

IN THE SUPREME COURT OF OHIO

MARY ANN DILLER,	:	Supreme Court Case No. 2022-0058
	:	
PLAINTIFF-APPELLANT,	:	
	:	
v.	:	On Appeal from the Mercer County
	:	Court of Appeals, Third Appellate
PHYLLIS DILLER, CO-EXECUTOR	:	District
	:	
DEFENDANT-APPELLANT	:	
-and-	:	
	:	Court of Appeals Consolidated
LINDA PENNUCCI ET. AL.,	:	Case Nos. 10-21-03 and 10-21-04
	:	
DEFENDANTS-APPELLEES.	:	

**MOTION TO DISMISS AS IMPROVIDENTLY ACCEPTED
PURSUANT TO OHIO S. CT. PRAC. R 7.10**

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Now comes the Appellees, Phyllis Diller and Mary Ann Diller, by and through the undersigned counsel to respectfully request that this Court issue an Order dismissing this case as improvidently accepted pursuant to Ohio S. Ct. Prac. R 7.10. The need for this motion arises out of a statutory change by the general assembly through Senate Bill 202 (“S.B. 202”) that was signed by the Governor yesterday, January 2, 2022. The change is to R.C. 2107.52, the revised code section at issue in this case, and purports to be retroactive to the extent that is constitutionally permissible. For the reasons outlined in the Memorandum attached hereto and incorporated by reference herein, Appellees believe the proper procedural course for this case is for this Court to dismiss the case as improvidently accepted so that the parties can brief the constitutionality issue to the trial court in this matter. In the alternative, Appellees respectfully request that this Court

issue an Order continuing oral argument and requiring the parties to brief the Court on the Constitutionality of the S.B. 202 changes to R.C. 2107.52 as it applies to the beneficiaries in this case.

Respectfully Submitted,
FABER & ASSOCIATES, LLC

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MEMORANDUM

I. REQUEST TO DISMISS AS IMPROVIDENTLY ACCEPTED PURSUANT TO OHIO S. CT. PRAC. R 7.10.

By a 4-3 vote, this Court accepted Appellant’s discretionary appeal last year on their first and second propositions of law. But even after accepting an appeal, the Court may later find there is no substantial constitutional question or question of public or great general interest, and dismiss the appeal as improvidently accepted. Ohio S. Ct. Prac. R 7.10. While the Court may make this determination *sua sponte* pursuant to Ohio S. Ct. Prac. R 7.10, parties may also request the Court consider dismissal as improvidently accepted via motion. *Id.*; *See State v. Sutton*, 132 Ohio St.3d 1529, 2012-Ohio-4381 (granting dismissal on appellee's motion).

The parties to this matter have briefed the issues thoroughly and oral argument is scheduled for January 10, 2022. At issue in both propositions of law presented in this matter is the definition of the term “Devise” pursuant to R.C. 2107.52(A)(3), which states that a devise “means an alternative devise, a devise in the form of a class gift, or an exercise of a power of appointment.”

However, the state legislature has recently passed S.B. 202, which was signed into law by Governor DeWine yesterday, January 2, 2022. The change in the law becomes effective in 90 days (April 2, 2023). Following the enactment of S.B. 202 the term “Devise” pursuant to R.C. 2107.52, will now be defined by the amended R.C. 2107.52(A)(3)(a) section and the newly created R.C. 2107.52(A)(3)(b) section, which state:

(3)(a) "Devise" includes a primary devise, an alternative devise, a devise in the form of a class gift, and an exercise of a power of appointment.

(b) Except as otherwise provided in this division, the amendment to division (A)(3)(a) of this section in this act shall be given retroactive effect to the fullest extent permitted under Ohio Constitution, Article II, Section 28. The amendment shall not be given retroactive effect in those instances where doing so would invalidate or supersede any instrument that conveys real property or any interest in

the real property, recorded in the office of the county recorder in which that real property is situated.

See S.B. 202 as enrolled, attached hereto as Exhibit A.¹ While a change in the law would not generally impact the Court's analysis for prospective changes in the law, the newly created R.C. 2107.52(A)(3)(b) section allows for retroactivity "to the fullest extent permitted under Ohio Constitution, Article II, Section 28." The legislature, holding the power of the pen, has decided to punt the constitutionality of such a provision to Ohio Courts. Appellee is confident that the retroactivity portion of the statutory change is unconstitutional as applied to the beneficiaries of the decedent in this case, as the beneficiaries became legally vested at the moment of the decedent's death and Article II, Section 28 of the Ohio Constitution disallows for such a vested property interest to be divested pursuant to a retroactive change in the law that became effective 1,418 days after decedent's death.

The problem, procedurally, is that the new provisions in R.C. 2107.52 do not become effective until after oral argument in this case. Further, as the statutory changes were just signed into law yesterday, the application and/or constitutionality of the changes in R.C. 2107.52 have not been briefed or argued by the parties below, nor have they been briefed to this Court. Thus, this Court's opinion in this matter is not likely to resolve this dispute until the constitutionality of the retroactive provisions are addressed below. Having an oral argument and formal opinion would only further delay the administration of an estate that is still open 1,329 days after decedent's death. Therefore, Appellee Phyllis Diller respectfully requests that the Court dismiss this case as improvidently accepted pursuant to Ohio S. Ct. Prac. R 7.10.

¹ This version is not executed by the Speaker, Senate President, Governor, or Secretary of State, but it is our understanding from the Legislative Service Commission that the bill was signed in its entirety by Governor DeWine on January 2, 2022. As the officially signed version has not been posted online by the Secretary of State as of this filing, this version was attached due to the looming oral argument date.

II. ALTERNATIVE REQUEST TO ORDER SUPPLEMENTAL BRIEFING ON THE CONSTITUTIONALITY OF THE S.B. 202 CHANGES TO R.C. 2107.52.

In the alternative, Appellees respectfully request that the Court order supplemental briefing on: Whether the S.B. 202 Changes to R.C. 2107.52 are Constitutional as Applied to the Beneficiaries of an Individual That Dies Prior to the Effective Date of the S.B. 202 Changes? Appellees respectfully request this in the alternative because this question will need to be answered prior to any ultimate resolution of this matter. However, Appellees understand that this Court typically requires the issue to be briefed below prior to engaging in an analysis. Yet, this issue is likely to end up back in this Court to determine the constitutional question Appellees seek to have answered in this case, and until the question is answered, there will be a great deal of confusion in probate law in Ohio. Therefore, if this Court declines to dismiss this matter as improvidently accepted, then Appellees would respectfully request that this Court continue the oral argument in this matter and Order that the parties brief the Court on whether the S.B. 202 changes to R.C. 2107.52 are constitutional as applied to the beneficiaries of an individual that dies prior to the effective date of the S.B. 202.

III. CONCLUSION

For the reasons contained herein, Appellees respectfully request that this Court dismiss this case as improvidently accepted or in the alternative order the parties to brief the constitutionality of the S.B. 202 changes to R.C. 2107.52.

Respectfully Submitted,
FABER & ASSOCIATES, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of forgoing has been served upon:

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By placing same in the United States Mail on the 3rd day of January, 2022.

/s/ John R. Willamowski, Jr.
John R. Willamowski, Jr.

APPELLEES
EXHIBIT A

(134th General Assembly)
(Amended Substitute Senate Bill Number 202)

AN ACT

To amend sections 107.43, 167.05, 309.09, 517.23, 517.24, 517.25, 1901.06, 1907.13, 2107.52, 2108.82, 2111.18, 2117.06, 2117.07, 2131.09, 2301.01, 2501.02, 2503.01, and 5301.071 and to enact sections 2131.03, 2131.031, 2131.032, 2131.033, 2131.034, 2131.035, 2131.036, 5801.20, 5801.21, 5801.22, 5801.23, and 5801.24 of the Revised Code and to amend Section 3 of H.B. 518 of the 134th General Assembly to prohibit a person's disability from being the basis to deny or limit custody, parenting time, visitation, adoption, or service as a guardian or foster caregiver, regarding a minor, to provide that a civil action to challenge a state administrative order issued in a state of emergency be brought in the Court of Claims or an appropriate local court depending on the nature of the action, to make changes concerning the validity of real property instruments and fiduciary signature errors, to make changes to the law related to the disinterment of bodies buried in cemeteries, presentment of claims against an estate, Guardianship Law, and the Ohio Trust Law, to create the Task Force on Bail, to allow a county prosecutor to provide legal services to certain entities, to convey state-owned land in Lucas County, to modify the qualifications for office for judges of municipal courts, county courts, courts of common pleas, courts of appeals, and justices of the Supreme Court, and to convert one part-time judgeship of the Fulton County County Court to a full-time judgeship effective January 1, 2023, until that court is abolished on January 1, 2024.

Be it enacted by the General Assembly of the State of Ohio:

Section 1. That sections 107.43, 167.05, 309.09, 1901.06, 1907.13, 2301.01, 2501.02, 2503.01, and 5301.071 be amended and sections 2131.03, 2131.031, 2131.032, 2131.033, 2131.034, 2131.035, and 2131.036 of the Revised Code be enacted to read as follows:

Sec. 107.43. (A) As used in this section:

"Administrative department" means a department listed under section 121.02 of the Revised Code.

"Administrative department head" means a department head listed under section 121.03 of the Revised Code.

"Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and staff operations within an administrative department or state agency, or within the office of an administrative department head or statewide elected officer.

"Rule" means, unless the context dictates otherwise, any rule, regulation, or standard adopted,

promulgated, and enforced by a statewide elected officer, administrative department, administrative department head, or state agency under the authority of the laws governing such officer, department, department head, or state agency. "Rule" does not include an internal management rule.

"State agency" means any organized body, office, agency, commission, board, institution, or other entity established by the laws of the state for the exercise of any function of state government. "State agency" does not include a court.

"State of emergency" has the meaning defined in section 107.42 of the Revised Code.

"Statewide elected officer" means the governor, lieutenant governor, secretary of state, auditor of state, attorney general, and treasurer of state.

(B) Beginning the day the governor declares a state of emergency, the governor and the department of health promptly shall report to the president of the senate and the speaker of the house of representatives every action the governor or department takes in response to the state of emergency, including actions by the department or director of health under sections 3701.13 and 3701.14 of the Revised Code.

(C)(1) If the governor declares a state of emergency, the general assembly may do any of the following by adopting a concurrent resolution:

(a) Rescind, in whole or in part, any order or rule issued or adopted by an administrative department, administrative department head, state agency, or statewide elected officer in response to a state of emergency, including an order to authorize an agency to adopt, amend, or rescind rules under division (G) of section 119.03 of the Revised Code. This division does not apply to an order issued to declare a state of emergency.

(b) Invalidate, in whole or in part, an emergency rule adopted or amended by an agency in response to the state of emergency and pursuant to an emergency order the governor issues under division (G)(1) of section 119.03 of the Revised Code;

(c) Authorize a rule rescinded by an agency under division (G)(1) of section 119.03 of the Revised Code in response to the state of emergency to be readopted, in whole or in part;

(d) Invalidate, in whole or in part, an emergency rule adopted by an agency in response to the state of emergency pursuant to division (B)(2) of section 111.15 of the Revised Code.

(2) If the general assembly rescinds an order or rule, or a portion thereof, the administrative department, administrative department head, state agency, or statewide elected officer shall not reissue that order or rule, the rescinded portion, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion, for a period of sixty calendar days following the adoption of the concurrent resolution by the general assembly, except as provided in division (C)(3) of this section.

(3)(a) Within sixty calendar days of the general assembly rescinding an order or rule under division (C)(1) of this section, the governor, on behalf of an administrative department, an administrative department head, or a state agency, may submit a request to the general assembly to authorize an administrative department, an administrative department head, or a state agency to reissue a rescinded order or rule, rescinded portion thereof, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion issued or adopted by an administrative department, administrative department head, or state agency. Upon review, the general assembly may adopt a concurrent resolution authorizing the request, in whole or

in part.

(b) Within sixty calendar days of the general assembly rescinding an order or rule under division (C)(1) of this section, a statewide elected officer may submit a request to the general assembly to reissue a rescinded order or rule, rescinded portion thereof, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion issued or adopted by the statewide elected officer. Upon review, the general assembly may adopt a concurrent resolution authorizing the request, in whole or in part.

(D)(1) Notwithstanding any other provision of the Revised Code, a person who challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, in a civil action for damages, declaratory judgment, injunctive relief, or other appropriate relief may do so in whichever of the following courts is applicable regarding the action:

(a) If the civil action is for damages, the action may be brought only in the court of claims.

(b) If the civil action is for declaratory judgment, injunctive relief, or other appropriate relief other than damages, the action may be brought in an appropriate court located in the county where the person's residence or business is located or in the court of claims.

(c) If the civil action is for damages and also is for declaratory judgment, injunctive relief, or other appropriate relief, the action may be brought only in the court of claims.

(2) If a person successfully challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, the administrative department, administrative department head, state agency, or statewide elected officer shall pay the person's reasonable attorney's fees and court costs.

(E) An order or rule issued or adopted in violation of this section is invalid and has no legal effect.

Sec. 167.05. The council may employ such staff and contract for the services of such consultants and experts, and may purchase or lease or otherwise provide for such supplies, materials, equipment, and facilities as it deems necessary and appropriate in the manner and under procedures established in the by-laws of the council.

The council may contract with the prosecuting attorney of a county, as provided in section 309.09 of the Revised Code, to obtain legal services from the prosecuting attorney.

Sec. 309.09. (A) The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, all other county officers and boards, and all tax-supported public libraries, and any of them may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties. The prosecuting attorney shall prosecute and defend all suits and actions that any such officer, board, or tax-supported public library directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B)(1) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless, subject to division (B)(2) of this section, the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case, subject

to division (B)(2) of this section, the township law director, whether serving full-time or part-time, shall be the legal adviser for all township officers, boards, and commissions. When the board of township trustees finds it advisable or necessary to have additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(2)(a) If any township in the county served by the prosecuting attorney has adopted any resolution regarding the operation of adult entertainment establishments pursuant to the authority that is granted under section 503.52 of the Revised Code, or if a resolution of that nature has been adopted under section 503.53 of the Revised Code in a township in the county served by the prosecuting attorney, all of the following apply:

(i) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(c) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township in the trial and argument in any court or tribunal of any challenge to the validity of the resolution. If the challenge to the validity of the resolution is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of section 503.52 of the Revised Code. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not required to provide assistance as described in this division to a prosecuting attorney.

(ii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(a) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action to enjoin the violation of the resolution in question.

(iii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(b) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance the place in the unincorporated area of the township at which the resolution is being or has been violated. Proceeds from the sale of personal property or contents seized pursuant to the action shall be applied and deposited in accordance with division (E)(1)(b) of section 503.52 of the Revised Code.

(b) Division (B)(2)(a) of this section applies regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, and

regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

The prosecuting attorney shall prosecute and defend in the actions and proceedings described in division (B)(2)(a) of this section without charge to the township for which the services are performed.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board in its official capacity and to advise it on legal matters, the board shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total compensation paid, in any year, by the board for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates.

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint fire district created under section 505.371 of the Revised Code at no cost to the district, or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint ambulance district created under section 505.71 of the Revised Code at no cost to the district, or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(G) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint emergency medical services district created under section 307.052 of the Revised Code at no cost to the district, or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(H) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a fire and ambulance district created under section 505.375 of the Revised Code at no cost to the district, or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(I) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the

approval of the board of county commissioners, the legal adviser to the board of trustees of a regional airport authority created under Chapter 308. of the Revised Code or the board of directors of a port authority created under Chapter 4582. of the Revised Code under a contract that the prosecuting attorney and the board of trustees or board of directors enter into. If the regional airport authority or port authority covers territory in more than one county, the board of trustees or board of directors may choose the prosecuting attorney with whom it enters into such contract, with the approval of the board of county commissioners of that county. The contract may provide for the payment of a fee to the prosecuting attorney for legal services agreed to under the contract.

(J) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser to a regional planning commission created under section 713.21 of the Revised Code under a contract that the prosecuting attorney and commission enter into. If the regional planning commission covers a region in more than one county, the commission may choose the prosecuting attorney with whom it enters into such contract, with the approval of the board of county commissioners of that county. The contract may provide for the payment of a fee to the prosecuting attorney for legal services agreed to under the contract.

(K) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser to a regional council of governments created under Chapter 167. of the Revised Code under a contract that the prosecuting attorney and council enter into. If the regional council of governments covers a region in more than one county, the council may choose the prosecuting attorney with whom it enters into such contract, with the approval of the board of county commissioners of that county. The contract may provide for the payment of a fee to the prosecuting attorney for legal services agreed to under the contract.

(L) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser to a metropolitan planning organization or a regional transportation planning organization under a contract that the prosecuting attorney and organization enter into. If the organization covers a region in more than one county, the organization may choose the prosecuting attorney with whom it enters into such contract, with the approval of the board of county commissioners of that county. The contract may provide for the payment of a fee to the prosecuting attorney for legal services agreed to under the contract.

(M) All money received pursuant to a contract entered into under division (D), (E), (F), (G), (H), (I), ~~(J), (K), or (L)~~ of this section shall be deposited into the prosecuting attorney's legal services fund, which shall be established in the county treasury of each county in which such a contract exists. Moneys in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services to a park district, joint fire district, joint ambulance district, joint emergency medical services district, fire and ambulance district, regional airport authority, port authority, ~~or~~ regional planning commission, regional council of governments, metropolitan planning organization, or regional transportation planning organization, as applicable, under a contract entered into under the applicable division.

~~(L)-(N)~~ The prosecuting attorney shall be the legal adviser of a lake facilities authority as provided in section 353.02 of the Revised Code.

Sec. 1901.06. (A) A municipal judge during the judge's term of office shall be a qualified elector and a resident of the territory of the court to which the judge is elected or appointed. A

municipal judge shall have been admitted to the practice of law in this state for at least one year preceding appointment or the commencement of the judge's term and shall have been, for a total of at least six years preceding appointment or the commencement of the judge's term, ~~engaged in the practice of law in this state or shall have either served as a judge of a court of record in any jurisdiction in the United States; or both~~ done any of the following:

(1) Engaged in the practice of law in this state;

(2) Practiced in a federal court in this state, regardless of whether at the time of that practice the person was admitted to the practice of law in this state or practiced in the courts of this state;

(3) Engaged in the authorized practice of law as in-house counsel for a business in this state or as an attorney for a government entity in this state, regardless of whether at the time of that practice the person was admitted to the practice of law in this state or practiced in the courts of this state.

(B) Except as provided in section 1901.08 of the Revised Code, the first election of any newly created office of a municipal judge shall be held at the next regular municipal election occurring not less than one hundred days after the creation of the office. Except as otherwise provided in division (G) of section 1901.01 of the Revised Code, the institution of a new municipal court shall take place on the first day of January next after the first election for the court.

Sec. 1907.13. (A) A county court judge, at the time of filing a nominating petition for the office or at the time of appointment to the office and during the judge's term of office, shall be a qualified elector and a resident of the county court district in which the judge is elected or appointed. A county court judge does not have to be a resident of an area of separate jurisdiction in the county court district to which the judge may be assigned pursuant to section 1907.15 of the Revised Code. Every county court judge shall have been admitted to the practice of law in this state for at least one year preceding the judge's appointment or the commencement of the judge's term and shall have been engaged, except as otherwise provided in division (B) of this section, for a total of at least six years preceding the judge's appointment or the commencement of the judge's term, shall have done any of the following:

(1) Engaged in the practice of law in this state, except that the;

(2) Practiced in a federal court in this state, regardless of whether at the time of that practice the person was admitted to the practice of law in this state or practiced in the courts of this state;

(3) Engaged in the authorized practice of law as in-house counsel for a business in this state or as an attorney for a government entity in this state, regardless of whether at the time of that practice the person was admitted to the practice of law in this state or practiced in the courts of this state.

(B) The six-year practice requirement specified in division (A) of this section does not apply to a county court judge who is holding office on ~~the effective date of the amendment of this section by H.B. 487 of the 129th general assembly~~ September 10, 2012, and who subsequently is a candidate for that office.

(C) Judges of a county court shall be elected by the electors of the county court district at the general election in even-numbered years as set forth in section 1907.11 of the Revised Code for a term of six years commencing on the first day of January following the election for the county court or on the dates specified in section 1907.11 of the Revised Code for particular county court judges.

Their successors shall be elected in even-numbered years every six years.

All candidates for county court judge shall be nominated by petition. The nominating petition shall be in the general form and signed and verified as prescribed by section 3513.261 of the Revised Code and shall be signed by the lesser of fifty qualified electors of the county court district or a number of qualified electors of the county court district not less than one per cent of the number of electors who voted for governor at the most recent regular state election in the district. A nominating petition shall not be accepted for filing or filed if it appears on its face to contain signatures aggregating in number more than twice the minimum aggregate number of signatures required by this section. A nominating petition shall be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election.

Sec. 2131.03. As used in sections 2131.03 to 2131.036 of the Revised Code:

(A) "Disability" has the same meaning as in the "Americans with Disabilities Act of 1990," 42 U.S.C. 12102;

(B) "Supportive services" means any service provided through a program or agency at the federal, state, or local level that is intended to assist a person with a disability with day-to-day responsibilities and activities, including those associated with the care and supervision of a minor.

Sec. 2131.031. (A) No court, public children services agency, private child placing agency, or private noncustodial agency shall deny or limit a person from any of the following solely on the basis that the person has a disability:

(1) Exercising custody, parenting time, or visitation rights with a minor;

(2) Adopting a minor;

(3) Serving as a foster caregiver for a minor;

(4) Appointment as a guardian for a minor.

(B) Division (A) of this section shall not be construed to guarantee or grant a person with a disability a right to conduct activities or exercise authority as described in that division.

Sec. 2131.032. (A) A court, public children services agency, private child placing agency, or private noncustodial agency, when determining whether to grant a person with a disability the right to conduct activities or exercise authority as described in division (A) of section 2131.031 of the Revised Code, shall determine whether modifications or supportive services designed to assist the person regarding the activities or authority are necessary and reasonable.

(B) A public children services agency, private child placing agency, or private noncustodial agency shall provide its reasons for a determination under division (A) of this section.

(C) A court shall make specific written findings of fact and conclusions of law providing the basis for its determination under division (A) of this section.

Sec. 2131.033. If modifications and supportive services are determined to be necessary and reasonable under section 2131.032 of the Revised Code, the court, public children services agency, private child placing agency, or private noncustodial agency that made the determination may require the modifications or services to be implemented to assist the person with a disability to conduct the activities or exercise the authority as described in division (A) of section 2131.031 of the Revised Code. The court, public children services agency, private child placing agency, or private noncustodial agency imposing the modifications or services shall review their continued necessity and reasonableness after a reasonable amount of time.

Sec. 2131.034. If modifications and supportive services are not determined reasonable under section 2131.032 of the Revised Code, the court, public children services agency, private child placing agency, or private noncustodial agency that made the determination shall deny or limit conduct of activities or exercise of authority described under division (A) of section 2131.031 of the Revised Code by the person with a disability.

Sec. 2131.035. A person with a disability may bring an action or, in the case of a court determination, file a motion, to challenge either of the following:

(A) The modifications or supportive services required under section 2131.033 of the Revised Code;

(B) The limitation or denial under section 2131.034 of the Revised Code.

Sec. 2131.036. A court shall do one of the following regarding an action or motion under section 2131.035 of the Revised Code:

(A) Affirm the modifications or supportive services required under section 2131.033 of the Revised Code or limitation or denial under section 2131.034 of the Revised Code and make specific written findings of fact and conclusions of law providing the basis for its decision as to why reasonable modifications or supportive services are necessary in order to conduct the activity or exercise the authority in question or insufficient to alleviate any concerns. With regard to a motion to challenge a court determination, the court shall consider, and address in its decision, any new arguments or evidence provided with the motion.

(B) Rescind the modifications or supportive services or limitation or denial and grant the person the right to conduct activities or exercise authority described in section 2131.031 of the Revised Code, with or without reasonable modifications or support services.

Sec. 2301.01. (A) There shall be a court of common pleas in each county held by one or more judges, each of whom has been admitted to practice as an attorney at law in this state for at least one year preceding the judge's appointment or commencement of the judge's term, resides in the county, is elected by the electors therein, and has, for a total of at least six years preceding the judge's appointment or commencement of the judge's term, engaged in the practice of law in this state or has either served as a judge of a court of record in any jurisdiction in the United States; or both, resides in the county, and is elected by the electors therein done any of the following:

(1) Engaged in the practice of law in this state;

(2) Practiced in a federal court in this state, regardless of whether at the time of that practice the person was admitted to practice as an attorney at law in this state or practiced in the courts of this state;

(3) Engaged in the authorized practice of law as in-house counsel for a business in this state or as an attorney for a government entity in this state, regardless of whether at the time of that practice the person was admitted to practice as an attorney at law in this state or practiced in the courts of this state.

(B) Each judge of a court of common pleas shall be elected for six years at the general election immediately preceding the year in which the term, as provided in sections 2301.02 and 2301.03 of the Revised Code, commences, and the judge's successor shall be elected at the general election immediately preceding the expiration of that term.

Sec. 2501.02. (A) Each judge of a court of appeals shall have been admitted to practice as an

attorney at law in this state for at least one year preceding the judge's appointment or commencement of the judge's term and ~~have~~, for a total of six years preceding the judge's appointment or commencement of the judge's term, ~~engaged in the practice of law in this state or shall have either served as a judge of a court of record in any jurisdiction in the United States; or both~~ done any of the following:

(1) Engaged in the practice of law in this state;

(2) Practiced in a federal court in this state, regardless of whether at the time of that practice the person was admitted to practice as an attorney at law in this state or practiced in the courts of this state;

(3) Engaged in the authorized practice of law as in-house counsel for a business in this state or as an attorney for a government entity in this state, regardless of whether at the time of that practice the person was admitted to practice as an attorney at law in this state or practiced in the courts of this state.

(B) One judge shall be chosen in each court of appeals district every two years, and shall hold office for six years, beginning on the ninth day of February next after the judge's election.

(C) In addition to the original jurisdiction conferred by Section 3 of Article IV, Ohio Constitution, the court of appeals shall have jurisdiction upon an appeal upon questions of law to review, affirm, modify, set aside, or reverse judgments or final orders of courts of record inferior to the court of appeals within the district, including the finding, order, or judgment of a juvenile court that a child is delinquent, neglected, abused, or dependent, for prejudicial error committed by such lower court.

The court of appeals, on good cause shown, may issue writs of supersedeas in any case, and all other writs, not specially provided for or prohibited by statute, necessary to enforce the administration of justice.

Sec. 2503.01. The supreme court shall consist of a chief justice and six justices, each of whom has been admitted to practice as an attorney at law in this state for at least one year preceding appointment or commencement of the justice's term and ~~has~~, for a total of at least six years preceding appointment or commencement of the justice's term, ~~engaged in the practice of law in this state or has either served as a judge of a court of record in any jurisdiction of the United States; or both~~ done any of the following:

(A) Engaged in the practice of law in this state;

(B) Practiced in a federal court in this state, regardless of whether at the time of that practice the person was admitted to practice as an attorney at law in this state or practiced in the courts of this state;

(C) Engaged in the authorized practice of law as in-house counsel for a business in this state or as an attorney for a government entity in this state, regardless of whether at the time of that practice the person was admitted to practice as an attorney at law in this state or practiced in the courts of this state.

Sec. 5301.071. No instrument conveying real property, or any interest in real property, and of record in the office of the county recorder of the county within this state in which that real property is situated shall be considered defective nor shall the validity of that conveyance be affected because of any of the following:

(A) The dower interest of the spouse of any grantor was not specifically released, but that spouse executed the instrument in the manner provided in section 5301.01 of the Revised Code.

(B) The officer taking the acknowledgment of the instrument having an official seal did not affix that seal to the certificate of acknowledgment.

(C) The certificate of acknowledgment is not on the same sheet of paper as the instrument.

(D) The executor, administrator, guardian, assignee, attorney in fact, or trustee making the instrument signed or acknowledged the same individually instead of in a representative or official capacity.

(E)(1) The grantor or grantee of the instrument is a trust rather than the trustee or trustees of the trust if the trust named as grantor or grantee has been duly created under the laws of the state of its existence at the time of the conveyance and a memorandum of trust that complies with section 5301.255 of the Revised Code and contains a description of the real property conveyed by that instrument is recorded in the office of the county recorder in which the instrument of conveyance is recorded. Upon compliance with division (E)(1) of this section, a conveyance to a trust shall be considered to be a conveyance to the trustee or trustees of the trust in furtherance of the manifest intention of the parties.

(2) Except as otherwise provided in division (E)(2) of this section, division (E)(1) of this section shall be given retroactive effect to the fullest extent permitted under section 28 of Article II, Ohio Constitution. Division (E) of this section shall not be given retroactive or curative effect if to do so would invalidate or supersede any instrument that conveys real property, or any interest in the real property, recorded in the office of the county recorder in which that real property is situated prior to the date of recording of a curative memorandum of trust or ~~the effective date of this section~~ March 22, 2012, whichever event occurs later.

Section 2. That existing sections 107.43, 167.05, 309.09, 1901.06, 1907.13, 2301.01, 2501.02, 2503.01, and 5301.071 of the Revised Code are hereby repealed.

Section 3. That sections 517.23, 517.24, 517.25, 2107.52, 2108.82, 2111.18, 2117.06, 2117.07, and 2131.09 be amended and sections 5801.20, 5801.21, 5801.22, 5801.23, and 5801.24 of the Revised Code be enacted to read as follows:

Sec. 517.23. (A) Subject to divisions (B), (D), and (E) of this section, the board of township trustees, the trustees or directors of a cemetery association, or the other officers having control and management of a cemetery or the officer of a municipal corporation who has control and management of a municipal cemetery shall disinter or grant permission to disinter any remains buried in the cemetery in either of the following circumstances:

(1) ~~If the surviving spouse of the decedent is eighteen years of age or older, within~~ Within thirty days after ~~the filing of an application of the surviving spouse made for disinterment is filed with the cemetery~~ in accordance with division (A) of section 517.24 of the Revised Code and ~~payment by the applicant of the reasonable costs and expense of disinterment; is made by the following applicants:~~

(a) A designated representative, or successor, to whom the decedent had assigned the right of

disposition in a written declaration pursuant to section 2108.70 of the Revised Code and who had exercised such right at the time of the declarant's death;

(b) If no designated representative exercised the right of disposition pursuant to section 2108.70 of the Revised Code, the surviving spouse of the decedent who is eighteen years of age or older.

(2) On order of a probate court issued under division (B) of section 517.24 of the Revised Code and payment by the person who applied for the order under that division of the reasonable costs and expense of disinterment.

(B) No disinterment shall be made pursuant to this section and section 517.24 of the Revised Code if the decedent died of a contagious or infectious disease until a permit has been issued by the board of health of a general health district or of a city health district.

(C) Upon disinterment of remains under division (A)(1) or (2) of this section, the involved board, trustees, directors, other officers, or officer of the municipal corporation shall deliver or cause to be delivered the disinterred remains to the applicant ~~surviving spouse under division (A)(1) of this section~~ or, if the disinterment was pursuant to court order issued under division (B) of section 517.24 of the Revised Code, to the person who applied for the order under that division.

(D) The board of township trustees, the trustees or directors of a cemetery association, or the other officers having control and management of a cemetery or the officer of a municipal corporation who has control and management of a municipal cemetery may disinter or grant permission to disinter and, if appropriate, may reinter or grant permission to reinter any remains buried in the cemetery to correct an interment error in the cemetery if the board, trustees, directors, other officers, or officer of the municipal corporation comply with the internal rules of the cemetery pertaining to disinterments and if the board, trustees, directors, other officers, or officer of the municipal corporation provide notice of the disinterment to the ~~decedent's last known next of kin~~ person who has been assigned or reassigned the rights of disposition for the deceased person under the provisions of section 2108.70 or 2108.81 of the Revised Code. The board, trustees, directors, other officers, or officer of the municipal corporation may correct an interment error under this division without a court order or an application by a person.

(E)(1) A person who is an interested party and who is eighteen years of age or older and of sound mind may apply to the probate court of the county in which the decedent is buried for an order to prevent the ~~decedent's surviving spouse~~ applicant under division (A)(1) of this section from having the remains of the decedent disinterred. An application to prevent the disinterment of the remains of the decedent shall be in writing, subscribed and verified by oath, and include all of the following:

(a) If applicable, a statement that the applicant assumed financial responsibility for the funeral and burial expenses of the decedent;

(b) If division (E)(1)(a) of this section is inapplicable relative to the applicant, a statement that the applicant did not assume financial responsibility for the funeral and burial expenses of the decedent;

(c) A statement that the applicant is eighteen years of age or older and of sound mind;

(d) The relationship of the applicant to the decedent;

(e) A statement of the applicant's reasons to oppose the disinterment of the remains of the decedent.

(2) An applicant for an order to prevent the disinterment of the remains of the decedent under division (E) of this section promptly shall give notice of the filing of the application by certified mail, return receipt requested, to the ~~decedent's surviving spouse~~ applicant under division (A)(1) of this section. The notice shall indicate that the applicant has filed an application for an order to prevent the disinterment of the remains of the decedent.

(F) As used in this section and in section 517.24 of the Revised Code:

(1) "Cemetery" and "interment" have the same meanings as in section 1721.21 of the Revised Code.

(2) "Disinterment" means the recovery of human remains by exhumation, disentombment, or disinurnment. "Disinterment" does not include the raising and lowering of remains to accommodate two interments within a single grave and does not include the repositioning of an outside burial container that encroaches an adjoining burial space.

Sec. 517.24. (A) An application by ~~a surviving spouse~~ an applicant for disinterment under section 517.23 of the Revised Code shall be in writing and shall state ~~that whether~~ the applicant is the designated representative to whom the decedent has assigned the right of disposition of the decedent's body in a written declaration pursuant to section 2108.70 of the Revised Code and exercised such right at the time of the declarant's death or, if none, the surviving spouse of the decedent, that the applicant is eighteen years of age or older and of sound mind, the disease of which the decedent died, and the place at which the remains shall be reinterred. ~~The application shall be subscribed and verified by oath~~ If the applicant is the designated representative to whom the decedent has assigned the right of disposition in a written declaration pursuant to section 2108.70 of the Revised Code, a copy of the declaration that appointed the applicant shall be attached to the application. If the applicant is the surviving spouse, the application shall state one of the following:

(1) That to the best of the applicant's knowledge the decedent did not sign a declaration of assignment pursuant to section 2108.72 of the Revised Code or it is not available to the applicant;

(2) That to the best of the applicant's knowledge the assignee pursuant to a declaration of assignment pursuant to section 2108.72 of the Revised Code did not exercise the right of disposition.

(B)(1) A person who is eighteen years of age or older and of sound mind and who is ~~not the surviving spouse of the decedent involved~~ qualified to file an application to disinter pursuant to division (A)(1) of section 517.23 of the Revised Code may obtain a court order under this division for the disinterment of the remains of the decedent. Any person who is eighteen years of age or older and of sound mind, including, but not limited to, the person who assumed financial responsibility for the funeral and burial expenses of the decedent, and who wishes to obtain a court order for the disinterment of the remains of the decedent may file an application in the probate court of the county in which the decedent is buried requesting the court to issue an order for the disinterment of the remains of the decedent. The application shall be in writing, subscribed and verified by oath, and include all of the following:

(a) If applicable, a statement that the applicant assumed financial responsibility for the funeral and burial expenses of the decedent;

(b) If division (B)(1)(a) of this section is inapplicable relative to the applicant, a statement that the applicant did not assume financial responsibility for the funeral and burial expenses of the decedent;

(c) A statement that the applicant is eighteen years of age or older and of sound mind;

(d) The relationship of the applicant to the decedent;

(e) A statement of the place at which the remains will be reinterred;

(f) The name, the relationship to the decedent, and the address of the decedent's surviving spouse; of the person who has been assigned the rights of disposition for the deceased person under the provisions of sections 2108.70 to 2108.90 of the Revised Code; of all persons who would have been entitled to inherit from the decedent under Chapter 2105. of the Revised Code if the decedent had died intestate; and, if the decedent had a will, of all legatees and devisees named in the decedent's will;

(g) A true and correct copy of the decedent's written declaration of assignment pursuant to section 2108.70 of the Revised Code, if any, or one of the following:

(i) A statement that to the best of the applicant's knowledge the decedent did not sign a written declaration of assignment or it is not available to the applicant;

(ii) A statement that to the best of the applicant's knowledge the assignee pursuant to a declaration of assignment pursuant to section 2108.72 of the Revised Code did not exercise the right of disposition.

(2)(a) Subject to division (B)(2)(b) of this section, upon the filing of an application for an order for disinterment of remains under division (B) of this section, the applicant promptly shall give notice as described in this division by certified mail, return receipt requested, to the decedent's surviving spouse; to the person who has been assigned the rights of disposition for the deceased person under the provisions of sections 2108.70 to 2108.90 of the Revised Code; to all persons who would have been entitled to inherit from the decedent under Chapter 2105. of the Revised Code if the decedent had died intestate; if the decedent had a will, to all legatees and devisees named in the decedent's will; and to the board of township trustees, the trustees or directors of a cemetery association, or the other officers having control and management of the cemetery in which the remains of the decedent are interred or to the officer of a municipal corporation who has control and management of a municipal cemetery in which the remains of the decedent are interred. The notice shall indicate that an application for disinterment of the remains of the decedent has been filed.

(b) A person entitled to be given the notice described in division (B)(2)(a) of this section may waive the right to receive the notice by filing a written waiver of that right in the probate court.

(c) The fact that the notice required by division (B)(2)(a) of this section has been given, subject to division (B)(2)(d) of this section, to all persons described in division (B)(2)(a) of this section who have not waived their right to receive the notice and, if applicable, the fact that certain persons described in that division have waived their right to receive the notice in accordance with division (B)(2)(b) of this section shall be evidenced by an affidavit of the applicant for the order for disinterment, and the applicant shall file the affidavit in the probate court.

(d) An applicant for an order for disinterment is not required to give a notice pursuant to division (B)(2)(a) of this section to persons whose names or places of residence are unknown and cannot with reasonable diligence be ascertained, and the applicant shall file an affidavit in the probate court specifying any persons who were not given notice pursuant to division (B)(2)(a) of this section and the reason for not giving notice to those persons.

(3)(a) Except as otherwise provided in division (B)(3)(b) of this section, upon the filing of an

application for disinterment of remains and the giving of the required notice under division (B)(2) of this section, the probate court promptly shall conduct a hearing to determine whether to issue an order for disinterment of the remains of the decedent, taking into account the provisions of section 2108.82 of the Revised Code. ~~Except as otherwise provided in division (B)(3)(a) of this section, at the hearing, the court, in its discretion, may issue an order for disinterment of the decedent's remains if good cause for disinterment is shown. If a person who is an interested party and who is eighteen years of age or older and of sound mind establishes by a preponderance of the evidence at the hearing that the issuance of an order for disinterment of the decedent's remains under division (B)(3) of this section would be against the decedent's religious beliefs or ascertainable desires, the court shall not issue the requested order unless the court finds a compelling reason to issue it. If the court is not so prohibited from issuing the requested order and exercises its discretion to issue~~ issues the requested order for disinterment of the decedent's remains in accordance with division (B)(3) of this section, the court promptly shall deliver the order to the applicant. An order of the court for disinterment of the decedent's remains shall specify that the board of township trustees, the trustees or board of the cemetery association, or other officers having control and management of the cemetery or the officer of a municipal corporation who has control and management of the municipal cemetery shall have a period of at least thirty days from the receipt of the order to perform the ordered disinterment.

(b) The court is not required to conduct a hearing under division (B)(3)(a) of this section if each person entitled to be given the notice described in division (B)(2)(a) of this section has waived that right by filing a written waiver of the right to receive the notice in the probate court.

Sec. 517.25. If the board of township trustees, the trustees or board of a cemetery association, or the other officers in charge of a cemetery refuse to disinter or grant permission for disinterment after a ~~surviving spouse person~~ makes application under ~~sections~~ division (A)(1) of section 517.23 and or under division (B)(1) of section 517.24 of the Revised Code, the probate court of the county in which the decedent is buried shall issue a writ of mandamus requiring the officers to disinter the remains or to grant permission for their disinterment.

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

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

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

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

(b) The rules for intestate succession if the devise or the exercise of the power of appointment is not in the form of a class gift.

(3)(a) "Devise" ~~means an~~ includes a primary devise, an alternative devise, a devise in the form of a class gift, or and an exercise of a power of appointment.

(b) Except as otherwise provided in this division, the amendment to division (A)(3)(a) of this section in this act shall be given retroactive effect to the fullest extent permitted under Ohio Constitution, Article II, Section 28. The amendment shall not be given retroactive effect in those instances where doing so would invalidate or supersede any instrument that conveys real property or any interest in the real property, recorded in the office of the county recorder in which that real

property is situated.

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

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

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

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

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

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

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

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

(B)(1) As used in "surviving descendants" in divisions (B)(2)(a) and (b) of this section, "descendants" means the descendants of a deceased devisee or class member under the applicable division who would take under a class gift created in the testator's will.

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

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

(b) If the devise is in the form of a class gift, other than a devise to "issue," "descendants," "heirs of the body," "heirs," "next of kin," "relatives," or "family," or a class described by language of similar import that includes more than one generation, a substitute gift is created in the surviving descendants of any deceased devisee. The property to which the devisees would have been entitled had all of them survived the testator passes to the surviving devisees and the surviving descendants of the deceased devisees. Each surviving devisee takes the share to which the surviving devisee would have been entitled had the deceased devisees survived the testator. Each deceased devisee's surviving descendants who are substituted for the deceased devisee take, per stirpes, the share to which the deceased devisee would have been entitled had the deceased devisee survived the testator. For purposes of division (B)(2)(b) of this section, "deceased devisee" means a class member who failed to survive the testator by at least one hundred twenty hours and left one or more surviving descendants.

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

(1) Attaching the word "surviving" or "living" to a devise, such as a gift "to my surviving (or living) children," is not, in the absence of other language in the will or other evidence to the contrary,

a sufficient indication of an intent to negate the application of division (B) of this section.

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

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

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

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

(1) A devise, other than a residuary devise, that fails for any reason becomes a part of the residue.

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

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

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

(F) This section applies to wills of decedents who die on or after March 22, 2012.

Sec. 2108.82. (A) Notwithstanding section 2108.81 of the Revised Code and in accordance with division (B) of this section, the probate court for the county in which the declarant or deceased person resided at the time of death may, on its own motion or the motion of another person, assign to any person the right of disposition for a declarant or deceased person.

(B) In making a determination for purposes of division (A) of this section and division (C) of section 2108.79 of the Revised Code, the court shall consider the following:

(1) Whether evidence presented to, or in the possession of the court, demonstrates that the person who is the subject of the motion and the declarant or deceased person had a close personal relationship;

(2) The reasonableness and practicality of any plans that the person who is the subject of the motion may have for the declarant's or deceased person's funeral, burial, cremation, ~~or~~ final disposition, redisposition, or disinterment, including the degree to which such plans allow maximum participation by all persons who wish to pay their final respects to the deceased person;

(3) The willingness of the person who is the subject of the motion to assume the responsibility to pay for the declarant's or deceased person's funeral, burial, cremation, ~~or~~ final disposition, redisposition, or disinterment, and the desires of that person;

(4) The convenience and needs of other ~~families~~ family members and friends wishing to pay their final respects to the declarant or deceased person;

(5) The express written desires of the declarant or deceased person;

(6) The religious beliefs or other evidence of the desires of the declarant or deceased person;
(7) The conduct of the persons involved in the proceedings related to the circumstances concerning the deceased person, the deceased person's estate, and other family members;
(8) The length of time that has elapsed since the original or last disposition;
(9) Whether there is a change of circumstances, including, but not limited to, any of the following:

(a) A change to the physical or environmental conditions of the cemetery or other location of the deceased person's bodily remains or the surrounding area;

(b) A change to the financial condition of the cemetery operator or organization containing the deceased person's bodily remains;

(c) A change related to the residence of the deceased person's family members;

(d) A change to the burial arrangements for the deceased person's family members.

A change of circumstances does not include a mere change of the representative who has been assigned the right to direct the disposition of the deceased person's bodily remains.

(C) There shall be no disinterment or other change of the original or last disposition unless the court makes a finding of compelling reasons based upon the factors listed in division (B) of this section.

(D) Except to the extent considered under division (B)(3) of this section, the following persons do not have a greater claim to the right of disposition than such persons otherwise have pursuant to law:

(1) A person who is willing to assume the responsibility to pay for the declarant's or deceased person's funeral, burial, cremation, or final disposition;

(2) The personal representative of the declarant or deceased person.

Sec. 2111.18. If personal injury, damage to tangible or intangible property, or damage or loss on account of personal injury or damage to tangible or intangible property is caused to a ward by wrongful act, neglect, or default that would entitle the ward to maintain an action and recover damages for the injury, damage, or loss, and when any ward is entitled to maintain an action for damages or any other relief based on any claim or is subject to any claim to recover damages or any other relief based on any claim, the guardian of the estate of the ward may adjust and settle the claim with the advice, approval, and consent of the probate court. If it is proposed that a claim be settled for the net amount of twenty-five thousand dollars or less after payment of fees and expenses as allowed by the court, the court, upon application by any suitable person whom the court may authorize to receive and receipt for the settlement, may authorize the settlement without the appointment of a guardian and authorize the delivery of the moneys as provided in section 2111.05 of the Revised Code. The court may authorize the person receiving the moneys to execute a complete release on account of the receipt. The payment shall be a complete and final discharge of that claim. In the settlement, if the ward is a minor, the parent or parents of the minor may waive all claim for damages on account of loss of service of the minor, and that claim may be included in the settlement. If the claimant is a minor, records of proceedings pursuant to this section are not subject to disclosure to any person who is not a party to the settlement, or made available for publication or inspection, except upon motion and show of good cause.

Sec. 2117.06. (A) All creditors having claims against an estate, including claims arising out

of contract, out of tort, on cognovit notes, or on judgments, whether due or not due, secured or unsecured, liquidated or unliquidated, shall present their claims in one of the following manners:

(1) After the appointment of an executor or administrator and prior to the filing of a final account or a certificate of termination, in one of the following manners:

(a) To the executor or administrator, or to an attorney who is identified as counsel for the executor or administrator in the probate court records for the estate of the decedent, in a writing;

(b) ~~To the executor or administrator in a writing, and to the probate court by filing in a copy of the writing with it~~ that includes the probate court case number of the decedent's estate;

(c) ~~In a writing that is sent by ordinary mail addressed to the decedent and~~ that is actually received by the executor or administrator, or by an attorney who is identified as counsel for the executor or administrator in the probate court records for the estate of the decedent, within the appropriate time specified in division (B) of this section and without regard to whom the writing is addressed. For purposes of this division, if an executor or administrator is not a natural person, the writing shall be considered as being actually received by the executor or administrator only if the person charged with the primary responsibility of administering the estate of the decedent actually receives the writing within the appropriate time specified in division (B) of this section.

(2) If the final account or certificate of termination has been filed, in a writing to those distributees of the decedent's estate who may share liability for the payment of the claim.

(B) Except as provided in section 2117.061 of the Revised Code, all claims shall be presented within six months after the death of the decedent, whether or not the estate is released from administration or an executor or administrator is appointed during that six-month period. Every claim presented shall set forth the claimant's address.

(C) Except as provided in section 2117.061 of the Revised Code, a claim that is not presented within six months after the death of the decedent shall be forever barred as to all parties, including, but not limited to, devisees, legatees, and distributees. No payment shall be made on the claim and no action shall be maintained on the claim, except as otherwise provided in sections 2117.37 to 2117.42 of the Revised Code with reference to contingent claims.

(D) In the absence of any prior demand for allowance, the executor or administrator shall allow or reject all claims, except tax assessment claims, within thirty days after their presentation, provided that failure of the executor or administrator to allow or reject within that time shall not prevent the executor or administrator from doing so after that time and shall not prejudice the rights of any claimant. Upon the allowance of a claim, the executor or the administrator, on demand of the creditor, shall furnish the creditor with a written statement or memorandum of the fact and date of the allowance.

(E) If the executor or administrator has actual knowledge of a pending action commenced against the decedent prior to the decedent's death in a court of record in this state, the executor or administrator shall file a notice of the appointment of the executor or administrator in the pending action within ten days after acquiring that knowledge. If the administrator or executor is not a natural person, actual knowledge of a pending suit against the decedent shall be limited to the actual knowledge of the person charged with the primary responsibility of administering the estate of the decedent. Failure to file the notice within the ten-day period does not extend the claim period established by this section.

(F) This section applies to any person who is required to give written notice to the executor or administrator of a motion or application to revive an action pending against the decedent at the date of the death of the decedent.

(G) Nothing in this section or in section 2117.07 of the Revised Code shall be construed to reduce the periods of limitation or periods prior to repose in section 2125.02 or Chapter 2305. of the Revised Code, provided that no portion of any recovery on a claim brought pursuant to that section or any section in that chapter shall come from the assets of an estate unless the claim has been presented against the estate in accordance with Chapter 2117. of the Revised Code.

(H) Any person whose claim has been presented and has not been rejected after presentment is a creditor as that term is used in Chapters 2113. to 2125. of the Revised Code. Claims that are contingent need not be presented except as provided in sections 2117.37 to 2117.42 of the Revised Code, but, whether presented pursuant to those sections or this section, contingent claims may be presented in any of the manners described in division (A) of this section.

(I) If a creditor presents a claim against an estate in accordance with division (A)(1)(b) of this section, the probate court shall not close the administration of the estate until that claim is allowed or rejected.

(J) The probate court shall not require an executor or administrator to make and return into the court a schedule of claims against the estate.

(K) If the executor or administrator makes a distribution of the assets of the estate pursuant to section 2113.53 of the Revised Code and prior to the expiration of the time for the presentation of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate if a claim is presented prior to the filing of the final account and may be liable to the claimant if the claim is presented after the filing of the final account up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section.

Sec. 2117.07. An executor or administrator may accelerate the bar against claims against the estate established by section 2117.06 of the Revised Code by giving written notice to a potential claimant that identifies the decedent by name, states the date of the death of the decedent, identifies the executor or administrator by name and mailing address, and informs the potential claimant that any claims the claimant may have against the estate are required to be presented to the executor or administrator in a writing in the manner provided in section 2117.06 of the Revised Code within the earlier of thirty days after receipt of the notice by the potential claimant or six months after the date of the death of the decedent. A claim of that potential claimant that is not presented in the manner provided by section 2117.06 of the Revised Code within the earlier of thirty days after receipt of the notice by the potential claimant or six months after the date of the death of the decedent is barred by section 2117.06 of the Revised Code in the same manner as if it was not presented within six months after the date of the death of the decedent.

Sec. 2131.09. (A) A trust of real or personal property created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit-sharing plan, for the benefit of some or all of the employees, to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees or their beneficiaries the earnings or the

principal, or both earnings and principal, of the fund so held in trust is not invalid as violating the rule against perpetuities, any other existing law against perpetuities, or any law restricting or limiting the duration of trusts; but the trust may continue for the time that is necessary to accomplish the purposes for which it was created.

The income arising from any trust within the classifications mentioned in this division may be accumulated in accordance with the terms of the trust for as long a time as is necessary to accomplish the purposes for which the trust was created, notwithstanding any law limiting the period during which trust income may be accumulated.

No rule of law against perpetuities or the suspension of the power of alienation of the title to property invalidates any trust within the classifications mentioned in this division unless the trust is terminated by decree of a court in a suit instituted within two years after June 25, 1951.

(B)(1) No rule of law against perpetuities or suspension of the power of alienation of the title to property, any other existing law against perpetuities, or any law restricting or limiting the duration of trusts shall apply with respect to any interest in real or personal property held in trust if both of the following apply:

(a) The instrument creating the trust specifically states that the rule against perpetuities or the provisions of division (A) of section 2131.08 of the Revised Code shall not apply to the trust.

(b) The trustee has unlimited power, or one or more persons have the unlimited power to direct the trustee or to approve the trustee's decision, either to sell all trust assets or to terminate the entire trust.

(2) Division (B)(1) of this section shall apply to the interpretation of a testamentary or inter vivos trust instrument that creates an interest in real or personal property in relation to which one or more of the following conditions apply:

(a) The instrument creating the testamentary or inter vivos trust is executed in this state.

(b) The sole trustee or one of the trustees is domiciled in this state.

(c) The testamentary or inter vivos trust is administered in this state or the situs of a substantial portion of the assets subject to the testamentary portion of the testamentary or inter vivos trust is in this state, even though some part or all of those assets are physically deposited for safekeeping in a state other than this state.

(d) The instrument creating the testamentary or inter vivos trust states that the law of this state is to apply.

(3) Subject to division (C) of this section, division (B) of this section shall be effective with respect to all of the following:

(a) An interest in real or personal property in trust created under the terms of a will of a decedent dying on or after March 22, 1999;

(b) An interest in real or personal property created under the terms of an inter vivos or testamentary trust instrument executed on or after March 22, 1999;

(c) An interest in real or personal property in trust created by the exercise of a general power of appointment on or after March 22, 1999;

(d) An interest in real or personal property in trust created by the exercise of a nongeneral power of appointment over any portion of a trust that meets the requirements of division (B) of this section, but only if the date of creation of that nongeneral power of appointment is on or after ~~the~~

~~effective date of this section March 27, 2013.~~

(C) The exercise of a nongeneral power of appointment granted over any portion of a trust to which the rule against perpetuities does not apply because the terms of the trust meet the requirements of division (B) of this section shall nevertheless be subject to section 2131.08 of the Revised Code, except that interests created pursuant to the exercise of a nongeneral power of appointment that has a date of creation on or after ~~the effective date of this section March 27, 2013,~~ shall be required to vest not later than one thousand years after the date of creation of that power.

(D) For purposes of this section, the instrument creating a trust subject to a power reserved by the grantor to amend, revoke, or terminate the trust shall include the original instrument establishing the trust and all amendments to the instrument made prior to the time at which the reserved power expires by reason of the death of the grantor, by release of the power, or otherwise.

(E) The amendment of division (B)(1) of this section and divisions (D) and (F) of this section are intended to clarify the provisions of divisions (B) and (C) of this section as originally enacted and apply to trust instruments that are in existence prior to, on, or after ~~the effective date of this section March 22, 1999.~~

(F) For purposes of this section:

(1) "General power of appointment" means a power that is exercisable in favor of the individual possessing the power, the individual's estate, the individual's creditors, or the creditors of the individual's estate other than either of the following:

(a) A power that is limited by an ascertainable standard as defined in section 5801.01 of the Revised Code;

(b) A power of withdrawal held by an individual, but only to the extent that it does not exceed the amount specified in section 2041(b)(2) or 2514(e) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended.

(2) "Nongeneral power of appointment" means any power of appointment that is not a general power of appointment.

(3) The "date of creation" of a nongeneral power of appointment created by the exercise of one or more powers of appointment, except by the exercise of a general power of appointment exercisable by deed, shall be the date of creation of the first of those powers of appointment to be exercised.

(4) "Exercisable by deed" has the same meaning as in section 2131.08 of the Revised Code. Sec. 5801.20. As used in sections 5801.20 to 5801.24 of the Revised Code:

(A)(1) "Applicable reporting period" means either of the following, as applicable:

(a) The most recent four years, as of the date of preparation of a notice authorized under division (B) of section 5801.22 or division (B) of section 5801.23 of the Revised Code;

(b) If the trust became irrevocable during such four-year period, the period from the date the trust became irrevocable to the date of preparation of the notice.

(2) If the trustee sending the notice accepted the trusteeship during the period described in division (A)(1) of this section, the "applicable reporting period" shall be from the date of the trustee's acceptance to the date of preparation of the notice.

(B) "Departing trustee" means a trustee who is resigning or has been removed as trustee of a trust.

(C) "Distributions objection period" means a forty-five-day period for providing the trustee of the noticing trust with objections under division (D) of section 5801.22 of the Revised Code. The period commences with the date the notice and trustee's reports described in division (B) of section 5801.22 of the Revised Code are served on the recipient.

(D) "Noticing trust" means a trust whose trustee is serving or has served a notice and trustee reports under section 5801.22 or 5801.23 of the Revised Code.

(E) "Resignation or removal necessary parties" means the following persons:

(1) In the case of a trustee resignation:

(a) If the trust terms identify one or more persons to whom notice of the trustee's resignation must be provided, the persons so identified and any other persons who are current beneficiaries of the trust, determined as of the date of the notice described in division (B) of section 5801.23 of the Revised Code;

(b) If the trust terms do not identify any persons to whom notice of the trustee's resignation must be provided, the qualified beneficiaries of the trust, determined as of the date of the notice described in division (B) of section 5801.23 of the Revised Code.

(2) In the case of a trustee removal, the persons, if any, to whom notice of trustee removal is required to be provided under the trust terms and any other persons who are current beneficiaries of the trust, determined as of the date of the notice described in division (B) of section 5801.23 of the Revised Code.

(3) Any co-trustee of the trust;

(4) The successor trustee if one has been appointed or designated as provided in the trust terms or otherwise appointed, as provided in division (C) of section 5807.04 of the Revised Code or pursuant to other applicable law.

(F) "Successor trustee" means a person, not previously serving as a co-trustee, who is to replace the departing trustee following the departing trustee's resignation or removal.

(G) "Terminating distributions necessary parties" means:

(1) The current beneficiaries of the trust, determined as of the date of the notice described in division (B) of section 5801.22 of the Revised Code;

(2) If the trust-terminating distributions include one or more mandatory distributions under the terms of the trust, all other persons living at the date of the notice who were current beneficiaries of the trust immediately prior to the triggering event that is the basis for the mandatory distributions;

(3) Any co-trustee of the trust.

(H) "Triggering event" means any event, such as a death, age attainment or other circumstance, that has occurred and that is the basis for a mandatory distribution under the terms of the trust.

(I) "Trust-terminating distributions" means distributions that, when completed, will distribute the remaining net assets of a trust and thereby effectively terminate the trust, including any such distributions that are made pursuant to section 5808.18 of the Revised Code or under any similar statutory or common law applicable to the trust.

(J) "Trustee indemnification clause" means a provision that indemnifies the trustee against loss arising from a claim relating to the trustee's administration of the trust.

(K) "Trustee's report" means a report as described in division (C) of section 5808.13 of the

Revised Code.

(L) "Trustee succession objection period" means a forty-five-day period for providing to the departing trustee objections under division (D) of section 5801.23 of the Revised Code. The period commences with the date the notice and trustee's reports described in division (B) of section 5801.23 of the Revised Code are served on the recipient.

Sec. 5801.21. (A) A trustee may, but is not required to, use the process prescribed in sections 5801.22 and 5801.23 of the Revised Code, as applicable, when concluding the trustee's administration of an irrevocable trust.

(B) Sections 5801.20 to 5801.24 of the Revised Code do not apply to a testamentary trust subject to the supervision of a probate court.

(C) Except as otherwise provided in the Revised Code or other applicable law, including the common law, the provisions of sections 5801.22 and 5801.23 of the Revised Code may be used in combination with or in lieu of other options or proceedings available under the Revised Code or other applicable law, including the common law.

(D) A trustee's substantial good-faith compliance with the requirements concerning the contents of the notices described in division (B) of section 5801.22 and division (B) of section 5801.23 of the Revised Code is deemed sufficient.

Sec. 5801.22. (A) When a trust is to terminate as a result of trust-terminating distributions and the trustee elects to use the provisions of this section, the trustee shall serve on the terminating distributions necessary parties the documents and information described in division (B) of this section. The trustee also may serve those documents and that information on other persons who the trustee reasonably believes may have an interest in the trust. Service shall be made within a reasonable period of time after the event or determination that requires or authorizes such distributions.

(B) The documents and information to be served include both of the following:

(1) A written notice, executed by or on behalf of the trustee, that includes the following information:

(a) The date of the notice, corresponding to the date the notice is being sent;

(b) A description of the terms of the trust that require or authorize the trust-terminating distributions or a citation to any statute that requires or authorizes the distributions;

(c) If the terms of the trust require any of the proposed trust-terminating distributions, a description of any triggering event that is the basis for each mandatory distribution;

(d) A description of the proposed trust-terminating distributions that includes the names of the proposed distributees and a description, in general or specific terms, of the assets proposed for distribution to each;

(e) A description of the distributions objection period and the name, mailing address, electronic address if available, and telephone number of the person or office associated with the trustee to which any written objections should be sent;

(f) A description of the process, described in division (C) of this section, that will be followed if the trustee receives no written objections within the distributions objection period;

(g) A description of the process, described in division (D) of this section, that will be followed if the trustee receives a written objection within the distributions objection period;

(h) A statement of the impending bar of claims against the trustee, as described in division (F) of this section, that will result if an objection is not timely made;

(i) A statement that the trustee may rely upon the written statement of a recipient of the notice that such person consents to the proposed trust-terminating distributions and irrevocably waives the right to object to the distributions and any claim against the trustee for matters disclosed in the notice or the trustee's reports served with it and all other matters pertaining to the trustee's administration of the trust;

(j) A statement that the trustee may complete the distributions described in the notice prior to the expiration of the distributions objection period if all of the persons on whom the notice was served deliver to the trustee written consents and irrevocable waivers of the kind described in division (E) of this section;

(k) An exhibit showing the assets on hand at the date the notice is prepared and their respective values as shown in the regularly kept records of the trustee;

(l) An estimate of any assets, income, taxes, fees, expenses, claims, or other items reasonably expected by the trustee to be received or disbursed before completion of the trust-terminating distributions but not yet received or disbursed, including trustee fees remaining to be paid.

(2) One or more trustee's reports covering the applicable reporting period.

(C) If no written objection is received by the trustee within the distributions objection period:

(1) The notice and trustee's reports served pursuant to division (A) of this section shall be considered approved by each recipient of the notice and reports;

(2) The trustee, within a reasonable period of time following the expiration of the distributions objection period, shall distribute the assets as provided in the notice;

(3) Any person who was served such notice and reports shall be barred from bringing a claim against the trustee, and from challenging the validity of the trust, as provided in division (F) of this section.

(D)(1) If, after being served the notice and trustee's reports described in division (B) of this section, a qualified beneficiary or any other recipient of the notice wishes to object to matters disclosed in the notice or trustee's reports served, or any other matter pertaining to the trustee's administration of the trust, the person shall provide written notice of the objection to the trustee of the noticing trust within the distributions objection period. If the trustee receives a written objection within the distributions objection period, the trustee may do either of the following:

(a) Submit the written objection to the court for resolution. The expense of commencing, conducting, and concluding such a proceeding shall be charged as ordered by the court.

(b)(i) Resolve the objection with the objecting person by accepting a withdrawal of the person's objection or by written instrument, a written agreement as described in section 5801.10 of the Revised Code, or other means.

(ii) Any agreement or other written instrument executed by the objecting party pursuant to division (D)(1)(b)(i) of this section may include a release and a trustee indemnification clause, along with other terms agreed to by the parties. Reasonable expenses related to such written instrument or written agreement shall be charged to the trust.

(2) Within a reasonable time after resolution of all timely objections under division (D)(1) of this section, the trustee shall distribute the remaining trust assets as provided in the notice, subject to

any modifications provided for in the terms of the document setting forth the resolution of each such objection.

(E)(1) The trustee may rely upon the written statement of a recipient of the notice and trustee's reports served under this section that the recipient:

- (a) Consents to the proposed trust-terminating distributions;
- (b) Irrevocably waives the right to object to the distributions;
- (c) Irrevocably waives any claims against the trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the trustee's administration of the trust.

(2) The distributions described in the notice may be completed prior to the expiration of the distributions objection period if all of the persons on whom the notice and trustee's reports were served have delivered to the trustee similar written consents and irrevocable waivers.

(F)(1)(a) Any person who was served a notice and trustee's reports that comply with the requirements of this section and who either consented to the proposed trust-terminating distributions or failed to timely provide the trustee a written objection as described in this section is barred from:

(i) Bringing a claim against the trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the trustee's administration of the trust;

(ii) Challenging the validity of the trust.

Such claims shall be barred as described in division (F)(2) of this section.

(b) If all of the terminating distributions necessary parties and all qualified beneficiaries of the trust have been served a notice and trustee's reports that comply with the requirements of this section and have either consented to the proposed trust-terminating distributions or failed to timely provide the trustee a written objection as described in this section, all other beneficiaries of the trust, including persons who may succeed to the interests in the trust of the beneficiaries served, shall be barred as described in division (F)(2) of this section.

(2) The bar of claims under division (F) of this section applies:

(a) To each person barred, the person's personal representatives and assigns, and the person's heirs who are not beneficiaries of the noticing trust;

(b) To the same extent and with the same preclusive effect as if the court had entered a final order approving and settling the trustee's full account of its entire administration of the trust, notwithstanding the limitations periods otherwise applicable under section 5810.05 of the Revised Code.

(G) Any beneficiary who receives trust assets as a result of a trust-terminating distribution described in the notice described in division (B) of this section and who is barred from bringing claims under division (F) of this section may be required to return all or any part of the value of the distributed assets if the trustee determines that the return of assets is necessary to pay, or reimburse the trustee for payment of, taxes, debts, or expenses of the trust, including reasonable expenses incurred by the trustee in obtaining the return of those assets. The beneficiary shall make the return expeditiously upon receipt of a written notice from the trustee requesting the return of all or any part of the value of those distributed assets.

Sec. 5801.23. (A) When a trustee resigns or is removed from an irrevocable trust pursuant to the terms of the trust or otherwise and the departing trustee elects to use the provisions of this

section, the departing trustee shall serve on the resignation or removal necessary parties the documents and information described in division (B) of this section. The trustee also may serve those documents and that information on other persons who the trustee reasonably believes may have an interest in the trust. Service shall be made within a reasonable period of time after such resignation or removal.

(B) The documents and information to be served include all of the following:

(1) A written notice, executed by or on behalf of the departing trustee, that includes all of the following information:

(a) The date of the notice, corresponding to the date the notice is being sent;

(b) A description of any terms of the trust or the Revised Code relevant to the resignation or removal of the departing trustee and the provisions, if applicable, regarding the appointment or designation of the successor trustee;

(c) A description of any actions taken by the departing trustee, the beneficiaries of the trust, or other required parties pertaining to the resignation or removal of the departing trustee and, if applicable, the appointment or designation of the successor trustee;

(d) The name and address of the successor trustee, if one has been appointed or designated;

(e) If applicable, a statement confirming the successor trustee's acceptance of the trusteeship;

(f) A description of the trustee succession objection period and the name, mailing address, electronic mail address if available, and telephone number of the person or office associated with the departing trustee to which any written objections should be sent;

(g) A description of the process, described in division (C) of this section, that will be followed if the departing trustee receives no written objections within the trustee succession objection period;

(h) A description of the process, described in division (D) of this section, that will be followed if the departing trustee receives a written objection within the trustee succession objection period;

(i) A statement of the impending bar of claims against the departing trustee, as described in division (F) of this section, that will result if an objection is not timely made;

(j) A statement that the departing trustee may rely upon the written statement of a recipient of the notice that such person consents to the delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, and irrevocably waives the right to object to the delivery of the assets and any claim against the departing trustee for matters disclosed in the notice or the trustee's reports served with it and all other matters pertaining to the departing trustee's administration of the trust;

(k) A statement that the departing trustee may complete the delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, prior to the expiration of the trustee succession objection period if all of the persons on whom the notice was served deliver to the trustee written consents and irrevocable waivers of the kind described in division (E) of this section;

(l) An exhibit showing the assets on hand at the date the notice is prepared and their respective values as shown in the regularly kept records of the trustee;

(m) An estimate of any assets, income, taxes, fees, expenses, claims, or other items reasonably expected by the departing trustee to be received or disbursed before delivery of the net

assets of the trust to the successor trustee, or to one or more co-trustees as applicable, but not yet received or disbursed, including trustee fees remaining to be paid.

(2) One or more trustee's reports covering the applicable reporting period.

(C) If no written objection is received by the departing trustee within the trustee succession objection period:

(1) The notice and trustee's reports served pursuant to division (A) of this section shall be considered approved by each recipient of the notice and reports.

(2) The departing trustee, within a reasonable period of time following the expiration of the trustee succession objection period, shall deliver the net trust assets to the successor trustee or to one or more co-trustees, as applicable.

(3) Any person who was served such notice and reports shall be barred from bringing a claim against the trustee, and from challenging the validity of the trust, as provided in division (F) of this section.

(D)(1) If, after being served the notice and trustee's reports described in division (B) of this section, a qualified beneficiary or any other recipient of the notice wishes to object to matters disclosed in the notice or reports or any other matter pertaining to the departing trustee's administration of the trust, the person shall provide written notice of the objection to the departing trustee within the trustee succession objection period. If the departing trustee receives a written objection within the trustee succession objection period, the departing trustee may do either of the following:

(a) Submit the written objection to the court for resolution. The expense of commencing, conducting, and concluding such a proceeding shall be charged as ordered by the court.

(b)(i) Resolve the objection with the objecting person by accepting a withdrawal of the person's objection or by written instrument, a written agreement as described in section 5801.10 of the Revised Code, or other means.

(ii) Any agreement or other written instrument executed by the objecting party pursuant to division (D)(1)(b)(i) of this section may include a release and a trustee indemnification clause, along with other terms agreed to by the parties. Reasonable expenses related to such written instrument or written agreement shall be charged to the trust.

(2) Within a reasonable time after resolution of all timely objections under division (D)(1) of this section, the departing trustee shall deliver the net trust assets to the successor trustee, or to one or more co-trustees as applicable, subject to any modifications provided for in the terms of the document setting forth the resolution of each such objection.

(E)(1) The departing trustee may rely upon the written statement of a recipient of the notice and trustee's reports served under this section that the recipient consents to, and irrevocably waives the right to object to:

(a) The departing trustee's resignation or removal;

(b) The appointment of the successor trustee, if applicable;

(c) Delivery of the net assets of the trust to the successor trustee or to one or more co-trustees, as applicable.

(2) The statement shall also irrevocably waive any claims against the departing trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters

pertaining to the departing trustee's administration of the trust.

(3) The delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, may be completed prior to the expiration of the trustee succession objection period if all of the persons on whom the notice and trustee's reports were served have delivered to the departing trustee similar written consents and irrevocable waivers.

(F)(1) Any person who was served a notice and trustee's reports that comply with the requirements of this section and who either consented to the delivery of the net assets of the trust to the successor trustee or one or more co-trustees as applicable or failed to timely provide the departing trustee a written objection as described in this section is barred from:

(a) Bringing a claim against the departing trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the departing trustee's administration of the trust;

(b) Challenging the validity of the trust.

Such claims shall be barred as described in division (F)(3) of this section.

(2) If all of the resignation or removal necessary parties and all qualified beneficiaries of the trust have been served a notice and trustee's reports that comply with the requirements of this section and have either consented to the delivery of the net assets of the trust to the successor trustee or failed to timely provide the trustee a written objection as described in this section, all other beneficiaries of the trust, including persons who may succeed to the interests in the trust of the beneficiaries served, shall be barred as described in division (F)(3) of this section.

(3) The bar of claims under divisions (F)(1) and (2) of this section applies:

(a) To each person barred, the person's personal representatives and assigns, and the person's heirs who are not beneficiaries of the noticing trust;

(b) To the same extent and with the same preclusive effect as if the court had entered a final order approving and settling the departing trustee's full account of its entire administration of the trust, notwithstanding the limitations periods otherwise applicable under section 5810.05 of the Revised Code.

(c) To bar the person from bringing a claim against the successor trustee for failure to object to a matter that is subject to the bar of claims against the departing trustee to the same extent as the bar applies to claims against the departing trustee.

Sec. 5801.24. (A)(1) Division (A)(2) of this section applies if both of the following apply:

(a) A notice and trustee's reports under division (B) of section 5801.22 or division (B) of section 5801.23 of the Revised Code are served upon both of the following:

(i) The personal representative for the estate of a deceased beneficiary of the noticing trust or the trustee of a subtrust that is a beneficiary of the noticing trust;

(ii) One or more beneficiaries of the estate or subtrust whose fiduciary is served.

(b) Both the fiduciary of the estate or subtrust and one or more beneficiaries of that estate or subtrust who are served do either of the following:

(i) Consent to the proposed distributions or delivery of assets described in the notice;

(ii) Fail to object within the applicable objection period.

(2) If the criteria described in division (A)(1) of this section are met, the beneficiary of the estate or subtrust who is subject to the claims bar with respect to the administration of the noticing

trust shall be barred to the same extent from bringing a claim against the fiduciary of the estate or subtrust for failure to object to a matter that is subject to the bar of claims against the trustee of the noticing trust.

(B) The notices and trustee's reports served by the trustee of the noticing trust under section 5801.22 or 5801.23 of the Revised Code shall be served on a person by any of the following means:

(1) Handing them to the person;

(2) Leaving them at either of the following locations:

(a) At the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office;

(b) At the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(3) Mailing them to the person's last known address by United States mail, in which event service is complete upon mailing;

(4) Delivering them to a commercial carrier service for delivery to the person's last known address within three calendar days, in which event service is complete upon delivery to the carrier;

(5) Sending them by electronic means to a facsimile number or electronic mail address provided by the person to be served or provided by his or her attorney, in which event service is complete upon transmission, but is not effective if the trustee of the noticing trust learns that they did not reach the person.

(C) No trustee shall request or include a trustee indemnification clause in the notice and trustee's reports served under division (B) of section 5801.22 or division (B) of section 5801.23 of the Revised Code or in any documentation served by the trustee with the notice and trustee's reports. However, in the event such notice and trustee's reports are served and a written objection is received by the trustee within the applicable objection period, a trustee indemnification clause may be included in an agreement or other written instrument executed by the objecting party pursuant to division (D)(1)(b)(i) of section 5801.22 or division (D)(1)(b)(i) of section 5801.23 of the Revised Code.

Section 4. That existing sections 517.23, 517.24, 517.25, 2107.52, 2108.82, 2111.18, 2117.06, 2117.07, and 2131.09 of the Revised Code are hereby repealed.

Section 5. (A) There is hereby created the Task Force on Bail consisting of the following six members:

(1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives;

(2) Three members of the Senate appointed by the President of the Senate.

(B) The minority leaders of the House of Representatives and the Senate shall each recommend at least one of the appointed members of the task force.

(C) In the case of a vacancy, the vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

(D) Not later than ninety days from the effective date of this section, the President of the

Senate and the Speaker of the House of Representatives shall each appoint a co-chairperson from among the members the President and the Speaker of the House appoint to the task force. Thereafter, the task force shall meet at the call of the co-chairpersons.

(E)(1) The task force shall collect and evaluate data regarding the current usage of bail in this state.

(2) The task force shall hear testimony with regard to the alleged cost of compliance with the questionnaire developed in division (E)(3) of this section.

(3) The task force shall develop a standardized questionnaire form and provide the form to each county sheriff to fill out on a daily basis for a period of two months. The county sheriff for each county shall return the completed forms to the task force. The form shall collect the following information:

(a) The total number of people currently housed in the jail;

(b) Of that total population, the total number of inmates currently serving sentences, and the total number being held pre-trial;

(c) The total number of people being held on felony charges pretrial, which shall be broken down by the level of the felony charged, and for what length of time;

(d) The total number of people being held on misdemeanor charges pretrial, which shall be broken down by the level of the misdemeanor charged, and for what length of time.

(F) Not later than six months after the submission of all questionnaires, the task force shall prepare and submit a report to the General Assembly, in accordance with section 101.68 of the Revised Code, detailing its findings and any recommendations concerning the topics described in division (E) of this section. Upon the submission of its report, the task force shall cease to exist.

Section 6. That Section 3 of H.B. 518 of the 134th General Assembly be amended to read as follows:

Sec. 3. (A) Effective January 1, 2024, the Fulton County County Court is abolished.

(B) All causes, judgments, executions, and other proceedings pending in the Fulton County County Court at the close of business on December 31, 2023, shall be transferred to and proceed in the Fulton County Municipal Court on January 1, 2024, as if originally instituted in the Fulton County Municipal Court. The Clerk of the Fulton County County Court or other custodian shall transfer to the Fulton County Municipal Court all pleadings, orders, entries, dockets, bonds, papers, records, books, exhibits, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the Fulton County County Court, or any officer of that court, that pertain to those causes, judgments, executions, and proceedings at the close of business on December 31, 2023.

(C) All employees of the Fulton County County Court shall be transferred to and shall become employees of the Fulton County Municipal Court on January 1, 2024.

(D) Effective January 1, 2023, the part-time judgeship in the Fulton County County Court originally elected in 1980 shall be abolished. ~~Effective January 1, 2024, the part-time judgeship in the Fulton County County Court originally elected in 1982 shall be abolished.~~

(E) Effective January 1, 2023, the part-time judgeship of the Fulton County County Court originally elected in 1982 shall be converted to the full-time judgeship of the Fulton County County

Court until the Fulton County County Court is abolished on January 1, 2024.

(F) Effective January 1, 2023, notwithstanding division (A)(6) of section 141.04 of the Revised Code and division (A) of section 1907.16 of the Revised Code, the full-time judge of the Fulton County County Court under division (E) of this section shall receive the compensation set forth in division (A)(5) of section 141.04 of the Revised Code until the Fulton County County Court is abolished on January 1, 2024.

Section 7. That existing Section 3 of H.B. 518 of the 134th General Assembly is hereby repealed.

Section 8. (A) The Governor may execute a Governor's Deed in the name of the State conveying to the Lucas County Commissioners ("Grantee"), and its successors and assigns, to be determined in the manner provided in division (C) of this section, all of the State's right, title, and interest in the following described real estate:

All that part of Lot 13, Ellwood Farms Subdivision, Section 2 R9E, T7N, Monclova Township, Lucas County, Ohio, bounded and described as follows:

Commencing at the intersection of the easterly line of Lot 13, Ellwood Farms Subdivision, extended northwardly, and the centerline of Ohio Route 2, which point is designated as Station 266 plus 61.80 on the plans of Luc-2-3.02; thence southwardly along the easterly line of said Lot 13 extended, at an angle of 116 degrees 13 minutes measured from the centerline of Ohio Route 2 from East to Southwest for a distance of 33.44 feet to a point on a line which is 30 feet southeast of and parallel to the centerline of Ohio Route 2, which point is designated as 266 plus 47.10 on the plans of said Luc-2-3.02 and is the POINT OF BEGINNING; thence southwardly on the easterly line of said Lot 13 a distance of 304.79 feet; thence southwestwardly along a line parallel to the centerline of Ohio Route 2 and at an angle of 116 degrees 13 minutes measured counter-clockwise from the last described line, for a distance of 171.88 feet; thence northwardly along a line parallel to the easterly line of said Lot 13 and at an angle of 63 degrees and 47 minutes measured counter-clockwise from the last described line, for a distance of 304.79 feet, more or less, to a point on a line 30 feet southeast of and parallel to the centerline of Ohio Route 2; thence northeastwardly along a line 30 feet southeast of and parallel to the centerline of Ohio Route 2 for a distance of 171.88 feet, more or less, to the POINT OF BEGINNING; containing 1.079 acres of land, more or less, of which the present roadway occupies 0.079 acres, more or less.

Lucas County Parcel No. 38-46134

Prior Instrument Reference: Deed Volume 1764, Page 84.

The foregoing legal description may be corrected or modified by the Department of Administrative Services to a final form if such corrections or modifications are needed to facilitate recordation of the deed.

(B)(1) The conveyance includes improvements and chattels situated on the real estate, and is subject to all easements, covenants, conditions, leases, and restrictions of record: all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. The real estate shall be conveyed in an

"as-is, where-is, with all faults" condition.

(2) The deed for conveyance of the real estate may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the Director of Administrative Services determines to be in the best interest of the State.

(3) Subsequent to the conveyance, any restrictions, exceptions, reservations, reversionary interests, or other terms and conditions contained in the deed may be released by the State or the Department of Public Safety without the necessity of further legislation.

(C) Notwithstanding section 22 of H.B. 377 of the 134th General Assembly, the Director of Administrative Services shall offer the real estate to the Lucas County Commissioners through a real estate purchase agreement. Consideration for the conveyance of the real estate described in division (A) of this section shall be \$1.00. If the Lucas County Commissioners do not complete the purchase of the real estate within the time period provided in the real estate purchase agreement, the Director of Administrative Services may use any reasonable method of sale considered acceptable by the Department of Public Safety to determine an alternate grantee willing to complete the purchase for a consideration acceptable to the Department of Public Safety within three years after the effective date of this section. The Department of Public Safety shall pay all advertising costs, additional fees, and other costs incident to the sale of the real estate to an alternate grantee.

(D) The real estate described in division (A) of this section shall be sold as an entire tract and not in parcels.

(E) Except as otherwise specified above, the Grantee shall pay all costs associated with the purchase, closing and conveyance, including surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed.

The proceeds of the sale shall be deposited into the state treasury to the credit of the Public Safety – Highway Purposes fund (Fund 5TM0) under section 4501.06 of the Revised Code.

(F)(1) Upon execution of the real estate purchase agreement, the Director of the Department of Administrative Services, with the assistance of the Attorney General, shall prepare a Governor's Deed to the real estate described in division (A) of this section. The Governor's Deed shall state the consideration and shall be executed by the Governor in the name of the State, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Department of Administrative Services for recording, and delivered to the Grantee. The Grantee shall present the Governor's Deed for recording in the Office of the Lucas County Recorder.

(2) The Governor's Deed shall contain a restriction stating that prior to any subsequent sale or transfer of the real estate described in division (A), the purchaser or purchasers shall offer the real estate described in division (A) to the State of Ohio at the same purchase price provided in division (C) and at the sole option and discretion of the Director of Administrative Services and Director of Public Safety.

(3) The Governor's Deed may contain a restriction prohibiting the lease of the real estate or any portion thereof by the Grantee for purposes other than a proper public purpose and may contain reversion to the state for violation of the restriction.

(G) This section expires three years after its effective date.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 202

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____