

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 41

Senator Eklund

Cosponsors: Senators Schiavoni, Hoagland, Coley, Yuko

A BILL

To amend sections 2151.421, 2317.02, and 2921.22 of
the Revised Code to provide generally a
testimonial privilege for communications between
a qualified advocate rendering advocacy services
and a victim of sexual violence, menacing by
stalking, or domestic violence, to exempt the
nondisclosure of that privileged communication
from the offense of failure to report a crime,
to require a qualified advocate to report
knowledge or reasonable suspicion of child abuse
or neglect of the victim except for privileged
communications, and to specify circumstances in
which the victim is considered to have waived
the privilege.

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

Section 1. That sections 2151.421, 2317.02, and 2921.22 of
the Revised Code be amended to read as follows:

Sec. 2151.421. (A) (1) (a) No person described in division
(A) (1) (b) of this section who is acting in an official or

professional capacity and knows, or has reasonable cause to 19
suspect based on facts that would cause a reasonable person in a 20
similar position to suspect, that a child under eighteen years 21
of age, or a person under twenty-one years of age with a 22
developmental disability or physical impairment, has suffered or 23
faces a threat of suffering any physical or mental wound, 24
injury, disability, or condition of a nature that reasonably 25
indicates abuse or neglect of the child shall fail to 26
immediately report that knowledge or reasonable cause to suspect 27
to the entity or persons specified in this division. Except as 28
provided in section 5120.173 of the Revised Code, the person 29
making the report shall make it to the public children services 30
agency or a municipal or county peace officer in the county in 31
which the child resides or in which the abuse or neglect is 32
occurring or has occurred. In the circumstances described in 33
section 5120.173 of the Revised Code, the person making the 34
report shall make it to the entity specified in that section. 35

(b) Division (A)(1)(a) of this section applies to any 36
person who is an attorney; health care professional; 37
practitioner of a limited branch of medicine as specified in 38
section 4731.15 of the Revised Code; licensed school 39
psychologist; independent marriage and family therapist or 40
marriage and family therapist; coroner; administrator or 41
employee of a child day-care center; administrator or employee 42
of a residential camp, child day camp, or private, nonprofit 43
therapeutic wilderness camp; administrator or employee of a 44
certified child care agency or other public or private children 45
services agency; school teacher; school employee; school 46
authority; agent of a county humane society; person, other than 47
a cleric, rendering spiritual treatment through prayer in 48
accordance with the tenets of a well-recognized religion; 49

employee of a county department of job and family services who 50
is a professional and who works with children and families; 51
superintendent or regional administrator employed by the 52
department of youth services; superintendent, board member, or 53
employee of a county board of developmental disabilities; 54
investigative agent contracted with by a county board of 55
developmental disabilities; employee of the department of 56
developmental disabilities; employee of a facility or home that 57
provides respite care in accordance with section 5123.171 of the 58
Revised Code; employee of an entity that provides homemaker 59
services; a person performing the duties of an assessor pursuant 60
to Chapter 3107. or 5103. of the Revised Code; third party 61
employed by a public children services agency to assist in 62
providing child or family related services; court appointed 63
special advocate; ~~or guardian ad litem; or qualified advocate.~~ 64

(c) If two or more health care professionals, after 65
providing health care services to a child, determine or suspect 66
that the child has been or is being abused or neglected, the 67
health care professionals may designate one of the health care 68
professionals to report the abuse or neglect. A single report 69
made under this division shall meet the reporting requirements 70
of division (A)(1) of this section. 71

(2) Except as provided in division (A)(3) of this section, 72
an attorney or a physician is not required to make a report 73
pursuant to division (A)(1) of this section concerning any 74
communication the attorney or physician receives from a client 75
or patient in an attorney-client or physician-patient 76
relationship, if, in accordance with division (A) or (B) of 77
section 2317.02 of the Revised Code, the attorney or physician 78
could not testify with respect to that communication in a civil 79
or criminal proceeding. 80

(3) The client or patient in an attorney-client or 81
physician-patient relationship described in division (A)(2) of 82
this section is deemed to have waived any testimonial privilege 83
under division (A) or (B) of section 2317.02 of the Revised Code 84
with respect to any communication the attorney or physician 85
receives from the client or patient in that attorney-client or 86
physician-patient relationship, and the attorney or physician 87
shall make a report pursuant to division (A)(1) of this section 88
with respect to that communication, if all of the following 89
apply: 90

(a) The client or patient, at the time of the 91
communication, is a child under eighteen years of age or is a 92
person under twenty-one years of age with a developmental 93
disability or physical impairment. 94

(b) The attorney or physician knows, or has reasonable 95
cause to suspect based on facts that would cause a reasonable 96
person in similar position to suspect that the client or patient 97
has suffered or faces a threat of suffering any physical or 98
mental wound, injury, disability, or condition of a nature that 99
reasonably indicates abuse or neglect of the client or patient. 100

(c) The abuse or neglect does not arise out of the 101
client's or patient's attempt to have an abortion without the 102
notification of her parents, guardian, or custodian in 103
accordance with section 2151.85 of the Revised Code. 104

(4) (a) No cleric and no person, other than a volunteer, 105
designated by any church, religious society, or faith acting as 106
a leader, official, or delegate on behalf of the church, 107
religious society, or faith who is acting in an official or 108
professional capacity, who knows, or has reasonable cause to 109
believe based on facts that would cause a reasonable person in a 110

similar position to believe, that a child under eighteen years 111
of age, or a person under twenty-one years of age with a 112
developmental disability or physical impairment, has suffered or 113
faces a threat of suffering any physical or mental wound, 114
injury, disability, or condition of a nature that reasonably 115
indicates abuse or neglect of the child, and who knows, or has 116
reasonable cause to believe based on facts that would cause a 117
reasonable person in a similar position to believe, that another 118
cleric or another person, other than a volunteer, designated by 119
a church, religious society, or faith acting as a leader, 120
official, or delegate on behalf of the church, religious 121
society, or faith caused, or poses the threat of causing, the 122
wound, injury, disability, or condition that reasonably 123
indicates abuse or neglect shall fail to immediately report that 124
knowledge or reasonable cause to believe to the entity or 125
persons specified in this division. Except as provided in 126
section 5120.173 of the Revised Code, the person making the 127
report shall make it to the public children services agency or a 128
municipal or county peace officer in the county in which the 129
child resides or in which the abuse or neglect is occurring or 130
has occurred. In the circumstances described in section 5120.173 131
of the Revised Code, the person making the report shall make it 132
to the entity specified in that section. 133

(b) Except as provided in division (A) (4) (c) of this 134
section, a cleric is not required to make a report pursuant to 135
division (A) (4) (a) of this section concerning any communication 136
the cleric receives from a penitent in a cleric-penitent 137
relationship, if, in accordance with division (C) of section 138
2317.02 of the Revised Code, the cleric could not testify with 139
respect to that communication in a civil or criminal proceeding. 140

(c) The penitent in a cleric-penitent relationship 141

described in division (A) (4) (b) of this section is deemed to 142
have waived any testimonial privilege under division (C) of 143
section 2317.02 of the Revised Code with respect to any 144
communication the cleric receives from the penitent in that 145
cleric-penitent relationship, and the cleric shall make a report 146
pursuant to division (A) (4) (a) of this section with respect to 147
that communication, if all of the following apply: 148

(i) The penitent, at the time of the communication, is a 149
child under eighteen years of age or is a person under twenty- 150
one years of age with a developmental disability or physical 151
impairment. 152

(ii) The cleric knows, or has reasonable cause to believe 153
based on facts that would cause a reasonable person in a similar 154
position to believe, as a result of the communication or any 155
observations made during that communication, the penitent has 156
suffered or faces a threat of suffering any physical or mental 157
wound, injury, disability, or condition of a nature that 158
reasonably indicates abuse or neglect of the penitent. 159

(iii) The abuse or neglect does not arise out of the 160
penitent's attempt to have an abortion performed upon a child 161
under eighteen years of age or upon a person under twenty-one 162
years of age with a developmental disability or physical 163
impairment without the notification of her parents, guardian, or 164
custodian in accordance with section 2151.85 of the Revised 165
Code. 166

(d) Divisions (A) (4) (a) and (c) of this section do not 167
apply in a cleric-penitent relationship when the disclosure of 168
any communication the cleric receives from the penitent is in 169
violation of the sacred trust. 170

(e) As used in divisions (A) (1) and (4) of this section, 171
"cleric" and "sacred trust" have the same meanings as in section 172
2317.02 of the Revised Code. 173

(5) (a) Except as provided in division (A) (5) (b) of this 174
section, a qualified advocate is not required to make a report 175
pursuant to division (A) (1) of this section concerning any 176
confidential communication the qualified advocate receives from 177
a victim in a qualified advocate-victim relationship, if, in 178
accordance with division (M) of section 2317.02 of the Revised 179
Code, the qualified advocate could not testify with respect to 180
that communication in a civil, criminal, administrative, or 181
education discipline proceeding. 182

(b) The victim in a qualified advocate-victim relationship 183
described in division (A) (5) (a) of this section is considered to 184
have waived any testimonial privilege under division (M) of 185
section 2317.02 of the Revised Code with respect to any 186
confidential communication the qualified advocate receives from 187
the victim in that qualified advocate-victim relationship, and 188
the qualified advocate shall make a report pursuant to division 189
(A) (1) of this section with respect to that communication, if 190
all of the following apply: 191

(i) The victim, at the time of the communication, is 192
either a child under eighteen years of age or a person under 193
twenty-one years of age with a developmental disability or 194
physical impairment. 195

(ii) The qualified advocate knows, or has reasonable cause 196
to believe based on facts that would cause a reasonable person 197
in a similar position to believe, as a result of the 198
communication or any observations made during that 199
communication, the victim has suffered or faces a threat of 200

suffering any physical or mental wound, injury, disability, or 201
condition of a nature that reasonably indicates abuse or neglect 202
of the victim. 203

(iii) The abuse or neglect does not arise out of the 204
victim's attempt to have an abortion without the notification of 205
her parents, guardian, or custodian in accordance with section 206
2151.85 of the Revised Code. 207

(c) As used in divisions (A)(1) and (5) of this section, 208
"confidential communication," "qualified advocate," and "victim" 209
have the same meanings as in section 2317.02 of the Revised 210
Code. 211

(B) Anyone who knows, or has reasonable cause to suspect 212
based on facts that would cause a reasonable person in similar 213
circumstances to suspect, that a child under eighteen years of 214
age, or a person under twenty-one years of age with a 215
developmental disability or physical impairment, has suffered or 216
faces a threat of suffering any physical or mental wound, 217
injury, disability, or other condition of a nature that 218
reasonably indicates abuse or neglect of the child may report or 219
cause reports to be made of that knowledge or reasonable cause 220
to suspect to the entity or persons specified in this division. 221
Except as provided in section 5120.173 of the Revised Code, a 222
person making a report or causing a report to be made under this 223
division shall make it or cause it to be made to the public 224
children services agency or to a municipal or county peace 225
officer. In the circumstances described in section 5120.173 of 226
the Revised Code, a person making a report or causing a report 227
to be made under this division shall make it or cause it to be 228
made to the entity specified in that section. 229

(C) Any report made pursuant to division (A) or (B) of 230

this section shall be made forthwith either by telephone or in 231
person and shall be followed by a written report, if requested 232
by the receiving agency or officer. The written report shall 233
contain: 234

(1) The names and addresses of the child and the child's 235
parents or the person or persons having custody of the child, if 236
known; 237

(2) The child's age and the nature and extent of the 238
child's injuries, abuse, or neglect that is known or reasonably 239
suspected or believed, as applicable, to have occurred or of the 240
threat of injury, abuse, or neglect that is known or reasonably 241
suspected or believed, as applicable, to exist, including any 242
evidence of previous injuries, abuse, or neglect; 243

(3) Any other information, including, but not limited to, 244
results and reports of any medical examinations, tests, or 245
procedures performed under division (D) of this section, that 246
might be helpful in establishing the cause of the injury, abuse, 247
or neglect that is known or reasonably suspected or believed, as 248
applicable, to have occurred or of the threat of injury, abuse, 249
or neglect that is known or reasonably suspected or believed, as 250
applicable, to exist. 251

(D) (1) Any person, who is required by division (A) of this 252
section to report child abuse or child neglect that is known or 253
reasonably suspected or believed to have occurred, may take or 254
cause to be taken color photographs of areas of trauma visible 255
on a child and, if medically necessary for the purpose of 256
diagnosing or treating injuries that are suspected to have 257
occurred as a result of child abuse or child neglect, perform or 258
cause to be performed radiological examinations and any other 259
medical examinations of, and tests or procedures on, the child. 260

(2) The results and any available reports of examinations, 261
tests, or procedures made under division (D)(1) of this section 262
shall be included in a report made pursuant to division (A) of 263
this section. Any additional reports of examinations, tests, or 264
procedures that become available shall be provided to the public 265
children services agency, upon request. 266

(3) If a health care professional provides health care 267
services in a hospital, children's advocacy center, or emergency 268
medical facility to a child about whom a report has been made 269
under division (A) of this section, the health care professional 270
may take any steps that are reasonably necessary for the release 271
or discharge of the child to an appropriate environment. Before 272
the child's release or discharge, the health care professional 273
may obtain information, or consider information obtained, from 274
other entities or individuals that have knowledge about the 275
child. Nothing in division (D)(3) of this section shall be 276
construed to alter the responsibilities of any person under 277
sections 2151.27 and 2151.31 of the Revised Code. 278

(4) A health care professional may conduct medical 279
examinations, tests, or procedures on the siblings of a child 280
about whom a report has been made under division (A) of this 281
section and on other children who reside in the same home as the 282
child, if the professional determines that the examinations, 283
tests, or procedures are medically necessary to diagnose or 284
treat the siblings or other children in order to determine 285
whether reports under division (A) of this section are warranted 286
with respect to such siblings or other children. The results of 287
the examinations, tests, or procedures on the siblings and other 288
children may be included in a report made pursuant to division 289
(A) of this section. 290

(5) Medical examinations, tests, or procedures conducted 291
under divisions (D) (1) and (4) of this section and decisions 292
regarding the release or discharge of a child under division (D) 293
(3) of this section do not constitute a law enforcement 294
investigation or activity. 295

(E) (1) When a municipal or county peace officer receives a 296
report concerning the possible abuse or neglect of a child or 297
the possible threat of abuse or neglect of a child, upon receipt 298
of the report, the municipal or county peace officer who 299
receives the report shall refer the report to the appropriate 300
public children services agency. 301

(2) When a public children services agency receives a 302
report pursuant to this division or division (A) or (B) of this 303
section, upon receipt of the report, the public children 304
services agency shall do both of the following: 305

(a) Comply with section 2151.422 of the Revised Code; 306

(b) If the county served by the agency is also served by a 307
children's advocacy center and the report alleges sexual abuse 308
of a child or another type of abuse of a child that is specified 309
in the memorandum of understanding that creates the center as 310
being within the center's jurisdiction, comply regarding the 311
report with the protocol and procedures for referrals and 312
investigations, with the coordinating activities, and with the 313
authority or responsibility for performing or providing 314
functions, activities, and services stipulated in the 315
interagency agreement entered into under section 2151.428 of the 316
Revised Code relative to that center. 317

(F) No township, municipal, or county peace officer shall 318
remove a child about whom a report is made pursuant to this 319

section from the child's parents, stepparents, or guardian or 320
any other persons having custody of the child without 321
consultation with the public children services agency, unless, 322
in the judgment of the officer, and, if the report was made by 323
physician, the physician, immediate removal is considered 324
essential to protect the child from further abuse or neglect. 325
The agency that must be consulted shall be the agency conducting 326
the investigation of the report as determined pursuant to 327
section 2151.422 of the Revised Code. 328

(G) (1) Except as provided in section 2151.422 of the 329
Revised Code or in an interagency agreement entered into under 330
section 2151.428 of the Revised Code that applies to the 331
particular report, the public children services agency shall 332
investigate, within twenty-four hours, each report of child 333
abuse or child neglect that is known or reasonably suspected or 334
believed to have occurred and of a threat of child abuse or 335
child neglect that is known or reasonably suspected or believed 336
to exist that is referred to it under this section to determine 337
the circumstances surrounding the injuries, abuse, or neglect or 338
the threat of injury, abuse, or neglect, the cause of the 339
injuries, abuse, neglect, or threat, and the person or persons 340
responsible. The investigation shall be made in cooperation with 341
the law enforcement agency and in accordance with the memorandum 342
of understanding prepared under division (K) of this section. A 343
representative of the public children services agency shall, at 344
the time of initial contact with the person subject to the 345
investigation, inform the person of the specific complaints or 346
allegations made against the person. The information shall be 347
given in a manner that is consistent with division (I) (1) of 348
this section and protects the rights of the person making the 349
report under this section. 350

A failure to make the investigation in accordance with the 351
memorandum is not grounds for, and shall not result in, the 352
dismissal of any charges or complaint arising from the report or 353
the suppression of any evidence obtained as a result of the 354
report and does not give, and shall not be construed as giving, 355
any rights or any grounds for appeal or post-conviction relief 356
to any person. The public children services agency shall report 357
each case to the uniform statewide automated child welfare 358
information system that the department of job and family 359
services shall maintain in accordance with section 5101.13 of 360
the Revised Code. The public children services agency shall 361
submit a report of its investigation, in writing, to the law 362
enforcement agency. 363

(2) The public children services agency shall make any 364
recommendations to the county prosecuting attorney or city 365
director of law that it considers necessary to protect any 366
children that are brought to its attention. 367

(H) (1) (a) Except as provided in divisions (H) (1) (b) and 368
(I) (3) of this section, any person, health care professional, 369
hospital, institution, school, health department, or agency 370
shall be immune from any civil or criminal liability for injury, 371
death, or loss to person or property that otherwise might be 372
incurred or imposed as a result of any of the following: 373

(i) Participating in the making of reports pursuant to 374
division (A) of this section or in the making of reports in good 375
faith, pursuant to division (B) of this section; 376

(ii) Participating in medical examinations, tests, or 377
procedures under division (D) of this section; 378

(iii) Providing information used in a report made pursuant 379

to division (A) of this section or providing information in good 380
faith used in a report made pursuant to division (B) of this 381
section; 382

(iv) Participating in a judicial proceeding resulting from 383
a report made pursuant to division (A) of this section or 384
participating in good faith in a proceeding resulting from a 385
report made pursuant to division (B) of this section. 386

(b) Immunity under division (H) (1) (a) (ii) of this section 387
shall not apply when a health care provider has deviated from 388
the standard of care applicable to the provider's profession. 389

(c) Notwithstanding section 4731.22 of the Revised Code, 390
the physician-patient privilege shall not be a ground for 391
excluding evidence regarding a child's injuries, abuse, or 392
neglect, or the cause of the injuries, abuse, or neglect in any 393
judicial proceeding resulting from a report submitted pursuant 394
to this section. 395

(2) In any civil or criminal action or proceeding in which 396
it is alleged and proved that participation in the making of a 397
report under this section was not in good faith or participation 398
in a judicial proceeding resulting from a report made under this 399
section was not in good faith, the court shall award the 400
prevailing party reasonable attorney's fees and costs and, if a 401
civil action or proceeding is voluntarily dismissed, may award 402
reasonable attorney's fees and costs to the party against whom 403
the civil action or proceeding is brought. 404

(I) (1) Except as provided in divisions (I) (4) and (O) of 405
this section, a report made under this section is confidential. 406
The information provided in a report made pursuant to this 407
section and the name of the person who made the report shall not 408

be released for use, and shall not be used, as evidence in any 409
civil action or proceeding brought against the person who made 410
the report. Nothing in this division shall preclude the use of 411
reports of other incidents of known or suspected abuse or 412
neglect in a civil action or proceeding brought pursuant to 413
division (N) of this section against a person who is alleged to 414
have violated division (A)(1) of this section, provided that any 415
information in a report that would identify the child who is the 416
subject of the report or the maker of the report, if the maker 417
of the report is not the defendant or an agent or employee of 418
the defendant, has been redacted. In a criminal proceeding, the 419
report is admissible in evidence in accordance with the Rules of 420
Evidence and is subject to discovery in accordance with the 421
Rules of Criminal Procedure. 422

(2)(a) Except as provided in division (I)(2)(b) of this 423
section, no person shall permit or encourage the unauthorized 424
dissemination of the contents of any report made under this 425
section. 426

(b) A health care professional that obtains the same 427
information contained in a report made under this section from a 428
source other than the report may disseminate the information, if 429
its dissemination is otherwise permitted by law. 430

(3) A person who knowingly makes or causes another person 431
to make a false report under division (B) of this section that 432
alleges that any person has committed an act or omission that 433
resulted in a child being an abused child or a neglected child 434
is guilty of a violation of section 2921.14 of the Revised Code. 435

(4) If a report is made pursuant to division (A) or (B) of 436
this section and the child who is the subject of the report dies 437
for any reason at any time after the report is made, but before 438

the child attains eighteen years of age, the public children 439
services agency or municipal or county peace officer to which 440
the report was made or referred, on the request of the child 441
fatality review board or the director of health pursuant to 442
guidelines established under section 3701.70 of the Revised 443
Code, shall submit a summary sheet of information providing a 444
summary of the report to the review board of the county in which 445
the deceased child resided at the time of death or to the 446
director. On the request of the review board or director, the 447
agency or peace officer may, at its discretion, make the report 448
available to the review board or director. If the county served 449
by the public children services agency is also served by a 450
children's advocacy center and the report of alleged sexual 451
abuse of a child or another type of abuse of a child is 452
specified in the memorandum of understanding that creates the 453
center as being within the center's jurisdiction, the agency or 454
center shall perform the duties and functions specified in this 455
division in accordance with the interagency agreement entered 456
into under section 2151.428 of the Revised Code relative to that 457
advocacy center. 458

(5) A public children services agency shall advise a 459
person alleged to have inflicted abuse or neglect on a child who 460
is the subject of a report made pursuant to this section, 461
including a report alleging sexual abuse of a child or another 462
type of abuse of a child referred to a children's advocacy 463
center pursuant to an interagency agreement entered into under 464
section 2151.428 of the Revised Code, in writing of the 465
disposition of the investigation. The agency shall not provide 466
to the person any information that identifies the person who 467
made the report, statements of witnesses, or police or other 468
investigative reports. 469

(J) Any report that is required by this section, other 470
than a report that is made to the state highway patrol as 471
described in section 5120.173 of the Revised Code, shall result 472
in protective services and emergency supportive services being 473
made available by the public children services agency on behalf 474
of the children about whom the report is made, in an effort to 475
prevent further neglect or abuse, to enhance their welfare, and, 476
whenever possible, to preserve the family unit intact. The 477
agency required to provide the services shall be the agency 478
conducting the investigation of the report pursuant to section 479
2151.422 of the Revised Code. 480

(K) (1) Each public children services agency shall prepare 481
a memorandum of understanding that is signed by all of the 482
following: 483

(a) If there is only one juvenile judge in the county, the 484
juvenile judge of the county or the juvenile judge's 485
representative; 486

(b) If there is more than one juvenile judge in the 487
county, a juvenile judge or the juvenile judges' representative 488
selected by the juvenile judges or, if they are unable to do so 489
for any reason, the juvenile judge who is senior in point of 490
service or the senior juvenile judge's representative; 491

(c) The county peace officer; 492

(d) All chief municipal peace officers within the county; 493

(e) Other law enforcement officers handling child abuse 494
and neglect cases in the county; 495

(f) The prosecuting attorney of the county; 496

(g) If the public children services agency is not the 497

county department of job and family services, the county 498
department of job and family services; 499

(h) The county humane society; 500

(i) If the public children services agency participated in 501
the execution of a memorandum of understanding under section 502
2151.426 of the Revised Code establishing a children's advocacy 503
center, each participating member of the children's advocacy 504
center established by the memorandum. 505

(2) A memorandum of understanding shall set forth the 506
normal operating procedure to be employed by all concerned 507
officials in the execution of their respective responsibilities 508
under this section and division (C) of section 2919.21, division 509
(B) (1) of section 2919.22, division (B) of section 2919.23, and 510
section 2919.24 of the Revised Code and shall have as two of its 511
primary goals the elimination of all unnecessary interviews of 512
children who are the subject of reports made pursuant to 513
division (A) or (B) of this section and, when feasible, 514
providing for only one interview of a child who is the subject 515
of any report made pursuant to division (A) or (B) of this 516
section. A failure to follow the procedure set forth in the 517
memorandum by the concerned officials is not grounds for, and 518
shall not result in, the dismissal of any charges or complaint 519
arising from any reported case of abuse or neglect or the 520
suppression of any evidence obtained as a result of any reported 521
child abuse or child neglect and does not give, and shall not be 522
construed as giving, any rights or any grounds for appeal or 523
post-conviction relief to any person. 524

(3) A memorandum of understanding shall include all of the 525
following: 526

(a) The roles and responsibilities for handling emergency 527
and nonemergency cases of abuse and neglect; 528

(b) Standards and procedures to be used in handling and 529
coordinating investigations of reported cases of child abuse and 530
reported cases of child neglect, methods to be used in 531
interviewing the child who is the subject of the report and who 532
allegedly was abused or neglected, and standards and procedures 533
addressing the categories of persons who may interview the child 534
who is the subject of the report and who allegedly was abused or 535
neglected. 536

(4) If a public children services agency participated in 537
the execution of a memorandum of understanding under section 538
2151.426 of the Revised Code establishing a children's advocacy 539
center, the agency shall incorporate the contents of that 540
memorandum in the memorandum prepared pursuant to this section. 541

(5) The clerk of the court of common pleas in the county 542
may sign the memorandum of understanding prepared under division 543
(K) (1) of this section. If the clerk signs the memorandum of 544
understanding, the clerk shall execute all relevant 545
responsibilities as required of officials specified in the 546
memorandum. 547

(L) (1) Except as provided in division (L) (4) or (5) of 548
this section, a person who is required to make a report pursuant 549
to division (A) of this section may make a reasonable number of 550
requests of the public children services agency that receives or 551
is referred the report, or of the children's advocacy center 552
that is referred the report if the report is referred to a 553
children's advocacy center pursuant to an interagency agreement 554
entered into under section 2151.428 of the Revised Code, to be 555
provided with the following information: 556

(a) Whether the agency or center has initiated an investigation of the report; 557
558

(b) Whether the agency or center is continuing to investigate the report; 559
560

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report; 561
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(d) The general status of the health and safety of the child who is the subject of the report; 563
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(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court. 565
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(2) A person may request the information specified in division (L)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report. 568
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When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (L)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report. 572
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Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (L)(1) of this section a 582
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585

reasonable number of times, except that the agency shall not 586
disclose any confidential information regarding the child who is 587
the subject of the report other than the information described 588
in those divisions. 589

(3) A request made pursuant to division (L)(1) of this 590
section is not a substitute for any report required to be made 591
pursuant to division (A) of this section. 592

(4) If an agency other than the agency that received or 593
was referred the report is conducting the investigation of the 594
report pursuant to section 2151.422 of the Revised Code, the 595
agency conducting the investigation shall comply with the 596
requirements of division (L) of this section. 597

(5) A health care professional who made a report under 598
division (A) of this section, or on whose behalf such a report 599
was made as provided in division (A)(1)(c) of this section, may 600
authorize a person to obtain the information described in 601
division (L)(1) of this section if the person requesting the 602
information is associated with or acting on behalf of the health 603
care professional who provided health care services to the child 604
about whom the report was made. 605

(M) The director of job and family services shall adopt 606
rules in accordance with Chapter 119. of the Revised Code to 607
implement this section. The department of job and family 608
services may enter into a plan of cooperation with any other 609
governmental entity to aid in ensuring that children are 610
protected from abuse and neglect. The department shall make 611
recommendations to the attorney general that the department 612
determines are necessary to protect children from child abuse 613
and child neglect. 614

(N) Whoever violates division (A) of this section is 615
liable for compensatory and exemplary damages to the child who 616
would have been the subject of the report that was not made. A 617
person who brings a civil action or proceeding pursuant to this 618
division against a person who is alleged to have violated 619
division (A)(1) of this section may use in the action or 620
proceeding reports of other incidents of known or suspected 621
abuse or neglect, provided that any information in a report that 622
would identify the child who is the subject of the report or the 623
maker of the report, if the maker is not the defendant or an 624
agent or employee of the defendant, has been redacted. 625

(O)(1) As used in this division: 626

(a) "Out-of-home care" includes a nonchartered nonpublic 627
school if the alleged child abuse or child neglect, or alleged 628
threat of child abuse or child neglect, described in a report 629
received by a public children services agency allegedly occurred 630
in or involved the nonchartered nonpublic school and the alleged 631
perpetrator named in the report holds a certificate, permit, or 632
license issued by the state board of education under section 633
3301.071 or Chapter 3319. of the Revised Code. 634

(b) "Administrator, director, or other chief 635
administrative officer" means the superintendent of the school 636
district if the out-of-home care entity subject to a report made 637
pursuant to this section is a school operated by the district. 638

(2) No later than the end of the day following the day on 639
which a public children services agency receives a report of 640
alleged child abuse or child neglect, or a report of an alleged 641
threat of child abuse or child neglect, that allegedly occurred 642
in or involved an out-of-home care entity, the agency shall 643
provide written notice of the allegations contained in and the 644

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

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

(P) As used in this section:

(1) "Children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the

Revised Code. 675

(2) "Health care professional" means an individual who 676
provides health-related services including a physician, hospital 677
intern or resident, dentist, podiatrist, registered nurse, 678
licensed practical nurse, visiting nurse, licensed psychologist, 679
speech pathologist, audiologist, person engaged in social work 680
or the practice of professional counseling, and employee of a 681
home health agency. "Health care professional" does not include 682
a practitioner of a limited branch of medicine as specified in 683
section 4731.15 of the Revised Code, licensed school 684
psychologist, independent marriage and family therapist or 685
marriage and family therapist, or coroner. 686

(3) "Investigation" means the public children services 687
agency's response to an accepted report of child abuse or 688
neglect through either an alternative response or a traditional 689
response. 690

Sec. 2317.02. The following persons shall not testify in 691
certain respects: 692

(A) (1) An attorney, concerning a communication made to the 693
attorney by a client in that relation or concerning the 694
attorney's advice to a client, except that the attorney may 695
testify by express consent of the client or, if the client is 696
deceased, by the express consent of the surviving spouse or the 697
executor or administrator of the estate of the deceased client. 698
However, if the client voluntarily reveals the substance of 699
attorney-client communications in a nonprivileged context or is 700
deemed by section 2151.421 of the Revised Code to have waived 701
any testimonial privilege under this division, the attorney may 702
be compelled to testify on the same subject. 703

The testimonial privilege established under this division 704
does not apply concerning either of the following: 705

(a) A communication between a client in a capital case, as 706
defined in section 2901.02 of the Revised Code, and the client's 707
attorney if the communication is relevant to a subsequent 708
ineffective assistance of counsel claim by the client alleging 709
that the attorney did not effectively represent the client in 710
the case; 711

(b) A communication between a client who has since died 712
and the deceased client's attorney if the communication is 713
relevant to a dispute between parties who claim through that 714
deceased client, regardless of whether the claims are by testate 715
or intestate succession or by inter vivos transaction, and the 716
dispute addresses the competency of the deceased client when the 717
deceased client executed a document that is the basis of the 718
dispute or whether the deceased client was a victim of fraud, 719
undue influence, or duress when the deceased client executed a 720
document that is the basis of the dispute. 721

(2) An attorney, concerning a communication made to the 722
attorney by a client in that relationship or the attorney's 723
advice to a client, except that if the client is an insurance 724
company, the attorney may be compelled to testify, subject to an 725
in camera inspection by a court, about communications made by 726
the client to the attorney or by the attorney to the client that 727
are related to the attorney's aiding or furthering an ongoing or 728
future commission of bad faith by the client, if the party 729
seeking disclosure of the communications has made a prima-facie 730
showing of bad faith, fraud, or criminal misconduct by the 731
client. 732

(B) (1) A physician, advanced practice registered nurse, or 733

dentist concerning a communication made to the physician, 734
advanced practice registered nurse, or dentist by a patient in 735
that relation or the advice of a physician, advanced practice 736
registered nurse, or dentist given to a patient, except as 737
otherwise provided in this division, division (B)(2), and 738
division (B)(3) of this section, and except that, if the patient 739
is deemed by section 2151.421 of the Revised Code to have waived 740
any testimonial privilege under this division, the physician or 741
advanced practice registered nurse may be compelled to testify 742
on the same subject. 743

The testimonial privilege established under this division 744
does not apply, and a physician, advanced practice registered 745
nurse, or dentist may testify or may be compelled to testify, in 746
any of the following circumstances: 747

(a) In any civil action, in accordance with the discovery 748
provisions of the Rules of Civil Procedure in connection with a 749
civil action, or in connection with a claim under Chapter 4123. 750
of the Revised Code, under any of the following circumstances: 751

(i) If the patient or the guardian or other legal 752
representative of the patient gives express consent; 753

(ii) If the patient is deceased, the spouse of the patient 754
or the executor or administrator of the patient's estate gives 755
express consent; 756

(iii) If a medical claim, dental claim, chiropractic 757
claim, or optometric claim, as defined in section 2305.113 of 758
the Revised Code, an action for wrongful death, any other type 759
of civil action, or a claim under Chapter 4123. of the Revised 760
Code is filed by the patient, the personal representative of the 761
estate of the patient if deceased, or the patient's guardian or 762

other legal representative. 763

(b) In any civil action concerning court-ordered treatment 764
or services received by a patient, if the court-ordered 765
treatment or services were ordered as part of a case plan 766
journalized under section 2151.412 of the Revised Code or the 767
court-ordered treatment or services are necessary or relevant to 768
dependency, neglect, or abuse or temporary or permanent custody 769
proceedings under Chapter 2151. of the Revised Code. 770

(c) In any criminal action concerning any test or the 771
results of any test that determines the presence or 772
concentration of alcohol, a drug of abuse, a combination of 773
them, a controlled substance, or a metabolite of a controlled 774
substance in the patient's whole blood, blood serum or plasma, 775
breath, urine, or other bodily substance at any time relevant to 776
the criminal offense in question. 777

(d) In any criminal action against a physician, advanced 778
practice registered nurse, or dentist. In such an action, the 779
testimonial privilege established under this division does not 780
prohibit the admission into evidence, in accordance with the 781
Rules of Evidence, of a patient's medical or dental records or 782
other communications between a patient and the physician, 783
advanced practice registered nurse, or dentist that are related 784
to the action and obtained by subpoena, search warrant, or other 785
lawful means. A court that permits or compels a physician, 786
advanced practice registered nurse, or dentist to testify in 787
such an action or permits the introduction into evidence of 788
patient records or other communications in such an action shall 789
require that appropriate measures be taken to ensure that the 790
confidentiality of any patient named or otherwise identified in 791
the records is maintained. Measures to ensure confidentiality 792

that may be taken by the court include sealing its records or 793
deleting specific information from its records. 794

(e) (i) If the communication was between a patient who has 795
since died and the deceased patient's physician, advanced 796
practice registered nurse, or dentist, the communication is 797
relevant to a dispute between parties who claim through that 798
deceased patient, regardless of whether the claims are by 799
testate or intestate succession or by inter vivos transaction, 800
and the dispute addresses the competency of the deceased patient 801
when the deceased patient executed a document that is the basis 802
of the dispute or whether the deceased patient was a victim of 803
fraud, undue influence, or duress when the deceased patient 804
executed a document that is the basis of the dispute. 805

(ii) If neither the spouse of a patient nor the executor 806
or administrator of that patient's estate gives consent under 807
division (B) (1) (a) (ii) of this section, testimony or the 808
disclosure of the patient's medical records by a physician, 809
advanced practice registered nurse, dentist, or other health 810
care provider under division (B) (1) (e) (i) of this section is a 811
permitted use or disclosure of protected health information, as 812
defined in 45 C.F.R. 160.103, and an authorization or 813
opportunity to be heard shall not be required. 814

(iii) Division (B) (1) (e) (i) of this section does not 815
require a mental health professional to disclose psychotherapy 816
notes, as defined in 45 C.F.R. 164.501. 817

(iv) An interested person who objects to testimony or 818
disclosure under division (B) (1) (e) (i) of this section may seek 819
a protective order pursuant to Civil Rule 26. 820

(v) A person to whom protected health information is 821

disclosed under division (B) (1) (e) (i) of this section shall not 822
use or disclose the protected health information for any purpose 823
other than the litigation or proceeding for which the 824
information was requested and shall return the protected health 825
information to the covered entity or destroy the protected 826
health information, including all copies made, at the conclusion 827
of the litigation or proceeding. 828

(2) (a) If any law enforcement officer submits a written 829
statement to a health care provider that states that an official 830
criminal investigation has begun regarding a specified person or 831
that a criminal action or proceeding has been commenced against 832
a specified person, that requests the provider to supply to the 833
officer copies of any records the provider possesses that 834
pertain to any test or the results of any test administered to 835
the specified person to determine the presence or concentration 836
of alcohol, a drug of abuse, a combination of them, a controlled 837
substance, or a metabolite of a controlled substance in the 838
person's whole blood, blood serum or plasma, breath, or urine at 839
any time relevant to the criminal offense in question, and that 840
conforms to section 2317.022 of the Revised Code, the provider, 841
except to the extent specifically prohibited by any law of this 842
state or of the United States, shall supply to the officer a 843
copy of any of the requested records the provider possesses. If 844
the health care provider does not possess any of the requested 845
records, the provider shall give the officer a written statement 846
that indicates that the provider does not possess any of the 847
requested records. 848

(b) If a health care provider possesses any records of the 849
type described in division (B) (2) (a) of this section regarding 850
the person in question at any time relevant to the criminal 851
offense in question, in lieu of personally testifying as to the 852

results of the test in question, the custodian of the records 853
may submit a certified copy of the records, and, upon its 854
submission, the certified copy is qualified as authentic 855
evidence and may be admitted as evidence in accordance with the 856
Rules of Evidence. Division (A) of section 2317.422 of the 857
Revised Code does not apply to any certified copy of records 858
submitted in accordance with this division. Nothing in this 859
division shall be construed to limit the right of any party to 860
call as a witness the person who administered the test to which 861
the records pertain, the person under whose supervision the test 862
was administered, the custodian of the records, the person who 863
made the records, or the person under whose supervision the 864
records were made. 865

(3) (a) If the testimonial privilege described in division 866
(B) (1) of this section does not apply as provided in division 867
(B) (1) (a) (iii) of this section, a physician, advanced practice 868
registered nurse, or dentist may be compelled to testify or to 869
submit to discovery under the Rules of Civil Procedure only as 870
to a communication made to the physician, advanced practice 871
registered nurse, or dentist by the patient in question in that 872
relation, or the advice of the physician, advanced practice 873
registered nurse, or dentist given to the patient in question, 874
that related causally or historically to physical or mental 875
injuries that are relevant to issues in the medical claim, 876
dental claim, chiropractic claim, or optometric claim, action 877
for wrongful death, other civil action, or claim under Chapter 878
4123. of the Revised Code. 879

(b) If the testimonial privilege described in division (B) 880
(1) of this section does not apply to a physician, advanced 881
practice registered nurse, or dentist as provided in division 882
(B) (1) (c) of this section, the physician, advanced practice 883

registered nurse, or dentist, in lieu of personally testifying 884
as to the results of the test in question, may submit a 885
certified copy of those results, and, upon its submission, the 886
certified copy is qualified as authentic evidence and may be 887
admitted as evidence in accordance with the Rules of Evidence. 888
Division (A) of section 2317.422 of the Revised Code does not 889
apply to any certified copy of results submitted in accordance 890
with this division. Nothing in this division shall be construed 891
to limit the right of any party to call as a witness the person 892
who administered the test in question, the person under whose 893
supervision the test was administered, the custodian of the 894
results of the test, the person who compiled the results, or the 895
person under whose supervision the results were compiled. 896

(4) The testimonial privilege described in division (B)(1) 897
of this section is not waived when a communication is made by a 898
physician or advanced practice registered nurse to a pharmacist 899
or when there is communication between a patient and a 900
pharmacist in furtherance of the physician-patient or advanced 901
practice registered nurse-patient relation. 902

(5) (a) As used in divisions (B)(1) to (4) of this section, 903
"communication" means acquiring, recording, or transmitting any 904
information, in any manner, concerning any facts, opinions, or 905
statements necessary to enable a physician, advanced practice 906
registered nurse, or dentist to diagnose, treat, prescribe, or 907
act for a patient. A "communication" may include, but is not 908
limited to, any medical or dental, office, or hospital 909
communication such as a record, chart, letter, memorandum, 910
laboratory test and results, x-ray, photograph, financial 911
statement, diagnosis, or prognosis. 912

(b) As used in division (B)(2) of this section, "health 913

care provider" means a hospital, ambulatory care facility, long- 914
term care facility, pharmacy, emergency facility, or health care 915
practitioner. 916

(c) As used in division (B) (5) (b) of this section: 917

(i) "Ambulatory care facility" means a facility that 918
provides medical, diagnostic, or surgical treatment to patients 919
who do not require hospitalization, including a dialysis center, 920
ambulatory surgical facility, cardiac catheterization facility, 921
diagnostic imaging center, extracorporeal shock wave lithotripsy 922
center, home health agency, inpatient hospice, birthing center, 923
radiation therapy center, emergency facility, and an urgent care 924
center. "Ambulatory health care facility" does not include the 925
private office of a physician, advanced practice registered 926
nurse, or dentist, whether the office is for an individual or 927
group practice. 928

(ii) "Emergency facility" means a hospital emergency 929
department or any other facility that provides emergency medical 930
services. 931

(iii) "Health care practitioner" has the same meaning as 932
in section 4769.01 of the Revised Code. 933

(iv) "Hospital" has the same meaning as in section 3727.01 934
of the Revised Code. 935

(v) "Long-term care facility" means a nursing home, 936
residential care facility, or home for the aging, as those terms 937
are defined in section 3721.01 of the Revised Code; a 938
residential facility licensed under section 5119.34 of the 939
Revised Code that provides accommodations, supervision, and 940
personal care services for three to sixteen unrelated adults; a 941
nursing facility, as defined in section 5165.01 of the Revised 942

Code; a skilled nursing facility, as defined in section 5165.01 943
of the Revised Code; and an intermediate care facility for 944
individuals with intellectual disabilities, as defined in 945
section 5124.01 of the Revised Code. 946

(vi) "Pharmacy" has the same meaning as in section 4729.01 947
of the Revised Code. 948

(d) As used in divisions (B)(1) and (2) of this section, 949
"drug of abuse" has the same meaning as in section 4506.01 of 950
the Revised Code. 951

(6) Divisions (B)(1), (2), (3), (4), and (5) of this 952
section apply to doctors of medicine, doctors of osteopathic 953
medicine, doctors of podiatry, advanced practice registered 954
nurses, and dentists. 955

(7) Nothing in divisions (B)(1) to (6) of this section 956
affects, or shall be construed as affecting, the immunity from 957
civil liability conferred by section 307.628 of the Revised Code 958
or the immunity from civil liability conferred by section 959
2305.33 of the Revised Code upon physicians or advanced practice 960
registered nurses who report an employee's use of a drug of 961
abuse, or a condition of an employee other than one involving 962
the use of a drug of abuse, to the employer of the employee in 963
accordance with division (B) of that section. As used in 964
division (B)(7) of this section, "employee," "employer," and 965
"physician" have the same meanings as in section 2305.33 of the 966
Revised Code and "advanced practice registered nurse" has the 967
same meaning as in section 4723.01 of the Revised Code. 968

(C)(1) A cleric, when the cleric remains accountable to 969
the authority of that cleric's church, denomination, or sect, 970
concerning a confession made, or any information confidentially 971

communicated, to the cleric for a religious counseling purpose 972
in the cleric's professional character. The cleric may testify 973
by express consent of the person making the communication, 974
except when the disclosure of the information is in violation of 975
a sacred trust and except that, if the person voluntarily 976
testifies or is deemed by division (A) (4) (c) of section 2151.421 977
of the Revised Code to have waived any testimonial privilege 978
under this division, the cleric may be compelled to testify on 979
the same subject except when disclosure of the information is in 980
violation of a sacred trust. 981

(2) As used in division (C) of this section: 982

(a) "Cleric" means a member of the clergy, rabbi, priest, 983
Christian Science practitioner, or regularly ordained, 984
accredited, or licensed minister of an established and legally 985
cognizable church, denomination, or sect. 986

(b) "Sacred trust" means a confession or confidential 987
communication made to a cleric in the cleric's ecclesiastical 988
capacity in the course of discipline enjoined by the church to 989
which the cleric belongs, including, but not limited to, the 990
Catholic Church, if both of the following apply: 991

(i) The confession or confidential communication was made 992
directly to the cleric. 993

(ii) The confession or confidential communication was made 994
in the manner and context that places the cleric specifically 995
and strictly under a level of confidentiality that is considered 996
inviolable by canon law or church doctrine. 997

(D) Husband or wife, concerning any communication made by 998
one to the other, or an act done by either in the presence of 999
the other, during coverture, unless the communication was made, 1000

or act done, in the known presence or hearing of a third person 1001
competent to be a witness; and such rule is the same if the 1002
marital relation has ceased to exist; 1003

(E) A person who assigns a claim or interest, concerning 1004
any matter in respect to which the person would not, if a party, 1005
be permitted to testify; 1006

(F) A person who, if a party, would be restricted under 1007
section 2317.03 of the Revised Code, when the property or thing 1008
is sold or transferred by an executor, administrator, guardian, 1009
trustee, heir, devisee, or legatee, shall be restricted in the 1010
same manner in any action or proceeding concerning the property 1011
or thing. 1012

(G) (1) A school guidance counselor who holds a valid 1013
educator license from the state board of education as provided 1014
for in section 3319.22 of the Revised Code, a person licensed 1015
under Chapter 4757. of the Revised Code as a licensed 1016
professional clinical counselor, licensed professional 1017
counselor, social worker, independent social worker, marriage 1018
and family therapist or independent marriage and family 1019
therapist, or registered under Chapter 4757. of the Revised Code 1020
as a social work assistant concerning a confidential 1021
communication received from a client in that relation or the 1022
person's advice to a client unless any of the following applies: 1023

(a) The communication or advice indicates clear and 1024
present danger to the client or other persons. For the purposes 1025
of this division, cases in which there are indications of 1026
present or past child abuse or neglect of the client constitute 1027
a clear and present danger. 1028

(b) The client gives express consent to the testimony. 1029

(c) If the client is deceased, the surviving spouse or the 1030
executor or administrator of the estate of the deceased client 1031
gives express consent. 1032

(d) The client voluntarily testifies, in which case the 1033
school guidance counselor or person licensed or registered under 1034
Chapter 4757. of the Revised Code may be compelled to testify on 1035
the same subject. 1036

(e) The court in camera determines that the information 1037
communicated by the client is not germane to the counselor- 1038
client, marriage and family therapist-client, or social worker- 1039
client relationship. 1040

(f) A court, in an action brought against a school, its 1041
administration, or any of its personnel by the client, rules 1042
after an in-camera inspection that the testimony of the school 1043
guidance counselor is relevant to that action. 1044

(g) The testimony is sought in a civil action and concerns 1045
court-ordered treatment or services received by a patient as 1046
part of a case plan journalized under section 2151.412 of the 1047
Revised Code or the court-ordered treatment or services are 1048
necessary or relevant to dependency, neglect, or abuse or 1049
temporary or permanent custody proceedings under Chapter 2151. 1050
of the Revised Code. 1051

(2) Nothing in division (G)(1) of this section shall 1052
relieve a school guidance counselor or a person licensed or 1053
registered under Chapter 4757. of the Revised Code from the 1054
requirement to report information concerning child abuse or 1055
neglect under section 2151.421 of the Revised Code. 1056

(H) A mediator acting under a mediation order issued under 1057
division (A) of section 3109.052 of the Revised Code or 1058

otherwise issued in any proceeding for divorce, dissolution, 1059
legal separation, annulment, or the allocation of parental 1060
rights and responsibilities for the care of children, in any 1061
action or proceeding, other than a criminal, delinquency, child 1062
abuse, child neglect, or dependent child action or proceeding, 1063
that is brought by or against either parent who takes part in 1064
mediation in accordance with the order and that pertains to the 1065
mediation process, to any information discussed or presented in 1066
the mediation process, to the allocation of parental rights and 1067
responsibilities for the care of the parents' children, or to 1068
the awarding of parenting time rights in relation to their 1069
children; 1070

(I) A communications assistant, acting within the scope of 1071
the communication assistant's authority, when providing 1072
telecommunications relay service pursuant to section 4931.06 of 1073
the Revised Code or Title II of the "Communications Act of 1074
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 1075
communication made through a telecommunications relay service. 1076
Nothing in this section shall limit the obligation of a 1077
communications assistant to divulge information or testify when 1078
mandated by federal law or regulation or pursuant to subpoena in 1079
a criminal proceeding. 1080

Nothing in this section shall limit any immunity or 1081
privilege granted under federal law or regulation. 1082

(J) (1) A chiropractor in a civil proceeding concerning a 1083
communication made to the chiropractor by a patient in that 1084
relation or the chiropractor's advice to a patient, except as 1085
otherwise provided in this division. The testimonial privilege 1086
established under this division does not apply, and a 1087
chiropractor may testify or may be compelled to testify, in any 1088

civil action, in accordance with the discovery provisions of the 1089
Rules of Civil Procedure in connection with a civil action, or 1090
in connection with a claim under Chapter 4123. of the Revised 1091
Code, under any of the following circumstances: 1092

(a) If the patient or the guardian or other legal 1093
representative of the patient gives express consent. 1094

(b) If the patient is deceased, the spouse of the patient 1095
or the executor or administrator of the patient's estate gives 1096
express consent. 1097

(c) If a medical claim, dental claim, chiropractic claim, 1098
or optometric claim, as defined in section 2305.113 of the 1099
Revised Code, an action for wrongful death, any other type of 1100
civil action, or a claim under Chapter 4123. of the Revised Code 1101
is filed by the patient, the personal representative of the 1102
estate of the patient if deceased, or the patient's guardian or 1103
other legal representative. 1104

(2) If the testimonial privilege described in division (J) 1105
(1) of this section does not apply as provided in division (J) 1106
(1)(c) of this section, a chiropractor may be compelled to 1107
testify or to submit to discovery under the Rules of Civil 1108
Procedure only as to a communication made to the chiropractor by 1109
the patient in question in that relation, or the chiropractor's 1110
advice to the patient in question, that related causally or 1111
historically to physical or mental injuries that are relevant to 1112
issues in the medical claim, dental claim, chiropractic claim, 1113
or optometric claim, action for wrongful death, other civil 1114
action, or claim under Chapter 4123. of the Revised Code. 1115

(3) The testimonial privilege established under this 1116
division does not apply, and a chiropractor may testify or be 1117

compelled to testify, in any criminal action or administrative proceeding. 1118
1119

(4) As used in this division, "communication" means 1120
acquiring, recording, or transmitting any information, in any 1121
manner, concerning any facts, opinions, or statements necessary 1122
to enable a chiropractor to diagnose, treat, or act for a 1123
patient. A communication may include, but is not limited to, any 1124
chiropractic, office, or hospital communication such as a 1125
record, chart, letter, memorandum, laboratory test and results, 1126
x-ray, photograph, financial statement, diagnosis, or prognosis. 1127

(K) (1) Except as provided under division (K) (2) of this 1128
section, a critical incident stress management team member 1129
concerning a communication received from an individual who 1130
receives crisis response services from the team member, or the 1131
team member's advice to the individual, during a debriefing 1132
session. 1133

(2) The testimonial privilege established under division 1134
(K) (1) of this section does not apply if any of the following 1135
are true: 1136

(a) The communication or advice indicates clear and 1137
present danger to the individual who receives crisis response 1138
services or to other persons. For purposes of this division, 1139
cases in which there are indications of present or past child 1140
abuse or neglect of the individual constitute a clear and 1141
present danger. 1142

(b) The individual who received crisis response services 1143
gives express consent to the testimony. 1144

(c) If the individual who received crisis response 1145
services is deceased, the surviving spouse or the executor or 1146

administrator of the estate of the deceased individual gives 1147
express consent. 1148

(d) The individual who received crisis response services 1149
voluntarily testifies, in which case the team member may be 1150
compelled to testify on the same subject. 1151

(e) The court in camera determines that the information 1152
communicated by the individual who received crisis response 1153
services is not germane to the relationship between the 1154
individual and the team member. 1155

(f) The communication or advice pertains or is related to 1156
any criminal act. 1157

(3) As used in division (K) of this section: 1158

(a) "Crisis response services" means consultation, risk 1159
assessment, referral, and on-site crisis intervention services 1160
provided by a critical incident stress management team to 1161
individuals affected by crisis or disaster. 1162

(b) "Critical incident stress management team member" or 1163
"team member" means an individual specially trained to provide 1164
crisis response services as a member of an organized community 1165
or local crisis response team that holds membership in the Ohio 1166
critical incident stress management network. 1167

(c) "Debriefing session" means a session at which crisis 1168
response services are rendered by a critical incident stress 1169
management team member during or after a crisis or disaster. 1170

(L) (1) Subject to division (L) (2) of this section and 1171
except as provided in division (L) (3) of this section, an 1172
employee assistance professional, concerning a communication 1173
made to the employee assistance professional by a client in the 1174

employee assistance professional's official capacity as an 1175
employee assistance professional. 1176

(2) Division (L)(1) of this section applies to an employee 1177
assistance professional who meets either or both of the 1178
following requirements: 1179

(a) Is certified by the employee assistance certification 1180
commission to engage in the employee assistance profession; 1181

(b) Has education, training, and experience in all of the 1182
following: 1183

(i) Providing workplace-based services designed to address 1184
employer and employee productivity issues; 1185

(ii) Providing assistance to employees and employees' 1186
dependents in identifying and finding the means to resolve 1187
personal problems that affect the employees or the employees' 1188
performance; 1189

(iii) Identifying and resolving productivity problems 1190
associated with an employee's concerns about any of the 1191
following matters: health, marriage, family, finances, substance 1192
abuse or other addiction, workplace, law, and emotional issues; 1193

(iv) Selecting and evaluating available community 1194
resources; 1195

(v) Making appropriate referrals; 1196

(vi) Local and national employee assistance agreements; 1197

(vii) Client confidentiality. 1198

(3) Division (L)(1) of this section does not apply to any 1199
of the following: 1200

(a) A criminal action or proceeding involving an offense 1201

under sections 2903.01 to 2903.06 of the Revised Code if the 1202
employee assistance professional's disclosure or testimony 1203
relates directly to the facts or immediate circumstances of the 1204
offense; 1205

(b) A communication made by a client to an employee 1206
assistance professional that reveals the contemplation or 1207
commission of a crime or serious, harmful act; 1208

(c) A communication that is made by a client who is an 1209
unemancipated minor or an adult adjudicated to be incompetent 1210
and indicates that the client was the victim of a crime or 1211
abuse; 1212

(d) A civil proceeding to determine an individual's mental 1213
competency or a criminal action in which a plea of not guilty by 1214
reason of insanity is entered; 1215

(e) A civil or criminal malpractice action brought against 1216
the employee assistance professional; 1217

(f) When the employee assistance professional has the 1218
express consent of the client or, if the client is deceased or 1219
disabled, the client's legal representative; 1220

(g) When the testimonial privilege otherwise provided by 1221
division (L) (1) of this section is abrogated under law. 1222

(M) (1) Subject to division (M) (2) of this section and 1223
except as provided in division (M) (3) of this section, a 1224
qualified advocate, in any civil, criminal, administrative, or 1225
education discipline proceeding, concerning either of the 1226
following: 1227

(a) A confidential communication made by a victim to a 1228
qualified advocate or by a qualified advocate to a victim in the 1229

course of safety planning, counseling, support, or advocacy 1230
services provided by the qualified advocate to the victim and 1231
related to the sexual violence, menacing by stalking, or 1232
domestic violence for which the victim sought those services; 1233

(b) A record created or maintained in the course of the 1234
qualified advocate providing safety planning, counseling, 1235
support, or advocacy services regarding the victim and related 1236
to the sexual violence, menacing by stalking, or domestic 1237
violence for which the victim sought those services. 1238

(2) If the victim voluntarily reveals the substance of any 1239
qualified advocate-victim communication in a nonprivileged 1240
context or is considered by division (A) (5) (b) of section 1241
2151.421 of the Revised Code to have waived any testimonial 1242
privilege under division (M) (1) of this section, the qualified 1243
advocate may be compelled to testify on the same subject in any 1244
proceeding described in division (M) (1) of this section. 1245

(3) The testimonial privilege established under division 1246
(M) (1) of this section does not apply concerning any of the 1247
following: 1248

(a) A confidential communication between a qualified 1249
advocate and a victim in a civil, criminal, administrative, or 1250
education discipline action or proceeding brought against the 1251
qualified advocate or the qualified victim services program of 1252
which the qualified advocate is an employee or volunteer by the 1253
victim or by any other person in relation to the safety 1254
planning, counseling, support, or advocacy services provided to 1255
the victim, if the confidential communication is relevant to the 1256
defense of the qualified advocate or qualified victim services 1257
program; 1258

(b) A disclosure of the confidential communication by the 1259
qualified advocate to another person if the disclosure is 1260
reasonably necessary to accomplish the purpose for which the 1261
qualified advocate is consulted by the victim; 1262

(c) A disclosure of aggregate, nonpersonally identifiable 1263
data. 1264

(4) As used in division (M) of this section: 1265

(a) "Aggregate, nonpersonally identifiable data" means all 1266
data from or through which the person to whom the data pertains 1267
cannot be identified. 1268

(b) "Confidential communication" means any written or oral 1269
communication that is intended for the purpose of furthering the 1270
interest of the victim in the course of safety planning, 1271
counseling, support, or advocacy services and is not intended 1272
for further disclosure to another person except any of the 1273
following: 1274

(i) Any person who is present at the time the 1275
communication is made and is present in order to further the 1276
interest of the victim in the course of seeking safety planning, 1277
counseling, support, or advocacy services; 1278

(ii) Any person who is reasonably necessary for the 1279
transmission of the communication; 1280

(iii) Any other persons in the context of group 1281
counseling. 1282

(c) "Domestic violence" means a violation of section 1283
2919.25 of the Revised Code or a violation of a substantively 1284
comparable ordinance of a municipal corporation. 1285

(d) "Qualified advocate" means any person to whom both of 1286

the following apply: 1287

(i) The person has completed at least forty hours of 1288
training in advocacy for victims of sexual violence, menacing by 1289
stalking, or domestic violence. 1290

(ii) The person is an employee or volunteer of a qualified 1291
victim services program. 1292

(e) "Qualified victim services program" means either of 1293
the following: 1294

(i) A nongovernmental, nonprofit, community-based program 1295
that receives moneys administered by the office of the Ohio 1296
attorney general or the United States department of justice; 1297
offers safety planning, counseling, support, or advocacy 1298
services to victims of sexual violence, menacing by stalking, or 1299
domestic violence; and adheres to the standards set forth by the 1300
federally recognized state sexual violence or state domestic 1301
violence coalitions; 1302

(ii) A rape crisis program. 1303

(f) "Rape crisis program" has the same meaning as in 1304
section 109.921 of the Revised Code. 1305

(g) "Sexual violence" means any of the following: 1306

(i) A violation of section 2907.02, 2907.03, 2907.04, 1307
2907.05, or former section 2907.12 of the Revised Code; 1308

(ii) A violation of an existing or former municipal 1309
ordinance or law of this state, any other state, or the United 1310
States that is or was substantially equivalent to any of the 1311
sections specified in division (M)(4)(g)(i) of this section. 1312

(h) "Menacing by stalking" means a violation of section 1313

2903.211 of the Revised Code or a violation of a substantively 1314
comparable ordinance of a municipal corporation. 1315

(i) "Victim" means a person who seeks safety planning, 1316
counseling, support, or advocacy services at a qualified victim 1317
services program if those services are related to sexual 1318
violence, menacing by stalking, or domestic violence against the 1319
person. 1320

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1321
of this section, no person, knowing that a felony has been or is 1322
being committed, shall knowingly fail to report such information 1323
to law enforcement authorities. 1324

(2) No person, knowing that a violation of division (B) of 1325
section 2913.04 of the Revised Code has been, or is being 1326
committed or that the person has received information derived 1327
from such a violation, shall knowingly fail to report the 1328
violation to law enforcement authorities. 1329

(B) Except for conditions that are within the scope of 1330
division (E) of this section, no person giving aid to a sick or 1331
injured person shall negligently fail to report to law 1332
enforcement authorities any gunshot or stab wound treated or 1333
observed by the person, or any serious physical harm to persons 1334
that the person knows or has reasonable cause to believe 1335
resulted from an offense of violence. 1336

(C) No person who discovers the body or acquires the first 1337
knowledge of the death of a person shall fail to report the 1338
death immediately to a physician or advanced practice registered 1339
nurse whom the person knows to be treating the deceased for a 1340
condition from which death at such time would not be unexpected, 1341
or to a law enforcement officer, an ambulance service, an 1342

emergency squad, or the coroner in a political subdivision in 1343
which the body is discovered, the death is believed to have 1344
occurred, or knowledge concerning the death is obtained. For 1345
purposes of this division, "advanced practice registered nurse" 1346
does not include a certified registered nurse anesthetist. 1347

(D) No person shall fail to provide upon request of the 1348
person to whom a report required by division (C) of this section 1349
was made, or to any law enforcement officer who has reasonable 1350
cause to assert the authority to investigate the circumstances 1351
surrounding the death, any facts within the person's knowledge 1352
that may have a bearing on the investigation of the death. 1353

(E) (1) As used in this division, "burn injury" means any 1354
of the following: 1355

(a) Second or third degree burns; 1356

(b) Any burns to the upper respiratory tract or laryngeal 1357
edema due to the inhalation of superheated air; 1358

(c) Any burn injury or wound that may result in death; 1359

(d) Any physical harm to persons caused by or as the 1360
result of the use of fireworks, novelties and trick noisemakers, 1361
and wire sparklers, as each is defined by section 3743.01 of the 1362
Revised Code. 1363

(2) No physician, nurse, physician assistant, or limited 1364
practitioner who, outside a hospital, sanitarium, or other 1365
medical facility, attends or treats a person who has sustained a 1366
burn injury that is inflicted by an explosion or other 1367
incendiary device or that shows evidence of having been 1368
inflicted in a violent, malicious, or criminal manner shall fail 1369
to report the burn injury immediately to the local arson, or 1370
fire and explosion investigation, bureau, if there is a bureau 1371

of this type in the jurisdiction in which the person is attended 1372
or treated, or otherwise to local law enforcement authorities. 1373

(3) No manager, superintendent, or other person in charge 1374
of a hospital, sanitarium, or other medical facility in which a 1375
person is attended or treated for any burn injury that is 1376
inflicted by an explosion or other incendiary device or that 1377
shows evidence of having been inflicted in a violent, malicious, 1378
or criminal manner shall fail to report the burn injury 1379
immediately to the local arson, or fire and explosion 1380
investigation, bureau, if there is a bureau of this type in the 1381
jurisdiction in which the person is attended or treated, or 1382
otherwise to local law enforcement authorities. 1383

(4) No person who is required to report any burn injury 1384
under division (E) (2) or (3) of this section shall fail to file, 1385
within three working days after attending or treating the 1386
victim, a written report of the burn injury with the office of 1387
the state fire marshal. The report shall comply with the uniform 1388
standard developed by the state fire marshal pursuant to 1389
division (A) (15) of section 3737.22 of the Revised Code. 1390

(5) Anyone participating in the making of reports under 1391
division (E) of this section or anyone participating in a 1392
judicial proceeding resulting from the reports is immune from 1393
any civil or criminal liability that otherwise might be incurred 1394
or imposed as a result of such actions. Notwithstanding section 1395
4731.22 of the Revised Code, the physician-patient relationship 1396
or advanced practice registered nurse-patient relationship is 1397
not a ground for excluding evidence regarding a person's burn 1398
injury or the cause of the burn injury in any judicial 1399
proceeding resulting from a report submitted under division (E) 1400
of this section. 1401

(F) (1) Any doctor of medicine or osteopathic medicine, 1402
hospital intern or resident, nurse, psychologist, social worker, 1403
independent social worker, social work assistant, licensed 1404
professional clinical counselor, licensed professional 1405
counselor, independent marriage and family therapist, or 1406
marriage and family therapist who knows or has reasonable cause 1407
to believe that a patient or client has been the victim of 1408
domestic violence, as defined in section 3113.31 of the Revised 1409
Code, shall note that knowledge or belief and the basis for it 1410
in the patient's or client's records. 1411

(2) Notwithstanding section 4731.22 of the Revised Code, 1412
the physician-patient privilege or advanced practice registered 1413
nurse-patient privilege shall not be a ground for excluding any 1414
information regarding the report containing the knowledge or 1415
belief noted under division (F) (1) of this section, and the 1416
information may be admitted as evidence in accordance with the 1417
Rules of Evidence. 1418

(G) Divisions (A) and (D) of this section do not require 1419
disclosure of information, when any of the following applies: 1420

(1) The information is privileged by reason of the 1421
relationship between attorney and client; physician and patient; 1422
advanced practice registered nurse and patient; licensed 1423
psychologist or licensed school psychologist and client; 1424
licensed professional clinical counselor, licensed professional 1425
counselor, independent social worker, social worker, independent 1426
marriage and family therapist, or marriage and family therapist 1427
and client; member of the clergy, rabbi, minister, or priest and 1428
any person communicating information confidentially to the 1429
member of the clergy, rabbi, minister, or priest for a religious 1430
counseling purpose of a professional character; husband and 1431

wife; ~~or~~ a communications assistant and those who are a party to 1432
a telecommunications relay service call; or a qualified advocate 1433
and a victim of sexual violence, menacing by stalking, or 1434
domestic violence. 1435

(2) The information would tend to incriminate a member of 1436
the actor's immediate family. 1437

(3) Disclosure of the information would amount to 1438
revealing a news source, privileged under section 2739.04 or 1439
2739.12 of the Revised Code. 1440

(4) Disclosure of the information would amount to 1441
disclosure by a member of the ordained clergy of an organized 1442
religious body of a confidential communication made to that 1443
member of the clergy in that member's capacity as a member of 1444
the clergy by a person seeking the aid or counsel of that member 1445
of the clergy. 1446

(5) Disclosure would amount to revealing information 1447
acquired by the actor in the course of the actor's duties in 1448
connection with a bona fide program of treatment or services for 1449
drug dependent persons or persons in danger of drug dependence, 1450
which program is maintained or conducted by a hospital, clinic, 1451
person, agency, or community addiction services provider whose 1452
alcohol and drug addiction services are certified pursuant to 1453
section 5119.36 of the Revised Code. 1454

(6) Disclosure would amount to revealing information 1455
acquired by the actor in the course of the actor's duties in 1456
connection with a bona fide program for providing counseling 1457
services to victims of crimes that are violations of section 1458
2907.02 or 2907.05 of the Revised Code or to victims of 1459
felonious sexual penetration in violation of former section 1460

2907.12 of the Revised Code. As used in this division, 1461
"counseling services" include services provided in an informal 1462
setting by a person who, by education or experience, is 1463
competent to provide those services. 1464

(7) (a) Disclosure would amount to revealing information 1465
acquired by the actor in the course of the actor's duties in a 1466
designated victim advocacy office, women's center, health 1467
center, or other program to which all of the following apply: 1468

(i) The office, center, or program provides safety 1469
planning, counseling, support, or advocacy services to victims 1470
of domestic violence, menacing by stalking, or sexual violence. 1471

(ii) The office, center, or program is located on the 1472
campus of, or is affiliated with, a two-year or four-year post- 1473
secondary educational institution in this state. 1474

(iii) The office, center, or program employs or otherwise 1475
engages one or more qualified advocates. 1476

(iv) The office, center, or program has a memorandum of 1477
understanding with a qualified victim services program. 1478

(b) As used in divisions (G) (1) and (7) of this section: 1479

(i) "Domestic violence," "menacing by stalking," 1480
"qualified victim services program," "sexual violence," and 1481
"victim" have the same meanings as in division (M) of section 1482
2317.02 of the Revised Code. 1483

(ii) "Qualified advocate" means any person who has 1484
completed at least forty hours of training in advocacy for 1485
victims of sexual violence, menacing by stalking, or domestic 1486
violence, and who is an employee or volunteer of a designated 1487
victim advocacy office, women's center, health center, or other 1488

program described in division (G) (7) (a) of this section. 1489

(H) No disclosure of information pursuant to this section 1490
gives rise to any liability or recrimination for a breach of 1491
privilege or confidence. 1492

(I) Whoever violates division (A) or (B) of this section 1493
is guilty of failure to report a crime. Violation of division 1494
(A) (1) of this section is a misdemeanor of the fourth degree. 1495
Violation of division (A) (2) or (B) of this section is a 1496
misdemeanor of the second degree. 1497

(J) Whoever violates division (C) or (D) of this section 1498
is guilty of failure to report knowledge of a death, a 1499
misdemeanor of the fourth degree. 1500

(K) (1) Whoever negligently violates division (E) of this 1501
section is guilty of a minor misdemeanor. 1502

(2) Whoever knowingly violates division (E) of this 1503
section is guilty of a misdemeanor of the second degree. 1504

(L) As used in this section, "nurse" includes an advanced 1505
practice registered nurse, registered nurse, and licensed 1506
practical nurse. 1507

Section 2. That existing sections 2151.421, 2317.02, and 1508
2921.22 of the Revised Code are hereby repealed. 1509

Section 3. Section 2151.421 of the Revised Code is 1510
presented in this act as a composite of the section as amended 1511
by both Sub. H.B. 158 and Am. Sub. H.B. 493 of the 131st General 1512
Assembly. The General Assembly, applying the principle stated in 1513
division (B) of section 1.52 of the Revised Code that amendments 1514
are to be harmonized if reasonably capable of simultaneous 1515
operation, finds that the composite is the resulting version of 1516

the section in effect prior to the effective date of the section 1517
as presented in this act. 1518

Section 2921.22 of the Revised Code is presented in this 1519
act as a composite of the section as amended by both Sub. H.B. 1520
216 and Sub. S.B. 319 of the 131st General Assembly. The General 1521
Assembly, applying the principle stated in division (B) of 1522
section 1.52 of the Revised Code that amendments are to be 1523
harmonized if reasonably capable of simultaneous operation, 1524
finds that the composite is the resulting version of the section 1525
in effect prior to the effective date of the section as 1526
presented in this act. 1527