Revised Code.

(2) A nonprofit corporation domiciled in this state and
organized under the laws of this state and entitled to tax
exempt status under section 501(a) of the "Internal Revenue Code
of 1986," 100 Stat. 2085, 26 U.S.C. 501 may be appointed as a
guardian of the person of an incompetent when certified by the
probate court to receive such an appointment. The probate court
shall certify that nonprofit corporation and any individual
acting as a guardian on behalf of the nonprofit corporation upon
meeting the requirements for serving as a guardian as prescribed
by the supreme court in the Rules of Superintendence for the
Courts of Ohio and the rules of court adopted by the probate
court of the county exercising jurisdiction over the
incompetent. A nonprofit corporation appointed as guardian of
the person of an incompetent shall not be the residential
caregiver, health care provider, or employer of the incompetent.

Sec. 2111.50. (A) (1) At all times, the probate court is
the superior guardian of wards who are subject to its

jurisdiction, and all guardians who are subject to the 645
jurisdiction of the court shall obey all orders of the court 646
that concern their wards or guardianships. 647

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 648
section, the control of a guardian over the person, the estate, 649
or both of the guardian's ward is limited to the authority that 650
is granted to the guardian by the Revised Code, relevant 651
decisions of the courts of this state, and orders or rules of 652
the probate court. 653

(b) Except for the powers specified in division (E) of 654
this section and unless otherwise provided in or inconsistent 655
with another section of the Revised Code, the probate court may 656
confer upon a guardian any power that this section grants to the 657
probate court in connection with wards. Nothing in this section 658
is intended to create or imply a duty upon a guardian to apply 659
for authority to exercise any power authorized in this section. 660
No inference of impropriety or liability of the guardian or 661
others associated with the guardian shall arise as a result of a 662
guardian not applying for authority to exercise a power 663
authorized in this section. 664

(c) For good cause shown, the probate court may limit or 665
deny, by order or rule, any power that is granted to a guardian 666
by a section of the Revised Code or relevant decisions of the 667
courts of this state. 668

(B) In connection with any person whom the probate court 669
has found to be an incompetent or a minor subject to 670
guardianship and for whom the court has appointed a guardian, 671
the court has, subject to divisions (C) to (E) of this section, 672
all the powers that relate to the person and estate of the ward 673
and that the ward could exercise if present and not a minor or 674

under a disability, except the power to make or revoke a will. 675
These powers include, but are not limited to, the power to do 676
any of the following: 677

(1) Convey ~~or, release, or disclaim~~ the present, 678
contingent, or expectant interests in real or personal property 679
of the ward, including, but not limited to, dower and any right 680
of survivorship incident to a transfer on death designation, 681
payable on death designation, survivorship tenancy, joint 682
tenancy, or tenancy by the entirety; 683

(2) Exercise ~~or, release, or disclaim~~ powers as a trustee, 684
personal representative, custodian for a minor, guardian, or 685
donee of a power of appointment; 686

(3) ~~Enter~~ Subject to division (B) (4) of this section, 687
enter into contracts, ~~or create revocable trusts of property of~~ 688
~~the estate of the ward,~~ that may not extend beyond the minority, 689
disability, or life of the ward; 690

(4) Create, amend, or revoke revocable trusts of property 691
of the estate of the ward that may extend beyond the minority, 692
disability, or life of the ward; 693

(5) Exercise options to purchase securities or other 694
property; 695

~~(5)~~ (6) Exercise rights to elect options under annuities 696
and insurance policies, including changing beneficiaries of 697
insurance policies, retirement plans, individual retirement 698
accounts, and annuities, and to surrender an annuity or 699
insurance policy for its cash value; 700

~~(6)~~ (7) Exercise the right to an elective share in the 701
estate of the deceased spouse of the ward pursuant to ~~section~~ 702
~~2106.08~~ Chapter 2106. of the Revised Code; 703

~~(7)~~ (8) Make gifts, in trust or otherwise, to relatives of 704
the ward and, consistent with any prior pattern of the ward of 705
giving to charities or of providing support for friends, to 706
charities and friends of the ward. 707

(C) Except for the powers specified in division (D) of 708
this section, all powers of the probate court that are specified 709
in this chapter and that relate either to any person whom it has 710
found to be an incompetent or a minor subject to guardianship 711
and for whom it has appointed a guardian and all powers of a 712
guardian that relate to the guardian's ward or guardianship as 713
described in division (A) (2) of this section, shall be exercised 714
in the best interest, as determined in the court's or guardian's 715
judgment, of the following: 716

(1) The ward whom the probate court has found to be an 717
incompetent or a minor subject to guardianship; 718

(2) The dependents of the ward; 719

(3) The members of the household of the ward. 720

(D) If the court is to exercise or direct the exercise, 721
pursuant to division (B) of this section, of the power to make 722
gifts in trust or otherwise, the following conditions shall 723
apply: 724

(1) The exercise of the particular power shall not impair 725
the financial ability of the estate of the ward whom the probate 726
court has found to be an incompetent or a minor subject to 727
guardianship and for whom the court has appointed a guardian, to 728
provide for the ward's foreseeable needs for maintenance and 729
care; 730

(2) If applicable, the court shall consider any of the 731
following: 732

(a) The estate, income, and other tax advantages of the 733
exercise of a particular power to the estate of a ward whom the 734
probate court has found to be an incompetent or a minor subject 735
to guardianship and for whom the court has appointed a guardian; 736

(b) Any pattern of giving of, or any pattern of support 737
provided by, the ward prior to the ward's incompetence; 738

(c) The disposition of property made by the ward's will or 739
revocable trust; 740

(d) If there is no knowledge of a will or revocable trust 741
of the ward, the ward's prospective heirs; 742

(e) Any relevant and trustworthy statements of the ward, 743
whether established by hearsay or other evidence. 744

(E) (1) The probate court shall cause notice as described 745
in division (E) (2) of this section to be given and a hearing to 746
be conducted prior to its exercise or direction of the exercise 747
of any of the following powers pursuant to division (B) of this 748
section: 749

(a) The exercise ~~or~~ release, or disclaimer of powers as a 750
donee of a power of appointment; 751

(b) Unless the amount of the gift is no more than one 752
thousand dollars, the making of a gift, in trust or otherwise; 753

(c) The power to create, amend, or revoke a revocable 754
trust as described in division (B) (4) of this section; 755

(d) The power to exercise rights to elect options under 756
annuities and insurance policies, including changing 757
beneficiaries of insurance policies, retirement plans, 758
individual retirement accounts, and annuities, and to surrender 759
an annuity or insurance policy for its cash value, as described 760

in division (B) (6) of this section. 761

(2) The notice required by division (E) (1) of this section 762
shall be given to the following persons: 763

(a) Unless a guardian of a ward has applied for the 764
exercise of a power specified in division (E) (1) of this 765
section, to the guardian; 766

(b) To the ward whom the probate court has found to be an 767
incompetent or a minor subject to guardianship; 768

(c) If known, to a guardian who applied for the exercise 769
of a power specified in division (E) (1) of this section, to the 770
prospective heirs of the ward whom the probate court has found 771
to be an incompetent or a minor subject to guardianship under 772
section 2105.06 of the Revised Code, to the beneficiaries under 773
the last known will of the ward or under an existing revocable 774
trust of the ward, and to any person who has a legal interest in 775
property that may be divested or limited as the result of the 776
exercise of a power specified in division (E) (1) of this 777
section; 778

(d) To all of the following as applicable: 779

(i) The heirs at law and next of kin of the ward; 780

(ii) The beneficiaries under an existing will or revocable 781
trust of the ward; 782

(iii) The beneficiaries of any insurance policies, 783
retirement plans, individual retirement accounts, and annuities 784
owned by the ward; 785

(iv) The beneficiaries under any proposed revocable trust 786
and the proposed beneficiaries under any changes in the 787
designation of beneficiaries of any insurance policies, 788

retirement plans, individual retirement accounts, or annuities 789
as described in division (E) (2) (d) (iii) of this section. 790

(e) To any other persons the court orders. 791

(F) When considering any question related to, and issuing 792
orders for, medical or surgical care or treatment of 793
incompetents or minors subject to guardianship, the probate 794
court has full parens patriae powers unless otherwise provided 795
by a section of the Revised Code. 796

Sec. 2133.07. (A) As used in this section: 797

~~(1) "Anatomical gift" has the same meaning as in section~~ 798
~~2108.01 of the Revised Code.~~ 799

~~(2),~~ "DNR identification" has the same meaning as in 800
section 2133.21 of the Revised Code. 801

(B) A printed form of a declaration may be sold or 802
otherwise distributed in this state for use by adults who are 803
not advised by an attorney. By use of a printed form of that 804
nature, a declarant may authorize the use or continuation, or 805
the withholding or withdrawal, of life-sustaining treatment 806
should the declarant be in a terminal condition, a permanently 807
unconscious state, or either a terminal condition or a 808
permanently unconscious state, may authorize the withholding or 809
withdrawal of nutrition or hydration should the declarant be in 810
a permanently unconscious state as described in division (A) (3) 811
(a) of section 2133.02 of the Revised Code, and may designate 812
one or more persons who are to be notified by the declarant's 813
attending physician at any time that life-sustaining treatment 814
would be withheld or withdrawn pursuant to the declaration. The 815
printed form shall not be used as an instrument for granting any 816
other type of authority or for making any other type of 817

designation, except that the printed form may be used as a DNR 818
identification if the declarant specifies on the form that the 819
declarant wishes to use it as a DNR identification ~~and except as~~ 820
~~provided in division (C) of this section.~~ 821

~~(C) A printed form of a declaration under division (B) of~~ 822
~~this section shall include, before the signature of the~~ 823
~~declarant or another individual at the direction of the~~ 824
~~declarant, statements that conform substantially to the~~ 825
~~following form:~~ 826

~~"ANATOMICAL GIFT (optional)"~~ 827

~~Upon my death, the following are my directions regarding~~ 828
~~donation of all or part of my body:~~ 829

~~In the hope that I may help others upon my death, I hereby~~ 830
~~give the following body parts:~~ 831

~~_____~~ 832

~~_____~~ 833

~~for any purpose authorized by law: transplantation, therapy,~~ 834
~~research, or education.~~ 835

~~If I do not indicate a desire to donate all or part of my~~ 836
~~body by filling in the lines above, no presumption is created~~ 837
~~about my desire to make or refuse to make an anatomical gift."~~ 838

~~(D)~~ (1) A printed form of a declaration under division (B) 839
of this section shall include, as a separate page or as a 840
portion of a page that can be detached from the declaration, a 841
donor registry enrollment form that permits the donor to be 842
included in the donor registry created under section 2108.23 of 843
the Revised Code. 844

(2) The donor registry enrollment form may be in any form 845
that complies with the requirements of division (B) of section 846
2108.05 of the Revised Code. On completion, the form shall be 847
forwarded to the bureau of motor vehicles. 848

Sec. 2701.10. (A) Any voluntarily retired judge, or any 849
judge who is retired under Section 6 of Article IV, Ohio 850
Constitution, may register with the clerk of any court of common 851
pleas, municipal court, or county court for the purpose of 852
receiving referrals for adjudication of civil actions or 853
proceedings, and submissions for determination of specific 854
issues or questions of fact or law in any civil action or 855
proceeding, pending in the court. There is no limitation upon 856
the number, type, or location of courts with which a retired 857
judge may register under this division. Upon registration with 858
the clerk of any court under this division, the retired judge is 859
eligible to receive referrals and submissions from that court, 860
in accordance with this section. Each court of common pleas, 861
municipal court, and county court shall maintain an index of all 862
retired judges who have registered with the clerk of that court 863
pursuant to this division and shall make the index available to 864
any person, upon request. 865

(B) (1) The parties to any civil action or proceeding 866
pending in any court of common pleas, municipal court, or county 867
court unanimously may choose to have the action or proceeding in 868
its entirety referred for adjudication, or to have any specific 869
issue or question of fact or law in the action or proceeding 870
submitted for determination, to a judge of their choosing who 871
has registered with the clerk of that court in accordance with 872
division (A) of this section. 873

If the parties unanimously do choose to have a referral or 874

submission made to a retired judge pursuant to this section, all 875
of the parties to the action or proceeding shall enter into a 876
written agreement with the retired judge that does all of the 877
following: 878

(a) Designates the retired judge to whom the referral or 879
submission is to be made; 880

(b) If a submission is to be made, describes in detail the 881
specific issue or question to be submitted; 882

(c) Indicates either of the following: 883

(i) That the action or proceeding in its entirety is to be 884
referred to, and is to be tried, determined, and adjudicated by 885
that retired judge; 886

(ii) Indicates that the issue or question is to be 887
submitted, and is to be tried and determined by that retired 888
judge. 889

(d) Indicates that the parties will assume the 890
responsibility for providing facilities, equipment, and 891
personnel reasonably needed by the retired judge during ~~his~~ the 892
retired judge's consideration of the action or proceeding and 893
will pay all costs arising out of the provision of the 894
facilities, equipment, and personnel; 895

(e) Identifies an amount of compensation to be paid by the 896
parties to the retired judge for ~~his~~ the retired judge's 897
services and the manner of payment of the compensation; 898

(f) Indicates a procedure for terminating the agreement 899
with the retired judge. 900

(2) In any case described in division (B)(1) of this 901
section, the agreement shall be filed with the clerk of the 902

court or the judge before whom the action or proceeding is 903
pending. ~~Upon the filing of the agreement, the~~ The judge before 904
whom the action or proceeding is pending shall address the 905
agreement within fourteen days after its filing. That judge, by 906
journal entry, ~~shall may,~~ at the judge's discretion, order the 907
referral or submission in accordance with the agreement. No 908
referral or submission shall be made to a retired judge under 909
this section, unless the parties to the action or proceeding 910
unanimously choose to have the referral or submission made, 911
enter into an agreement of the type described in division (B) (1) 912
of this section with the retired judge, and file the agreement 913
in accordance with this division. 914

(C) Upon the entry of an order of referral or submission 915
in accordance with division (B) (2) of this section, the retired 916
judge to whom the referral or submission is made, relative to 917
the action or proceeding referred or the issue or question 918
submitted, shall have all of the powers, duties, and authority 919
of an active judge of the court in which the action or 920
proceeding is pending. The court in which the action or 921
proceeding is pending is not required to provide the retired 922
judge with court or other facilities, equipment, or personnel 923
during ~~his~~ the retired judge's consideration of the action, 924
proceeding, issue, or question. The retired judge shall not 925
receive any compensation, other than that agreed to by the 926
parties and the retired judge, for ~~his~~ the retired judge's 927
services during ~~his~~ consideration of the action, proceeding, 928
issue, or question. 929

(D) (1) A retired judge to whom a referral is made under 930
this section shall try all of the issues in the action or 931
proceeding, shall prepare relevant findings of fact and 932
conclusions of law, and shall enter a judgment in the action or 933

proceeding in the same manner as if ~~he~~ the retired judge were an 934
active judge of the court. A retired judge to whom a submission 935
is made under this section shall try the specific issue or 936
question submitted, shall prepare relevant findings of fact or 937
conclusions of law, shall make a determination on the issue or 938
question submitted, and shall file the findings, conclusions, 939
and determination with the clerk of the court in which the 940
action or proceeding is pending. Any judgment entered, and any 941
finding of fact, conclusion of law, or determination of an issue 942
or question made, by a retired judge in accordance with this 943
section shall have the same force and effect as if it had been 944
entered or made by an active judge of the court, and any appeal 945
from the judgment, finding, conclusion, or determination shall 946
be made as if the judgment had been entered, or the finding, 947
conclusion, or determination had been made, by an active judge 948
of the court. 949

(2) Upon conclusion of the referred action or proceeding 950
or determination of the submitted issue or question, 951
jurisdiction is returned to the referring judge. 952

(E) Any judge who registers with any court in accordance 953
with division (A) of this section may have ~~his~~ the judge's name 954
removed from the index of registered retired judges maintained 955
by that court at any time after the registration. On and after 956
the date of removal of the name of a retired judge from the 957
index of a court, the retired judge is not eligible under this 958
section to receive referrals or submissions from that court. 959

(F) This section does not affect, and shall not be 960
construed as affecting, the provisions of section 141.16 of the 961
Revised Code. This section does not apply to any action or 962
proceeding pending in a small claims division of a municipal 963

court or county court. 964

Sec. 2717.01. As used in this chapter: 965

(A) "Application" means, as context requires, an 966
application under section 2717.02, 2717.04, or 2717.13 of the 967
Revised Code. 968

(B) "Applicant" means, as context requires, a person who 969
makes the filing under section 2717.02 or 2717.04 of the Revised 970
Code, or the minor on whose behalf a filing is made under 971
section 2717.13 of the Revised Code. 972

(C) "Conform" means to make a person's legal name 973
consistent in all official identity documents by correcting a 974
misspelling, inconsistency, or other error in an official 975
identity document. 976

(D) "Official identity document" means a birth record, 977
marriage record, divorce decree, driver's license, state issued 978
identification card, social security card with the social 979
security number redacted, passport, or any other official 980
government-issued document required or commonly used to verify a 981
person's identity. 982

(E) "Sexually oriented offense" and "child-victim oriented 983
offense" have the same meanings as in section 2950.01 of the 984
Revised Code. 985

Sec. 2717.01-2717.02. (A) (1) A person desiring a to change 986
of the person's name may file an application in the probate 987
court of the county in which the person resides. The application 988
shall set forth that the applicant has been a bona fide resident 989
of that county for at least one year prior to the filing of the 990
application, the cause for which the change of name is sought, 991
and the requested new name. The application shall require the 992

~~applicant to state whether the applicant has been convicted of, 993~~
~~pleaded guilty to, or been adjudicated a delinquent child for 994~~
~~identity fraud or has a duty to comply with section 2950.04 or 995~~
~~2950.041 of the Revised Code because the applicant was convicted 996~~
~~of, pleaded guilty to, or was adjudicated a delinquent child for 997~~
~~having committed a sexually oriented offense or a child victim 998~~
~~oriented offense. 999~~

~~(2) Except as provided in division (A) (4) of this section, 1000~~
~~notice of the application shall be given once by publication in 1001~~
~~a newspaper of general circulation in the county at least thirty 1002~~
~~days before the hearing on the application. The notice shall set 1003~~
~~forth the court in which the application was filed, the case 1004~~
~~number, and the date and time of the hearing. 1005~~

~~(3) Except as provided by division (C) of this section, 1006~~
~~upon proof that proper notice was given or that notice was 1007~~
~~waived under division (A) (4) of this section and proof that the 1008~~
~~facts set forth in the application show reasonable and proper 1009~~
~~cause for changing the name of the applicant, the court may 1010~~
~~order the change of name. 1011~~

~~(4) If an applicant for a change of name submits to the 1012~~
~~court, along with the application described in division (A) (1) 1013~~
~~of this section, satisfactory proof that the publication of the 1014~~
~~notice under division (A) (2) of this section would jeopardize 1015~~
~~the applicant's personal safety, both of the following apply: 1016~~

~~(a) The court shall waive the notice requirement. 1017~~

~~(b) If the court orders the change of name under division 1018~~
~~(A) (3) of this section, the court shall order the records of the 1019~~
~~change of name proceeding to be sealed and to be opened only by 1020~~
~~order of the court for good cause shown or at the request of the 1021~~

~~applicant for any reason.~~

1022

~~(B) An application for change of name may be made on
behalf of a minor by either of the minor's parents, a legal
guardian, or a guardian ad litem. When application is made on
behalf of a minor, in addition to the notice and proof required
pursuant to division (A) of this section, the consent of both
living, legal parents of the minor shall be filed, or notice of
the hearing shall be given to the parent or parents not
consenting by certified mail, return receipt requested. If there
is no known father of the minor, the notice shall be given to
the person who the mother of the minor alleges to be the father.
If no father is so alleged, or if either parent or the address
of either parent is unknown, notice pursuant to division (A) of
this section shall be sufficient as to the father or parent.~~

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~~Any additional notice required by this division may be
waived in writing by any person entitled to the notice.~~

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~~(C) (1) The court shall not order a change of name under
division (A) of this section if the person applying for a change
of name or for whom the application for a change of name is made
has a duty to comply with section 2950.04 or 2950.041 of the
Revised Code because the applicant or the person on whose behalf
the application for a change of name is made was convicted of,
pleaded guilty to, or was adjudicated a delinquent child for
having committed a sexually oriented offense or a child victim-
oriented offense.~~

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~~(2) The court shall not order a change of name under
division (A) of this section if the person applying for a change
of name or for whom the application for a change of name is made
has pleaded guilty to, been convicted of, or been adjudicated a
delinquent child for committing a violation of section 2913.49-~~

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~~of the Revised Code unless the guilty plea, conviction, or~~ 1052
~~adjudication has been reversed on appeal.~~ 1053

~~(3) As used in this division, "sexually oriented offense"~~ 1054
~~and "child-victim oriented offense" have the same meanings as in~~ 1055
~~section 2950.01 of the Revised Code.~~ 1056

Sec. 2717.03. Subject to sections 2717.07 and 2717.19 of 1057
the Revised Code, an application for a change of name shall set 1058
forth all of the following: 1059

(A) That the applicant has been a bona fide resident of 1060
the county for at least sixty days prior to the filing of the 1061
application. 1062

(B) The reason for which the change of name is sought. 1063

(C) The requested new name. 1064

Sec. 2717.04. A person desiring to conform the person's 1065
legal name on an official identity document may file an 1066
application in the probate court of the county in which the 1067
person resides. 1068

Sec. 2717.05. Subject to sections 2717.07 and 2717.19 of 1069
the Revised Code, an application to conform a legal name shall 1070
set forth all of the following: 1071

(A) That the applicant has been a bona fide resident of 1072
the county where the applicant is filing for at least sixty days 1073
prior to the filing of the application. 1074

(B) An explanation of the misspelling, inconsistency, or 1075
other error in the name. 1076

(C) A description of the correction sought to conform the 1077
name on all official identity documents. 1078

Sec. 2717.06. (A) An application shall be supported by an 1079
affidavit verifying all of the following: 1080

(1) The applicant's residency in the county for a period 1081
of at least sixty days; 1082

(2) That the application is not made for the purpose of 1083
evading any creditors or other obligations; 1084

(3) That the applicant is not a debtor in any currently 1085
pending bankruptcy proceeding; 1086

(4) That all of the documentary evidence submitted under 1087
section 2717.07 of the Revised Code with the application is 1088
true, accurate, and complete; 1089

(5) Any other information the court may require. 1090

(B) The affidavit supporting a legal name change 1091
application shall also verify that the applicant has not been 1092
convicted of, pleaded guilty to, or been adjudicated a 1093
delinquent child for identity fraud or does not have a duty to 1094
comply with section 2950.04 or 2950.041 of the Revised Code 1095
because the applicant was convicted of, pleaded guilty to, or 1096
was adjudicated a delinquent child for having committed a 1097
sexually oriented offense or a child-victim oriented offense. 1098

Sec. 2717.07. A probate court by local rule or order may 1099
require an applicant to submit a copy of any or all of the 1100
applicant's official identity documents or other documentary 1101
evidence relating to the applicant's identity that the court 1102
deems relevant to the application. 1103

Sec. 2717.08. The probate court may hold a hearing on an 1104
application. Except as provided in sections 2717.11 and 2717.14 1105
of the Revised Code, if the court requires a hearing, it shall 1106

set the manner, scope, and content of the hearing notice the 1107
applicant must serve. 1108

Sec. 2717.09. Except as provided under section 2717.16 of 1109
the Revised Code, upon proof that the facts set forth in the 1110
application show reasonable and proper cause for changing the 1111
name of the applicant and, if applicable, upon proof that proper 1112
notice was served, the court may order the change of name. 1113

Sec. 2717.10. Upon proof that the facts set forth in the 1114
application show that a misspelling, inconsistency, or other 1115
error of the applicant's legal name on an official identity 1116
document exists, and that reasonable and proper cause exists for 1117
issuing an order that resolves the discrepancy and conforms the 1118
applicant's legal name, the court may issue an order to conform 1119
the name of the person. 1120

Sec. 2717.11. If an applicant submits to the court, along 1121
with the application, satisfactory proof that open records of 1122
the name change or conformity, or publication of the hearing 1123
notice under section 2717.08 of the Revised Code, would 1124
jeopardize the applicant's personal safety, both of the 1125
following apply: 1126

(A) The court shall waive the hearing notice requirement. 1127

(B) If the court orders the change of name under section 1128
2717.09 of the Revised Code or the name conformity under section 1129
2717.10 of the Revised Code, the court shall order the records 1130
of the proceeding to be sealed and to be opened only by order of 1131
the court for good cause shown or at the request of the 1132
applicant for any reason. 1133

Sec. 2717.13. An application for change of name under 1134
section 2717.02 of the Revised Code or to conform a name under 1135

section 2717.04 of the Revised Code may be made on behalf of a 1136
minor by either of the minor's parents, a legal guardian, a 1137
legal custodian, or a guardian ad litem. 1138

Sec. 2717.14. (A) When an application is made on behalf of 1139
a minor, in addition to the proof required under sections 1140
2717.03 or 2717.05 of the Revised Code and, if applicable, proof 1141
of the notice given under section 2717.08 of the Revised Code, 1142
the consent of both living, legal parents of the minor shall be 1143
filed, or notice of the hearing shall be given to the parent or 1144
parents not consenting by certified mail, return receipt 1145
requested. 1146

(B) If there is no known father of the minor, the notice 1147
shall be given to the person who the mother of the minor alleges 1148
to be the father. 1149

(C) If no father is so alleged, or if either parent or the 1150
address of either parent is unknown, notice by publication in a 1151
newspaper of general circulation in the county at least thirty 1152
days before the hearing shall be sufficient as to the father or 1153
parent. 1154

(D) Any additional notice required by this section may be 1155
waived in writing by any person entitled to the notice. 1156

Sec. 2717.16. (A) The court shall not order a change of 1157
name under section 2717.09 of the Revised Code if the person 1158
applying for a change of name has a duty to comply with section 1159
2950.04 or 2950.041 of the Revised Code because the applicant 1160
was convicted of, pleaded guilty to, or was adjudicated a 1161
delinquent child for having committed a sexually oriented 1162
offense or a child-victim oriented offense. 1163

(B) The court shall not order a change of name under 1164

section 2717.09 of the Revised Code if the person applying for a 1165
change of name has pleaded guilty to, been convicted of, or been 1166
adjudicated a delinquent child for committing a violation of 1167
section 2913.49 of the Revised Code unless the guilty plea, 1168
conviction, or adjudication has been reversed on appeal. 1169

Sec. 2717.18. An action to conform the legal name of a 1170
person under section 2717.04 of the Revised Code shall not be 1171
permitted in lieu of either of the following: 1172

(A) Correction of a birth record under section 3705.15 of 1173
the Revised Code; 1174

(B) Changing a legal name to a name that is not used in 1175
any existing official identity documents. 1176

Sec. 2717.19. (A) On receipt of an application, the 1177
probate court may order a criminal records check. 1178

(B) Any fee required for the criminal records check shall 1179
be paid by the applicant. 1180

Sec. 5122.15. (A) Full hearings shall be conducted in a 1181
manner consistent with this chapter and with due process of law. 1182
The hearings shall be conducted by a judge of the probate court 1183
or a referee designated by a judge of the probate court and may 1184
be conducted in or out of the county in which the respondent is 1185
held. Any referee designated under this division shall be an 1186
attorney. 1187

(1) With the consent of the respondent, the following 1188
shall be made available to counsel for the respondent: 1189

(a) All relevant documents, information, and evidence in 1190
the custody or control of the state or prosecutor; 1191

(b) All relevant documents, information, and evidence in 1192

the custody or control of the hospital in which the respondent 1193
currently is held, or in which the respondent has been held 1194
pursuant to this chapter; 1195

(c) All relevant documents, information, and evidence in 1196
the custody or control of any hospital, facility, or person not 1197
included in division (A) (1) (a) or (b) of this section. 1198

(2) The respondent has the right to attend the hearing and 1199
to be represented by counsel of the respondent's choice. The 1200
right to attend the hearing may be waived only by the respondent 1201
or counsel for the respondent after consultation with the 1202
respondent. 1203

(3) If the respondent is not represented by counsel, is 1204
absent from the hearing, and has not validly waived the right to 1205
counsel, the court shall appoint counsel immediately to 1206
represent the respondent at the hearing, reserving the right to 1207
tax costs of appointed counsel to the respondent, unless it is 1208
shown that the respondent is indigent. If the court appoints 1209
counsel, or if the court determines that the evidence relevant 1210
to the respondent's absence does not justify the absence, the 1211
court shall continue the case. 1212

(4) The respondent shall be informed that the respondent 1213
may retain counsel and have independent expert evaluation. If 1214
the respondent is unable to obtain an attorney, the respondent 1215
shall be represented by court-appointed counsel. If the 1216
respondent is indigent, court-appointed counsel and independent 1217
expert evaluation shall be provided as an expense under section 1218
5122.43 of the Revised Code. 1219

(5) The hearing shall be closed to the public, unless 1220
counsel for the respondent, with the permission of the 1221

respondent, requests that the hearing be open to the public. 1222

(6) If the hearing is closed to the public, the court, for 1223
good cause shown, may admit persons who have a legitimate 1224
interest in the proceedings. If the respondent, the respondent's 1225
counsel, or the designee of the director or of the chief 1226
clinical officer objects to the admission of any person, the 1227
court shall hear the objection and any opposing argument and 1228
shall rule upon the admission of the person to the hearing. 1229

(7) The affiant under section 5122.11 of the Revised Code 1230
shall be subject to subpoena by either party. 1231

(8) The court shall examine the sufficiency of all 1232
documents filed and shall inform the respondent, if present, and 1233
the respondent's counsel of the nature and content of the 1234
documents and the reason for which the respondent is being 1235
detained, or for which the respondent's placement is being 1236
sought. 1237

(9) The court shall receive only reliable, competent, and 1238
material evidence. 1239

(10) Unless proceedings are initiated pursuant to section 1240
5120.17 or 5139.08 of the Revised Code, an attorney that the 1241
board designates shall present the case demonstrating that the 1242
respondent is a mentally ill person subject to court order. The 1243
attorney shall offer evidence of the diagnosis, prognosis, 1244
record of treatment, if any, and less restrictive treatment 1245
plans, if any. In proceedings pursuant to section 5120.17 or 1246
5139.08 of the Revised Code, the attorney general shall 1247
designate an attorney who shall present the case demonstrating 1248
that the respondent is a mentally ill person subject to court 1249
order. The attorney shall offer evidence of the diagnosis, 1250

prognosis, record of treatment, if any, and less restrictive 1251
treatment plans, if any. 1252

(11) The respondent or the respondent's counsel has the 1253
right to subpoena witnesses and documents and to examine and 1254
cross-examine witnesses. 1255

(12) The respondent has the right, but shall not be 1256
compelled, to testify, and shall be so advised by the court. 1257

(13) On motion of the respondent or the respondent's 1258
counsel for good cause shown, or on the court's own motion, the 1259
court may order a continuance of the hearing. 1260

(14) If the respondent is represented by counsel and the 1261
respondent's counsel requests a transcript and record, or if the 1262
respondent is not represented by counsel, the court shall make 1263
and maintain a full transcript and record of the proceeding. If 1264
the respondent is indigent and the transcript and record is 1265
made, a copy shall be provided to the respondent upon request 1266
and be treated as an expense under section 5122.43 of the 1267
Revised Code. 1268

(15) To the extent not inconsistent with this chapter, the 1269
Rules of Civil Procedure are applicable. 1270

(B) Unless, upon completion of the hearing the court finds 1271
by clear and convincing evidence that the respondent is a 1272
mentally ill person subject to court order, it shall order the 1273
respondent's discharge immediately. 1274

(C) If, upon completion of the hearing, the court finds by 1275
clear and convincing evidence that the respondent is a mentally 1276
ill person subject to court order, the court shall order the 1277
respondent for a period not to exceed ninety days to any of the 1278
following: 1279

(1) A hospital operated by the department of mental health 1280
and addiction services if the respondent is committed pursuant 1281
to section 5139.08 of the Revised Code; 1282

(2) A nonpublic hospital; 1283

(3) The veterans' administration or other agency of the 1284
United States government; 1285

(4) A board of alcohol, drug addiction, and mental health 1286
services or services provider the board designates; 1287

(5) Receive private psychiatric or psychological care and 1288
treatment; 1289

(6) Any other suitable facility or person consistent with 1290
the diagnosis, prognosis, and treatment needs of the respondent. 1291
A jail or other local correctional facility is not a suitable 1292
facility. 1293

(D) Any order made pursuant to division (C) (2), (3), (5), 1294
or (6) of this section shall be conditioned upon the receipt by 1295
the court of consent by the hospital, facility, agency, or 1296
person to accept the respondent and may include a requirement 1297
that a person or entity described in division (C) (2), (3), (5), 1298
or (6) of this section inform the board of alcohol, drug 1299
addiction, and mental health services or community mental health 1300
services provider the board designates about the progress of the 1301
respondent with the treatment plan. 1302

(E) In determining the entity or person to which the 1303
respondent is to be committed under division (C) of this 1304
section, the court shall consider ~~the~~ all of the following: 1305

(1) The respondent's diagnosis, and prognosis, made by a 1306
psychiatrist, licensed clinical psychologist, clinical nurse 1307

specialist who is certified as a psychiatric-mental health 1308
clinical nurse specialist by the American nurses credentialing 1309
center, or certified nurse practitioner who is certified as a 1310
psychiatric-mental health nurse practitioner by the American 1311
nurses credentialing center; 1312

(2) The respondent's preferences of the respondent and 1313
the; 1314

(3) The respondent's projected treatment plan for the 1315
respondent and. 1316

The court shall order the implementation of the least 1317
restrictive alternative available and consistent with treatment 1318
goals. If the court determines that the least restrictive 1319
alternative available that is consistent with treatment goals is 1320
inpatient hospitalization, the court's order shall so state. 1321

(F) During the ninety-day period the entity or person 1322
shall examine and treat the respondent. If the respondent is 1323
receiving treatment in an outpatient setting, or receives 1324
treatment in an outpatient setting during a subsequent period of 1325
continued commitment under division (H) of this section, the 1326
entity or person to whom the respondent is committed shall 1327
determine the appropriate outpatient treatment for the 1328
respondent. If, at any time prior to the expiration of the 1329
ninety-day period, it is determined by the entity or person that 1330
the respondent's treatment needs could be equally well met in an 1331
available and appropriate less restrictive setting, both of the 1332
following apply: 1333

(1) The respondent shall be released from the care of the 1334
entity or person immediately and shall be referred to the court 1335
together with a report of the findings and recommendations of 1336

the entity or person; 1337

(2) The entity or person shall notify the respondent's 1338
counsel or the attorney designated by a board of alcohol, drug 1339
addiction, and mental health services or, if the respondent was 1340
committed to a board or a services provider designated by the 1341
board, it shall place the respondent in the least restrictive 1342
setting available consistent with treatment goals and notify the 1343
court and the respondent's counsel of the placement. 1344

The court shall dismiss the case or order placement in the 1345
least restrictive setting. 1346

(G) (1) Except as provided in division (G) (2) of this 1347
section, any person for whom proceedings for treatment have been 1348
commenced pursuant to section 5122.11 of the Revised Code, may 1349
apply at any time for voluntary admission or treatment to the 1350
entity or person to which the person was committed. Upon 1351
admission as a voluntary patient the chief clinical officer of 1352
the entity or the person immediately shall notify the court, the 1353
patient's counsel, and the attorney designated by the board, if 1354
the attorney has entered the proceedings, in writing of that 1355
fact, and, upon receipt of the notice, the court shall dismiss 1356
the case. 1357

(2) A person who is found incompetent to stand trial or 1358
not guilty by reason of insanity and who is committed pursuant 1359
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 1360
Revised Code shall not voluntarily commit the person pursuant to 1361
this section until after the final termination of the 1362
commitment, as described in division (J) of section 2945.401 of 1363
the Revised Code. 1364

(H) If, at the end of the first ninety-day period or any 1365

subsequent period of continued commitment, there has been no 1366
disposition of the case, either by discharge or voluntary 1367
admission or treatment, the entity or person shall discharge the 1368
patient immediately, unless at least ten days before the 1369
expiration of the period the attorney the board designates or 1370
the prosecutor files with the court an application for continued 1371
commitment. The application of the attorney or the prosecutor 1372
shall include a written report containing the diagnosis, 1373
prognosis, past treatment, a list of alternative treatment 1374
settings and plans, and identification of the treatment setting 1375
that is the least restrictive consistent with treatment needs. 1376
The attorney the board designates or the prosecutor shall file 1377
the written report at least three days prior to the full 1378
hearing. A copy of the application and written report shall be 1379
provided to the respondent's counsel immediately. 1380

The court shall hold a full hearing on applications for 1381
continued commitment at the expiration of the first ninety-day 1382
period and at least every two years after the expiration of the 1383
first ninety-day period. 1384

Hearings following any application for continued 1385
commitment are mandatory and may not be waived. 1386

For a respondent who is ordered to receive treatment in an 1387
outpatient setting, if at any time after the first ninety-day 1388
period the entity or person to whom the respondent was ordered 1389
determines that the respondent has demonstrated voluntary 1390
consent for treatment, that entity or person shall immediately 1391
notify the respondent, the respondent's counsel, the attorney 1392
designated by the board, and the court. The entity or person 1393
shall submit to the court a report of the findings and 1394
recommendations. The court may dismiss the case upon review of 1395

the facts. 1396

Upon request of a person who is involuntarily committed 1397
under this section, or the person's counsel, that is made more 1398
than one hundred eighty days after the person's last full 1399
hearing, mandatory or requested, the court shall hold a full 1400
hearing on the person's continued commitment. Upon the 1401
application of a person involuntarily committed under this 1402
section, supported by an affidavit of a psychiatrist or licensed 1403
clinical psychologist, alleging that the person no longer is a 1404
mentally ill person subject to court order, the court for good 1405
cause shown may hold a full hearing on the person's continued 1406
commitment prior to the expiration of one hundred eighty days 1407
after the person's last full hearing. Section 5122.12 of the 1408
Revised Code applies to all hearings on continued commitment. 1409

If the court, after a hearing for continued commitment 1410
finds by clear and convincing evidence that the respondent is a 1411
mentally ill person subject to court order, the court may order 1412
continued commitment at places or to persons specified in 1413
division (C) of this section. 1414

(I) Unless the admission is pursuant to section 5120.17 or 1415
5139.08 of the Revised Code, the chief clinical officer of the 1416
entity admitting a respondent pursuant to a judicial proceeding, 1417
within ten working days of the admission, shall make a report of 1418
the admission to the board of alcohol, drug addiction, and 1419
mental health services serving the respondent's county of 1420
residence. 1421

(J) A referee appointed by the court may make all orders 1422
that a judge may make under this section and sections 5122.11 1423
and 5122.141 of the Revised Code, except an order of contempt of 1424
court. The orders of a referee take effect immediately. Within 1425

fourteen days of the making of an order by a referee, a party 1426
may file written objections to the order with the court. The 1427
filed objections shall be considered a motion, shall be 1428
specific, and shall state their grounds with particularity. 1429
Within ten days of the filing of the objections, a judge of the 1430
court shall hold a hearing on the objections and may hear and 1431
consider any testimony or other evidence relating to the 1432
respondent's mental condition. At the conclusion of the hearing, 1433
the judge may ratify, rescind, or modify the referee's order. 1434

(K) An order of the court under division (C), (H), or (J) 1435
of this section is a final order. 1436

(L) Before a board, or a services provider the board 1437
designates, may place an unconsenting respondent in an inpatient 1438
setting from a less restrictive placement, the board or services 1439
provider shall do all of the following: 1440

(1) Determine that the respondent is in immediate need of 1441
treatment in an inpatient setting because the respondent 1442
represents a substantial risk of physical harm to the respondent 1443
or others if allowed to remain in a less restrictive setting; 1444

(2) On the day of placement in the inpatient setting or on 1445
the next court day, file with the court a motion for transfer to 1446
an inpatient setting or communicate to the court by telephone 1447
that the required motion has been mailed; 1448

(3) Ensure that every reasonable and appropriate effort is 1449
made to take the respondent to the inpatient setting in the 1450
least conspicuous manner possible; 1451

(4) Immediately notify the board's designated attorney and 1452
the respondent's attorney. 1453

At the respondent's request, the court shall hold a 1454

hearing on the motion and make a determination pursuant to 1455
division (E) of this section within five days of the placement. 1456

(M) Before a board, or a services provider the board 1457
designates, may move a respondent from one residential placement 1458
to another, the board or services provider shall consult with 1459
the respondent about the placement. If the respondent objects to 1460
the placement, the proposed placement and the need for it shall 1461
be reviewed by a qualified mental health professional who 1462
otherwise is not involved in the treatment of the respondent. 1463

(N) The entity or person to whom the respondent was 1464
ordered for treatment in an outpatient setting may submit a 1465
report to the court indicating that the respondent has either 1466
failed to comply with the treatment plan or begun to demonstrate 1467
signs of decompensation that may be grounds for hospitalization. 1468
On receipt of the report, the court shall promptly schedule a 1469
hearing to review the case. The court shall conduct the hearing 1470
in a manner consistent with this chapter and due process of law. 1471
The board shall receive notice of the hearing and the board and 1472
entity or person treating the respondent shall submit a report 1473
to the court with a plan for appropriate alternative treatment, 1474
if any, or recommend that the court discontinue the court- 1475
ordered treatment. The court shall consider available and 1476
appropriate alternative placements but shall not impose criminal 1477
sanctions that result in confinement in a jail or other local 1478
correctional facility based on the respondent's failure to 1479
comply with the treatment plan. The court may not order the 1480
respondent to a more restrictive placement unless the criteria 1481
specified in division (L) of this section are met and may not 1482
order the respondent to an inpatient setting unless the court 1483
determines by clear and convincing evidence presented by the 1484
board that the respondent meets the criteria specified in 1485

divisions (A) and (B) (1), (2), (3), or (4) of section 5122.01 of 1486
the Revised Code. 1487

Sec. 5804.11. (A) If upon petition the court finds that 1488
the settlor and all beneficiaries consent to the modification or 1489
termination of a noncharitable irrevocable trust, that all 1490
consents, including any given by representatives under Chapter 1491
5803. of the Revised Code, are valid, and that all parties 1492
giving consent are competent to do so, the court shall enter an 1493
order approving the modification or termination even if the 1494
modification or termination is inconsistent with a material 1495
purpose of the trust. An agent under a power of attorney may 1496
exercise a settlor's power to consent to a trust's modification 1497
or termination only to the extent expressly authorized by both 1498
the power of attorney and the terms of the trust. The settlor's 1499
guardian of the estate may exercise a settlor's power to consent 1500
to a trust's modification or termination with the approval of 1501
the court supervising the guardianship if an agent is not so 1502
authorized. The guardian of the settlor's person may exercise a 1503
settlor's power to consent to a trust's modification or 1504
termination with the approval of the court supervising the 1505
guardianship if an agent is not so authorized and a guardian of 1506
the estate has not been appointed. This division does not apply 1507
to a noncharitable irrevocable trust described in 42 U.S.C. 1508
1396p(d) (4). 1509

(B) A noncharitable irrevocable trust may be terminated 1510
upon consent of all of the beneficiaries if the court concludes 1511
that continuance of the trust is not necessary to achieve any 1512
material purpose of the trust. A noncharitable irrevocable trust 1513
may be modified, but not to remove or replace the currently 1514
serving trustee, upon consent of all of the beneficiaries if the 1515
court concludes that modification is not inconsistent with a 1516

material purpose of the trust. A spendthrift provision in the 1517
terms of the trust may, but is not presumed to, constitute a 1518
material purpose of the trust. In determining what constitutes a 1519
material purpose of a trust, a court may but is not required to 1520
consider extrinsic evidence indicating a settlor's intent at the 1521
time the instrument was executed. 1522

(C) Upon termination of a trust under division (A) or (B) 1523
of this section, the trustee shall distribute the trust property 1524
as agreed by the beneficiaries. 1525

(D) If not all of the beneficiaries consent to a proposed 1526
modification or termination of the trust under division (A) or 1527
(B) of this section, the court may approve the modification or 1528
termination if the court is satisfied of both of the following: 1529

(1) That if all of the beneficiaries had consented, the 1530
trust could have been modified or terminated under this section; 1531

(2) That the interests of a beneficiary who does not 1532
consent will be adequately protected. 1533

Sec. 5805.06. (A) Whether or not the terms of a trust 1534
contain a spendthrift provision, all of the following apply: 1535

(1) During the lifetime of the settlor, the property of a 1536
revocable trust is subject to claims of the settlor's creditors. 1537

(2) Except to the extent that a trust is established 1538
pursuant to, or otherwise is wholly or partially governed by or 1539
subject to Chapter 5816. of the Revised Code, with respect to an 1540
irrevocable trust, a creditor or assignee of the settlor may 1541
reach the maximum amount that can be distributed to or for the 1542
settlor's benefit. If an irrevocable trust has more than one 1543
settlor, the amount distributable to or for a settlor's benefit 1544
that the creditor or assignee of a particular settlor may reach 1545

may not exceed that settlor's interest in the portion of the 1546
trust attributable to that settlor's contribution. The right of 1547
a creditor or assignee to reach a settlor's interest in an 1548
irrevocable trust shall be subject to Chapter 5816. of the 1549
Revised Code to the extent that that chapter applies to that 1550
trust. 1551

(3) With respect to a trust described in 42 U.S.C. section 1552
1396p(d) (4) (A) or (C), the court may limit the award of a 1553
settlor's creditor under division (A) (1) or (2) of this section 1554
to the relief that is appropriate under the circumstances, 1555
considering among any other factors determined appropriate by 1556
the court, the supplemental needs of the beneficiary. 1557

(B) For purposes of this section, all of the following 1558
apply: 1559

(1) The holder of a power of withdrawal is treated in the 1560
same manner as the settlor of a revocable trust to the extent of 1561
the property subject to the power during the period the power 1562
may be exercised. 1563

~~(2) Upon the lapse, release, or waiver of the power of 1564~~
~~withdrawal, the holder is treated as the settlor of the trust 1565~~
~~only to the extent the value of the property affected by the 1566~~
~~lapse, release, or waiver exceeds the greatest of the following 1567~~
~~amounts: 1568~~

~~(a) The amount specified in section 2041(b) (2) or 2514(e) 1569~~
~~of the Internal Revenue Code; 1570~~

~~(b) If the donor of the property subject to the holder's 1571~~
~~power of withdrawal is not married at the time of the transfer 1572~~
~~of the property to the trust, the amount specified in section 1573~~
~~2503(b) of the Internal Revenue Code; 1574~~

~~(c) If the donor of the property subject to the holder's~~ 1575
~~power of withdrawal is married at the time of the transfer of~~ 1576
~~the property to the trust, twice the amount specified in section~~ 1577
~~2503(b) of the Internal Revenue Code.~~ 1578

~~(3)~~ None of the following shall be considered an amount 1579
that can be distributed to or for the benefit of the settlor: 1580

(a) Trust property that could be, but has not yet been, 1581
distributed to or for the benefit of the settlor only as a 1582
result of the exercise of a power of appointment held in a 1583
nonfiduciary capacity by any person other than the settlor; 1584

(b) Trust property that could be, but has not yet been, 1585
distributed to or for the benefit of the settlor of a trust 1586
pursuant to the power of the trustee to make distributions or 1587
pursuant to the power of another in a fiduciary capacity to 1588
direct distributions, if and to the extent that the 1589
distributions could be made from trust property the value of 1590
which was included in the gross estate of the settlor's spouse 1591
for federal estate tax purposes under section 2041 or 2044 of 1592
the Internal Revenue Code or that was treated as a transfer by 1593
the settlor's spouse under section 2514 or 2519 of the Internal 1594
Revenue Code; 1595

(c) Trust property that, pursuant to the exercise of a 1596
discretionary power by a person other than the settlor, could be 1597
paid to a taxing authority or to reimburse the settlor for any 1598
income tax on trust income or principal that is payable by the 1599
settlor under the law imposing the tax. 1600

Sec. 5816.02. As used in this chapter, unless the context 1601
otherwise requires: 1602

(A) (1) "Advisor" means a person to whom both of the 1603

following apply: 1604

(a) The person satisfies the eligibility criteria 1605
specified in division (A) of section 5816.11 of the Revised 1606
Code. 1607

(b) The person is given the authority by the terms of a 1608
legacy trust to remove or appoint one or more trustees of the 1609
trust or to direct, consent to, or disapprove a trustee's actual 1610
or proposed investment, distribution, or other decisions. 1611

(2) Any person to whom division (A) (1) of this section 1612
applies is considered an advisor even if that person is 1613
denominated by another title, such as protector. 1614

(B) "Asset" means property of a transferor but does not 1615
include any of the following: 1616

(1) Property to the extent it is encumbered by a valid 1617
lien; 1618

(2) Property to the extent it is exempt at the time of a 1619
qualified disposition under any applicable nonbankruptcy law, 1620
including, but not limited to, section 2329.66 of the Revised 1621
Code; 1622

(3) Property held in the form of a tenancy by the 1623
entireties to the extent that, under the law governing the 1624
entireties estate at the time of a qualified disposition, it is 1625
not subject to process by a creditor holding a claim against 1626
only one tenant; 1627

(4) Any property transferred from a nonlegacy trust to a 1628
legacy trust to the extent that the property would not be 1629
subject to attachment under the applicable nonbankruptcy law 1630
governing that nonlegacy trust. 1631

(C) "Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. Chapter 11, as amended. 1632
1633

(D) "Beneficiary" has the same meaning as in section 5801.01 of the Revised Code. 1634
1635

(E) "Claim" means a right to payment, whether or not the right is reduced to judgment or is liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured. 1636
1637
1638
1639

(F) "Creditor" means a person who has a claim against a transferor and any transferee or assignee of, or successor to, that claim. 1640
1641
1642

(G) "Debt" means a liability on a claim. 1643

(H) "Disposition" means a direct or indirect transfer, conveyance, or assignment of property, including, but not limited to, a partial, contingent, undivided, or co-ownership interest in property. "Disposition" includes the exercise of a general power so as to cause a transfer of property to a trustee or trustees but does not include any of the following: 1644
1645
1646
1647
1648
1649

(1) The release or relinquishment of an interest in property that, until the release or relinquishment, was the subject of a qualified disposition; 1650
1651
1652

(2) The exercise of a limited power so as to cause a transfer of property to a trustee or trustees; 1653
1654

(3) A disclaimer of an interest in a trust, bequest, devise, or inheritance. 1655
1656

(I) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended. 1657
1658

(J) "Investment decision" means any participation in any 1659
decision regarding the retention, purchase, sale, exchange, 1660
tender, or other transaction affecting the ownership of or 1661
rights in investments. 1662

(K) (1) "Legacy trust" means a trust evidenced by a written 1663
trust instrument to which all of the following apply: 1664

(a) The trust has, names, or appoints at least one 1665
qualified trustee for or in connection with the property that is 1666
the subject of a qualified disposition. 1667

(b) The trust expressly incorporates the laws of this 1668
state to wholly or partially govern its validity, construction, 1669
and administration. 1670

(c) The trust expressly states that it is irrevocable. 1671

(d) The trust has a spendthrift provision applicable to 1672
the interests of any beneficiary in the trust property, 1673
including any interests of a transferor in the trust property. 1674

(2) A trust that satisfies the criteria specified in 1675
division (K) (1) of this section is considered a legacy trust 1676
even if the trust instrument also allows for one or more 1677
nonqualified trustees and regardless of the language used to 1678
satisfy those criteria. 1679

(L) "Lien" has the same meaning as in section 1336.01 of 1680
the Revised Code. 1681

(M) "Nonlegacy trust" means any trust other than a legacy 1682
trust. 1683

(N) "Nonqualified trustee" means any trustee other than a 1684
qualified trustee. 1685

(O) "Person" has the same meaning as in section 5801.01 of the Revised Code. 1686
1687

(P) "Property" has the same meaning as in section 5801.01 of the Revised Code. 1688
1689

(Q) "Qualified affidavit" means an affidavit that meets the requirements of section 5816.06 of the Revised Code. 1690
1691

(R) "Qualified disposition" means a disposition by or from a transferor to any trustee of a trust that is, was, or becomes a legacy trust. 1692
1693
1694

(S) "Qualified trustee" means a person who is not a transferor and to whom both of the following apply: 1695
1696

(1) (a) The person, if a natural person, is a resident of this state. 1697
1698

(b) The person, if not a natural person, is authorized by the law of this state or by a court of competent jurisdiction of this state to act as a trustee and ~~whose~~ either of the following applies: 1699
1700
1701
1702

(i) The activities of that person are subject to supervision by the Ohio superintendent of ~~banks~~ financial institutions, the federal deposit insurance corporation, the comptroller of the currency, or the office of thrift supervision or a successor of any of them. 1703
1704
1705
1706
1707

(ii) That person is a "family trust company," as defined in section 1112.01 of the Revised Code, and that family trust company may be licensed or unlicensed for purposes of Chapter 1112. of the Revised Code, provided that all of the following also apply regardless of the family trust company's licensing status: 1708
1709
1710
1711
1712
1713

(I) The family trust company shall maintain an office in 1714
this state, on either an exclusive basis or on a shared basis 1715
with one or more other persons. 1716

(II) The family trust company shall open and maintain at 1717
least one bank or brokerage account in this state. 1718

(III) The family trust company shall maintain in this 1719
state, on an exclusive or nonexclusive basis, electronic or 1720
physical records for the legacy trust. 1721

(IV) The family trust company shall satisfy all of the 1722
requirements imposed by divisions (B), (C), (D), and (E) (1) of 1723
section 1112.14 of the Revised Code. 1724

(V) No beneficiary of a legacy trust, when acting for or 1725
on behalf of a family trust company, or when acting as an 1726
officer, manager, director, employee, or other agent or 1727
representative of a family trust company, may have any vote or 1728
authority regarding any decision to make or withhold any 1729
distribution from such legacy trust to or for the benefit of 1730
that beneficiary. 1731

Nothing in division (S) (1) (b) (ii) of this section shall 1732
prohibit a beneficiary from exercising any rights, powers, 1733
privileges, or authority granted to that beneficiary by or in 1734
any trust instrument governing a legacy trust. 1735

(2) The person maintains or arranges for custody in this 1736
state of some or all of the property that is the subject of the 1737
qualified disposition, maintains electronic or physical records 1738
for the legacy trust on an exclusive or nonexclusive basis, 1739
prepares or arranges for the preparation of required income tax 1740
returns for the legacy trust, or otherwise materially 1741
participates in the administration of the legacy trust. 1742

(T) "Spendthrift provision" has the same meaning as in 1743
section 5801.01 of the Revised Code. 1744

(U) "Spouse" and "former spouse" means only the person to 1745
whom a transferor was married on or before a qualified 1746
disposition is made. 1747

(V) "Transferor" means a person who directly or indirectly 1748
makes a disposition. 1749

(W) "Valid lien" has the same meaning as in section 1750
1336.01 of the Revised Code. 1751

Sec. 5816.05. A legacy trust may allow or provide for any 1752
or all of the following rights, powers, interests, or 1753
provisions, none of which grants, or is considered to be, either 1754
alone or in any combination, a right or power to revoke a trust 1755
or to voluntarily or involuntarily transfer an interest in that 1756
trust: 1757

(A) A provision that, upon the happening of a defined 1758
event or a stated contingency, results in the termination of a 1759
transferor's right to mandatory income or principal; 1760

(B) The power of a transferor to veto a distribution from 1761
the trust; 1762

(C) A power of appointment, other than a power to appoint 1763
to a transferor, a creditor of the transferor, the estate of the 1764
transferor, or a creditor of the transferor's estate, that is 1765
exercisable by will or by other written instrument of a 1766
transferor effective upon the death of the transferor or during 1767
the lifetime of the transferor; 1768

(D) The right of a transferor to receive trust income as 1769
set forth in the trust instrument. 1770

(E) Both of the following: 1771

(1) A transferor's potential or actual receipt of income 1772
or principal from a charitable remainder unitrust or charitable 1773
remainder annuity trust as those terms are defined in section 1774
664 of the Internal Revenue Code; 1775

(2) The transferor's right, at any time and from time to 1776
time by written instrument delivered to the trustee, to release 1777
the transferor's retained interest in that unitrust or annuity 1778
trust, in whole or in part, in favor of one or more charitable 1779
organizations that have a succeeding beneficial interest in that 1780
unitrust or annuity trust; 1781

(F) The power of a transferor to consume, invade, or 1782
appropriate property of the trust, but only if limited in each 1783
calendar year to five per cent of the value of the trust 1784
principal at the time of the exercise of the power; 1785

(G) A transferor's potential or actual receipt or use of 1786
principal or income of the trust if the potential or actual 1787
receipt or use is or would be the result of any of the following 1788
that applies with respect to one or more of the qualified 1789
trustees: 1790

(1) A qualified trustee's acting in the trustee's 1791
discretion. For purposes of division (G)(1) of this section, a 1792
qualified trustee shall have discretion with respect to the 1793
distribution or use of principal or income unless the discretion 1794
is expressly denied to the trustee by the terms of the trust 1795
instrument. 1796

(2) A qualified trustee's acting pursuant to a standard in 1797
the trust instrument that governs the distribution or use of 1798
principal or income; 1799

(3) A qualified trustee's acting at the direction of an 1800
advisor who is acting in the advisor's discretion or pursuant to 1801
a standard in the trust instrument that governs the distribution 1802
or use of principal or income. If an advisor is authorized to 1803
direct that distribution or use, the advisor's authority shall 1804
be discretionary unless otherwise expressly stated in the trust 1805
instrument. 1806

(H) The right of a transferor to remove any advisor and 1807
appoint a new advisor who satisfies the eligibility criteria set 1808
forth in division (A) of section 5816.11 of the Revised Code; 1809

(I) The right of a transferor to remove any trustee and 1810
appoint a new trustee; 1811

(J) A transferor's potential or actual use of real 1812
property or tangible personal property, including, but not 1813
limited to, property held under a qualified personal residence 1814
trust as described in section 2702(c) of the Internal Revenue 1815
Code and regulations promulgated under that section, or a 1816
transferor's possession and enjoyment of a qualified interest as 1817
defined in section 2702(b) of the Internal Revenue Code; 1818

(K) Any provision requiring or permitting the potential or 1819
actual use of trust income or principal to pay, in whole or in 1820
part, income taxes due on the income of the trust, including, 1821
but not limited to, any provision permitting that use in the 1822
discretion of any one or more of the qualified trustees acting 1823
in the qualified trustee's discretion or at the direction of an 1824
advisor who is acting in the advisor's discretion; 1825

(L) The ability of a qualified trustee, whether pursuant 1826
to the qualified trustee's discretion or the terms of the legacy 1827
trust instrument or at the direction of an advisor, to pay after 1828

the death of a transferor all or any part of the debts of the 1829
transferor outstanding on or before the transferor's death, the 1830
expenses of administering the transferor's estate, or any 1831
estate, gift, generation skipping transfer, or inheritance tax; 1832

(M) Any provision that pours back after the death of a 1833
transferor all or part of the trust property to the transferor's 1834
estate or any trust; 1835

(N) A power held by a transferor allowing the transferor, 1836
while acting in a nonfiduciary capacity, to substitute property 1837
of equivalent value for any property that is part of the 1838
principal of the legacy trust; 1839

(O) Any other rights, powers, interests, or provisions 1840
permitted or allowed by any other section of this chapter. 1841

Sec. 5816.06. (A) Except as otherwise provided in this 1842
section, a transferor shall sign a qualified affidavit before or 1843
substantially contemporaneously with making a qualified 1844
disposition. 1845

(B) A qualified affidavit shall be notarized and shall 1846
contain all of the following statements under oath: 1847

(1) The property being transferred to the trust was not 1848
derived from unlawful activities. 1849

(2) The transferor has full right, title, and authority to 1850
transfer the property to the legacy trust. 1851

(3) The transferor will not be rendered insolvent 1852
immediately after the transfer of the property to the legacy 1853
trust. 1854

(4) The transferor does not intend to defraud any creditor 1855
by transferring the property to the legacy trust. 1856

(5) There are no pending or threatened court actions 1857
against the transferor, except for any court action identified 1858
by the affidavit or an attachment to the affidavit. 1859

(6) The transferor is not involved in any administrative 1860
proceeding, except for any proceeding identified by the 1861
affidavit or an attachment to the affidavit. 1862

(7) The transferor does not contemplate at the time of the 1863
transfer the filing for relief under the Bankruptcy Code. 1864

(C) A qualified affidavit is considered defective if it 1865
materially fails to meet the requirements set forth in division 1866
(B) of this section, but a qualified affidavit is not considered 1867
defective due to any one or more of the following: 1868

(1) Any nonsubstantive variances from the language set 1869
forth in division (B) of this section; 1870

(2) Any statements or representations in addition to those 1871
set forth in division (B) of this section if the statements or 1872
representations do not materially contradict the statements or 1873
representations required by that division; 1874

(3) Any technical errors in the form, substance, or method 1875
of administering an oath if those errors were not the fault of 1876
the affiant, and the affiant reasonably relied upon another 1877
person to prepare or administer the oath. 1878

(D) (1) A qualified affidavit is not required from a 1879
transferor who is not a beneficiary of the legacy trust that 1880
receives the disposition. 1881

(2) A subsequent qualified affidavit is not required in 1882
connection with any qualified disposition made after the 1883
execution of an earlier qualified affidavit if that disposition 1884

is a part of, is required by, or is the direct result of, a 1885
prior qualified disposition that was made in connection with 1886
that earlier qualified affidavit. 1887

(E) If a qualified affidavit is required by this section 1888
and a transferor fails to timely sign a qualified affidavit or 1889
signs a defective qualified affidavit, then, subject to the 1890
normal rules of evidence, that failure or defect may be 1891
considered as evidence in any proceeding commenced pursuant to 1892
section 5816.07 of the Revised Code, but the legacy trust or the 1893
validity of any attempted qualified disposition shall not be 1894
affected in any other way due to that failure or defect. 1895

Sec. 5816.09. Any successor or replacement trustees of a 1896
legacy trust shall be determined or selected in the following 1897
manners: 1898

(A) (1) Division (A) (2) of this section applies if in any 1899
action involving a legacy trust or any trustee of the legacy 1900
trust a court ~~takes an action~~ enters or issues any order in 1901
which or by which the court declines to apply the law of this 1902
state in determining any of the following matters: 1903

(a) The validity, construction, or administration of the 1904
trust; 1905

(b) The effect of any term or condition of the trust, 1906
including, but not limited to, a spendthrift provision; 1907

(c) The rights and remedies of any creditor or other 1908
suitor in connection with a qualified disposition. 1909

(2) Immediately upon the court's ~~action under entry or~~ 1910
issuance of an order referred to in division (A) (1) of this 1911
section, and without the need for any other order of any court, 1912
any qualified trustee who is a party to that action shall cease 1913

in all respects to be a trustee of the legacy trust, and the 1914
position of trustee shall be occupied in accordance with the 1915
terms of the trust instrument that governed the legacy trust 1916
immediately before that cessation, or, if the terms of the trust 1917
instrument do not provide for another trustee and the trust 1918
would otherwise be without a trustee, any court of this state, 1919
upon the application of any beneficiary of the legacy trust, 1920
shall appoint a successor qualified trustee upon the terms and 1921
conditions that it determines to be consistent with the purposes 1922
of the trust and this chapter. Upon a qualified trustee ceasing 1923
to be a trustee pursuant to division (A) (2) of this section, 1924
that qualified trustee shall have no power or authority other 1925
than to convey trust property to any other trustee that is 1926
appointed, installed, or serving in accordance with that 1927
division. 1928

(3) For purposes of division (A) of this section, ~~"court":~~ 1929

(a) "Court" includes a judicial tribunal, an 1930
administrative tribunal, or other adjudicative body or panel. 1931

(b) "Order" includes any order, writ, judgment, entry, 1932
edict, mandate, directive, instruction, or decree issued or 1933
entered by any court. 1934

(B) In all cases other than the situation described in 1935
division (A) of this section, both of the following apply: 1936

(1) If a legacy trust ceases to have at least one 1937
qualified trustee, the vacancy in the qualified trusteeship 1938
shall be filled pursuant to section 5807.04 of the Revised Code 1939
except to the extent that the legacy trust expressly provides 1940
otherwise. 1941

(2) If a legacy trust ceases to have at least one trustee, 1942

the vacancy in the trusteeship shall be filled pursuant to 1943
section 5807.04 of the Revised Code, and the successor trustee 1944
shall be a qualified trustee unless the legacy trust instrument 1945
expressly provides otherwise. 1946

Sec. 5816.10. (A) In the event of any conflict between any 1947
provision of this chapter and any provision of Chapter 1336. of 1948
the Revised Code or any other provision of law similar to any 1949
provision of Chapter 1336. of the Revised Code, including, but 1950
not limited to, any similar provision of law adopted, 1951
promulgated, or enacted by a jurisdiction other than this state, 1952
the provision of this chapter shall control and prevail to the 1953
maximum extent permitted by the Ohio Constitution and the United 1954
States Constitution. When determining whether a provision of law 1955
is similar to any provision of Chapter 1336. of the Revised 1956
Code, a court shall be liberal in finding that such similarity 1957
exists. 1958

(B) A statement in a trust instrument stating that it 1959
"shall be governed by the laws of Ohio" or other statement to 1960
similar effect or of similar import is considered to expressly 1961
incorporate the laws of this state to govern the validity, 1962
construction, and administration of that trust instrument and to 1963
satisfy division (K) (1) (b) of section 5816.02 of the Revised 1964
Code. 1965

(C) A disposition by a nonqualified trustee to a qualified 1966
trustee shall not be treated as other than a qualified 1967
disposition solely because the nonqualified trustee is a trustee 1968
of a nonlegacy trust. 1969

(D) A disposition to any nonqualified trustee of a legacy 1970
trust shall be treated as a qualified disposition if at the time 1971
of the disposition any of the following applies: 1972

(1) There is at least one qualified trustee serving 1973
pursuant to the terms of that legacy trust. 1974

(2) There is no qualified trustee serving but the 1975
circumstances require the appointment or installation of a 1976
qualified trustee pursuant to division (A) (2) of section 5816.09 1977
of the Revised Code. 1978

(3) There is no qualified trustee serving but within one 1979
hundred eighty days after the date of disposition a qualified 1980
trustee fills the vacancy in the qualified trusteeship or an 1981
application to appoint a qualified trustee is filed pursuant to 1982
division (B) of section 5816.09 of the Revised Code. 1983

(E) If a disposition is made by a trustee of a nonlegacy 1984
trust to a trustee of a legacy trust, both of the following 1985
apply: 1986

(1) Except to the extent expressly stated otherwise by the 1987
terms of that disposition, the disposition shall be considered a 1988
qualified disposition for the benefit of all of the persons who 1989
are the beneficiaries of both the nonlegacy trust and the legacy 1990
trust. 1991

(2) The date of the disposition to the legacy trust shall 1992
be considered to be the date on which the property that was part 1993
of the nonlegacy trust was first continuously subject to any law 1994
of a jurisdiction other than this state that is similar to this 1995
chapter. ~~A court shall liberally construe and apply division (E)~~ 1996
~~(2) of this section~~ When applying division (E) (2) of this 1997
section, a court shall be liberal in finding that such 1998
continuity and similarity exist. 1999

(F) A legacy trust may contain any terms or conditions 2000
that provide for changes in or to the place of administration, 2001

situs, governing law, trustees or advisors, or the terms or 2002
conditions of the legacy trust or for other changes permitted by 2003
law. 2004

(G) Any valid lien attaching to property before a 2005
disposition of that property to a trustee of a legacy trust 2006
shall survive the disposition, and the trustee shall take title 2007
to the property subject to the valid lien and subject to any 2008
agreements that created or perfected the valid lien. Nothing in 2009
this chapter shall be construed to authorize any disposition 2010
that is prohibited by the terms of any agreements, notes, 2011
guaranties, mortgages, indentures, instruments, undertakings, or 2012
other documents. In the event of any conflict between this 2013
division and any other provision of this chapter, this division 2014
shall control. 2015

(H) To the maximum extent permitted by the Ohio 2016
Constitution and the United States Constitution, the courts of 2017
this state shall exercise jurisdiction over any legacy trust, 2018
any legacy trust matter, or any qualified disposition and shall 2019
adjudicate any case or controversy brought before them 2020
regarding, arising out of, or related to, any legacy trust, any 2021
legacy trust matter, or any qualified disposition if that case 2022
or controversy is otherwise within the subject matter 2023
jurisdiction of the court. Subject to the Ohio Constitution and 2024
the United States Constitution, no court of this state shall 2025
dismiss or otherwise decline to adjudicate any case or 2026
controversy described in this division on the ground that a 2027
court of another jurisdiction has acquired or may acquire proper 2028
jurisdiction over, or may provide proper venue for, that case or 2029
controversy or the parties to the case or controversy. Nothing 2030
in this division shall be construed to do either of the 2031
following: 2032

(1) Prohibit a transfer or other reassignment of any case 2033
or controversy from one court of this state to another court of 2034
this state; 2035

(2) Expand or limit the subject matter jurisdiction of any 2036
court of this state. 2037

(I) (1) If any disposition is made by a trustee of a legacy 2038
trust, referred to in division (I) of this section as the "first 2039
legacy trust," to a trustee of a second legacy trust, referred 2040
to in division (I) of this section as the "second legacy trust," 2041
whether pursuant to section 5808.18 of the Revised Code or any 2042
other applicable law, then all of the following apply to any 2043
property involved in such disposition: 2044

(a) Except to the extent expressly stated otherwise by the 2045
terms of that disposition, the disposition shall be considered a 2046
qualified disposition for the benefit of all persons who are the 2047
beneficiaries of both the first legacy trust and the second 2048
legacy trust. 2049

(b) An item of property shall be treated as having been 2050
transferred to a trustee of the second legacy trust on the 2051
earlier of any of the following: 2052

(i) The date of the original qualified disposition of the 2053
item to a trustee of the first legacy trust; 2054

(ii) If, before being held by the trustee of the first 2055
legacy trust, the item previously was held by a trustee of a 2056
predecessor legacy trust, or by one or more trustees of a 2057
consecutive and uninterrupted series of predecessor legacy 2058
trusts, then the date of the original qualified disposition to 2059
the first trustee to hold that item as part of any such 2060
predecessor legacy trust; 2061

(iii) If, before being held by the trustee of the first 2062
legacy trust, that item was held by a trustee of a nonlegacy 2063
trust referred to in division (E)(2) of this section, then the 2064
date determined pursuant to that division; 2065

(iv) The earliest date determined by any combination of 2066
divisions (I)(1)(b)(i) to (iii) of this section. 2067

(2) For purposes of division (I)(1)(b) of this section, 2068
any reference to an item of property shall include any proceeds 2069
of or substitutes for that item. 2070

(3) Notwithstanding division (S) of section 5816.02 of the 2071
Revised Code, a qualified trustee of the first legacy trust may 2072
serve as a qualified trustee of the second legacy trust. 2073

(4) The dispositions covered by division (I) of this 2074
section include, but are not limited to, any disposition that is 2075
made by a trustee of the first legacy trust acting pursuant to a 2076
direction issued by a person having the power to direct a 2077
distribution of trust property pursuant to the trust instrument 2078
governing the first legacy trust, including, but not limited to, 2079
a power to direct as provided in division (G) of section 5808.18 2080
of the Revised Code. 2081

(J) Any reference in this chapter to an "action" or a 2082
"proceeding" shall be broadly construed to encompass any suit or 2083
proceeding in any jurisdiction or before any judicial tribunal, 2084
administrative tribunal, or other adjudicative body or panel. 2085

(K) This chapter and its provisions reflect and embody the 2086
strong public policy of this state. 2087

Sec. 5816.14. This chapter applies to qualified 2088
dispositions made on or after ~~the effective date of this section~~ 2089
March 27, 2013, except that division (S)(1)(b)(ii) of section 2090

5816.02 of the Revised Code applies to any legacy trust settled 2091
or administered on or after the effective date of this 2092
amendment. 2093

Section 2. That existing sections 1721.21, 2101.15, 2094
2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 2095
2111.10, 2111.50, 2133.07, 2701.10, 2717.01, 5122.15, 5804.11, 2096
5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10, and 2097
5816.14 of the Revised Code are hereby repealed. 2098

Section 3. That section 2133.16 of the Revised Code is 2099
hereby repealed. 2100