

As Reported by the House Civil Justice Committee

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 286

Representative Seitz

Cosponsors: Representatives Abrams, Bird, Click, Cross, Fowler Arthur, Grendell, Gross, Jordan, McClain, Riedel, Schmidt, Stoltzfus, Swearingen, Hillyer, Cutrona, Kick

A BILL

To amend sections 107.43, 119.12, 124.34, 956.11, 1
956.15, 2743.03, 2901.12, 3517.155, 3794.09, 2
3901.321, 3913.13, 3913.23, 5101.35, and 5164.38 3
and to enact sections 303.57, 519.26, 713.16, 4
and 2901.121 of the Revised Code to generally 5
change the venue in which appeal from an agency 6
order is proper to the local court of common 7
pleas, to provide that a civil action to 8
challenge a state administrative order issued in 9
a state of emergency be brought in the Court of 10
Claims, to revise the law governing claim 11
preclusion in zoning appeals, and to move 12
prosecution of certain offenses against public 13
administration to the offender's county of 14
residence. 15

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

Section 1. That sections 107.43, 119.12, 124.34, 956.11, 16
956.15, 2743.03, 2901.12, 3517.155, 3794.09, 3901.321, 3913.13, 17

3913.23, 5101.35, and 5164.38 be amended and sections 303.57, 18
519.26, 713.16, and 2901.121 of the Revised Code be enacted to 19
read as follows: 20

Sec. 107.43. (A) As used in this section: 21

"Administrative department" means a department listed 22
under section 121.02 of the Revised Code. 23

"Administrative department head" means a department head 24
listed under section 121.03 of the Revised Code. 25

"Internal management rule" means any rule, regulation, or 26
standard governing the day-to-day staff procedures and staff 27
operations within an administrative department or state agency, 28
or within the office of an administrative department head or 29
statewide elected officer. 30

"Rule" means, unless the context dictates otherwise, any 31
rule, regulation, or standard adopted, promulgated, and enforced 32
by a statewide elected officer, administrative department, 33
administrative department head, or state agency under the 34
authority of the laws governing such officer, department, 35
department head, or state agency. "Rule" does not include an 36
internal management rule. 37

"State agency" means any organized body, office, agency, 38
commission, board, institution, or other entity established by 39
the laws of the state for the exercise of any function of state 40
government. "State agency" does not include a court. 41

"State of emergency" has the meaning defined in section 42
107.42 of the Revised Code. 43

"Statewide elected officer" means the governor, lieutenant 44
governor, secretary of state, auditor of state, attorney 45

general, and treasurer of state. 46

(B) Beginning the day the governor declares a state of 47
emergency, the governor and the department of health promptly 48
shall report to the president of the senate and the speaker of 49
the house of representatives every action the governor or 50
department takes in response to the state of emergency, 51
including actions by the department or director of health under 52
sections 3701.13 and 3701.14 of the Revised Code. 53

(C) (1) If the governor declares a state of emergency, the 54
general assembly may do any of the following by adopting a 55
concurrent resolution: 56

(a) Rescind, in whole or in part, any order or rule issued 57
or adopted by an administrative department, administrative 58
department head, state agency, or statewide elected officer in 59
response to a state of emergency, including an order to 60
authorize an agency to adopt, amend, or rescind rules under 61
division (G) of section 119.03 of the Revised Code. This 62
division does not apply to an order issued to declare a state of 63
emergency. 64

(b) Invalidate, in whole or in part, an emergency rule 65
adopted or amended by an agency in response to the state of 66
emergency and pursuant to an emergency order the governor issues 67
under division (G) (1) of section 119.03 of the Revised Code; 68

(c) Authorize a rule rescinded by an agency under division 69
(G) (1) of section 119.03 of the Revised Code in response to the 70
state of emergency to be readopted, in whole or in part; 71

(d) Invalidate, in whole or in part, an emergency rule 72
adopted by an agency in response to the state of emergency 73
pursuant to division (B) (2) of section 111.15 of the Revised 74

Code. 75

(2) If the general assembly rescinds an order or rule, or 76
a portion thereof, the administrative department, administrative 77
department head, state agency, or statewide elected officer 78
shall not reissue that order or rule, the rescinded portion, a 79
substantially similar order, rule, or portion, or any 80
restriction contained in the rescinded order or rule or 81
rescinded portion, for a period of sixty calendar days following 82
the adoption of the concurrent resolution by the general 83
assembly, except as provided in division (C) (3) of this section. 84

(3) (a) Within sixty calendar days of the general assembly 85
rescinding an order or rule under division (C) (1) of this 86
section, the governor, on behalf of an administrative 87
department, an administrative department head, or a state 88
agency, may submit a request to the general assembly to 89
authorize an administrative department, an administrative 90
department head, or a state agency to reissue a rescinded order 91
or rule, rescinded portion thereof, a substantially similar 92
order, rule, or portion, or any restriction contained in the 93
rescinded order or rule or rescinded portion issued or adopted 94
by an administrative department, administrative department head, 95
or state agency. Upon review, the general assembly may adopt a 96
concurrent resolution authorizing the request, in whole or in 97
part. 98

(b) Within sixty calendar days of the general assembly 99
rescinding an order or rule under division (C) (1) of this 100
section, a statewide elected officer may submit a request to the 101
general assembly to reissue a rescinded order or rule, rescinded 102
portion thereof, a substantially similar order, rule, or 103
portion, or any restriction contained in the rescinded order or 104

rule or rescinded portion issued or adopted by the statewide 105
elected officer. Upon review, the general assembly may adopt a 106
concurrent resolution authorizing the request, in whole or in 107
part. 108

(D) (1) Notwithstanding any other provision of the Revised 109
Code, a person who challenges an order or rule adopted by an 110
administrative department, administrative department head, state 111
agency, or statewide elected officer that is issued or adopted 112
in response to a state of emergency, in a civil action for 113
damages, declaratory judgment, injunctive relief, or other 114
appropriate relief may do so in ~~an appropriate court located in~~ 115
~~the county where the person's residence or business is~~ 116
located the court of claims. 117

(2) If a person successfully challenges an order or rule 118
adopted by an administrative department, administrative 119
department head, state agency, or statewide elected officer that 120
is issued or adopted in response to a state of emergency, the 121
administrative department, administrative department head, state 122
agency, or statewide elected officer shall pay the person's 123
reasonable attorney's fees and court costs. 124

(E) An order or rule issued or adopted in violation of 125
this section is invalid and has no legal effect. 126

Sec. 119.12. (A) (1) Except as provided in division (A) (2) 127
~~or (3)~~ of this section, any party adversely affected by any 128
order of an agency issued pursuant to an adjudication denying an 129
applicant admission to an examination, or denying the issuance 130
or renewal of a license or registration of a licensee, or 131
revoking or suspending a license, or allowing the payment of a 132
forfeiture under section 4301.252 of the Revised Code may appeal 133
from the order of the agency to the court of common pleas of the 134

county in which the place of business of the ~~licensee-party~~ is 135
located or the county in which the ~~licensee-party~~ is a resident. 136

~~(2) An appeal from an order described in division (A) (1) 137
of this section issued by any of the following agencies shall be 138
made to the court of common pleas of Franklin county: 139~~

~~(a) The liquor control commission; 140~~

~~(b) The Ohio casino control commission, 141~~

~~state medical board; 142~~

~~(c) The state chiropractic board; 143~~

~~(d) The board of nursing; 144~~

~~(e) The bureau of workers' compensation regarding 145
participation in the health partnership program created in 146
sections 4121.44 and 4121.441 of the Revised Code. 147~~

~~(3) If any party appealing from an order described in 148
division (A) (1) of this section is not a resident of and has no 149
place of business in this state, the party may appeal to the 150
court of common pleas of Franklin county. 151~~

~~(B) Any party adversely affected by any order of an agency 152
issued pursuant to any other adjudication may appeal to the 153
court of common pleas of Franklin county, except that appeals 154
from orders of the fire marshal issued under Chapter 3737. of 155
the Revised Code may be to the court of common pleas of the 156
county in which the building of the aggrieved person is located 157
and except that appeals under division (B) of section 124.34 of 158
the Revised Code from a decision of the state personnel board of 159
review or a municipal or civil service township civil service 160
commission shall be taken to the court of common pleas of the 161
county in which the appointing authority is located or, in the 162~~

~~case of an appeal by the department of rehabilitation and~~ 163
~~correction, to the court of common pleas of Franklin county.~~ 164

~~(C)~~ This section does not apply to appeals from the 165
department of taxation. 166

~~(D)~~ (C) Any party desiring to appeal shall file a notice 167
of appeal with the agency setting forth the order appealed from 168
and stating that the agency's order is not supported by 169
reliable, probative, and substantial evidence and is not in 170
accordance with law. The notice of appeal may, but need not, set 171
forth the specific grounds of the party's appeal beyond the 172
statement that the agency's order is not supported by reliable, 173
probative, and substantial evidence and is not in accordance 174
with law. The notice of appeal shall also be filed by the 175
appellant with the court. In filing a notice of appeal with the 176
agency or court, the notice that is filed may be either the 177
original notice or a copy of the original notice. Unless 178
otherwise provided by law relating to a particular agency, 179
notices of appeal shall be filed within fifteen days after the 180
mailing of the notice of the agency's order as provided in this 181
section. For purposes of this paragraph, an order includes a 182
determination appealed pursuant to division (C) of section 183
119.092 of the Revised Code. The amendments made to this 184
paragraph by Sub. H.B. 215 of the 128th general assembly are 185
procedural, and this paragraph as amended by those amendments 186
shall be applied retrospectively to all appeals pursuant to this 187
paragraph filed before September 13, 2010, but not earlier than 188
May 7, 2009, which was the date the supreme court of Ohio 189
released its opinion and judgment in *Medcorp, Inc. v. Ohio* 190
Dep't. of Job and Family Servs. (2009), 121 Ohio St.3d 622. 191

~~(E)~~ (D) The filing of a notice of appeal shall not 192

automatically operate as a suspension of the order of an agency. 193
If it appears to the court that an unusual hardship to the 194
appellant will result from the execution of the agency's order 195
pending determination of the appeal, the court may grant a 196
suspension and fix its terms. If an appeal is taken from the 197
judgment of the court and the court has previously granted a 198
suspension of the agency's order as provided in this section, 199
the suspension of the agency's order shall not be vacated and 200
shall be given full force and effect until the matter is finally 201
adjudicated. No renewal of a license or permit shall be denied 202
by reason of the suspended order during the period of the appeal 203
from the decision of the court of common pleas. In the case of 204
an appeal from the Ohio casino control commission, the state 205
medical board, or the state chiropractic board, the court may 206
grant a suspension and fix its terms if it appears to the court 207
that an unusual hardship to the appellant will result from the 208
execution of the agency's order pending determination of the 209
appeal and the health, safety, and welfare of the public will 210
not be threatened by suspension of the order. This provision 211
shall not be construed to limit the factors the court may 212
consider in determining whether to suspend an order of any other 213
agency pending determination of an appeal. 214

~~(F)~~ (E) The final order of adjudication may apply to any 215
renewal of a license or permit which has been granted during the 216
period of the appeal. 217

~~(G)~~ (F) Notwithstanding any other provision of this 218
section, any order issued by a court of common pleas or a court 219
of appeals suspending the effect of an order of the liquor 220
control commission issued pursuant to Chapter 4301. or 4303. of 221
the Revised Code that suspends, revokes, or cancels a permit 222
issued under Chapter 4303. of the Revised Code or that allows 223

the payment of a forfeiture under section 4301.252 of the 224
Revised Code shall terminate not more than six months after the 225
date of the filing of the record of the liquor control 226
commission with the clerk of the court of common pleas and shall 227
not be extended. The court of common pleas, or the court of 228
appeals on appeal, shall render a judgment in that matter within 229
six months after the date of the filing of the record of the 230
liquor control commission with the clerk of the court of common 231
pleas. A court of appeals shall not issue an order suspending 232
the effect of an order of the liquor control commission that 233
extends beyond six months after the date on which the record of 234
the liquor control commission is filed with a court of common 235
pleas. 236

~~(H)~~ (G) Notwithstanding any other provision of this 237
section, any order issued by a court of common pleas or a court 238
of appeals suspending the effect of an order of the Ohio casino 239
control commission issued under Chapter 3772. of the Revised 240
Code that limits, conditions, restricts, suspends, revokes, 241
denies, not renews, fines, or otherwise penalizes an applicant, 242
licensee, or person excluded or ejected from a casino facility 243
in accordance with section 3772.031 of the Revised Code shall 244
terminate not more than six months after the date of the filing 245
of the record of the Ohio casino control commission with the 246
clerk of the court of common pleas and shall not be extended. 247
The court of common pleas, or the court of appeals on appeal, 248
shall render a judgment in that matter within six months after 249
the date of the filing of the record of the Ohio casino control 250
commission with the clerk of the court of common pleas. A court 251
of appeals shall not issue an order suspending the effect of an 252
order of the Ohio casino control commission that extends beyond 253
six months after the date on which the record of the Ohio casino 254

control commission is filed with the clerk of a court of common pleas. 255
256

(H) Notwithstanding any other provision of this section, 257
any order issued by a court of common pleas suspending the 258
effect of an order of the state medical board or state 259
chiropractic board that limits, revokes, suspends, places on 260
probation, or refuses to register or reinstate a certificate 261
issued by the board or reprimands the holder of the certificate 262
shall terminate not more than fifteen months after the date of 263
the filing of a notice of appeal in the court of common pleas, 264
or upon the rendering of a final decision or order in the appeal 265
by the court of common pleas, whichever occurs first. 266

(I) Within thirty days after receipt of a notice of appeal 267
from an order in any case in which a hearing is required by 268
sections 119.01 to 119.13 of the Revised Code, the agency shall 269
prepare and certify to the court a complete record of the 270
proceedings in the case. Failure of the agency to comply within 271
the time allowed, upon motion, shall cause the court to enter a 272
finding in favor of the party adversely affected. Additional 273
time, however, may be granted by the court, not to exceed thirty 274
days, when it is shown that the agency has made substantial 275
effort to comply. The record shall be prepared and transcribed, 276
and the expense of it shall be taxed as a part of the costs on 277
the appeal. The appellant shall provide security for costs 278
satisfactory to the court of common pleas. Upon demand by any 279
interested party, the agency shall furnish at the cost of the 280
party requesting it a copy of the stenographic report of 281
testimony offered and evidence submitted at any hearing and a 282
copy of the complete record. 283

(J) Notwithstanding any other provision of this section, 284

any party desiring to appeal an order or decision of the state 285
personnel board of review shall, at the time of filing a notice 286
of appeal with the board, provide a security deposit in an 287
amount and manner prescribed in rules that the board shall adopt 288
in accordance with this chapter. In addition, the board is not 289
required to prepare or transcribe the record of any of its 290
proceedings unless the appellant has provided the deposit 291
described above. The failure of the board to prepare or 292
transcribe a record for an appellant who has not provided a 293
security deposit shall not cause a court to enter a finding 294
adverse to the board. 295

(K) Unless otherwise provided by law, in the hearing of 296
the appeal, the court is confined to the record as certified to 297
it by the agency. Unless otherwise provided by law, the court 298
may grant a request for the admission of additional evidence 299
when satisfied that the additional evidence is newly discovered 300
and could not with reasonable diligence have been ascertained 301
prior to the hearing before the agency. 302

(L) The court shall conduct a hearing on the appeal and 303
shall give preference to all proceedings under sections 119.01 304
to 119.13 of the Revised Code, over all other civil cases, 305
irrespective of the position of the proceedings on the calendar 306
of the court. An appeal from an order of the state medical board 307
issued pursuant to division (G) of either section 4730.25 or 308
4731.22 of the Revised Code, the state chiropractic board issued 309
pursuant to section 4734.37 of the Revised Code, the liquor 310
control commission issued pursuant to Chapter 4301. or 4303. of 311
the Revised Code, or the Ohio casino control commission issued 312
pursuant to Chapter 3772. of the Revised Code shall be set down 313
for hearing at the earliest possible time and takes precedence 314
over all other actions. The hearing in the court of common pleas 315

shall proceed as in the trial of a civil action, and the court 316
shall determine the rights of the parties in accordance with the 317
laws applicable to a civil action. At the hearing, counsel may 318
be heard on oral argument, briefs may be submitted, and evidence 319
may be introduced if the court has granted a request for the 320
presentation of additional evidence. 321

(M) The court may affirm the order of the agency 322
complained of in the appeal if it finds, upon consideration of 323
the entire record and any additional evidence the court has 324
admitted, that the order is supported by reliable, probative, 325
and substantial evidence and is in accordance with law. In the 326
absence of this finding, it may reverse, vacate, or modify the 327
order or make such other ruling as is supported by reliable, 328
probative, and substantial evidence and is in accordance with 329
law. The court shall award compensation for fees in accordance 330
with section 2335.39 of the Revised Code to a prevailing party, 331
other than an agency, in an appeal filed pursuant to this 332
section. 333

(N) The judgment of the court shall be final and 334
conclusive unless reversed, vacated, or modified on appeal. 335
These appeals may be taken either by the party or the agency, 336
shall proceed as in the case of appeals in civil actions, and 337
shall be pursuant to the Rules of Appellate Procedure and, to 338
the extent not in conflict with those rules, Chapter 2505. of 339
the Revised Code. An appeal by the agency shall be taken on 340
questions of law relating to the constitutionality, 341
construction, or interpretation of statutes and rules of the 342
agency, and, in the appeal, the court may also review and 343
determine the correctness of the judgment of the court of common 344
pleas that the order of the agency is not supported by any 345
reliable, probative, and substantial evidence in the entire 346

record. 347

The court shall certify its judgment to the agency or take 348
any other action necessary to give its judgment effect. 349

Sec. 124.34. (A) The tenure of every officer or employee 350
in the classified service of the state and the counties, civil 351
service townships, cities, city health districts, general health 352
districts, and city school districts of the state, holding a 353
position under this chapter, shall be during good behavior and 354
efficient service. No officer or employee shall be reduced in 355
pay or position, fined, suspended, or removed, or have the 356
officer's or employee's longevity reduced or eliminated, except 357
as provided in section 124.32 of the Revised Code, and for 358
incompetency, inefficiency, unsatisfactory performance, 359
dishonesty, drunkenness, immoral conduct, insubordination, 360
discourteous treatment of the public, neglect of duty, violation 361
of any policy or work rule of the officer's or employee's 362
appointing authority, violation of this chapter or the rules of 363
the director of administrative services or the commission, any 364
other failure of good behavior, any other acts of misfeasance, 365
malfeasance, or nonfeasance in office, or conviction of a felony 366
while employed in the civil service. The denial of a one-time 367
pay supplement or a bonus to an officer or employee is not a 368
reduction in pay for purposes of this section. 369

This section does not apply to any modifications or 370
reductions in pay or work week authorized by section 124.392, 371
124.393, or 124.394 of the Revised Code. 372

An appointing authority may require an employee who is 373
suspended to report to work to serve the suspension. An employee 374
serving a suspension in this manner shall continue to be 375
compensated at the employee's regular rate of pay for hours 376

worked. The disciplinary action shall be recorded in the 377
employee's personnel file in the same manner as other 378
disciplinary actions and has the same effect as a suspension 379
without pay for the purpose of recording disciplinary actions. 380

A finding by the appropriate ethics commission, based upon 381
a preponderance of the evidence, that the facts alleged in a 382
complaint under section 102.06 of the Revised Code constitute a 383
violation of Chapter 102., section 2921.42, or section 2921.43 384
of the Revised Code may constitute grounds for dismissal. 385
Failure to file a statement or falsely filing a statement 386
required by section 102.02 of the Revised Code may also 387
constitute grounds for dismissal. The tenure of an employee in 388
the career professional service of the department of 389
transportation is subject to section 5501.20 of the Revised 390
Code. 391

Conviction of a felony while employed in the civil service 392
is a separate basis for reducing in pay or position, suspending, 393
or removing an officer or employee, even if the officer or 394
employee has already been reduced in pay or position, suspended, 395
or removed for the same conduct that is the basis of the felony. 396
An officer or employee may not appeal to the state personnel 397
board of review or the commission any disciplinary action taken 398
by an appointing authority as a result of the officer's or 399
employee's conviction of a felony. If an officer or employee 400
removed under this section is reinstated as a result of an 401
appeal of the removal, any conviction of a felony that occurs 402
during the pendency of the appeal is a basis for further 403
disciplinary action under this section upon the officer's or 404
employee's reinstatement. 405

A person convicted of a felony while employed in the civil 406

service immediately forfeits the person's status as a classified 407
employee in any public employment on and after the date of the 408
conviction for the felony. If an officer or employee is removed 409
under this section as a result of being convicted of a felony or 410
is subsequently convicted of a felony that involves the same 411
conduct that was the basis for the removal, the officer or 412
employee is barred from receiving any compensation after the 413
removal notwithstanding any modification or disaffirmance of the 414
removal, unless the conviction for the felony is subsequently 415
reversed or annulled. 416

Any person removed for conviction of a felony is entitled 417
to a cash payment for any accrued but unused sick, personal, and 418
vacation leave as authorized by law. If subsequently reemployed 419
in the public sector, the person shall qualify for and accrue 420
these forms of leave in the manner specified by law for a newly 421
appointed employee and shall not be credited with prior public 422
service for the purpose of receiving these forms of leave. 423

As used in this division, "felony" means any of the 424
following: 425

(1) A felony that is an offense of violence as defined in 426
section 2901.01 of the Revised Code; 427

(2) A felony that is a felony drug abuse offense as 428
defined in section 2925.01 of the Revised Code; 429

(3) A felony under the laws of this or any other state or 430
the United States that is a crime of moral turpitude; 431

(4) A felony involving dishonesty, fraud, or theft; 432

(5) A felony that is a violation of section 2921.05, 433
2921.32, or 2921.42 of the Revised Code. 434

(B) In case of a reduction, a suspension of more than 435
forty work hours in the case of an employee exempt from the 436
payment of overtime compensation, a suspension of more than 437
twenty-four work hours in the case of an employee required to be 438
paid overtime compensation, a fine of more than forty hours' pay 439
in the case of an employee exempt from the payment of overtime 440
compensation, a fine of more than twenty-four hours' pay in the 441
case of an employee required to be paid overtime compensation, 442
or removal, except for the reduction or removal of a 443
probationary employee, the appointing authority shall serve the 444
employee with a copy of the order of reduction, fine, 445
suspension, or removal, which order shall state the reasons for 446
the action. 447

Within ten days following the date on which the order is 448
served or, in the case of an employee in the career professional 449
service of the department of transportation, within ten days 450
following the filing of a removal order, the employee, except as 451
otherwise provided in this section, may file an appeal of the 452
order in writing with the state personnel board of review or the 453
commission. For purposes of this section, the date on which an 454
order is served is the date of hand delivery of the order or the 455
date of delivery of the order by certified United States mail, 456
whichever occurs first. If an appeal is filed, the board or 457
commission shall forthwith notify the appointing authority and 458
shall hear, or appoint a trial board to hear, the appeal within 459
thirty days from and after its filing with the board or 460
commission. The board, commission, or trial board may affirm, 461
disaffirm, or modify the judgment of the appointing authority. 462
However, in an appeal of a removal order based upon a violation 463
of a last chance agreement, the board, commission, or trial 464
board may only determine if the employee violated the agreement 465

and thus affirm or disaffirm the judgment of the appointing 466
authority. 467

In cases of removal or reduction in pay for disciplinary 468
reasons, either the appointing authority or the officer or 469
employee may appeal from the decision of the state personnel 470
board of review or the commission, and any such appeal shall be 471
to the court of common pleas ~~of the county in which the~~ 472
~~appointing authority is located, or to the court of common pleas~~ 473
~~of Franklin county, as provided by section 119.12 of the Revised~~ 474
~~Code~~ in accordance with section 119.12 of the Revised Code. 475

(C) In the case of the suspension for any period of time, 476
or a fine, demotion, or removal, of a chief of police, a chief 477
of a fire department, or any member of the police or fire 478
department of a city or civil service township, who is in the 479
classified civil service, the appointing authority shall furnish 480
the chief or member with a copy of the order of suspension, 481
fine, demotion, or removal, which order shall state the reasons 482
for the action. The order shall be filed with the municipal or 483
civil service township civil service commission. Within ten days 484
following the filing of the order, the chief or member may file 485
an appeal, in writing, with the commission. If an appeal is 486
filed, the commission shall forthwith notify the appointing 487
authority and shall hear, or appoint a trial board to hear, the 488
appeal within thirty days from and after its filing with the 489
commission, and it may affirm, disaffirm, or modify the judgment 490
of the appointing authority. An appeal on questions of law and 491
fact may be had from the decision of the commission to the court 492
of common pleas in the county in which the city or civil service 493
township is situated. The appeal shall be taken within thirty 494
days from the finding of the commission. 495

(D) A violation of division (A) (7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) The director shall adopt a rule in accordance with Chapter 119. of the Revised Code to define the term "unsatisfactory performance" as it is used in this section with regard to employees in the service of the state.

(F) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

Sec. 303.57. A final judgment on the merits issued by a court of competent jurisdiction pursuant to its power of review under Chapter 2506. of the Revised Code, on claims brought under this chapter, does not preclude later claims for damages, including claims brought under 42 U.S.C. 1983, even if the common law doctrine of res judicata would otherwise bar the claim.

The general assembly intends that this section be construed to override the federal sixth circuit court of appeals's decision in the case *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021).

Sec. 519.26. A final judgment on the merits issued by a court of competent jurisdiction pursuant to its power of review under Chapter 2506. of the Revised Code, on claims brought under this chapter, does not preclude later claims for damages,

including claims brought under 42 U.S.C. 1983, even if the 525
common law doctrine of res judicata would otherwise bar the 526
claim. 527

The general assembly intends that this section be 528
construed to override the federal sixth circuit court of 529
appeals's decision in the case *Lavon Moore v. Hiram Twp.*, 988 530
F.3d 353 (6th Cir. 2021). 531

Sec. 713.16. A final judgment on the merits issued by a 532
court of competent jurisdiction pursuant to its power of review 533
under Chapter 2506. of the Revised Code, on claims brought under 534
this chapter, does not preclude later claims for damages, 535
including claims brought under 42 U.S.C. 1983, even if the 536
common law doctrine of res judicata would otherwise bar the 537
claim. 538

The general assembly intends that this section be 539
construed to override the federal sixth circuit court of 540
appeals's decision in the case *Lavon Moore v. Hiram Twp.*, 988 541
F.3d 353 (6th Cir. 2021). 542

Sec. 956.11. (A) The director of agriculture may enter 543
into contracts or agreements with an animal rescue for dogs, an 544
animal shelter for dogs, a boarding kennel, a veterinarian, a 545
board of county commissioners, or a humane society for the 546
purposes of this section. 547

(B) (1) If the director or the director's authorized 548
representative determines that a dog is being kept by a high 549
volume breeder or dog broker in a manner that materially 550
violates this chapter or rules adopted under it, the director 551
may impound the dog and order it to be seized by an animal 552
rescue for dogs, an animal shelter for dogs, a boarding kennel, 553

a veterinarian, a board of county commissioners, or a humane society with which the director has entered into a contract or agreement under division (A) of this section. Upon receiving the order from the director, the animal rescue for dogs, animal shelter for dogs, boarding kennel, veterinarian, board of county commissioners, or humane society shall seize the dog and keep, house, and maintain it.

(2) The director or the director's authorized representative shall give written notice of the impoundment by posting a notice on the door of the premises from which the dog was taken or by otherwise posting the notice in a conspicuous place at the premises from which the dog was taken. The notice shall provide a date for an adjudication hearing, which shall take place not later than five business days after the dog is taken and at which the director shall determine if the dog should be permanently relinquished to the custody of the director.

(C) The owner or operator of the applicable high volume breeder or the person acting as or performing the functions of a dog broker may appeal the determination made at the adjudication hearing in accordance with section 119.12 of the Revised Code, ~~except that the appeal may be made only to the environmental division of the Franklin county municipal court.~~

(D) If, after the final disposition of an adjudication hearing and any appeals from that adjudication hearing, it is determined that a dog shall be permanently relinquished to the custody of the director, the dog may be adopted directly from the animal rescue for dogs, animal shelter for dogs, boarding kennel, veterinarian, county dog pound, or humane society where it is being kept, housed, and maintained, provided that the dog

has been spayed or neutered unless there are medical reasons 584
against spaying or neutering as determined by a veterinarian. 585
The animal rescue for dogs, animal shelter for dogs, boarding 586
kennel, veterinarian, county dog pound, or humane society may 587
charge a reasonable adoption fee. The fee shall be at least 588
sufficient to cover the costs of spaying or neutering the dog 589
unless it is medically contraindicated. Impounded dogs shall be 590
returned to persons acquitted of any alleged violations. 591

Sec. 956.15. (A) The director of agriculture shall deny an 592
application for a license that is submitted under section 956.04 593
or 956.05 of the Revised Code for either of the following 594
reasons: 595

(1) The applicant for the license has violated any 596
provision of this chapter or a rule adopted under it if the 597
violation materially threatens the health or welfare of a dog. 598

(2) The applicant has been convicted of or pleaded guilty 599
to a disqualifying offense as determined in accordance with 600
section 9.79 of the Revised Code. 601

(B) The director may suspend or revoke a license issued 602
under this chapter for violation of any provision of this 603
chapter or a rule adopted or order issued under it if the 604
violation materially threatens the health and welfare of a dog. 605

(C) An application or a license shall not be denied, 606
suspended, or revoked under this section without a written order 607
of the director stating the findings on which the denial, 608
suspension, or revocation is based. A copy of the order shall be 609
sent to the applicant or license holder by certified mail or may 610
be provided to the applicant or license holder by personal 611
service. In addition, the person to whom a denial, suspension, 612

or revocation applies may request an adjudication hearing under 613
Chapter 119. of the Revised Code. The director shall comply with 614
such a request. The determination of the director at an 615
adjudication hearing may be appealed in accordance with section 616
119.12 of the Revised Code, ~~except that the determination may be~~ 617
~~appealed only to the environmental division of the Franklin-~~ 618
~~county municipal court.~~ 619

Sec. 2743.03. (A) (1) There is hereby created a court of 620
claims. ~~Except as provided under section 107.43 of the Revised-~~ 621
~~Code, the~~ The court of claims is a court of record and has 622
exclusive, original jurisdiction of all civil actions against 623
the state permitted by the waiver of immunity contained in 624
section 2743.02 of the Revised Code and exclusive jurisdiction 625
of the causes of action of all parties in civil actions that are 626
removed to the court of claims. The court shall have full equity 627
powers in all actions within its jurisdiction and may entertain 628
and determine all counterclaims, cross-claims, and third-party 629
claims. 630

(2) If the claimant in a civil action as described in 631
division (A) (1) of this section also files a claim for a 632
declaratory judgment, injunctive relief, or other equitable 633
relief against the state that arises out of the same 634
circumstances that gave rise to the civil action described in 635
division (A) (1) of this section, the court of claims has 636
exclusive, original jurisdiction to hear and determine that 637
claim in that civil action. This division does not affect, and 638
shall not be construed as affecting, the original jurisdiction 639
of another court of this state to hear and determine a civil 640
action in which the sole relief that the claimant seeks against 641
the state is a declaratory judgment, injunctive relief, or other 642
equitable relief. 643

(3) In addition to its exclusive, original jurisdiction as 644
conferred by divisions (A) (1) and (2) of this section, the court 645
of claims has exclusive, original jurisdiction as follows: 646

(a) As described in division (F) of section 2743.02, 647
division (B) of section 3335.03, and division (C) of section 648
5903.02 of the Revised Code; 649

(b) Under section 2743.75 of the Revised Code to hear 650
complaints alleging a denial of access to public records in 651
violation of division (B) of section 149.43 of the Revised Code, 652
regardless of whether the public office or person responsible 653
for public records is an office or employee of the state or of a 654
political subdivision. 655

(B) The court of claims shall sit in Franklin county, its 656
hearings shall be public, and it shall consist of incumbent 657
justices or judges of the supreme court, courts of appeals, or 658
courts of common pleas, or retired justices or judges eligible 659
for active duty pursuant to division (C) of Section 6 of Article 660
IV, Ohio Constitution, sitting by temporary assignment of the 661
chief justice of the supreme court. The chief justice may direct 662
the court to sit in any county for cases on removal upon a 663
showing of substantial hardship and whenever justice dictates. 664

(C) (1) A civil action against the state shall be heard and 665
determined by a single judge. Upon application by the claimant 666
or the state, the chief justice of the supreme court may assign 667
a panel of three judges to hear and determine a civil action 668
presenting novel or complex issues of law or fact. Concurrence 669
of two members of the panel is necessary for any judgment or 670
order. 671

(2) Whenever the chief justice of the supreme court 672

believes an equitable resolution of a case will be expedited, 673
the chief justice may appoint magistrates in accordance with 674
Civil Rule 53 to hear the case. 675

(3) When any dispute under division (B) of section 153.12 676
of the Revised Code is brought to the court of claims, upon 677
request of either party to the dispute, the chief justice of the 678
supreme court shall appoint a single referee or a panel of three 679
referees. The referees need not be attorneys, but shall be 680
persons knowledgeable about construction contract law, a member 681
of the construction industry panel of the American arbitration 682
association, or an individual or individuals deemed qualified by 683
the chief justice to serve. No person shall serve as a referee 684
if that person has been employed by an affected state agency or 685
a contractor or subcontractor involved in the dispute at any 686
time in the preceding five years. Proceedings governing referees 687
shall be in accordance with Civil Rule 53, except as modified by 688
this division. The referee or panel of referees shall submit its 689
report, which shall include a recommendation and finding of 690
fact, to the judge assigned to the case by the chief justice, 691
within thirty days of the conclusion of the hearings. Referees 692
appointed pursuant to this division shall be compensated on a 693
per diem basis at the same rate as is paid to judges of the 694
court and also shall be paid their expenses. If a single referee 695
is appointed or a panel of three referees is appointed, then, 696
with respect to one referee of the panel, the compensation and 697
expenses of the referee shall not be taxed as part of the costs 698
in the case but shall be included in the budget of the court. If 699
a panel of three referees is appointed, the compensation and 700
expenses of the two remaining referees shall be taxed as costs 701
of the case. 702

All costs of a case shall be apportioned among the 703

parties. The court may not require that any party deposit with 704
the court cash, bonds, or other security in excess of two 705
hundred dollars to guarantee payment of costs without the prior 706
approval in each case of the chief justice. 707

(4) An appeal from a decision of the attorney general 708
pursuant to sections 2743.51 to 2743.72 of the Revised Code 709
shall be heard and determined by the court of claims. 710

(D) The Rules of Civil Procedure shall govern practice and 711
procedure in all actions in the court of claims, except insofar 712
as inconsistent with this chapter. The supreme court may 713
promulgate rules governing practice and procedure in actions in 714
the court as provided in Section 5 of Article IV, Ohio 715
Constitution. 716

(E) (1) A party who files a counterclaim against the state 717
or makes the state a third-party defendant in an action 718
commenced in any court, other than the court of claims, shall 719
file a petition for removal in the court of claims. The petition 720
shall state the basis for removal, be accompanied by a copy of 721
all process, pleadings, and other papers served upon the 722
petitioner, and shall be signed in accordance with Civil Rule 723
11. A petition for removal based on a counterclaim shall be 724
filed within twenty-eight days after service of the counterclaim 725
of the petitioner. A petition for removal based on third-party 726
practice shall be filed within twenty-eight days after the 727
filing of the third-party complaint of the petitioner. 728

(2) Within seven days after filing a petition for removal, 729
the petitioner shall give written notice to the parties, and 730
shall file a copy of the petition with the clerk of the court in 731
which the action was brought originally. The filing effects the 732
removal of the action to the court of claims, and the clerk of 733

the court where the action was brought shall forward all papers 734
in the case to the court of claims. The court of claims shall 735
adjudicate all civil actions removed. The court may remand a 736
civil action to the court in which it originated upon a finding 737
that the removal petition does not justify removal, or upon a 738
finding that the state is no longer a party. 739

(3) Bonds, undertakings, or security and injunctions, 740
attachments, sequestrations, or other orders issued prior to 741
removal remain in effect until dissolved or modified by the 742
court of claims. 743

Sec. 2901.12. (A) (1) The trial of a criminal case in this 744
state shall be held in a court having jurisdiction of the 745
subject matter, and, except in cases of emergency under section 746
1901.028, 1907.04, 2301.04, or 2501.20 of the Revised Code or in 747
cases covered by section 2901.121 of the Revised Code, in the 748
territory of which the offense or any element of the offense was 749
committed. 750

(2) Divisions (B) to (I) of this section do not apply to 751
the prosecution of an offense if division (C) (1) (a) of section 752
2901.121 of the Revised Code requires that the offender be tried 753
in the offender's county of residence and venue of the trial in 754
the case is not transferred under division (K) (2) of this 755
section to the county in which the conduct constituting the 756
offense allegedly occurred. If division (C) (1) (b) of section 757
2901.121 of the Revised Code requires that an offender accused 758
of an offense be tried in the county in which the conduct 759
constituting the offense allegedly occurred, or if division (C) 760
(1) (a) of that section initially applies regarding an offense 761
and venue of the trial in the case is to be transferred under 762
division (K) (2) of this section to the county in which the 763

conduct constituting the offense allegedly occurred, divisions 764
(B) to (I) of this section apply to the prosecution of the 765
offense, but only for the purpose of determining the 766
jurisdiction in which the conduct constituting the offense 767
allegedly occurred. 768

(B) When the offense or any element of the offense was 769
committed in an aircraft, motor vehicle, train, watercraft, or 770
other vehicle, in transit, and it cannot reasonably be 771
determined in which jurisdiction the offense was committed, the 772
offender may be tried in any jurisdiction through which the 773
aircraft, motor vehicle, train, watercraft, or other vehicle 774
passed. 775

(C) When the offense involved the unlawful taking or 776
receiving of property or the unlawful taking or enticing of 777
another, the offender may be tried in any jurisdiction from 778
which or into which the property or victim was taken, received, 779
or enticed. 780

(D) When the offense is conspiracy, attempt, or complicity 781
cognizable under division (A) (2) of section 2901.11 of the 782
Revised Code, the offender may be tried in any jurisdiction in 783
which the conspiracy, attempt, complicity, or any of its 784
elements occurred. If an offense resulted outside this state 785
from the conspiracy, attempt, or complicity, that resulting 786
offense also may be tried in any jurisdiction in which the 787
conspiracy, attempt, complicity, or any of the elements of the 788
conspiracy, attempt, or complicity occurred. 789

(E) When the offense is conspiracy or attempt cognizable 790
under division (A) (3) of section 2901.11 of the Revised Code, 791
the offender may be tried in any jurisdiction in which the 792
offense that was the object of the conspiracy or attempt, or any 793

element of that offense, was intended to or could have taken 794
place. When the offense is complicity cognizable under division 795
(A) (3) of section 2901.11 of the Revised Code, the offender may 796
be tried in any jurisdiction in which the principal offender may 797
be tried. 798

(F) When an offense is considered to have been committed 799
in this state while the offender was out of this state, and the 800
jurisdiction in this state in which the offense or any material 801
element of the offense was committed is not reasonably 802
ascertainable, the offender may be tried in any jurisdiction in 803
which the offense or element reasonably could have been 804
committed. 805

(G) When it appears beyond a reasonable doubt that an 806
offense or any element of an offense was committed in any of two 807
or more jurisdictions, but it cannot reasonably be determined in 808
which jurisdiction the offense or element was committed, the 809
offender may be tried in any of those jurisdictions. 810

(H) When an offender, as part of a course of criminal 811
conduct, commits offenses in different jurisdictions, the 812
offender may be tried for all of those offenses in any 813
jurisdiction in which one of those offenses or any element of 814
one of those offenses occurred. Without limitation on the 815
evidence that may be used to establish the course of criminal 816
conduct, any of the following is prima-facie evidence of a 817
course of criminal conduct: 818

(1) The offenses involved the same victim, or victims of 819
the same type or from the same group. 820

(2) The offenses were committed by the offender in the 821
offender's same employment, or capacity, or relationship to 822

another.	823
(3) The offenses were committed as part of the same	824
transaction or chain of events, or in furtherance of the same	825
purpose or objective.	826
(4) The offenses were committed in furtherance of the same	827
conspiracy.	828
(5) The offenses involved the same or a similar modus	829
operandi.	830
(6) The offenses were committed along the offender's line	831
of travel in this state, regardless of the offender's point of	832
origin or destination.	833
(I) (1) When the offense involves a computer, computer	834
system, computer network, telecommunication, telecommunications	835
device, telecommunications service, or information service, the	836
offender may be tried in any jurisdiction containing any	837
location of the computer, computer system, or computer network	838
of the victim of the offense, in any jurisdiction from which or	839
into which, as part of the offense, any writing, data, or image	840
is disseminated or transmitted by means of a computer, computer	841
system, computer network, telecommunication, telecommunications	842
device, telecommunications service, or information service, or	843
in any jurisdiction in which the alleged offender commits any	844
activity that is an essential part of the offense.	845
(2) As used in this section, "computer," "computer	846
system," "computer network," "information service,"	847
"telecommunication," "telecommunications device,"	848
"telecommunications service," "data," and "writing" have the	849
same meanings as in section 2913.01 of the Revised Code.	850
(J) When the offense involves the death of a person, and	851

it cannot reasonably be determined in which jurisdiction the 852
offense was committed, the offender may be tried in the 853
jurisdiction in which the dead person's body or any part of the 854
dead person's body was found. 855

(K) (1) Notwithstanding any other requirement for the place 856
of trial, venue may be changed, upon motion of the prosecution, 857
the defense, or the court, to any court having jurisdiction of 858
the subject matter outside the county in which trial otherwise 859
would be held, when it appears that a fair and impartial trial 860
cannot be held in the jurisdiction in which trial otherwise 861
would be held, or when it appears that trial should be held in 862
another jurisdiction for the convenience of the parties and in 863
the interests of justice. 864

(2) If a law enforcement agency or the Ohio elections 865
commission, pursuant to division (C) (1) (a) of section 2901.121 866
or divisions (A) (1) and (2) of section 3517.155 of the Revised 867
Code, refers a matter regarding an offense against public 868
administration to the prosecuting attorney of the county in 869
which the alleged offender resided at the time the offense 870
allegedly was committed, notwithstanding the provision of 871
division (C) (1) or (2) of section 2901.121 of the Revised Code 872
that specifies that the trial of the criminal case involving the 873
matter is to be held in a court in the county served by that 874
prosecuting attorney, venue of the trial may be changed as 875
follows: 876

(a) The alleged offender may move to have venue changed to 877
a court having jurisdiction of the subject matter in the county 878
in which the conduct constituting the offense allegedly 879
occurred, and, upon the filing of such a motion, venue of the 880
trial shall be changed to a court having jurisdiction of the 881

subject matter in that county. 882

(b) Independent of division (K) (2) (a) of this section, 883
venue may be changed in accordance with division (K) (1) of this 884
section and Criminal Rule 18. 885

(3) A change of venue shall be made under division (K) (2) 886
(a) of this section in the circumstances described in that 887
division, regardless of whether the criteria set forth in 888
division (K) (1) of this section and Criminal Rule 18 are 889
satisfied. If venue is changed under division (K) (2) (a) of this 890
section, venue may be further changed in accordance with 891
division (K) (1) of this section and Criminal Rule 18. 892

Sec. 2901.121. (A) As used in this section: 893

(1) "Law enforcement agency" has the same meaning as in 894
section 955.012 of the Revised Code. 895

(2) "Offense" means a prohibited act for which state law 896
imposes a criminal or civil penalty. 897

(3) "Offense against public administration" means any of 898
the following: 899

(a) An offense committed by a state officer or a state 900
employee in connection with the powers and duties of the 901
officer's or employee's state office or state employment, in 902
violation of any of the following: 903

(i) Any prohibition set forth in Chapter 2921. of the 904
Revised Code; 905

(ii) Section 2919.27 of the Revised Code. 906

(b) An offense committed by a state officer or a state 907
employee in connection with the powers and duties of the 908

officer's or employee's state office or state employment or by a 909
candidate for state office, in violation of any of the 910
following: 911

(i) Any prohibition set forth in Chapter 102. of the 912
Revised Code; 913

(ii) Section 2927.03 of the Revised Code. 914

(c) An offense committed in connection with a campaign for 915
or the holding of any state office or in connection with an 916
election on a proposed constitutional amendment, or any other 917
proposition or issue submitted to voters, in violation of any 918
section listed in division (A) of section 3517.153 of the 919
Revised Code. 920

(4) "Prosecuting attorney" means a prosecuting attorney of 921
a county. 922

(5) "State agency" means a department, commission, board, 923
office, council, authority, or other agency in the executive 924
branch of state government that is created by the Constitution 925
or a statute of this state, including a state institution of 926
higher education. 927

(6) "State employee" means an individual, other than a 928
state officer, who is employed by any of the following: 929

(a) A state agency; 930

(b) The supreme court, a court of appeals, or the Ohio 931
judicial conference; 932

(c) The house of representatives or the senate; 933

(d) Any legislative agency, council, or committee, 934
including the legislative service commission or any other 935

<u>legislative agency included in the legislative service</u>	936
<u>commission budget group.</u>	937
<u>(7) "State institution of higher education" has the same</u>	938
<u>meaning as in section 3345.011 of the Revised Code.</u>	939
<u>(8) "State officer" means an elected officer of the state,</u>	940
<u>an appointed officer of the state, or the director of a state</u>	941
<u>agency.</u>	942
<u>(B) Except as otherwise provided in this division, on</u>	943
<u>receiving a formal or informal complaint regarding an offense</u>	944
<u>against public administration, other than one identified in</u>	945
<u>division (A) (3) (c) of this section, or on request of a</u>	946
<u>prosecuting attorney, a law enforcement agency may conduct an</u>	947
<u>initial investigation into whether a person has committed an</u>	948
<u>offense against public administration. This division does not</u>	949
<u>apply with respect to offenses against public administration</u>	950
<u>identified in division (A) (3) (c) of this section.</u>	951
<u>(C) (1) If an initial investigation conducted by a law</u>	952
<u>enforcement agency under division (B) of this section, or</u>	953
<u>otherwise conducted by a law enforcement agency, demonstrates a</u>	954
<u>reasonable suspicion that an offense against public</u>	955
<u>administration, other than one identified in division (A) (3) (c)</u>	956
<u>of this section, has occurred, the agency shall refer the matter</u>	957
<u>to a prosecuting attorney determined as specified in this</u>	958
<u>division. The trial of the criminal case involving the matter</u>	959
<u>shall be held in a court having jurisdiction of the subject</u>	960
<u>matter in the county served by that prosecuting attorney,</u>	961
<u>subject to division (C) (3) of this section. The prosecuting</u>	962
<u>attorney to whom the case is referred shall be one of the</u>	963
<u>following:</u>	964

(a) If the alleged offender is a natural person who is a resident of this state, the prosecuting attorney of the county in which the alleged offender resided at the time the offense allegedly was committed; 965
966
967
968

(b) If the alleged offender is a natural person who is not a resident of this state, or if the alleged offender is not a natural person, the prosecuting attorney of the county in which the conduct constituting the offense allegedly occurred. 969
970
971
972

(2) Sections 3517.151 to 3517.156 of the Revised Code apply regarding all complaints and investigations regarding offenses against public administration identified in division (A) (3) (c) of this section. If the Ohio elections commission decides under section 3517.155 of the Revised Code to refer a matter regarding an offense against public administration identified in division (A) (3) (c) of this section to a prosecuting attorney, the referral shall be made under divisions (A) (1) and (2) of section 3517.155 of the Revised Code, with the appropriate prosecuting attorney being determined under those divisions and divisions (C) (1) (a) and (b) of this section. The trial of the criminal case involving the matter shall be held in a court having jurisdiction of the subject matter in the county served by that prosecuting attorney, subject to division (C) (3) of this section. 973
974
975
976
977
978
979
980
981
982
983
984
985
986
987

(3) If a law enforcement agency or the Ohio elections commission, pursuant to division (C) (1) (a) of this section or divisions (A) (1) and (2) of section 3517.155 of the Revised Code, refers a matter regarding an offense against public administration to the prosecuting attorney of the county in which the alleged offender resided at the time the offense allegedly was committed, venue of the trial of the case may be 988
989
990
991
992
993
994

changed in accordance with divisions (K) (2) (a) and (3) of 995
section 2901.12 of the Revised Code, or division (K) (2) (b) of 996
that section, and, if venue is changed, the prosecuting attorney 997
of the county to which the venue is changed shall prosecute the 998
case. 999

(4) On request of a prosecuting attorney to whom a law 1000
enforcement agency or the Ohio elections commission refers a 1001
matter under division (C) (1) of this section or divisions (A) (1) 1002
and (2) of section 3517.155 of the Revised Code, or on request 1003
of a prosecuting attorney who is prosecuting a case after a law 1004
enforcement agency or the Ohio elections commission refers a 1005
matter under any of those divisions to a different prosecuting 1006
attorney and the venue of the trial in the case is changed as 1007
described in division (C) (3) of this section, the referring 1008
agency or commission, whichever is applicable, shall assist the 1009
prosecuting attorney in the investigation of an offense against 1010
public administration. 1011

(D) The prosecuting attorney handling a matter referred to 1012
the prosecuting attorney by a law enforcement agency or the Ohio 1013
elections commission under division (C) (1) of this section or 1014
divisions (A) (1) and (2) of section 3517.155 of the Revised 1015
Code, or handling a matter after the venue of the trial in the 1016
case is changed as described in division (C) (3) of this section 1017
when the matter initially was referred to a different 1018
prosecuting attorney by a law enforcement agency or the Ohio 1019
elections commission under division (C) (1) of this section or 1020
divisions (A) (1) and (2) of section 3517.155 of the Revised 1021
Code, shall notify the referring agency or commission, whichever 1022
is applicable, of either of the following upon occurrence of the 1023
event: 1024

(1) The termination of the case involving the matter 1025
referred by the agency or the commission; 1026

(2) The results of the final disposition of the case 1027
involving the matter referred by the agency or the commission, 1028
including the final adjudication or entry of a plea. 1029

(E) (1) The prosecuting attorney handling a matter in 1030
either circumstance described in division (D) of this section 1031
may request that the court with jurisdiction over the case 1032
permit the prosecuting attorney to recuse self for good cause in 1033
the case, by submitting to the court a notice of recusal. Upon 1034
submission of such a notice of recusal the prosecuting attorney 1035
is recused and disqualified from participating in the case 1036
involving the matter. 1037

(2) Following the recusal of a prosecuting attorney under 1038
division (E) (1) of this section, the judges of the court of 1039
appeals in which is located the county served by that 1040
prosecuting attorney shall appoint, by majority vote, a 1041
prosecuting attorney from another county, determined as 1042
specified in this division. A prosecuting attorney appointed 1043
under this division has the authority to represent the state in 1044
the prosecution of the case. A prosecuting attorney appointed 1045
under this division shall be one of the following: 1046

(a) If the court of appeals making the appointment serves 1047
more than one county, the prosecuting attorney appointed shall 1048
be from another county in that court of appeals district. 1049

(b) If the court of appeals making the appointment serves 1050
only one county, the prosecuting attorney appointed shall be 1051
from a county that is contiguous to the county served by that 1052
court of appeals. 1053

(3) A prosecuting attorney appointed by a court of appeals 1054
under division (E) (2) of this section may pursue a waiver to 1055
extend the applicable statute of limitations by not more than 1056
two years. If the waiver adds less than two years to 1057
limitations, the prosecuting attorney may pursue a successive 1058
waiver for good cause shown to the court, provided that the 1059
total time of all waivers does not exceed two years. 1060

(F) To the extent allowed by law, a state agency or law 1061
enforcement agency shall cooperate with a prosecuting attorney 1062
handling a matter in either circumstance described in division 1063
(D) of this section, or with a prosecuting attorney who a court 1064
of appeals appoints under division (E) (2) of this section, by 1065
providing resources and information requested by the prosecuting 1066
attorney as necessary to carry out the purposes of this section. 1067

(G) Notwithstanding any provision to the contrary in 1068
section 309.08, 705.11, 733.51, 733.52, 1901.34, or 2938.13 of 1069
the Revised Code or any other section of the Revised Code, all 1070
offenses against public administration that are prosecuted on or 1071
after the effective date of this amendment shall be prosecuted 1072
by a county prosecuting attorney or assistant county prosecuting 1073
attorney, regardless of the court in which the prosecution 1074
occurs and regardless of whether the offense is a felony or a 1075
misdemeanor. 1076

Sec. 3517.155. (A) (1) Except as otherwise provided in 1077
division (B) of this section, the Ohio elections commission 1078
shall hold its first hearing on a complaint filed with it, other 1079
than a complaint that receives an expedited hearing under 1080
section 3517.156 of the Revised Code, not later than ninety 1081
business days after the complaint is filed unless the commission 1082
has good cause to hold the hearing after that time, in which 1083

case it shall hold the hearing not later than one hundred eighty 1084
business days after the complaint is filed. At the hearing, the 1085
commission shall determine whether or not the failure to act or 1086
the violation alleged in the complaint has occurred and shall do 1087
only one of the following, except as otherwise provided in 1088
division (B) of this section or in division (B) of section 1089
3517.151 of the Revised Code: 1090

(a) Enter a finding that good cause has been shown not to 1091
impose a fine or not to refer the matter to the appropriate 1092
prosecutor; 1093

(b) Impose a fine under section 3517.993 of the Revised 1094
Code; 1095

(c) Refer the matter to the appropriate prosecutor. 1096

(2) As used in division (A) of this section, "appropriate 1097
prosecutor" means a prosecutor as defined in section 2935.01 of 1098
the Revised Code and either of the following: 1099

(a) In the case of a failure to comply with or a violation 1100
of law involving a campaign committee or the committee's 1101
candidate, a political party, a legislative campaign fund, a 1102
political action committee, or a political contributing entity, 1103
that is required to file a statement of contributions and 1104
expenditures with the secretary of state under division (A) of 1105
section 3517.11 of the Revised Code, the ~~prosecutor of Franklin-~~ 1106
~~county~~ prosecuting attorney determined as specified in division 1107
(C) (1) (a) or (b) of section 2901.121 of the Revised Code; 1108

(b) In the case of a failure to comply with or a violation 1109
of law involving any other campaign committee or committee's 1110
candidate, or any other political party, political action 1111
committee, or political contributing entity ~~either of the~~ 1112

~~following as determined by the commission:~~ 1113

~~(i) The prosecutor of Franklin county;~~ 1114

~~(ii) The prosecutor of, the prosecuting attorney~~ 1115
determined as specified in division (C) (1) (a) or (b) of section 1116
2901.121 of the Revised Code. For purposes of determining the 1117
appropriate prosecuting attorney under division (C) (1) (b) of 1118
that section when that division applies, the county in which the 1119
conduct constituting the offense allegedly occurred is the 1120
county in which the candidacy or ballot question or issue is 1121
submitted to the electors or, if it is submitted in more than 1122
one county, the most populous of those counties. 1123

(3) If the commission refers the matter to the appropriate 1124
prosecutor under division (A) (1) (c) of this section and that 1125
prosecutor is determined as specified in division (C) (1) (a) of 1126
section 2901.121 of the Revised Code, venue of the trial of the 1127
case may be changed as described in division (C) (3) of section 1128
2901.121 of the Revised Code and, if venue is changed, 1129
prosecution shall proceed as described in that division. 1130

(B) If the commission decides that the evidence is 1131
insufficient for it to determine whether or not the failure to 1132
act or the violation alleged in the complaint has occurred, the 1133
commission, by the affirmative vote of five members, may request 1134
that an investigatory attorney investigate the complaint. Upon 1135
that request, an investigatory attorney shall make an 1136
investigation in order to produce sufficient evidence for the 1137
commission to decide the matter. If the commission requests an 1138
investigation under this division, for good cause shown by the 1139
investigatory attorney, the commission may extend by sixty days 1140
the deadline for holding its first hearing on the complaint as 1141
required in division (A) of this section. 1142

(C) The commission shall take one of the actions required 1143
under division (A) of this section not later than thirty days 1144
after the close of all the evidence presented. 1145

(D) (1) The commission shall make any finding of a failure 1146
to comply with or a violation of law in regard to a complaint 1147
that alleges a violation of division (A) or (B) of section 1148
3517.21, or division (A) or (B) of section 3517.22 of the 1149
Revised Code by clear and convincing evidence. The commission 1150
shall make any finding of a failure to comply with or a 1151
violation of law in regard to any other complaint by a 1152
preponderance of the evidence. 1153

(2) If the commission finds a violation of division (B) of 1154
section 3517.21 or division (B) of section 3517.22 of the 1155
Revised Code, it shall refer the matter to the appropriate 1156
prosecutor under division (A) (1) (c) of this section and shall 1157
not impose a fine under division (A) (1) (b) of this section or 1158
section 3517.993 of the Revised Code. 1159

(E) In an action before the commission or a panel of the 1160
commission, if the allegations of the complainant are not 1161
proved, and the commission takes the action described in 1162
division (A) (1) (a) of this section or a panel of the commission 1163
takes the action described in division (C) (1) of section 1164
3517.156 of the Revised Code, the commission or a panel of the 1165
commission may find that the complaint is frivolous, and, if the 1166
commission or panel so finds, the commission shall order the 1167
complainant to pay reasonable attorney's fees and to pay the 1168
costs of the commission or panel as determined by a majority of 1169
the members of the commission. The costs paid to the commission 1170
or panel under this division shall be deposited into the Ohio 1171
elections commission fund. 1172

Sec. 3794.09. Enforcement; Penalties. 1173

(A) Upon the receipt of a first report that a proprietor 1174
of a public place or place of employment or an individual has 1175
violated any provision of this chapter, the department of health 1176
or its designee shall investigate the report and, if it 1177
concludes that there was a violation, issue a warning letter to 1178
the proprietor or individual. 1179

(B) Upon a report of a second or subsequent violation of 1180
any provision of this chapter by a proprietor of a public place 1181
or place of employment or an individual, the department of 1182
health or its designee shall investigate the report. If the 1183
director of health or director's designee concludes, based on 1184
all of the information before ~~him or her~~ the director or the 1185
director's designee, that there was a violation, ~~he or she~~ the 1186
director or the director's designee shall impose a civil fine 1187
upon the proprietor or individual in accordance with the 1188
schedule of fines required to be promulgated under section 1189
3794.07 of ~~this chapter~~ the Revised Code. 1190

(C) Any proprietor or individual against whom a finding of 1191
a violation is made under this chapter may appeal the finding ~~to~~ 1192
~~the Franklin County Court of Common Pleas. Such appeal shall be~~ 1193
~~governed by the provisions of~~ in accordance with section 119.12 1194
of the Revised Code. 1195

(D) The director of health may institute an action in the 1196
court of common pleas seeking an order in equity against a 1197
proprietor or individual that has repeatedly violated the 1198
provisions of this chapter or fails to comply with its 1199
provisions. 1200

Sec. 3901.321. (A) For the purposes of this section: 1201

(1) "Acquiring party" means any person by whom or on whose behalf a merger or other acquisition of control is to be effected.

(2) "Domestic insurer" includes any person controlling a domestic insurer unless the person, as determined by the superintendent of insurance, is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(3) "Person" does not include any securities broker holding, in the usual and customary broker's function, less than twenty per cent of the voting securities of an insurance company or of any person that controls an insurance company.

(B) (1) Subject to compliance with division (B) (2) of this section, no person other than the issuer shall do any of the following if, as a result, the person would, directly or indirectly, including by means of conversion or the exercise of any right to acquire, be in control of a domestic insurer:

(a) Make a tender offer for any voting security of a domestic insurer;

(b) Make a request or invitation for tenders of any voting security of a domestic insurer;

(c) Enter into any agreement to exchange securities of a domestic insurer;

(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;

(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.

(2) (a) No person shall engage in any transaction described

in division (B) (1) of this section, unless all of the following 1230
conditions are met: 1231

(i) The person has filed with the superintendent of 1232
insurance a statement containing the information required by 1233
division (C) of this section; 1234

(ii) The person has sent the statement to the domestic 1235
insurer; 1236

(iii) The offer, request, invitation, agreement, or 1237
acquisition has been approved by the superintendent in the 1238
manner provided in division (F) of this section. 1239

(b) The requirements of division (B) (2) (a) of this section 1240
shall be met at the time any offer, request, or invitation is 1241
made, or any agreement is entered into, or prior to the 1242
acquisition of the securities if no offer or agreement is 1243
involved. 1244

(3) Any controlling person of a domestic insurer seeking 1245
to divest its controlling interest in the domestic insurer shall 1246
file a confidential notice of its proposed divestiture with the 1247
superintendent at least thirty days prior to the cessation of 1248
control, and provide a copy of the confidential notice to the 1249
insurer. The superintendent may require the person seeking to 1250
divest the controlling interest to file for and obtain approval 1251
of the transaction. The information shall remain confidential 1252
until the conclusion of the transaction unless the 1253
superintendent, in the superintendent's discretion, determines 1254
that the confidential treatment will interfere with enforcement 1255
of this section. If the statement required by division (B) (2) of 1256
this section is otherwise filed with the superintendent in 1257
relation to all parties that acquire a controlling interest as a 1258

result of the divestiture, this division shall not apply. 1259

(C) The statement required by division (B)(2) of this 1260
section shall be made under oath or affirmation, and shall 1261
contain all of the following information: 1262

(1) The name and address of each acquiring party; 1263

(2) If the acquiring party is an individual, the 1264
individual's principal occupation and all offices and positions 1265
held during the past five years, and any conviction of crimes 1266
other than minor traffic violations during the past ten years; 1267

(3) If the acquiring party is not an individual, a report 1268
of the nature of its business operations during the past five 1269
years or for such lesser period as the acquiring party and any 1270
of its predecessors shall have been in existence; an informative 1271
description of the business intended to be done by the acquiring 1272
party and the acquiring party's subsidiaries; and a list of all 1273
individuals who are or who have been selected to become 1274
directors or executive officers of the acquiring party, who 1275
perform or will perform functions appropriate to such positions. 1276
The list shall include for each individual the information 1277
required by division (C)(2) of this section. 1278

(4) The source, nature, and amount of the consideration 1279
used or to be used in effecting the merger or other acquisition 1280
of control, a description of any transaction in which funds were 1281
or are to be obtained for any such purpose, including any pledge 1282
of the domestic insurer's stock, or the stock of any of its 1283
subsidiaries or controlling affiliates, and the identity of 1284
persons furnishing such consideration; 1285

(5) Fully audited financial information as to the earnings 1286
and financial condition of each acquiring party for its 1287

preceding five fiscal years, or for such lesser period as the 1288
acquiring party and any of its predecessors shall have been in 1289
existence, and similar unaudited information as of a date not 1290
earlier than ninety days prior to the filing of the statement; 1291

(6) Any plans or proposals which each acquiring party may 1292
have to liquidate such domestic insurer, to sell its assets or 1293
merge or consolidate it with any person, or to make any other 1294
material change in its business or corporate structure or 1295
management; 1296

(7) The number of shares of any security of such issuer or 1297
such controlling person that each acquiring party proposes to 1298
acquire, and the terms of the offer, request, invitation, 1299
agreement, or acquisition, and a statement as to the method by 1300
which the fairness of the proposal was determined; 1301

(8) The amount of each class of any security of such 1302
issuer or such controlling person which is beneficially owned or 1303
concerning which there is a right to acquire beneficial 1304
ownership by each acquiring party; 1305

(9) A full description of any contracts, arrangements, or 1306
understandings with respect to any security of such issuer or 1307
such controlling person in which any acquiring party is 1308
involved, including but not limited to transfer of any of the 1309
securities, joint ventures, loan or option arrangements, puts or 1310
calls, guarantees of loans, guarantees against loss or 1311
guarantees of profits, division of losses or profits, or the 1312
giving or withholding of proxies. The description shall identify 1313
the persons with whom such contracts, arrangements, or 1314
understandings have been made. 1315

(10) A description of the purchase of any security of such 1316

issuer or such controlling person during the year preceding the 1317
filing of the statement, by any acquiring party, including the 1318
dates of purchase, names of the purchasers, and consideration 1319
paid or agreed to be paid therefor; 1320

(11) A description of any recommendations to purchase any 1321
security of such issuer or such controlling person made during 1322
the year preceding the filing of the statement, by any acquiring 1323
party, or by anyone based upon interviews or at the suggestion 1324
of the acquiring party; 1325

(12) Copies of all tender offers for, requests, or 1326
invitations for tenders of, exchange offers for, and agreements 1327
to acquire or exchange any securities of such issuer or such 1328
controlling person, and, if distributed, of additional 1329
solicitation material relating thereto; 1330

(13) The terms of any agreement, contract, or 1331
understanding made with or proposed to be made with any broker 1332
or dealer as to solicitation of securities of such issuer or 1333
such controlling person for tender, and the amount of any fees, 1334
commissions, or other compensation to be paid to brokers or 1335
dealers with regard thereto; 1336

(14) With respect to proposed affiliations between 1337
depository institutions or any affiliate thereof, within the 1338
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 1339
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 1340
insurer, the proposed effective date of the acquisition or 1341
change of control; 1342

(15) An agreement by the person required to file the 1343
statement required by division (B) of this section that the 1344
person will provide the annual registration required by division 1345

(K) of section 3901.33 of the Revised Code for so long as the 1346
person has control of the domestic insurer; 1347

(16) An acknowledgment by the person required to file the 1348
statement required by division (B) of this section that the 1349
person and all subsidiaries within the person's control in the 1350
insurance holding company system will provide information to the 1351
superintendent upon request as necessary to evaluate enterprise 1352
risk to the insurer; 1353

(17) Such additional information as the superintendent may 1354
by rule prescribe as necessary or appropriate for the protection 1355
of policyholders of the domestic insurer or in the public 1356
interest. 1357

(D) (1) If the person required to file the statement 1358
required by division (B) (2) of this section is a partnership, 1359
limited partnership, syndicate, or other group, the 1360
superintendent may require that the information required by 1361
division (C) of this section be furnished with respect to each 1362
partner of such partnership or limited partnership, each member 1363
of such syndicate or group, and each person that controls such 1364
partner or member. If any such partner, member, or person is a 1365
corporation, or the person required to file the statement is a 1366
corporation, the superintendent may require that the information 1367
required by division (C) of this section be furnished with 1368
respect to the corporation, each officer and director of the 1369
corporation, and each person that is directly or indirectly the 1370
beneficial owner of more than ten per cent of the outstanding 1371
voting securities of the corporation. 1372

(2) If any material change occurs in the facts set forth 1373
in the statement required by division (B) (2) of this section, an 1374
amendment setting forth such change, together with copies of all 1375

documents and other material relevant to the change, shall be 1376
filed with the superintendent by the person subject to division 1377
(B) (2) of this section and sent to the domestic insurer within 1378
two business days after such person learns of the occurrence of 1379
the material change. 1380

(E) If any offer, request, invitation, agreement, or 1381
acquisition described in division (B) (1) of this section is 1382
proposed to be made by means of a registration statement under 1383
the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or 1384
in circumstances requiring the disclosure of similar information 1385
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 1386
U.S.C.A. 78a, or under a state law requiring similar 1387
registration or disclosure, the person required to file the 1388
statement required by division (B) (2) of this section may use 1389
such documents in furnishing the information required by that 1390
statement. 1391

(F) (1) The superintendent shall approve any merger or 1392
other acquisition of control described in division (B) (1) of 1393
this section unless, after a public hearing, the superintendent 1394
finds that any of the following apply: 1395

(a) After the change of control, the domestic insurer 1396
would not be able to satisfy the requirements for the issuance 1397
of a license to write the line or lines of insurance for which 1398
it is presently licensed; 1399

(b) The effect of the merger or other acquisition of 1400
control would be substantially to lessen competition in 1401
insurance in this state or tend to create a monopoly; 1402

(c) The financial condition of any acquiring party is such 1403
as might jeopardize the financial stability of the domestic 1404

insurer, or prejudice the interests of its policyholders; 1405

(d) The plans or proposals that the acquiring party has to 1406
liquidate the domestic insurer, sell its assets, or consolidate 1407
or merge it with any person, or to make any other material 1408
change in its business or corporate structure or management, are 1409
unfair and unreasonable to policyholders of the domestic insurer 1410
and not in the public interest; 1411

(e) The competence, experience, and integrity of those 1412
persons that would control the operation of the domestic insurer 1413
are such that it would not be in the interest of policyholders 1414
of the domestic insurer and of the public to permit the merger 1415
or other acquisition of control; 1416

(f) The acquisition is likely to be hazardous or 1417
prejudicial to the insurance-buying public. 1418

(2) (a) Chapter 119. of the Revised Code, except for 1419
section 119.09 of the Revised Code, applies to any hearing held 1420
under division (F) (1) of this section, including the notice of 1421
the hearing, the conduct of the hearing, the orders issued 1422
pursuant to it, the review of the orders, and all other matters 1423
relating to the holding of the hearing, but only to the extent 1424
that Chapter 119. of the Revised Code is not inconsistent or in 1425
conflict with this section. 1426

(b) The notice of a hearing required under this division 1427
shall be transmitted by personal service, certified mail, e- 1428
mail, or any other method designed to ensure and confirm receipt 1429
of the notice, to the persons and addresses designated to 1430
receive notices and correspondence in the information statement 1431
filed under division (B) (2) of this section. Confirmation of 1432
receipt of the notice, including electronic "Read Receipt" 1433

confirmation, shall constitute evidence of compliance with the 1434
requirement of this section. The notice of hearing shall include 1435
the reasons for the proposed action and a statement informing 1436
the acquiring party that the party is entitled to a hearing. The 1437
notice also shall inform the acquiring party that at the hearing 1438
the acquiring party may appear in person, by attorney, or by 1439
such other representative as is permitted to practice before the 1440
superintendent, or that the acquiring party may present its 1441
position, arguments, or contentions in writing, and that at the 1442
hearing the acquiring party may present evidence and examine 1443
witnesses appearing for and against the acquiring party. A copy 1444
of the notice also shall be transmitted to attorneys or other 1445
representatives of record representing the acquiring party. 1446

(c) The hearing shall be held at the offices of the 1447
superintendent within ten calendar days, but not earlier than 1448
seven calendar days, of the date of transmission of the notice 1449
of hearing by any means, unless it is postponed or continued; 1450
but in no event shall the hearing be held unless notice is 1451
received at least three days prior to the hearing. The 1452
superintendent may postpone or continue the hearing upon receipt 1453
of a written request by an acquiring party, or upon the 1454
superintendent's motion, provided, however, a hearing in 1455
connection with a proposed change of control involving a 1456
depository institution or any affiliate thereof, within the 1457
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 1458
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 1459
insurer, may be postponed or continued only upon the request of 1460
an acquiring party, or upon the superintendent's motion when the 1461
acquiring party agrees in writing to extend the sixty-day period 1462
provided for in section 104(c) of the "Gramm-Leach-Bliley Act," 1463
by a number of days equal to the number of days of such 1464

postponement or continuance. 1465

(d) For the purpose of conducting any hearing held under 1466
this section, the superintendent may require the attendance of 1467
such witnesses and the production of such books, records, and 1468
papers as the superintendent desires, and may take the 1469
depositions of witnesses residing within or without the state in 1470
the same manner as is prescribed by law for the taking of 1471
depositions in civil actions in the court of common pleas, and 1472
for that purpose the superintendent may, and upon the request of 1473
an acquiring party shall, issue a subpoena for any witnesses or 1474
a subpoena duces tecum to compel the production of any books, 1475
records, or papers, directed to the sheriff of the county where 1476
such witness resides or is found, which shall be served and 1477
returned in the same manner as a subpoena in a criminal case is 1478
served and returned. The fees of the sheriff shall be the same 1479
as that allowed in the court of common pleas in criminal cases. 1480
Witnesses shall be paid the fees and mileage provided for under 1481
section 119.094 of the Revised Code. Fees and mileage shall be 1482
paid from the fund in the state treasury for the use of the 1483
superintendent in the same manner as other expenses of the 1484
superintendent are paid. In any case of disobedience or neglect 1485
of any subpoena served on any person or the refusal of any 1486
witness to testify in any matter regarding which the witness may 1487
lawfully be interrogated, the court of common pleas of any 1488
county where such disobedience, neglect, or refusal occurs or 1489
any judge thereof, on application by the superintendent, shall 1490
compel obedience by attachment proceedings for contempt, as in 1491
the case of disobedience of the requirements of a subpoena 1492
issued from the court or a refusal to testify therein. 1493

In any hearing held under this section, a record of the 1494
testimony, as provided by stenographic means or by use of audio 1495

electronic recording devices, as determined by the 1496
superintendent, and other evidence submitted shall be taken at 1497
the expense of the superintendent. The record shall include all 1498
of the testimony and other evidence, and rulings on the 1499
admissibility thereof, presented at the hearing. 1500

The superintendent shall pass upon the admissibility of 1501
evidence, but a party to the proceedings may at that time object 1502
to the rulings of the superintendent, and if the superintendent 1503
refuses to admit evidence, the party offering the evidence shall 1504
proffer the evidence. The proffer shall be made a part of the 1505
record of the hearing. 1506

In any hearing held under this section, the superintendent 1507
may call any person to testify under oath as upon cross- 1508
examination. The superintendent, or any one delegated by the 1509
superintendent to conduct a hearing, may administer oaths or 1510
affirmations. 1511

In any hearing under this section, the superintendent may 1512
appoint a hearing officer to conduct the hearing; the hearing 1513
officer has the same powers and authority in conducting the 1514
hearing as is granted to the superintendent. The hearing officer 1515
shall have been admitted to the practice of law in the state and 1516
be possessed of any additional qualifications as the 1517
superintendent requires. The hearing officer shall submit to the 1518
superintendent a written report setting forth the hearing 1519
officer's finding of fact and conclusions of law and a 1520
recommendation of the action to be taken by the superintendent. 1521
A copy of the written report and recommendation shall, within 1522
seven days of the date of filing thereof, be served upon the 1523
acquiring party or the acquiring party's attorney or other 1524
representative of record, by personal service, certified mail, 1525

electronic mail, or any other method designed to ensure and 1526
confirm receipt of the report. The acquiring party may, within 1527
three days of receipt of the copy of the written report and 1528
recommendation, file with the superintendent written objections 1529
to the report and recommendation, which objections the 1530
superintendent shall consider before approving, modifying, or 1531
disapproving the recommendation. The superintendent may grant 1532
extensions of time to the acquiring party within which to file 1533
such objections. No recommendation of the hearing officer shall 1534
be approved, modified, or disapproved by the superintendent 1535
until after three days following the service of the report and 1536
recommendation as provided in this section. The superintendent 1537
may order additional testimony to be taken or permit the 1538
introduction of further documentary evidence. The superintendent 1539
may approve, modify, or disapprove the recommendation of the 1540
hearing officer, and the order of the superintendent based on 1541
the report, recommendation, transcript of testimony, and 1542
evidence, or the objections of the acquiring party, and 1543
additional testimony and evidence shall have the same effect as 1544
if the hearing had been conducted by the superintendent. No such 1545
recommendation is final until confirmed and approved by the 1546
superintendent as indicated by the order entered in the record 1547
of proceedings, and if the superintendent modifies or 1548
disapproves the recommendations of the hearing officer, the 1549
reasons for the modification or disapproval shall be included in 1550
the record of proceedings. 1551

After the order is entered, the superintendent shall 1552
transmit in the manner and by any of the methods set forth in 1553
division (F) (2) (b) of this section a certified copy of the order 1554
and a statement of the time and method by which an appeal may be 1555
perfected. A copy of the order shall be mailed to the attorneys 1556

or other representatives of record representing the acquiring party. 1557
1558

(e) An order of disapproval issued by the superintendent 1559
may be appealed to the court of common pleas ~~of Franklin county~~ 1560
in accordance with section 119.12 of the Revised Code by filing 1561
a notice of appeal with the superintendent and a copy of the 1562
notice of appeal with the court, within fifteen calendar days 1563
after the transmittal of the copy of the order of disapproval. 1564
The notice of appeal shall set forth the order appealed from and 1565
the grounds for appeal, in accordance with section 119.12 of the 1566
Revised Code. 1567

(3) The superintendent may retain at the acquiring party's 1568
expense any attorneys, actuaries, accountants, and other experts 1569
not otherwise a part of the superintendent's staff as may be 1570
reasonably necessary to assist the superintendent in reviewing 1571
the proposed acquisition of control. 1572

(G) This section does not apply to either of the 1573
following: 1574

(1) Any transaction that is subject to section 3921.14, or 1575
sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 1576
3953.19 of the Revised Code; 1577

(2) Any offer, request, invitation, agreement, or 1578
acquisition that the superintendent by order exempts from this 1579
section on either of the following bases: 1580

(a) It has not been made or entered into for the purpose 1581
and does not have the effect of changing or influencing the 1582
control of a domestic insurer; 1583

(b) It is not otherwise comprehended within the purposes 1584
of this section. 1585

(H) Nothing in this section or in any other section of Title XXXIX of the Revised Code shall be construed to impair the authority of the attorney general to investigate or prosecute actions under any state or federal antitrust law with respect to any merger or other acquisition involving domestic insurers.

(I) In connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, not later than sixty days after the date of the notification of the proposed change in control submitted pursuant to division (B)(2) of this section, the superintendent shall make any determination that the person acquiring control of the insurer shall maintain or restore the capital of the insurer to the level required by the laws and regulations of this state.

Sec. 3913.13. Any policyholder adversely affected by an order of the superintendent of insurance pursuant to division (F) of section 3913.11 of the Revised Code, may appeal to the court of common pleas ~~of Franklin county~~ pursuant to section 119.12 of the Revised Code.

Sec. 3913.23. Any policyholder adversely affected by an order of the superintendent of insurance pursuant to division (F) of section 3913.21 of the Revised Code, may appeal to the court of common pleas ~~of Franklin county~~ pursuant to section 119.12 of the Revised Code.

Sec. 5101.35. (A) As used in this section:

(1) (a) "Agency" means the following entities that administer a family services program:

(i) The department of job and family services;	1615
(ii) A county department of job and family services;	1616
(iii) A public children services agency;	1617
(iv) A private or government entity administering, in	1618
whole or in part, a family services program for or on behalf of	1619
the department of job and family services or a county department	1620
of job and family services or public children services agency.	1621
(b) If the department of medicaid contracts with the	1622
department of job and family services to hear appeals authorized	1623
by section 5160.31 of the Revised Code regarding medical	1624
assistance programs, "agency" includes the department of	1625
medicaid.	1626
(2) "Appellant" means an applicant, participant, former	1627
participant, recipient, or former recipient of a family services	1628
program who is entitled by federal or state law to a hearing	1629
regarding a decision or order of the agency that administers the	1630
program.	1631
(3) (a) "Family services program" means all of the	1632
following:	1633
(i) A Title IV-A program as defined in section 5101.80 of	1634
the Revised Code;	1635
(ii) Programs that provide assistance under Chapter 5104.	1636
of the Revised Code;	1637
(iii) Programs that provide assistance under section	1638
5101.141, 5101.461, 5101.54, 5119.41, 5153.163, or 5153.165 of	1639
the Revised Code;	1640
(iv) Title XX social services provided under section	1641

5101.46 of the Revised Code, other than such services provided 1642
by the department of mental health and addiction services, the 1643
department of developmental disabilities, a board of alcohol, 1644
drug addiction, and mental health services, or a county board of 1645
developmental disabilities. 1646

(b) If the department of medicaid contracts with the 1647
department of job and family services to hear appeals authorized 1648
by section 5160.31 of the Revised Code regarding medical 1649
assistance programs, "family services program" includes medical 1650
assistance programs. 1651

(4) "Medical assistance program" has the same meaning as 1652
in section 5160.01 of the Revised Code. 1653

(B) Except as provided by divisions (G) and (H) of this 1654
section, an appellant who appeals under federal or state law a 1655
decision or order of an agency administering a family services 1656
program shall, at the appellant's request, be granted a state 1657
hearing by the department of job and family services. This state 1658
hearing shall be conducted in accordance with rules adopted 1659
under this section. The state hearing shall be recorded, but 1660
neither the recording nor a transcript of the recording shall be 1661
part of the official record of the proceeding. Except as 1662
provided in section 5160.31 of the Revised Code, a state hearing 1663
decision is binding upon the agency and department, unless it is 1664
reversed or modified on appeal to the director of job and family 1665
services or a court of common pleas. 1666

(C) Except as provided by division (G) of this section, an 1667
appellant who disagrees with a state hearing decision may make 1668
an administrative appeal to the director of job and family 1669
services in accordance with rules adopted under this section. 1670
This administrative appeal does not require a hearing, but the 1671

director or the director's designee shall review the state 1672
hearing decision and previous administrative action and may 1673
affirm, modify, remand, or reverse the state hearing decision. 1674
An administrative appeal decision is the final decision of the 1675
department and, except as provided in section 5160.31 of the 1676
Revised Code, is binding upon the department and agency, unless 1677
it is reversed or modified on appeal to the court of common 1678
pleas. 1679

(D) An agency shall comply with a decision issued pursuant 1680
to division (B) or (C) of this section within the time limits 1681
established by rules adopted under this section. If a county 1682
department of job and family services or a public children 1683
services agency fails to comply within these time limits, the 1684
department may take action pursuant to section 5101.24 of the 1685
Revised Code. If another agency, other than the department of 1686
medicaid, fails to comply within the time limits, the department 1687
may force compliance by withholding funds due the agency or 1688
imposing another sanction established by rules adopted under 1689
this section. 1690

(E) An appellant who disagrees with an administrative 1691
appeal decision of the director of job and family services or 1692
the director's designee issued under division (C) of this 1693
section may appeal from the decision to the court of common 1694
pleas pursuant to section 119.12 of the Revised Code. The appeal 1695
shall be governed by section 119.12 of the Revised Code except 1696
that: 1697

~~(1) The person may appeal to the court of common pleas of 1698
the county in which the person resides, or to the court of 1699
common pleas of Franklin county if the person does not reside in 1700
this state. 1701~~

~~(2)~~—The person may apply to the court for designation as 1702
an indigent and, if the court grants this application, the 1703
appellant shall not be required to furnish the costs of the 1704
appeal. 1705

~~(3)~~—(2) The appellant shall mail the notice of appeal to 1706
the department of job and family services and file notice of 1707
appeal with the court within thirty days after the department 1708
mails the administrative appeal decision to the appellant. For 1709
good cause shown, the court may extend the time for mailing and 1710
filing notice of appeal, but such time shall not exceed six 1711
months from the date the department mails the administrative 1712
appeal decision. Filing notice of appeal with the court shall be 1713
the only act necessary to vest jurisdiction in the court. 1714

~~(4)~~—(3) The department shall be required to file a 1715
transcript of the testimony of the state hearing with the court 1716
only if the court orders the department to file the transcript. 1717
The court shall make such an order only if it finds that the 1718
department and the appellant are unable to stipulate to the 1719
facts of the case and that the transcript is essential to a 1720
determination of the appeal. The department shall file the 1721
transcript not later than thirty days after the day such an 1722
order is issued. 1723

(F) The department of job and family services shall adopt 1724
rules in accordance with Chapter 119. of the Revised Code to 1725
implement this section, including rules governing the following: 1726

(1) State hearings under division (B) of this section. The 1727
rules shall include provisions regarding notice of eligibility 1728
termination and the opportunity of an appellant appealing a 1729
decision or order of a county department of job and family 1730
services to request a county conference with the county 1731

department before the state hearing is held. 1732

(2) Administrative appeals under division (C) of this 1733
section; 1734

(3) Time limits for complying with a decision issued under 1735
division (B) or (C) of this section; 1736

(4) Sanctions that may be applied against an agency under 1737
division (D) of this section. 1738

(G) The department of job and family services may adopt 1739
rules in accordance with Chapter 119. of the Revised Code 1740
establishing an appeals process for an appellant who appeals a 1741
decision or order regarding a Title IV-A program identified 1742
under division (A) (4) (c), (d), (e), (f), or (g) of section 1743
5101.80 of the Revised Code that is different from the appeals 1744
process established by this section. The different appeals 1745
process may include having a state agency that administers the 1746
Title IV-A program pursuant to an interagency agreement entered 1747
into under section 5101.801 of the Revised Code administer the 1748
appeals process. 1749

(H) If an appellant receiving medicaid through a health 1750
insuring corporation that holds a certificate of authority under 1751
Chapter 1751. of the Revised Code is appealing a denial of 1752
medicaid services based on lack of medical necessity or other 1753
clinical issues regarding coverage by the health insuring 1754
corporation, the person hearing the appeal may order an 1755
independent medical review if that person determines that a 1756
review is necessary. The review shall be performed by a health 1757
care professional with appropriate clinical expertise in 1758
treating the recipient's condition or disease. The department 1759
shall pay the costs associated with the review. 1760

A review ordered under this division shall be part of the 1761
record of the hearing and shall be given appropriate evidentiary 1762
consideration by the person hearing the appeal. 1763

(I) The requirements of Chapter 119. of the Revised Code 1764
apply to a state hearing or administrative appeal under this 1765
section only to the extent, if any, specifically provided by 1766
rules adopted under this section. 1767

Sec. 5164.38. (A) As used in this section: 1768

(1) "Party" has the same meaning as in division (G) of 1769
section 119.01 of the Revised Code. 1770

(2) "Revalidate" means to approve a medicaid provider's 1771
continued enrollment as a medicaid provider in accordance with 1772
the revalidation process established in rules authorized by 1773
section 5164.32 of the Revised Code. 1774

(B) This section does not apply to either of the 1775
following: 1776

(1) Any action taken or decision made by the department of 1777
medicaid with respect to entering into or refusing to enter into 1778
a contract with a managed care organization pursuant to section 1779
5167.10 of the Revised Code; 1780

(2) Any action taken by the department under division (D) 1781
(2) of section 5124.60, division (D)(1) or (2) of section 1782
5124.61, or sections 5165.60 to 5165.89 of the Revised Code. 1783

(C) Except as provided in division (E) of this section and 1784
section 5164.58 of the Revised Code, the department shall do any 1785
of the following by issuing an order pursuant to an adjudication 1786
conducted in accordance with Chapter 119. of the Revised Code: 1787

(1) Refuse to enter into a provider agreement with a 1788

medicaid provider;	1789
(2) Refuse to revalidate a medicaid provider's provider agreement;	1790 1791
(3) Suspend or terminate a medicaid provider's provider agreement;	1792 1793
(4) Take any action based upon a final fiscal audit of a medicaid provider.	1794 1795
(D) Any party who is adversely affected by the issuance of an adjudication order under division (C) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.	1796 1797 1798 1799
(E) The department is not required to comply with division (C) (1), (2), or (3) of this section whenever any of the following occur:	1800 1801 1802
(1) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of medicaid, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.	1803 1804 1805 1806 1807 1808 1809
(2) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of medicaid, and the provider has not obtained the license, permit, certificate, or certification.	1810 1811 1812 1813 1814 1815 1816

(3) The medicaid provider's application for a provider 1817
agreement is denied, or the provider's provider agreement is 1818
terminated or not revalidated, because of or pursuant to any of 1819
the following: 1820

(a) The termination, refusal to renew, or denial of a 1821
license, permit, certificate, or certification by an official, 1822
board, commission, department, division, bureau, or other agency 1823
of this state other than the department of medicaid, 1824
notwithstanding the fact that the provider may hold a license, 1825
permit, certificate, or certification from an official, board, 1826
commission, department, division, bureau, or other agency of 1827
another state; 1828

(b) Division (D) or (E) of section 5164.35 of the Revised 1829
Code; 1830

(c) The provider's termination, suspension, or exclusion 1831
from the medicare program or from another state's medicaid 1832
program and, in either case, the termination, suspension, or 1833
exclusion is binding on the provider's participation in the 1834
medicaid program in this state; 1835

(d) The provider's pleading guilty to or being convicted 1836
of a criminal activity materially related to either the medicare 1837
or medicaid program; 1838

(e) The provider or its owner, officer, authorized agent, 1839
associate, manager, or employee having been convicted of one of 1840
the offenses that caused the provider's provider agreement to be 1841
suspended pursuant to section 5164.36 of the Revised Code; 1842

(f) The provider's failure to provide the department the 1843
national provider identifier assigned the provider by the 1844
national provider system pursuant to 45 C.F.R. 162.408. 1845

(4) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated or suspended, as a result of action by the United States department of health and human services and that action is binding on the provider's medicaid participation.

(5) The medicaid provider's provider agreement and medicaid payments to the provider are suspended under section 5164.36 or 5164.37 of the Revised Code.

(6) The medicaid provider's application for a provider agreement is denied because the provider's application was not complete;

(7) The medicaid provider's provider agreement is converted under section 5164.32 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(8) Unless the medicaid provider is a nursing facility or ICF/IID, the provider's provider agreement is not revalidated pursuant to division (B)(1) of section 5164.32 of the Revised Code.

(9) The medicaid provider's provider agreement is suspended, terminated, or not revalidated because of either of the following:

(a) Any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450;

(b) The provider has not billed or otherwise submitted a medicaid claim for two years or longer.

(F) In the case of a medicaid provider described in

division (E) (3) (f), (6), (7), or (9) (b) of this section, the 1874
department may take its action by sending a notice explaining 1875
the action to the provider. The notice shall be sent to the 1876
medicaid provider's address on record with the department. The 1877
notice may be sent by regular mail. 1878

(G) The department may withhold payments for medicaid 1879
services rendered by a medicaid provider during the pendency of 1880
proceedings initiated under division (C) (1), (2), or (3) of this 1881
section. If the proceedings are initiated under division (C) (4) 1882
of this section, the department may withhold payments only to 1883
the extent that they equal amounts determined in a final fiscal 1884
audit as being due the state. This division does not apply if 1885
the department fails to comply with section 119.07 of the 1886
Revised Code, requests a continuance of the hearing, or does not 1887
issue a decision within thirty days after the hearing is 1888
completed. This division does not apply to nursing facilities 1889
and ICFs/IID. 1890

Section 2. That existing sections 107.43, 119.12, 124.34, 1891
956.11, 956.15, 2743.03, 2901.12, 3517.155, 3794.09, 3901.321, 1892
3913.13, 3913.23, 5101.35, and 5164.38 of the Revised Code are 1893
hereby repealed. 1894

Section 3. Section 956.15 of the Revised Code as presented 1895
in this act takes effect on the later of October 9, 2021, or the 1896
effective date of this section. (October 9, 2021 is the 1897
effective date of an earlier amendment to that section by H.B. 1898
263 of the 133rd General Assembly.) 1899

Section 4. Section 119.12 of the Revised Code is presented 1900
in this act as a composite of the section as amended by both 1901
H.B. 52 and H.B. 64 of the 131st General Assembly. The General 1902
Assembly, applying the principle stated in division (B) of 1903

section 1.52 of the Revised Code that amendments are to be	1904
harmonized if reasonably capable of simultaneous operation,	1905
finds that the composite is the resulting version of the section	1906
in effect prior to the effective date of the section as	1907
presented in this act.	1908