

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 302**

**Senator Gavarone**



**A BILL**

To amend sections 109.04, 1901.021, 1901.14, 1  
1901.22, 1907.20, 2111.011, 2307.23, 2317.02, 2  
2317.021, 2317.41, 2317.422, 2939.03, 2939.06, 3  
2941.61, 2943.02, 2945.51, 2945.52, 2945.53, and 4  
2945.54 and to repeal sections 1901.16, 1901.41, 5  
1907.21, 1907.231, 2101.12, 2101.121, 2101.14, 6  
2101.141, 2301.141, 2317.03, 2317.40, 2317.42, 7  
2939.02, 2939.11, 2939.19, 2939.20, 2941.021, 8  
2943.03, 2943.04, 2945.12, 2945.30, 2945.31, 9  
2945.33, 2945.34, 2945.41, 2945.45, and 2945.50 10  
of the Revised Code relative to courts and court 11  
procedures. 12

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

**Section 1.** That sections 109.04, 1901.021, 1901.14, 13  
1901.22, 1907.20, 2111.011, 2307.23, 2317.02, 2317.021, 2317.41, 14  
2317.422, 2939.03, 2939.06, 2941.61, 2943.02, 2945.51, 2945.52, 15  
2945.53, and 2945.54 of the Revised Code be amended to read as 16  
follows: 17

**Sec. 109.04.** During the absence or disability of the 18  
attorney general, or when so directed by the attorney general, 19

including all the rights, privileges, and powers conferred upon 20  
the attorney general by sections 2939.10, ~~2939.11~~, and 2939.17 21  
of the Revised Code, the first assistant attorney general shall 22  
perform the duties of the attorney general. 23

**Sec. 1901.021.** (A) Except as otherwise provided in 24  
division (M) of this section, the judge or judges of any 25  
municipal court established under division (A) of section 26  
1901.01 of the Revised Code having territorial jurisdiction 27  
outside the corporate limits of the municipal corporation in 28  
which it is located may sit outside the corporate limits of the 29  
municipal corporation within the area of its territorial 30  
jurisdiction. 31

(B) Two or more of the judges of the Hamilton county 32  
municipal court may be assigned by the presiding judge of the 33  
court to sit outside the municipal corporation of Cincinnati. 34

(C) Two of the judges of the Portage county municipal 35  
court shall sit within the municipal corporation of Ravenna, and 36  
one of the judges shall sit within the municipal corporation of 37  
Kent. The judges may sit in other incorporated areas of Portage 38  
county. 39

(D) The judges of the Wayne county municipal court shall 40  
sit within the municipal corporation of Wooster and may sit in 41  
other incorporated areas of Wayne county. 42

(E) The judge of the Auglaize county municipal court shall 43  
sit within the municipal corporations of Wapakoneta and St. 44  
Marys and may sit in other incorporated areas in Auglaize 45  
county. 46

(F) At least one of the judges of the Miami county 47  
municipal court shall sit within the municipal corporations of 48

Troy, Piqua, and Tipp City, and the judges may sit in other 49  
incorporated areas of Miami county. 50

(G) The judge of the Crawford county municipal court shall 51  
sit within the municipal corporations of Bucyrus and Galion and 52  
may sit in other incorporated areas in Crawford county. 53

(H) The judge of the Jackson county municipal court shall 54  
sit within the municipal corporations of Jackson and Wellston 55  
and may sit in other incorporated areas in Jackson county. 56

(I) Each judge of the Columbiana county municipal court 57  
may sit within the municipal corporation of Lisbon, Salem, or 58  
East Palestine until the judges jointly select a central 59  
location within the territorial jurisdiction of the court. When 60  
the judges select a central location, the judges shall sit at 61  
that location. 62

(J) In any municipal court, other than the Hamilton county 63  
municipal court and the Montgomery county municipal court, that 64  
has more than one judge, the decision for one or more judges to 65  
sit outside the corporate limits of the municipal corporation 66  
shall be made by rule of the court as provided in ~~division-~~ 67  
divisions (A) (3) and (C) of sections ~~section 1901.14 and 1901.16-~~ 68  
of the Revised Code. 69

(K) The assignment of a judge to sit in a municipal 70  
corporation other than that in which the court is located does 71  
not affect the jurisdiction of the mayor except as provided in 72  
section 1905.01 of the Revised Code. 73

(L) The judges of the Clermont county municipal court may 74  
sit in any municipal corporation or unincorporated territory 75  
within Clermont county. 76

(M) Beginning July 1, 2010, the judges of the Montgomery 77

county municipal court shall sit in the same locations as the 78  
judges of the Montgomery county county court sat before the 79  
county court was abolished on that date. The legislative 80  
authority of the Montgomery county municipal court may determine 81  
after that date that the judges of the Montgomery county 82  
municipal court shall sit in any municipal corporation or 83  
unincorporated territory within Montgomery county. 84

(N) The judge of the Tiffin-Fostoria municipal court shall 85  
sit within each of the municipal corporations of Tiffin and 86  
Fostoria on a weekly basis. Cases that arise within the 87  
municipal corporation of Tiffin and within Adams, Big Spring, 88  
Bloom, Clinton, Eden, Hopewell, Liberty, Pleasant, Reed, Scioto, 89  
Seneca, Thompson, and Venice townships in Seneca county shall be 90  
filed in the office of the clerk of the court located in the 91  
municipal corporation of Tiffin. Cases that arise in the 92  
municipal corporation of Fostoria and within Loudon and Jackson 93  
townships in Seneca county shall be filed in the office of the 94  
special deputy clerk located in the municipal corporation of 95  
Fostoria. Until January 2, 2024, cases that arise within 96  
Washington township in Hancock county, and within Perry 97  
township, except within the municipal corporation of West 98  
Millgrove, in Wood county, shall be filed in the office of the 99  
special deputy clerk located in the municipal corporation of 100  
Fostoria. 101

(O) The judge of the Fulton county municipal court shall 102  
sit within each of the municipal corporations of Wauseon and 103  
Swanton on a weekly basis. Cases that arise within the municipal 104  
corporation of Wauseon and within Chesterfield, Clinton, Dover, 105  
Franklin, German, and Gorham townships in Fulton county shall be 106  
filed in the office of the clerk of the court located in the 107  
municipal corporation of Wauseon. Cases that arise in the 108

municipal corporation of Swanton and within Amboy, Fulton, Pike, 109  
Swan Creek, Royalton, and York townships shall be filed in the 110  
office of the special deputy clerk located in the municipal 111  
corporation of Swanton. 112

**Sec. 1901.14.** (A) Municipal judges have the following 113  
powers and duties: 114

(1) To perform marriage ceremonies anywhere in this state, 115  
take acknowledgment of deeds and other instruments, administer 116  
oaths, and perform any other duties that are conferred upon 117  
judges of county courts. 118

All fees, including marriage fees, collected by a 119  
municipal judge when not connected with any cause or proceeding 120  
pending in the municipal court, shall be paid over to the clerk 121  
of the municipal court to be paid to the city treasury, except 122  
that, in a county-operated municipal court, the fees shall be 123  
paid to the treasury of the county in which the court is 124  
located. 125

(2) To adopt, publish, and revise rules for the regulation 126  
of the practice and procedure of their respective courts, and 127  
for the selection and manner of summoning persons to serve as 128  
jurors in the court in accordance with the Rules of 129  
Superintendence for the Courts of Ohio; 130

(3) To adopt, publish, and revise rules relating to the 131  
administration of the court in accordance with the Rules of 132  
Superintendence for the Courts of Ohio; 133

(4) On or before the last day of March of each year, the 134  
court shall render a complete report of its operation during the 135  
preceding calendar year to the legislative authority and to the 136  
board of county commissioners of each county within its 137

territory. The report shall show the work performed by the 138  
court, a statement of receipts and expenditures of the civil and 139  
criminal branches, respectively, the number of cases heard, 140  
decided, and settled, and any other data that the supreme court, 141  
the secretary of state, the legislative authority, and the board 142  
of county commissioners requires. 143

(B) Any rule adopted pursuant to division (A) (2) or (3) of 144  
this section does not apply to the housing or environmental 145  
division of the municipal court if the judge of the housing or 146  
environmental division has adopted rules pursuant to division 147  
(C) of this section, unless the rules adopted pursuant to 148  
division (C) of this section do not regulate the subject 149  
regulated by the rule adopted pursuant to division (A) (2) or (3) 150  
of this section. 151

(C) Judges of the housing or environmental division of a 152  
municipal court, other than the judge of the environmental 153  
division of the Franklin county municipal court, may adopt, 154  
publish, and revise rules for the regulation of the practice and 155  
procedure of the division, for the selection and manner of 156  
summoning persons to serve as jurors in the division, and for 157  
the administration of the division, in accordance with the Rules 158  
of Superintendence for the Courts of Ohio. 159

**Sec. 1901.22.** Civil actions and proceedings in the 160  
municipal court shall be commenced pursuant to the Civil Rules 161  
by filing a complaint upon which summons or writ shall be issued 162  
by the clerk of the municipal court. A form of summons or writ 163  
shall be prescribed by rule of court. The procedure in a civil 164  
case in the municipal court shall be in accordance with the 165  
following provisions: 166

(A) The return day shall be fixed by rule of court, and 167

the summons or writ shall, unless accompanied by an order to 168  
arrest, be served at least three days before the time of 169  
appearance. 170

(B) In attachment and garnishment proceedings, a true copy 171  
of the affidavit shall be served with the summons and order of 172  
attachment or garnishment. 173

(C) In any action in a municipal court for the recovery of 174  
personal property, the appraised value of which exceeds the 175  
jurisdictional amount as defined in section 1901.17 of the 176  
Revised Code, the judge, upon the return of the appraisal 177  
prior to judgment, shall certify the proceedings in the case to 178  
the court of common pleas. 179

(D) Whenever any property is seized or sought to be 180  
recovered in any action in a municipal court, the property shall 181  
be at once appraised. The value of such property may be 182  
ascertained by the oath of two disinterested freeholders who are 183  
residents of the territory of the court. 184

(E) In any action in a municipal court in which the amount 185  
claimed by any defendant in any statement of counterclaim 186  
exceeds the jurisdictional amount, the judge shall certify the 187  
proceedings in the case to the court of common pleas, except in 188  
the Cleveland municipal court. 189

(F) When the amount due either party exceeds the sum for 190  
which a municipal court is authorized to enter judgment, such 191  
party may in writing remit the excess and judgment shall be 192  
entered for the residue. ~~Any party defendant may, at his option,~~ 193  
~~withhold setting up any statement of counterclaim and make the~~ 194  
~~counterclaim the subject of a separate action.~~ 195

(G) Upon certification of any proceedings to the court of 196

common pleas, the clerk of the municipal court shall forthwith 197  
transmit the original papers and pleadings, together with a 198  
certified transcript of the journal entries in the case, to the 199  
clerk of the court of common pleas to be filed. The bailiff 200  
shall turn over the property in ~~his~~ the bailiff's possession to 201  
the sheriff of the county to be held by ~~him~~ the sheriff as in 202  
like cases originating in the court of common pleas. The case 203  
shall then proceed as if it had been commenced originally in the 204  
court of common pleas. 205

**Sec. 1907.20.** (A) The clerk of courts shall be the clerk 206  
of the county court, except that the board of county 207  
commissioners, with the concurrence of the county court judges, 208  
may appoint a clerk for each county court judge, who shall serve 209  
at the pleasure of the board and shall receive compensation as 210  
set by the board, payable in semimonthly installments from the 211  
treasury of the county. Except as otherwise provided in section 212  
3.061 of the Revised Code, an appointed clerk, before entering 213  
upon the duties of the office, shall give bond of not less than 214  
five thousand dollars, as determined by the board of county 215  
commissioners, conditioned upon the faithful performance of the 216  
clerk's duties. 217

The clerks of courts of common pleas, when acting as the 218  
clerks of county courts, and upon assuming their county court 219  
duties, shall receive compensation at one-fourth the rate 220  
prescribed for the clerks of courts of common pleas as 221  
determined in accordance with the population of the county and 222  
the rates set forth in sections 325.08 and 325.18 of the Revised 223  
Code. This compensation shall be paid from the county treasury 224  
in semimonthly installments and is in addition to the annual 225  
compensation received for the performance of the duties of the 226  
clerk of a court of common pleas as provided in sections 325.08 227



and 325.18 of the Revised Code. 228

(B) The clerk of a county court shall have general powers 229  
to administer oaths, take affidavits, and issue executions upon 230  
any judgment rendered in the county court, including a judgment 231  
for unpaid costs, power to issue and sign all writs, process, 232  
subpoenas, and papers issuing out of the court, and to attach 233  
the seal of the court to them, and power to approve all bonds, 234  
sureties, recognizances, and undertakings fixed by any judge of 235  
the court or by law. The clerk shall file and safely keep all 236  
journals, records, books, and papers belonging or appertaining 237  
to the court, record its proceedings, perform all other duties 238  
that the judges of the court may prescribe, and keep a book 239  
showing all receipts and disbursements, which shall be open for 240  
public inspection at all times. The clerk may refuse to accept 241  
for filing any pleading or paper submitted for filing by a 242  
person who has been found to be a vexatious litigator under 243  
section 2323.52 of the Revised Code and who has failed to obtain 244  
leave to proceed under that section. 245

The clerk shall prepare and maintain a general index, a 246  
docket as prescribed by the court, which shall be furnished by 247  
the board of county commissioners, and such other records as the 248  
court, by rule, requires, all of which shall be the public 249  
records of the court. In the docket, the clerk shall enter at 250  
times of the commencement of an action, the names of the parties 251  
in full, the names of the counsel, and the nature of the 252  
proceedings. Under proper dates, the clerk shall note the filing 253  
of the complaint, issuing of summons or other process, returns, 254  
and pleadings subsequent thereto. The clerk also shall enter all 255  
reports, verdicts, orders, judgments, and proceedings of the 256  
court, clearly specifying the relief granted or orders made in 257  
each action. The court may order an extended record of any of 258

the above to be made and entered, under the proper action 259  
heading, upon the docket at the request of any party to the 260  
case, the expense of which may be taxed as costs in the case or 261  
may be required to be prepaid by the party demanding the 262  
extended record, upon order of the court. 263

(C) The clerk of a county court shall receive and collect 264  
all costs, fees, fines, penalties, bail, and other moneys 265  
payable to the office or to any officer of the court and issue 266  
receipts therefor, and shall on or before the twentieth day of 267  
the month following the month in which they are collected 268  
disburse the costs, fees, fines, penalties, bail, and other 269  
moneys to the proper persons or officers and take receipts 270  
therefor. Subject to sections 307.515, 4511.19, 4511.193, and 271  
5503.04 of the Revised Code and all other statutes that require 272  
a different distribution of fines, fines received for violations 273  
of municipal ordinances shall be paid into the treasury of the 274  
municipal corporation whose ordinance was violated, fines 275  
received for violations of township resolutions adopted pursuant 276  
to section 503.52 or 503.53 or Chapter 504. of the Revised Code 277  
shall be paid into the treasury of the township whose resolution 278  
was violated, and fines collected for the violation of state 279  
laws shall be paid into the county treasury. Moneys deposited as 280  
security for costs shall be retained pending the litigation. 281

~~The clerk shall keep a separate account of all receipts~~ 282  
~~and disbursements in civil and criminal cases. The separate~~ 283  
~~account shall be a permanent public record of the office. On the~~ 284  
~~expiration of a clerk's term, those records shall be delivered~~ 285  
~~to the clerk's successor.~~ 286

The clerk shall have such other powers and duties as are 287  
prescribed by rule or order of the court. 288

(D) All moneys paid into a county court shall be noted on 289  
the record of the case in which they are paid and shall be 290  
deposited in a state or national bank selected by the clerk. On 291  
the first Monday in January of each year, the clerk shall make a 292  
list of the titles of all cases in the county court that were 293  
finally determined more than one year past in which there 294  
remains unclaimed in the possession of the clerk any funds, or 295  
any part of a deposit for security of costs not consumed by the 296  
costs in the case. The clerk shall give notice of the moneys to 297  
the parties entitled to them or to their attorneys of record. 298  
All the moneys remaining unclaimed that are for restitution 299  
payments for crime victims shall be sent to the reparations fund 300  
created under section 2743.191 of the Revised Code, with a list 301  
from the clerk or other officer responsible for the collection 302  
and distribution of restitution payments specifying the amounts 303  
and individual identifying information of the funds. All other 304  
moneys remaining unclaimed on the first day of April of each 305  
year shall be paid by the clerk to the county treasurer. Any 306  
part of the moneys shall be paid by the county treasurer at any 307  
time to the person having the right to them, upon proper 308  
certification of the clerk. 309

(E) (1) In county court districts having appointed clerks, 310  
deputy clerks may be appointed by the board of county 311  
commissioners. Clerks and deputy clerks shall receive such 312  
compensation payable in semimonthly installments out of the 313  
county treasury as the board may prescribe. Each deputy clerk 314  
shall take an oath of office before entering upon the duties of 315  
the deputy clerk's office and, when so qualified, may perform 316  
the duties appertaining to the office of the clerk. The clerk 317  
may require any of the deputy clerks to give bond of not less 318  
than three thousand dollars, conditioned for the faithful 319

performance of the deputy clerk's duties. 320

(2) A clerk of courts acting as clerk of the county court 321  
may appoint deputy clerks to perform the duties pertaining to 322  
the office of clerk of the county court. Each deputy clerk shall 323  
take an oath of office before entering upon the deputy clerk's 324  
duties, and the clerk of courts may require the deputy clerk to 325  
give bond of not less than three thousand dollars, conditioned 326  
for the faithful performance of the deputy clerk's duties. 327

(3) The clerk or a deputy clerk of a county court shall be 328  
in attendance at all sessions of the court, although not 329  
necessarily in the courtroom, and may administer oaths to 330  
witnesses and jurors and receive verdicts. 331

(F) (1) In county court districts having appointed clerks, 332  
the board of county commissioners may order the establishment of 333  
one or more branch offices of the clerk and, with the 334  
concurrence of the county judges, may appoint a special deputy 335  
clerk to administer each branch office. Each special deputy 336  
clerk shall take an oath of office before entering upon the 337  
duties of the deputy clerk's office and, when so qualified, may 338  
perform any one or more of the duties appertaining to the office 339  
of clerk, as the board prescribes. Special deputy clerks shall 340  
receive such compensation payable in semimonthly installments 341  
out of the county treasury as the board may prescribe. Except as 342  
otherwise provided in section 3.061 of the Revised Code, the 343  
board may require any of the special deputy clerks to give bond 344  
of not less than three thousand dollars, conditioned for the 345  
faithful performance of the deputy clerk's duties. 346

The board of county commissioners may authorize the clerk 347  
of the county court to operate one or more branch offices, to 348  
divide the clerk's time between the offices, and to perform 349

duties appertaining to the office of clerk in locations that the board prescribes.

(2) A clerk of courts acting as clerk of the county court may establish one or more branch offices for the clerk's duties as clerk of the county court and, with the concurrence of the county court judges, may appoint a special deputy clerk to administer each branch office. Each special deputy clerk shall take an oath of office before entering upon the deputy clerk's duties and, when so qualified, may perform any of the duties pertaining to the office of clerk, as the clerk of courts prescribes. The clerk of courts may require any of the special deputy clerks to give bond of not less than three thousand dollars, conditioned for the faithful performance of the deputy clerk's duties.

(G) The clerk of courts of the county shall fix the compensation of deputy clerks and special deputy clerks appointed by the clerk pursuant to this section. Those personnel shall be paid and be subject to the same requirements as other employees of the clerk under the provisions of section 325.17 of the Revised Code insofar as that section is applicable.

**Sec. 2111.011.** (A) The clerk of the probate court shall furnish a guardianship guide, prepared either by the attorney general with the approval of the Ohio judicial conference or by the Ohio judicial conference under division (B) of this section, to a guardian at either of the following times, whichever is applicable:

(1) Upon the appointment of the guardian under section 2111.02 of the Revised Code;

(2) If the guardian was appointed prior to the effective

date of this section, upon the first filing by the guardian with 379  
the probate court of either of the following, as applicable, 380  
after that effective date: 381

(a) A guardian's account, other than a final account, that 382  
is required to be filed under section 2109.302 of the Revised 383  
Code; 384

(b) A guardian's report that is required to be filed under 385  
section 2111.49 of the Revised Code. 386

(B) (1) If the attorney general subsequently prepares any 387  
updated version of the guardianship guide, the updated guide 388  
shall include the rights of a ward as stated in any relevant 389  
provision of the Revised Code that is then current. The clerk of 390  
the probate court shall furnish the most recent version of the 391  
guide to a guardian at either of the following times, whichever 392  
is applicable: 393

(a) Upon the appointment of the guardian under section 394  
2111.02 of the Revised Code after the most recent version of the 395  
guide is prepared; 396

(b) If the guardian was appointed prior to the date of the 397  
most recent version of the guide, upon the first filing by the 398  
guardian with the probate court of either of the documents 399  
described in divisions (A) (2) (a) and (b) of this section, as 400  
applicable, after that date. 401

(2) In the alternative, the Ohio judicial conference may 402  
create, at their cost, an alternative guardianship guide for use 403  
in all probate courts. The alternative guardianship guide shall 404  
be distributed in accordance with all provisions contained in 405  
this act. The court shall furnish this alternative guardianship 406  
guide in accordance with the provisions of this section. 407

(C) The probate court shall establish a form for a guardian to sign acknowledging that the guardian received a guardianship guide pursuant to this section.

(D) Upon receiving a guardianship guide, the guardian shall sign the form specified in division (C) of this section. The signed form shall be kept ~~permanently in the guardianship file of the probate court~~ in accordance with the Rules of Superintendence for the Courts of Ohio.

**Sec. 2307.23.** (A) In determining the percentage of tortious conduct attributable to a party in a tort action under section 2307.22 or sections 2315.32 to 2315.36 of the Revised Code, the court in a nonjury action shall make findings of fact, and the jury in a jury action shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:

(1) The percentage of tortious conduct that proximately caused the injury or loss to person or property or the wrongful death that is attributable to the plaintiff and to each party to the tort action from whom the plaintiff seeks recovery in this action;

(2) The percentage of tortious conduct that proximately caused the injury or loss to person or property or the wrongful death that is attributable to each person from whom the plaintiff does not seek recovery in this action.

(B) The sum of the percentages of tortious conduct as determined pursuant to division (A) of this section shall equal one hundred per cent.

(C) For purposes of division (A)(2) of this section, it is an affirmative defense for each party to the tort action from

whom the plaintiff seeks recovery in this action that a specific 437  
percentage of the tortious conduct that proximately caused the 438  
injury or loss to person or property or the wrongful death is 439  
attributable to one or more persons from whom the plaintiff does 440  
not seek recovery in this action. Any party to the tort action 441  
from whom the plaintiff seeks recovery in this action may raise 442  
an affirmative defense under this division ~~at any time before~~ 443  
~~the trial of the action~~in accordance with the Rules of Civil 444  
Procedure and other rules of practice and procedure applicable 445  
to civil actions. 446

**Sec. 2317.02.** The following persons shall not testify in 447  
certain respects: 448

(A) (1) An attorney, concerning a communication made to the 449  
attorney by a client in that relation or concerning the 450  
attorney's advice to a client, except that the attorney may 451  
testify by express consent of the client or, if the client is 452  
deceased, by the express consent of the surviving spouse or the 453  
executor or administrator of the estate of the deceased client. 454  
However, if the client voluntarily reveals the substance of 455  
attorney-client communications in a nonprivileged context or is 456  
deemed by section 2151.421 of the Revised Code to have waived 457  
any testimonial privilege under this division, the attorney may 458  
be compelled to testify on the same subject. 459

The testimonial privilege established under this division 460  
does not apply concerning either of the following: 461

(a) A communication between a client in a capital case, as 462  
defined in section 2901.02 of the Revised Code, and the client's 463  
attorney if the communication is relevant to a subsequent 464  
ineffective assistance of counsel claim by the client alleging 465  
that the attorney did not effectively represent the client in 466



the case; 467

(b) A communication between a client who has since died 468  
and the deceased client's attorney if the communication is 469  
relevant to a dispute between parties who claim through that 470  
deceased client, regardless of whether the claims are by testate 471  
or intestate succession or by inter vivos transaction, and the 472  
dispute addresses the competency of the deceased client when the 473  
deceased client executed a document that is the basis of the 474  
dispute or whether the deceased client was a victim of fraud, 475  
undue influence, or duress when the deceased client executed a 476  
document that is the basis of the dispute. 477

(2) An attorney, concerning a communication made to the 478  
attorney by a client in that relationship or the attorney's 479  
advice to a client, except that if the client is an insurance 480  
company, the attorney may be compelled to testify, subject to an 481  
in camera inspection by a court, about communications made by 482  
the client to the attorney or by the attorney to the client that 483  
are related to the attorney's aiding or furthering an ongoing or 484  
future commission of bad faith by the client, if the party 485  
seeking disclosure of the communications has made a prima-facie 486  
showing of bad faith, fraud, or criminal misconduct by the 487  
client. 488

(B) (1) A physician, advanced practice registered nurse, or 489  
dentist concerning a communication made to the physician, 490  
advanced practice registered nurse, or dentist by a patient in 491  
that relation or the advice of a physician, advanced practice 492  
registered nurse, or dentist given to a patient, except as 493  
otherwise provided in this division, division (B) (2), and 494  
division (B) (3) of this section, and except that, if the patient 495  
is deemed by section 2151.421 of the Revised Code to have waived 496

any testimonial privilege under this division, the physician or 497  
advanced practice registered nurse may be compelled to testify 498  
on the same subject. 499

The testimonial privilege established under this division 500  
does not apply, and a physician, advanced practice registered 501  
nurse, or dentist may testify or may be compelled to testify, in 502  
any of the following circumstances: 503

(a) In any civil action, in accordance with the discovery 504  
provisions of the Rules of Civil Procedure in connection with a 505  
civil action, or in connection with a claim under Chapter 4123. 506  
of the Revised Code, under any of the following circumstances: 507

(i) If the patient or the guardian or other legal 508  
representative of the patient gives express consent; 509

(ii) If the patient is deceased, the spouse of the patient 510  
or the executor or administrator of the patient's estate gives 511  
express consent; 512

(iii) If a medical claim, dental claim, chiropractic 513  
claim, or optometric claim, as defined in section 2305.113 of 514  
the Revised Code, an action for wrongful death, any other type 515  
of civil action, or a claim under Chapter 4123. of the Revised 516  
Code is filed by the patient, the personal representative of the 517  
estate of the patient if deceased, or the patient's guardian or 518  
other legal representative. 519

(b) In any civil action concerning court-ordered treatment 520  
or services received by a patient, if the court-ordered 521  
treatment or services were ordered as part of a case plan 522  
journalized under section 2151.412 of the Revised Code or the 523  
court-ordered treatment or services are necessary or relevant to 524  
dependency, neglect, or abuse or temporary or permanent custody 525

proceedings under Chapter 2151. of the Revised Code. 526

(c) In any criminal action concerning any test or the 527  
results of any test that determines the presence or 528  
concentration of alcohol, a drug of abuse, a combination of 529  
them, a controlled substance, or a metabolite of a controlled 530  
substance in the patient's whole blood, blood serum or plasma, 531  
breath, urine, or other bodily substance at any time relevant to 532  
the criminal offense in question. 533

(d) In any criminal action against a physician, advanced 534  
practice registered nurse, or dentist. In such an action, the 535  
testimonial privilege established under this division does not 536  
prohibit the admission into evidence, in accordance with the 537  
Rules of Evidence, of a patient's medical or dental records or 538  
other communications between a patient and the physician, 539  
advanced practice registered nurse, or dentist that are related 540  
to the action and obtained by subpoena, search warrant, or other 541  
lawful means. A court that permits or compels a physician, 542  
advanced practice registered nurse, or dentist to testify in 543  
such an action or permits the introduction into evidence of 544  
patient records or other communications in such an action shall 545  
require that appropriate measures be taken to ensure that the 546  
confidentiality of any patient named or otherwise identified in 547  
the records is maintained. Measures to ensure confidentiality 548  
that may be taken by the court include sealing its records or 549  
deleting specific information from its records. 550

(e) (i) If the communication was between a patient who has 551  
since died and the deceased patient's physician, advanced 552  
practice registered nurse, or dentist, the communication is 553  
relevant to a dispute between parties who claim through that 554  
deceased patient, regardless of whether the claims are by 555

testate or intestate succession or by inter vivos transaction, 556  
and the dispute addresses the competency of the deceased patient 557  
when the deceased patient executed a document that is the basis 558  
of the dispute or whether the deceased patient was a victim of 559  
fraud, undue influence, or duress when the deceased patient 560  
executed a document that is the basis of the dispute. 561

(ii) If neither the spouse of a patient nor the executor 562  
or administrator of that patient's estate gives consent under 563  
division (B) (1) (a) (ii) of this section, testimony or the 564  
disclosure of the patient's medical records by a physician, 565  
advanced practice registered nurse, dentist, or other health 566  
care provider under division (B) (1) (e) (i) of this section is a 567  
permitted use or disclosure of protected health information, as 568  
defined in 45 C.F.R. 160.103, and an authorization or 569  
opportunity to be heard shall not be required. 570

(iii) Division (B) (1) (e) (i) of this section does not 571  
require a mental health professional to disclose psychotherapy 572  
notes, as defined in 45 C.F.R. 164.501. 573

(iv) An interested person who objects to testimony or 574  
disclosure under division (B) (1) (e) (i) of this section may seek 575  
a protective order pursuant to Civil Rule 26. 576

(v) A person to whom protected health information is 577  
disclosed under division (B) (1) (e) (i) of this section shall not 578  
use or disclose the protected health information for any purpose 579  
other than the litigation or proceeding for which the 580  
information was requested and shall return the protected health 581  
information to the covered entity or destroy the protected 582  
health information, including all copies made, at the conclusion 583  
of the litigation or proceeding. 584

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

(b) If a health care provider possesses any records of the type described in division (B) (2) (a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this

division shall be construed to limit the right of any party to 616  
call as a witness the person who administered the test to which 617  
the records pertain, the person under whose supervision the test 618  
was administered, the custodian of the records, the person who 619  
made the records, or the person under whose supervision the 620  
records were made. 621

(3) (a) If the testimonial privilege described in division 622  
(B) (1) of this section does not apply as provided in division 623  
(B) (1) (a) (iii) of this section, a physician, advanced practice 624  
registered nurse, or dentist may be compelled to testify or to 625  
submit to discovery under the Rules of Civil Procedure only as 626  
to a communication made to the physician, advanced practice 627  
registered nurse, or dentist by the patient in question in that 628  
relation, or the advice of the physician, advanced practice 629  
registered nurse, or dentist given to the patient in question, 630  
that related causally or historically to physical or mental 631  
injuries that are relevant to issues in the medical claim, 632  
dental claim, chiropractic claim, or optometric claim, action 633  
for wrongful death, other civil action, or claim under Chapter 634  
4123. of the Revised Code. 635

(b) If the testimonial privilege described in division (B) 636  
(1) of this section does not apply to a physician, advanced 637  
practice registered nurse, or dentist as provided in division 638  
(B) (1) (c) of this section, the physician, advanced practice 639  
registered nurse, or dentist, in lieu of personally testifying 640  
as to the results of the test in question, may submit a 641  
certified copy of those results, and, upon its submission, the 642  
certified copy is qualified as authentic evidence and may be 643  
admitted as evidence in accordance with the Rules of Evidence. 644  
Division (A) of section 2317.422 of the Revised Code does not 645  
apply to any certified copy of results submitted in accordance 646

with this division. Nothing in this division shall be construed 647  
to limit the right of any party to call as a witness the person 648  
who administered the test in question, the person under whose 649  
supervision the test was administered, the custodian of the 650  
results of the test, the person who compiled the results, or the 651  
person under whose supervision the results were compiled. 652

(4) The testimonial privilege described in division (B) (1) 653  
of this section is not waived when a communication is made by a 654  
physician or advanced practice registered nurse to a pharmacist 655  
or when there is communication between a patient and a 656  
pharmacist in furtherance of the physician-patient or advanced 657  
practice registered nurse-patient relation. 658

(5) (a) As used in divisions (B) (1) to (4) of this section, 659  
"communication" means acquiring, recording, or transmitting any 660  
information, in any manner, concerning any facts, opinions, or 661  
statements necessary to enable a physician, advanced practice 662  
registered nurse, or dentist to diagnose, treat, prescribe, or 663  
act for a patient. A "communication" may include, but is not 664  
limited to, any medical or dental, office, or hospital 665  
communication such as a record, chart, letter, memorandum, 666  
laboratory test and results, x-ray, photograph, financial 667  
statement, diagnosis, or prognosis. 668

(b) As used in division (B) (2) of this section, "health 669  
care provider" means a hospital, ambulatory care facility, long- 670  
term care facility, pharmacy, emergency facility, or health care 671  
practitioner. 672

(c) As used in division (B) (5) (b) of this section: 673

(i) "Ambulatory care facility" means a facility that 674  
provides medical, diagnostic, or surgical treatment to patients 675

who do not require hospitalization, including a dialysis center, 676  
ambulatory surgical facility, cardiac catheterization facility, 677  
diagnostic imaging center, extracorporeal shock wave lithotripsy 678  
center, home health agency, inpatient hospice, birthing center, 679  
radiation therapy center, emergency facility, and an urgent care 680  
center. "Ambulatory health care facility" does not include the 681  
private office of a physician, advanced practice registered 682  
nurse, or dentist, whether the office is for an individual or 683  
group practice. 684

(ii) "Emergency facility" means a hospital emergency 685  
department or any other facility that provides emergency medical 686  
services. 687

(iii) "Health care practitioner" has the same meaning as 688  
in section 4769.01 of the Revised Code. 689

(iv) "Hospital" has the same meaning as in section 3727.01 690  
of the Revised Code. 691

(v) "Long-term care facility" means a nursing home, 692  
residential care facility, or home for the aging, as those terms 693  
are defined in section 3721.01 of the Revised Code; a 694  
residential facility licensed under section 5119.34 of the 695  
Revised Code that provides accommodations, supervision, and 696  
personal care services for three to sixteen unrelated adults; a 697  
nursing facility, as defined in section 5165.01 of the Revised 698  
Code; a skilled nursing facility, as defined in section 5165.01 699  
of the Revised Code; and an intermediate care facility for 700  
individuals with intellectual disabilities, as defined in 701  
section 5124.01 of the Revised Code. 702

(vi) "Pharmacy" has the same meaning as in section 4729.01 703  
of the Revised Code. 704



(d) As used in divisions (B) (1) and (2) of this section, 705  
"drug of abuse" has the same meaning as in section 4506.01 of 706  
the Revised Code. 707

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 708  
section apply to doctors of medicine, doctors of osteopathic 709  
medicine, doctors of podiatry, advanced practice registered 710  
nurses, and dentists. 711

(7) Nothing in divisions (B) (1) to (6) of this section 712  
affects, or shall be construed as affecting, the immunity from 713  
civil liability conferred by section 307.628 of the Revised Code 714  
or the immunity from civil liability conferred by section 715  
2305.33 of the Revised Code upon physicians or advanced practice 716  
registered nurses who report an employee's use of a drug of 717  
abuse, or a condition of an employee other than one involving 718  
the use of a drug of abuse, to the employer of the employee in 719  
accordance with division (B) of that section. As used in 720  
division (B) (7) of this section, "employee," "employer," and 721  
"physician" have the same meanings as in section 2305.33 of the 722  
Revised Code and "advanced practice registered nurse" has the 723  
same meaning as in section 4723.01 of the Revised Code. 724

(C) (1) A cleric, when the cleric remains accountable to 725  
the authority of that cleric's church, denomination, or sect, 726  
concerning a confession made, or any information confidentially 727  
communicated, to the cleric for a religious counseling purpose 728  
in the cleric's professional character. The cleric may testify 729  
by express consent of the person making the communication, 730  
except when the disclosure of the information is in violation of 731  
a sacred trust and except that, if the person voluntarily 732  
testifies or is deemed by division (A) (4) (c) of section 2151.421 733  
of the Revised Code to have waived any testimonial privilege 734

under this division, the cleric may be compelled to testify on 735  
the same subject except when disclosure of the information is in 736  
violation of a sacred trust. 737

(2) As used in division (C) of this section: 738

(a) "Cleric" means a member of the clergy, rabbi, priest, 739  
Christian Science practitioner, or regularly ordained, 740  
accredited, or licensed minister of an established and legally 741  
cognizable church, denomination, or sect. 742

(b) "Sacred trust" means a confession or confidential 743  
communication made to a cleric in the cleric's ecclesiastical 744  
capacity in the course of discipline enjoined by the church to 745  
which the cleric belongs, including, but not limited to, the 746  
Catholic Church, if both of the following apply: 747

(i) The confession or confidential communication was made 748  
directly to the cleric. 749

(ii) The confession or confidential communication was made 750  
in the manner and context that places the cleric specifically 751  
and strictly under a level of confidentiality that is considered 752  
inviolable by canon law or church doctrine. 753

(D) Husband or wife, concerning any communication made by 754  
one to the other, or an act done by either in the presence of 755  
the other, during coverture, unless the communication was made, 756  
or act done, in the known presence or hearing of a third person 757  
competent to be a witness; and such rule is the same if the 758  
marital relation has ceased to exist; 759

(E) A person who assigns a claim or interest, concerning 760  
any matter in respect to which the person would not, if a party, 761  
be permitted to testify; 762

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

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

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

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

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

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

the same subject. 792

(e) The court in camera determines that the information 793  
communicated by the client is not germane to the counselor- 794  
client, marriage and family therapist-client, or social worker- 795  
client relationship. 796

(f) A court, in an action brought against a school, its 797  
administration, or any of its personnel by the client, rules 798  
after an in-camera inspection that the testimony of the school 799  
guidance counselor is relevant to that action. 800

(g) The testimony is sought in a civil action and concerns 801  
court-ordered treatment or services received by a patient as 802  
part of a case plan journalized under section 2151.412 of the 803  
Revised Code or the court-ordered treatment or services are 804  
necessary or relevant to dependency, neglect, or abuse or 805  
temporary or permanent custody proceedings under Chapter 2151. 806  
of the Revised Code. 807

(2) Nothing in division ~~(G) (1)~~ (F) (1) of this section 808  
shall relieve a school guidance counselor or a person licensed 809  
or registered under Chapter 4757. of the Revised Code from the 810  
requirement to report information concerning child abuse or 811  
neglect under section 2151.421 of the Revised Code. 812

~~(H)~~ (G) A mediator acting under a mediation order issued 813  
under division (A) of section 3109.052 of the Revised Code or 814  
otherwise issued in any proceeding for divorce, dissolution, 815  
legal separation, annulment, or the allocation of parental 816  
rights and responsibilities for the care of children, in any 817  
action or proceeding, other than a criminal, delinquency, child 818  
abuse, child neglect, or dependent child action or proceeding, 819  
that is brought by or against either parent who takes part in 820

mediation in accordance with the order and that pertains to the 821  
mediation process, to any information discussed or presented in 822  
the mediation process, to the allocation of parental rights and 823  
responsibilities for the care of the parents' children, or to 824  
the awarding of parenting time rights in relation to their 825  
children; 826

~~(I)~~ (H) A communications assistant, acting within the 827  
scope of the communication assistant's authority, when providing 828  
telecommunications relay service pursuant to section 4931.06 of 829  
the Revised Code or Title II of the "Communications Act of 830  
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 831  
communication made through a telecommunications relay service. 832  
Nothing in this section shall limit the obligation of a 833  
communications assistant to divulge information or testify when 834  
mandated by federal law or regulation or pursuant to subpoena in 835  
a criminal proceeding. 836

Nothing in this section shall limit any immunity or 837  
privilege granted under federal law or regulation. 838

~~(J) (1)~~ (I) (1) A chiropractor in a civil proceeding 839  
concerning a communication made to the chiropractor by a patient 840  
in that relation or the chiropractor's advice to a patient, 841  
except as otherwise provided in this division. The testimonial 842  
privilege established under this division does not apply, and a 843  
chiropractor may testify or may be compelled to testify, in any 844  
civil action, in accordance with the discovery provisions of the 845  
Rules of Civil Procedure in connection with a civil action, or 846  
in connection with a claim under Chapter 4123. of the Revised 847  
Code, under any of the following circumstances: 848

(a) If the patient or the guardian or other legal 849  
representative of the patient gives express consent. 850

(b) If the patient is deceased, the spouse of the patient 851  
or the executor or administrator of the patient's estate gives 852  
express consent. 853

(c) If a medical claim, dental claim, chiropractic claim, 854  
or optometric claim, as defined in section 2305.113 of the 855  
Revised Code, an action for wrongful death, any other type of 856  
civil action, or a claim under Chapter 4123. of the Revised Code 857  
is filed by the patient, the personal representative of the 858  
estate of the patient if deceased, or the patient's guardian or 859  
other legal representative. 860

(2) If the testimonial privilege described in division ~~(J)~~ 861  
~~(1)~~ (I) (1) of this section does not apply as provided in 862  
division ~~(J) (1) (e)~~ (I) (1) (c) of this section, a chiropractor may 863  
be compelled to testify or to submit to discovery under the 864  
Rules of Civil Procedure only as to a communication made to the 865  
chiropractor by the patient in question in that relation, or the 866  
chiropractor's advice to the patient in question, that related 867  
causally or historically to physical or mental injuries that are 868  
relevant to issues in the medical claim, dental claim, 869  
chiropractic claim, or optometric claim, action for wrongful 870  
death, other civil action, or claim under Chapter 4123. of the 871  
Revised Code. 872

(3) The testimonial privilege established under this 873  
division does not apply, and a chiropractor may testify or be 874  
compelled to testify, in any criminal action or administrative 875  
proceeding. 876

(4) As used in this division, "communication" means 877  
acquiring, recording, or transmitting any information, in any 878  
manner, concerning any facts, opinions, or statements necessary 879  
to enable a chiropractor to diagnose, treat, or act for a 880

patient. A communication may include, but is not limited to, any 881  
chiropractic, office, or hospital communication such as a 882  
record, chart, letter, memorandum, laboratory test and results, 883  
x-ray, photograph, financial statement, diagnosis, or prognosis. 884

~~(K) (1)~~ (J) (1) Except as provided under division ~~(K) (2)~~ (J) 885  
(2) of this section, a critical incident stress management team 886  
member concerning a communication received from an individual 887  
who receives crisis response services from the team member, or 888  
the team member's advice to the individual, during a debriefing 889  
session. 890

(2) The testimonial privilege established under division 891  
~~(K) (1)~~ (J) (1) of this section does not apply if any of the 892  
following are true: 893

(a) The communication or advice indicates clear and 894  
present danger to the individual who receives crisis response 895  
services or to other persons. For purposes of this division, 896  
cases in which there are indications of present or past child 897  
abuse or neglect of the individual constitute a clear and 898  
present danger. 899

(b) The individual who received crisis response services 900  
gives express consent to the testimony. 901

(c) If the individual who received crisis response 902  
services is deceased, the surviving spouse or the executor or 903  
administrator of the estate of the deceased individual gives 904  
express consent. 905

(d) The individual who received crisis response services 906  
voluntarily testifies, in which case the team member may be 907  
compelled to testify on the same subject. 908

(e) The court in camera determines that the information 909

communicated by the individual who received crisis response 910  
services is not germane to the relationship between the 911  
individual and the team member. 912

(f) The communication or advice pertains or is related to 913  
any criminal act. 914

(3) As used in division ~~(K)~~ (J) of this section: 915

(a) "Crisis response services" means consultation, risk 916  
assessment, referral, and on-site crisis intervention services 917  
provided by a critical incident stress management team to 918  
individuals affected by crisis or disaster. 919

(b) "Critical incident stress management team member" or 920  
"team member" means an individual specially trained to provide 921  
crisis response services as a member of an organized community 922  
or local crisis response team that holds membership in the Ohio 923  
critical incident stress management network. 924

(c) "Debriefing session" means a session at which crisis 925  
response services are rendered by a critical incident stress 926  
management team member during or after a crisis or disaster. 927

~~(L) (1)~~ (K) (1) Subject to division ~~(L) (2)~~ (K) (2) of this 928  
section and except as provided in division ~~(L) (3)~~ (K) (3) of this 929  
section, an employee assistance professional, concerning a 930  
communication made to the employee assistance professional by a 931  
client in the employee assistance professional's official 932  
capacity as an employee assistance professional. 933

(2) Division ~~(L) (1)~~ (K) (1) of this section applies to an 934  
employee assistance professional who meets either or both of the 935  
following requirements: 936

(a) Is certified by the employee assistance certification 937



commission to engage in the employee assistance profession;	938
(b) Has education, training, and experience in all of the following:	939
(i) Providing workplace-based services designed to address employer and employee productivity issues;	940
(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	941
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	942
(iv) Selecting and evaluating available community resources;	943
(v) Making appropriate referrals;	944
(vi) Local and national employee assistance agreements;	945
(vii) Client confidentiality.	946
(3) Division <del>(L)(1)</del> <u>(K)(1)</u> of this section does not apply to any of the following:	947
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	948
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or	949
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commission of a crime or serious, harmful act;	965
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	966 967 968 969
(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;	970 971 972
(e) A civil or criminal malpractice action brought against the employee assistance professional;	973 974
(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;	975 976 977
(g) When the testimonial privilege otherwise provided by division <del>(L) (1)</del> <u>(K) (1)</u> of this section is abrogated under law.	978 979
<b>Sec. 2317.021.</b> (A) As used in division (A) of section 2317.02 of the Revised Code:	980 981
"Client" means a person, firm, partnership, corporation, or other association that, directly or through any representative, consults an attorney for the purpose of retaining the attorney or securing legal service or advice from the attorney in the attorney's professional capacity, or consults an attorney employee for legal service or advice, and who communicates, either directly or through an agent, employee, or other representative, with such attorney; and includes an incompetent person whose guardian so consults the attorney in behalf of the incompetent person.	982 983 984 985 986 987 988 989 990 991
Where a corporation or association is a client having the	992

privilege and it has been dissolved, the privilege shall extend 993  
to the last board of directors, their successors or assigns, or 994  
to the trustees, their successors or assigns. 995

This section shall be construed as in addition to, and not 996  
in limitation of, other laws affording protection to 997  
communications under the attorney-client privilege. 998

(B) As used in this section and in ~~sections~~ section 999  
2317.02 and ~~2317.03~~ of the Revised Code, "incompetent" or 1000  
"incompetent person" means a person who is so mentally impaired, 1001  
as a result of a mental or physical illness or disability, as a 1002  
result of an intellectual disability, or as a result of chronic 1003  
substance abuse, that the person is incapable of taking proper 1004  
care of the person's self or property or fails to provide for 1005  
the person's family or other persons for whom the person is 1006  
charged by law to provide. 1007

**Sec. 2317.41.** "Photograph" as used in this section 1008  
includes but is not limited to microphotograph, a roll or strip 1009  
of film, a roll or strip of microfilm, a photostatic copy, or an 1010  
optically-imaged copy. 1011

To the extent that a record would be competent evidence 1012  
under ~~section 2317.40 of the Revised Code~~ the Rules of Evidence, 1013  
a photograph of such record shall be competent evidence if the 1014  
custodian of the photograph or the person who made such 1015  
photograph or under whose supervision such photograph was made 1016  
testifies to the identity of and the mode of making such 1017  
photograph, and if, in the opinion of the trial court, the 1018  
record has been destroyed or otherwise disposed of in good faith 1019  
in the regular course of business, and the mode of making such 1020  
photograph was such as to justify its admission. If a photograph 1021  
is admissible under this section, the court may admit the whole 1022

or a part thereof. 1023

Such photograph shall be admissible only if the party 1024  
offering it has delivered a copy of it, or so much thereof as 1025  
relates to the controversy, to the adverse party a reasonable 1026  
time before trial, unless in the opinion of the court the 1027  
adverse party has not been unfairly surprised by the failure to 1028  
deliver such copy. No such photograph need be submitted to the 1029  
adverse party as prescribed in this section unless the original 1030  
instrument would be required to be so submitted. 1031

**Sec. 2317.422.** (A) ~~Notwithstanding sections 2317.40 and~~ 1032  
~~2317.41 of the Revised Code but subject~~ Subject to division (B) 1033  
of this section, the records, or copies or photographs of the 1034  
records, of a hospital, homes required to be licensed pursuant 1035  
to section 3721.01 of the Revised Code, and residential 1036  
facilities licensed pursuant to section 5119.34 of the Revised 1037  
Code that provides accommodations, supervision, and personal 1038  
care services for three to sixteen unrelated adults, in lieu of 1039  
the testimony in open court of their custodian, person who made 1040  
them, or person under whose supervision they were made, may be 1041  
qualified as authentic evidence if any such person endorses 1042  
thereon the person's verified certification identifying such 1043  
records, giving the mode and time of their preparation, and 1044  
stating that they were prepared in the usual course of the 1045  
business of the institution. Such records, copies, or 1046  
photographs may not be qualified by certification as provided in 1047  
this section unless the party intending to offer them delivers a 1048  
copy of them, or of their relevant portions, to the attorney of 1049  
record for each adverse party not less than five days before 1050  
trial. Nothing in this section shall be construed to limit the 1051  
right of any party to call the custodian, person who made such 1052  
records, or person under whose supervision they were made, as a 1053

witness. 1054

(B) Division (A) of this section does not apply to any 1055  
certified copy of the results of any test given to determine the 1056  
presence or concentration of alcohol, a drug of abuse, a 1057  
combination of them, a controlled substance, or a metabolite of 1058  
a controlled substance in a patient's whole blood, blood serum 1059  
or plasma, breath, or urine at any time relevant to a criminal 1060  
offense that is submitted in a criminal action or proceeding in 1061  
accordance with division (B) (2) (b) or (B) (3) (b) of section 1062  
2317.02 of the Revised Code. 1063

**Sec. 2939.03.** Except for a foreperson selected by the 1064  
judge of the court of common pleas under ~~section 2939.02 of the~~ 1065  
~~Revised Code~~ the Rules of Criminal Procedure, a grand jury is 1066  
drawn and notified in the same manner as other jurors are drawn 1067  
and notified under Chapter 2313. of the Revised Code. Grand 1068  
jurors so drawn and notified are not entitled to an exemption 1069  
for any reason but may be excused from service or have their 1070  
service postponed for the same reasons and in the same manner as 1071  
other jurors under that chapter and not otherwise. Grand jurors 1072  
are subject to the same fines and penalties for nonattendance 1073  
and otherwise as are other jurors under that chapter. The duties 1074  
and the powers of courts of common pleas, clerks of courts of 1075  
common pleas, and commissioners of jurors in regard to grand 1076  
jurors in all respects are the same as in regard to other 1077  
jurors. 1078

**Sec. 2939.06.** (A) When a grand jury is impaneled, the 1079  
court of common pleas ~~shall appoint one of the members of the~~ 1080  
~~grand jury as foreperson,~~ and shall administer, or cause to be 1081  
administered, to the jurors an oath in the following words to 1082  
which the jurors shall respond "I do solemnly swear" or "I do 1083

solemnly affirm": 1084

"Do you solemnly swear or affirm that you will diligently 1085  
inquire into and carefully deliberate all matters that shall 1086  
come to your attention concerning this service; and do you 1087  
solemnly swear or affirm that you will keep secret all 1088  
proceedings of the grand jury unless you are required in a court 1089  
of justice to make disclosure; and do you solemnly swear or 1090  
affirm that you will indict no person through malice, hatred, or 1091  
ill will; and do you solemnly swear or affirm that you will not 1092  
leave unindicted any person through fear, favor, or affection, 1093  
or for any reward or hope thereof; and do you solemnly swear or 1094  
affirm that in all your deliberations you will present the 1095  
truth, the whole truth, and nothing but the truth, according to 1096  
the best of your skill and understanding, as you shall answer 1097  
unto God or under the penalties of perjury?" 1098

(B) If, on or after ~~the effective date of this amendment~~ 1099  
March 24, 2003, a court impaneling a grand jury uses the grand 1100  
juror's oath that was in effect prior to ~~the effective date of~~ 1101  
~~this amendment~~ March 24, 2003, instead of the oath set forth in 1102  
division (A) of this section, the court's use of the former oath 1103  
does not invalidate or affect the validity of the impanelment of 1104  
the grand jury, any proceeding, inquiry, or presentation of the 1105  
grand jury, any indictment or other document found, returned, or 1106  
issued by the grand jury, or any other action taken by the grand 1107  
jury. 1108

**Sec. 2941.61.** After a demurrer to an indictment is 1109  
overruled, the accused may plead under ~~section 2943.03 of the~~ 1110  
~~Revised Code~~ the Rules of Criminal Procedure. 1111

**Sec. 2943.02.** ~~An accused person shall be arraigned by the~~ 1112  
~~clerk of the court of common pleas, or his deputy, reading the~~ 1113

~~indictment or information to the accused, unless the accused or~~ 1114  
~~his attorney waives the reading thereof. He shall then be asked~~ 1115  
~~to plead thereto.~~ Arraignment shall be made immediately after 1116  
the disposition of exceptions to the indictment, if any are 1117  
filed, or, if no exceptions are filed, after reasonable 1118  
opportunity has been given the accused to file such exceptions. 1119

**Sec. 2945.51.** When a deposition is to be taken in this 1120  
state, ~~and a commission is granted under section 2945.50 of the~~ 1121  
~~Revised Code~~ while the defendant is confined in jail, the 1122  
sheriff or deputy or other person having custody of the 1123  
defendant shall be ordered by the court to take the defendant to 1124  
the place of the taking of the deposition, and have ~~him~~ the 1125  
defendant before the officer at the time of taking such 1126  
deposition. ~~Such~~ The sheriff or deputy or other person having 1127  
custody of the defendant shall be reimbursed for actual 1128  
reasonable traveling expenses for ~~himself~~ self and the 1129  
defendant, the bills for the same, upon the approval of the 1130  
board of county commissioners, to be paid from the county 1131  
treasury on the warrant of the county auditor. ~~Such~~ The sheriff 1132  
shall receive as fees therefor, one dollar for each day in 1133  
attendance ~~thereat~~ at the place of the taking of the deposition. 1134  
Such fees and traveling expenses shall be taxed and collected as 1135  
other fees and costs in the case. 1136

**Sec. 2945.52.** Counsel assigned by the court to represent 1137  
the defendant may attend upon and represent the defendant at the 1138  
taking of a deposition ~~under section 2945.50 of the Revised~~ 1139  
~~Code~~, and ~~said~~ the counsel shall be paid a reasonable fee for 1140  
~~his~~ the counsel's services in taking such deposition, in addition 1141  
to the compensation allowed for defending ~~such~~ the defendant, to 1142  
be fixed by the court. ~~He~~ The counsel shall also be allowed 1143  
~~his~~ the counsel's actual expenses incurred in going to and from 1144

the place of taking the deposition. 1145

**Sec. 2945.53.** In all cases in which depositions are taken 1146  
by the state or the accused, to be used by or against the 1147  
accused, as provided in ~~sections 2945.50 to 2945.52, inclusive,~~ 1148  
~~of the Revised Code~~the Rules of Criminal Procedure, the court 1149  
shall by proper order provide and secure to the accused the 1150  
means and opportunity to be present in person and with counsel 1151  
at the taking of such deposition, and to examine the witness 1152  
face to face, as fully and in the same manner as if in court. 1153  
All expenses necessarily incurred in the securing of such means 1154  
and opportunity, and the expenses of the prosecuting attorney in 1155  
attending the taking of such deposition, shall be paid out of 1156  
the county treasury upon the certificate of the court making 1157  
such order. 1158

**Sec. 2945.54.** The examination of witnesses by deposition 1159  
in criminal cases shall be taken and certified, and the return 1160  
thereof to the court made as for taking depositions under 1161  
sections 2319.05 to 2319.31, ~~inclusive,~~ of the Revised Code. ~~The~~ 1162  
~~commissioners appointed under section 2945.50 of the Revised~~ 1163  
~~Code to take depositions shall receive such compensation as the~~ 1164  
~~court directs, to be paid out of the county treasury and taxed~~ 1165  
~~as part of the costs in the case.~~ 1166

**Section 2.** That existing sections 109.04, 1901.021, 1167  
1901.14, 1901.22, 1907.20, 2111.011, 2307.23, 2317.02, 2317.021, 1168  
2317.41, 2317.422, 2939.03, 2939.06, 2941.61, 2943.02, 2945.51, 1169  
2945.52, 2945.53, and 2945.54 of the Revised Code are hereby 1170  
repealed. 1171

**Section 3.** That sections 1901.16, 1901.41, 1907.21, 1172  
1907.231, 2101.12, 2101.121, 2101.14, 2101.141, 2301.141, 1173  
2317.03, 2317.40, 2317.42, 2939.02, 2939.11, 2939.19, 2939.20, 1174



2941.021, 2943.03, 2943.04, 2945.12, 2945.30, 2945.31, 2945.33,	1175
2945.34, 2945.41, 2945.45, and 2945.50 of the Revised Code are	1176
hereby repealed.	1177