

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 189**

**Senators Lang, McColley**

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**A BILL**

To amend sections 119.12, 124.34, 956.11, 956.15, 1  
3794.09, 3901.321, 3913.13, 3913.23, 5101.35, 2  
and 5164.38 of the Revised Code to change the 3  
venue in which appeal from an agency order is 4  
proper to the local court of common pleas. 5

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

**Section 1.** That sections 119.12, 124.34, 956.11, 956.15, 6  
3794.09, 3901.321, 3913.13, 3913.23, 5101.35, and 5164.38 of the 7  
Revised Code be amended to read as follows: 8

**Sec. 119.12.** (A) (1) Except as provided in division (A) (2) 9  
~~or (3)~~ of this section, any party adversely affected by any 10  
order of an agency ~~issued pursuant to an adjudication denying an~~ 11  
~~applicant admission to an examination, or denying the issuance~~ 12  
~~or renewal of a license or registration of a licensee, or~~ 13  
~~revoking or suspending a license, or allowing the payment of a~~ 14  
~~forfeiture under section 4301.252 of the Revised Code~~ may appeal 15  
from the order of the agency to the court of common pleas of the 16  
county in which the place of business of the licensee party is 17  
located or the county in which the licensee party is a resident. 18

(2) ~~An appeal from an order described in division (A) (1)~~ 19

~~of this section issued by any of the following agencies shall be  
made to the court of common pleas of Franklin county:~~ 20  
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~~(a) The liquor control commission;~~ 22

~~(b) The Ohio casino control commission,~~ 23

~~state medical board;~~ 24

~~(c) The state chiropractic board;~~ 25

~~(d) The board of nursing;~~ 26

~~(e) The bureau of workers' compensation regarding  
participation in the health partnership program created in  
sections 4121.44 and 4121.441 of the Revised Code.~~ 27  
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~~(3) If any party appealing from an order described in  
division (A) (1) of this section is not a resident of and has no  
place of business in this state, the party may appeal to the  
court of common pleas of Franklin county.~~ 30  
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~~(B) Any party adversely affected by any order of an agency  
issued pursuant to any other adjudication may appeal to the  
court of common pleas of Franklin county, except that appeals  
from orders of the fire marshal issued under Chapter 3737. of  
the Revised Code may be to the court of common pleas of the  
county in which the building of the aggrieved person is located  
and except that appeals under division (B) of section 124.34 of  
the Revised Code from a decision of the state personnel board of  
review or a municipal or civil service township civil service  
commission shall be taken to the court of common pleas of the  
county in which the appointing authority is located or, in the  
case of an appeal by the department of rehabilitation and  
correction, to the court of common pleas of Franklin county.~~ 34  
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~~(C) This section does not apply to appeals from the~~ 47

department of taxation. 48

~~(D)~~ (C) Any party desiring to appeal shall file a notice 49  
of appeal with the agency setting forth the order appealed from 50  
and stating that the agency's order is not supported by 51  
reliable, probative, and substantial evidence and is not in 52  
accordance with law. The notice of appeal may, but need not, set 53  
forth the specific grounds of the party's appeal beyond the 54  
statement that the agency's order is not supported by reliable, 55  
probative, and substantial evidence and is not in accordance 56  
with law. The notice of appeal shall also be filed by the 57  
appellant with the court. In filing a notice of appeal with the 58  
agency or court, the notice that is filed may be either the 59  
original notice or a copy of the original notice. Unless 60  
otherwise provided by law relating to a particular agency, 61  
notices of appeal shall be filed within fifteen days after the 62  
mailing of the notice of the agency's order as provided in this 63  
section. For purposes of this paragraph, an order includes a 64  
determination appealed pursuant to division (C) of section 65  
119.092 of the Revised Code. The amendments made to this 66  
paragraph by Sub. H.B. 215 of the 128th general assembly are 67  
procedural, and this paragraph as amended by those amendments 68  
shall be applied retrospectively to all appeals pursuant to this 69  
paragraph filed before September 13, 2010, but not earlier than 70  
May 7, 2009, which was the date the supreme court of Ohio 71  
released its opinion and judgment in *Medcorp, Inc. v. Ohio* 72  
*Dep't. of Job and Family Servs.* (2009), 121 Ohio St.3d 622. 73

~~(E)~~ (D) The filing of a notice of appeal shall not 74  
automatically operate as a suspension of the order of an agency. 75  
If it appears to the court that an unusual hardship to the 76  
appellant will result from the execution of the agency's order 77  
pending determination of the appeal, the court may grant a 78

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

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

~~(G)~~ (F) Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code that suspends, revokes, or cancels a permit issued under Chapter 4303. of the Revised Code or that allows the payment of a forfeiture under section 4301.252 of the Revised Code shall terminate not more than six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas and shall

not be extended. The court of common pleas, or the court of  
appeals on appeal, shall render a judgment in that matter within  
six months after the date of the filing of the record of the  
liquor control commission with the clerk of the court of common  
pleas. A court of appeals shall not issue an order suspending  
the effect of an order of the liquor control commission that  
extends beyond six months after the date on which the record of  
the liquor control commission is filed with a court of common  
pleas.

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

(H) Notwithstanding any other provision of this section,  
any order issued by a court of common pleas suspending the

effect of an order of the state medical board or state 141  
chiropractic board that limits, revokes, suspends, places on 142  
probation, or refuses to register or reinstate a certificate 143  
issued by the board or reprimands the holder of the certificate 144  
shall terminate not more than fifteen months after the date of 145  
the filing of a notice of appeal in the court of common pleas, 146  
or upon the rendering of a final decision or order in the appeal 147  
by the court of common pleas, whichever occurs first. 148

(I) Within thirty days after receipt of a notice of appeal 149  
from an order in any case in which a hearing is required by 150  
sections 119.01 to 119.13 of the Revised Code, the agency shall 151  
prepare and certify to the court a complete record of the 152  
proceedings in the case. Failure of the agency to comply within 153  
the time allowed, upon motion, shall cause the court to enter a 154  
finding in favor of the party adversely affected. Additional 155  
time, however, may be granted by the court, not to exceed thirty 156  
days, when it is shown that the agency has made substantial 157  
effort to comply. The record shall be prepared and transcribed, 158  
and the expense of it shall be taxed as a part of the costs on 159  
the appeal. The appellant shall provide security for costs 160  
satisfactory to the court of common pleas. Upon demand by any 161  
interested party, the agency shall furnish at the cost of the 162  
party requesting it a copy of the stenographic report of 163  
testimony offered and evidence submitted at any hearing and a 164  
copy of the complete record. 165

(J) Notwithstanding any other provision of this section, 166  
any party desiring to appeal an order or decision of the state 167  
personnel board of review shall, at the time of filing a notice 168  
of appeal with the board, provide a security deposit in an 169  
amount and manner prescribed in rules that the board shall adopt 170  
in accordance with this chapter. In addition, the board is not 171

required to prepare or transcribe the record of any of its 172  
proceedings unless the appellant has provided the deposit 173  
described above. The failure of the board to prepare or 174  
transcribe a record for an appellant who has not provided a 175  
security deposit shall not cause a court to enter a finding 176  
adverse to the board. 177

(K) Unless otherwise provided by law, in the hearing of 178  
the appeal, the court is confined to the record as certified to 179  
it by the agency. Unless otherwise provided by law, the court 180  
may grant a request for the admission of additional evidence 181  
when satisfied that the additional evidence is newly discovered 182  
and could not with reasonable diligence have been ascertained 183  
prior to the hearing before the agency. 184

(L) The court shall conduct a hearing on the appeal and 185  
shall give preference to all proceedings under sections 119.01 186  
to 119.13 of the Revised Code, over all other civil cases, 187  
irrespective of the position of the proceedings on the calendar 188  
of the court. An appeal from an order of the state medical board 189  
issued pursuant to division (G) of either section 4730.25 or 190  
4731.22 of the Revised Code, the state chiropractic board issued 191  
pursuant to section 4734.37 of the Revised Code, the liquor 192  
control commission issued pursuant to Chapter 4301. or 4303. of 193  
the Revised Code, or the Ohio casino control commission issued 194  
pursuant to Chapter 3772. of the Revised Code shall be set down 195  
for hearing at the earliest possible time and takes precedence 196  
over all other actions. The hearing in the court of common pleas 197  
shall proceed as in the trial of a civil action, and the court 198  
shall determine the rights of the parties in accordance with the 199  
laws applicable to a civil action. At the hearing, counsel may 200  
be heard on oral argument, briefs may be submitted, and evidence 201  
may be introduced if the court has granted a request for the 202

presentation of additional evidence. 203

(M) The court may affirm the order of the agency 204  
complained of in the appeal if it finds, upon consideration of 205  
the entire record and any additional evidence the court has 206  
admitted, that the order is supported by reliable, probative, 207  
and substantial evidence and is in accordance with law. In the 208  
absence of this finding, it may reverse, vacate, or modify the 209  
order or make such other ruling as is supported by reliable, 210  
probative, and substantial evidence and is in accordance with 211  
law. The court shall award compensation for fees in accordance 212  
with section 2335.39 of the Revised Code to a prevailing party, 213  
other than an agency, in an appeal filed pursuant to this 214  
section. 215

(N) The judgment of the court shall be final and 216  
conclusive unless reversed, vacated, or modified on appeal. 217  
These appeals may be taken either by the party or the agency, 218  
shall proceed as in the case of appeals in civil actions, and 219  
shall be pursuant to the Rules of Appellate Procedure and, to 220  
the extent not in conflict with those rules, Chapter 2505. of 221  
the Revised Code. An appeal by the agency shall be taken on 222  
questions of law relating to the constitutionality, 223  
construction, or interpretation of statutes and rules of the 224  
agency, and, in the appeal, the court may also review and 225  
determine the correctness of the judgment of the court of common 226  
pleas that the order of the agency is not supported by any 227  
reliable, probative, and substantial evidence in the entire 228  
record. 229

The court shall certify its judgment to the agency or take 230  
any other action necessary to give its judgment effect. 231

**Sec. 124.34.** (A) The tenure of every officer or employee 232



in the classified service of the state and the counties, civil 233  
service townships, cities, city health districts, general health 234  
districts, and city school districts of the state, holding a 235  
position under this chapter, shall be during good behavior and 236  
efficient service. No officer or employee shall be reduced in 237  
pay or position, fined, suspended, or removed, or have the 238  
officer's or employee's longevity reduced or eliminated, except 239  
as provided in section 124.32 of the Revised Code, and for 240  
incompetency, inefficiency, unsatisfactory performance, 241  
dishonesty, drunkenness, immoral conduct, insubordination, 242  
discourteous treatment of the public, neglect of duty, violation 243  
of any policy or work rule of the officer's or employee's 244  
appointing authority, violation of this chapter or the rules of 245  
the director of administrative services or the commission, any 246  
other failure of good behavior, any other acts of misfeasance, 247  
malfeasance, or nonfeasance in office, or conviction of a felony 248  
while employed in the civil service. The denial of a one-time 249  
pay supplement or a bonus to an officer or employee is not a 250  
reduction in pay for purposes of this section. 251

    This section does not apply to any modifications or 252  
reductions in pay or work week authorized by section 124.392, 253  
124.393, or 124.394 of the Revised Code. 254

    An appointing authority may require an employee who is 255  
suspended to report to work to serve the suspension. An employee 256  
serving a suspension in this manner shall continue to be 257  
compensated at the employee's regular rate of pay for hours 258  
worked. The disciplinary action shall be recorded in the 259  
employee's personnel file in the same manner as other 260  
disciplinary actions and has the same effect as a suspension 261  
without pay for the purpose of recording disciplinary actions. 262

A finding by the appropriate ethics commission, based upon 263  
a preponderance of the evidence, that the facts alleged in a 264  
complaint under section 102.06 of the Revised Code constitute a 265  
violation of Chapter 102., section 2921.42, or section 2921.43 266  
of the Revised Code may constitute grounds for dismissal. 267  
Failure to file a statement or falsely filing a statement 268  
required by section 102.02 of the Revised Code may also 269  
constitute grounds for dismissal. The tenure of an employee in 270  
the career professional service of the department of 271  
transportation is subject to section 5501.20 of the Revised 272  
Code. 273

Conviction of a felony while employed in the civil service 274  
is a separate basis for reducing in pay or position, suspending, 275  
or removing an officer or employee, even if the officer or 276  
employee has already been reduced in pay or position, suspended, 277  
or removed for the same conduct that is the basis of the felony. 278  
An officer or employee may not appeal to the state personnel 279  
board of review or the commission any disciplinary action taken 280  
by an appointing authority as a result of the officer's or 281  
employee's conviction of a felony. If an officer or employee 282  
removed under this section is reinstated as a result of an 283  
appeal of the removal, any conviction of a felony that occurs 284  
during the pendency of the appeal is a basis for further 285  
disciplinary action under this section upon the officer's or 286  
employee's reinstatement. 287

A person convicted of a felony while employed in the civil 288  
service immediately forfeits the person's status as a classified 289  
employee in any public employment on and after the date of the 290  
conviction for the felony. If an officer or employee is removed 291  
under this section as a result of being convicted of a felony or 292  
is subsequently convicted of a felony that involves the same 293

conduct that was the basis for the removal, the officer or 294  
employee is barred from receiving any compensation after the 295  
removal notwithstanding any modification or disaffirmance of the 296  
removal, unless the conviction for the felony is subsequently 297  
reversed or annulled. 298

Any person removed for conviction of a felony is entitled 299  
to a cash payment for any accrued but unused sick, personal, and 300  
vacation leave as authorized by law. If subsequently reemployed 301  
in the public sector, the person shall qualify for and accrue 302  
these forms of leave in the manner specified by law for a newly 303  
appointed employee and shall not be credited with prior public 304  
service for the purpose of receiving these forms of leave. 305

As used in this division, "felony" means any of the 306  
following: 307

(1) A felony that is an offense of violence as defined in 308  
section 2901.01 of the Revised Code; 309

(2) A felony that is a felony drug abuse offense as 310  
defined in section 2925.01 of the Revised Code; 311

(3) A felony under the laws of this or any other state or 312  
the United States that is a crime of moral turpitude; 313

(4) A felony involving dishonesty, fraud, or theft; 314

(5) A felony that is a violation of section 2921.05, 315  
2921.32, or 2921.42 of the Revised Code. 316

(B) In case of a reduction, a suspension of more than 317  
forty work hours in the case of an employee exempt from the 318  
payment of overtime compensation, a suspension of more than 319  
twenty-four work hours in the case of an employee required to be 320  
paid overtime compensation, a fine of more than forty hours' pay 321

in the case of an employee exempt from the payment of overtime 322  
compensation, a fine of more than twenty-four hours' pay in the 323  
case of an employee required to be paid overtime compensation, 324  
or removal, except for the reduction or removal of a 325  
probationary employee, the appointing authority shall serve the 326  
employee with a copy of the order of reduction, fine, 327  
suspension, or removal, which order shall state the reasons for 328  
the action. 329

Within ten days following the date on which the order is 330  
served or, in the case of an employee in the career professional 331  
service of the department of transportation, within ten days 332  
following the filing of a removal order, the employee, except as 333  
otherwise provided in this section, may file an appeal of the 334  
order in writing with the state personnel board of review or the 335  
commission. For purposes of this section, the date on which an 336  
order is served is the date of hand delivery of the order or the 337  
date of delivery of the order by certified United States mail, 338  
whichever occurs first. If an appeal is filed, the board or 339  
commission shall forthwith notify the appointing authority and 340  
shall hear, or appoint a trial board to hear, the appeal within 341  
thirty days from and after its filing with the board or 342  
commission. The board, commission, or trial board may affirm, 343  
disaffirm, or modify the judgment of the appointing authority. 344  
However, in an appeal of a removal order based upon a violation 345  
of a last chance agreement, the board, commission, or trial 346  
board may only determine if the employee violated the agreement 347  
and thus affirm or disaffirm the judgment of the appointing 348  
authority. 349

In cases of removal or reduction in pay for disciplinary 350  
reasons, either the appointing authority or the officer or 351  
employee may appeal from the decision of the state personnel 352

board of review or the commission, and any such appeal shall be 353  
to the court of common pleas ~~of the county in which the~~ 354  
~~appointing authority is located, or to the court of common pleas~~ 355  
~~of Franklin county, as provided by section 119.12 of the Revised~~ 356  
~~Code~~ in accordance with section 119.12 of the Revised Code. 357

(C) In the case of the suspension for any period of time, 358  
or a fine, demotion, or removal, of a chief of police, a chief 359  
of a fire department, or any member of the police or fire 360  
department of a city or civil service township, who is in the 361  
classified civil service, the appointing authority shall furnish 362  
the chief or member with a copy of the order of suspension, 363  
fine, demotion, or removal, which order shall state the reasons 364  
for the action. The order shall be filed with the municipal or 365  
civil service township civil service commission. Within ten days 366  
following the filing of the order, the chief or member may file 367  
an appeal, in writing, with the commission. If an appeal is 368  
filed, the commission shall forthwith notify the appointing 369  
authority and shall hear, or appoint a trial board to hear, the 370  
appeal within thirty days from and after its filing with the 371  
commission, and it may affirm, disaffirm, or modify the judgment 372  
of the appointing authority. An appeal on questions of law and 373  
fact may be had from the decision of the commission to the court 374  
of common pleas in the county in which the city or civil service 375  
township is situated. The appeal shall be taken within thirty 376  
days from the finding of the commission. 377

(D) A violation of division (A) (7) of section 2907.03 of 378  
the Revised Code is grounds for termination of employment of a 379  
nonteaching employee under this section. 380

(E) The director shall adopt a rule in accordance with 381  
Chapter 119. of the Revised Code to define the term 382

"unsatisfactory performance" as it is used in this section with 383  
regard to employees in the service of the state. 384

(F) As used in this section, "last chance agreement" means 385  
an agreement signed by both an appointing authority and an 386  
officer or employee of the appointing authority that describes 387  
the type of behavior or circumstances that, if it occurs, will 388  
automatically lead to removal of the officer or employee without 389  
the right of appeal to the state personnel board of review or 390  
the appropriate commission. 391

**Sec. 956.11.** (A) The director of agriculture may enter 392  
into contracts or agreements with an animal rescue for dogs, an 393  
animal shelter for dogs, a boarding kennel, a veterinarian, a 394  
board of county commissioners, or a humane society for the 395  
purposes of this section. 396

(B) (1) If the director or the director's authorized 397  
representative determines that a dog is being kept by a high 398  
volume breeder or dog broker in a manner that materially 399  
violates this chapter or rules adopted under it, the director 400  
may impound the dog and order it to be seized by an animal 401  
rescue for dogs, an animal shelter for dogs, a boarding kennel, 402  
a veterinarian, a board of county commissioners, or a humane 403  
society with which the director has entered into a contract or 404  
agreement under division (A) of this section. Upon receiving the 405  
order from the director, the animal rescue for dogs, animal 406  
shelter for dogs, boarding kennel, veterinarian, board of county 407  
commissioners, or humane society shall seize the dog and keep, 408  
house, and maintain it. 409

(2) The director or the director's authorized 410  
representative shall give written notice of the impoundment by 411  
posting a notice on the door of the premises from which the dog 412

was taken or by otherwise posting the notice in a conspicuous 413  
place at the premises from which the dog was taken. The notice 414  
shall provide a date for an adjudication hearing, which shall 415  
take place not later than five business days after the dog is 416  
taken and at which the director shall determine if the dog 417  
should be permanently relinquished to the custody of the 418  
director. 419

(C) The owner or operator of the applicable high volume 420  
breeder or the person acting as or performing the functions of a 421  
dog broker may appeal the determination made at the adjudication 422  
hearing in accordance with section 119.12 of the Revised Code,  ~~423  
except that the appeal may be made only to the environmental- 424  
division of the Franklin county municipal court. 425~~

(D) If, after the final disposition of an adjudication 426  
hearing and any appeals from that adjudication hearing, it is 427  
determined that a dog shall be permanently relinquished to the 428  
custody of the director, the dog may be adopted directly from 429  
the animal rescue for dogs, animal shelter for dogs, boarding 430  
kennel, veterinarian, county dog pound, or humane society where 431  
it is being kept, housed, and maintained, provided that the dog 432  
has been spayed or neutered unless there are medical reasons 433  
against spaying or neutering as determined by a veterinarian. 434  
The animal rescue for dogs, animal shelter for dogs, boarding 435  
kennel, veterinarian, county dog pound, or humane society may 436  
charge a reasonable adoption fee. The fee shall be at least 437  
sufficient to cover the costs of spaying or neutering the dog 438  
unless it is medically contraindicated. Impounded dogs shall be 439  
returned to persons acquitted of any alleged violations. 440

**Sec. 956.15.** (A) The director of agriculture shall deny an 441  
application for a license that is submitted under section 956.04 442

or 956.05 of the Revised Code for either of the following 443  
reasons: 444

(1) The applicant for the license has violated any 445  
provision of this chapter or a rule adopted under it if the 446  
violation materially threatens the health or welfare of a dog. 447

(2) The applicant has been convicted of or pleaded guilty 448  
to a disqualifying offense as determined in accordance with 449  
section 9.79 of the Revised Code. 450

(B) The director may suspend or revoke a license issued 451  
under this chapter for violation of any provision of this 452  
chapter or a rule adopted or order issued under it if the 453  
violation materially threatens the health and welfare of a dog. 454

(C) An application or a license shall not be denied, 455  
suspended, or revoked under this section without a written order 456  
of the director stating the findings on which the denial, 457  
suspension, or revocation is based. A copy of the order shall be 458  
sent to the applicant or license holder by certified mail or may 459  
be provided to the applicant or license holder by personal 460  
service. In addition, the person to whom a denial, suspension, 461  
or revocation applies may request an adjudication hearing under 462  
Chapter 119. of the Revised Code. The director shall comply with 463  
such a request. The determination of the director at an 464  
adjudication hearing may be appealed in accordance with section 465  
119.12 of the Revised Code, ~~except that the determination may be~~ 466  
~~appealed only to the environmental division of the Franklin-~~ 467  
~~county municipal court.~~ 468

**Sec. 3794.09. Enforcement; Penalties.** 469

(A) Upon the receipt of a first report that a proprietor 470  
of a public place or place of employment or an individual has 471



violated any provision of this chapter, the department of health 472  
or its designee shall investigate the report and, if it 473  
concludes that there was a violation, issue a warning letter to 474  
the proprietor or individual. 475

(B) Upon a report of a second or subsequent violation of 476  
any provision of this chapter by a proprietor of a public place 477  
or place of employment or an individual, the department of 478  
health or its designee shall investigate the report. If the 479  
director of health or director's designee concludes, based on 480  
all of the information before ~~him or her~~ the director or the 481  
director's designee, that there was a violation, ~~he or she~~ the 482  
director or the director's designee shall impose a civil fine 483  
upon the proprietor or individual in accordance with the 484  
schedule of fines required to be promulgated under section 485  
3794.07 of ~~this chapter~~ the Revised Code. 486

(C) Any proprietor or individual against whom a finding of 487  
a violation is made under this chapter may appeal the finding ~~to~~ 488  
~~the Franklin County Court of Common Pleas. Such appeal shall be~~ 489  
~~governed by the provisions of~~ in accordance with section 119.12 490  
of the Revised Code. 491

(D) The director of health may institute an action in the 492  
court of common pleas seeking an order in equity against a 493  
proprietor or individual that has repeatedly violated the 494  
provisions of this chapter or fails to comply with its 495  
provisions. 496

**Sec. 3901.321.** (A) For the purposes of this section: 497

(1) "Acquiring party" means any person by whom or on whose 498  
behalf a merger or other acquisition of control is to be 499  
effected. 500

(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 conditions are met:

(i) The person has filed with the superintendent of

insurance a statement containing the information required by 529  
division (C) of this section; 530

(ii) The person has sent the statement to the domestic 531  
insurer; 532

(iii) The offer, request, invitation, agreement, or 533  
acquisition has been approved by the superintendent in the 534  
manner provided in division (F) of this section. 535

(b) The requirements of division (B) (2) (a) of this section 536  
shall be met at the time any offer, request, or invitation is 537  
made, or any agreement is entered into, or prior to the 538  
acquisition of the securities if no offer or agreement is 539  
involved. 540

(3) Any controlling person of a domestic insurer seeking 541  
to divest its controlling interest in the domestic insurer shall 542  
file a confidential notice of its proposed divestiture with the 543  
superintendent at least thirty days prior to the cessation of 544  
control, and provide a copy of the confidential notice to the 545  
insurer. The superintendent may require the person seeking to 546  
divest the controlling interest to file for and obtain approval 547  
of the transaction. The information shall remain confidential 548  
until the conclusion of the transaction unless the 549  
superintendent, in the superintendent's discretion, determines 550  
that the confidential treatment will interfere with enforcement 551  
of this section. If the statement required by division (B) (2) of 552  
this section is otherwise filed with the superintendent in 553  
relation to all parties that acquire a controlling interest as a 554  
result of the divestiture, this division shall not apply. 555

(C) The statement required by division (B) (2) of this 556  
section shall be made under oath or affirmation, and shall 557

contain all of the following information:	558
(1) The name and address of each acquiring party;	559
(2) If the acquiring party is an individual, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years;	560 561 562 563
(3) If the acquiring party is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the acquiring party and any of its predecessors shall have been in existence; an informative description of the business intended to be done by the acquiring party and the acquiring party's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring party, who perform or will perform functions appropriate to such positions. The list shall include for each individual the information required by division (C) (2) of this section.	564 565 566 567 568 569 570 571 572 573 574
(4) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any such purpose, including any pledge of the domestic insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing such consideration;	575 576 577 578 579 580 581
(5) Fully audited financial information as to the earnings and financial condition of each acquiring party for its preceding five fiscal years, or for such lesser period as the acquiring party and any of its predecessors shall have been in existence, and similar unaudited information as of a date not	582 583 584 585 586

earlier than ninety days prior to the filing of the statement;	587
(6) Any plans or proposals which each acquiring party may	588
have to liquidate such domestic insurer, to sell its assets or	589
merge or consolidate it with any person, or to make any other	590
material change in its business or corporate structure or	591
management;	592
(7) The number of shares of any security of such issuer or	593
such controlling person that each acquiring party proposes to	594
acquire, and the terms of the offer, request, invitation,	595
agreement, or acquisition, and a statement as to the method by	596
which the fairness of the proposal was determined;	597
(8) The amount of each class of any security of such	598
issuer or such controlling person which is beneficially owned or	599
concerning which there is a right to acquire beneficial	600
ownership by each acquiring party;	601
(9) A full description of any contracts, arrangements, or	602
understandings with respect to any security of such issuer or	603
such controlling person in which any acquiring party is	604
involved, including but not limited to transfer of any of the	605
securities, joint ventures, loan or option arrangements, puts or	606
calls, guarantees of loans, guarantees against loss or	607
guarantees of profits, division of losses or profits, or the	608
giving or withholding of proxies. The description shall identify	609
the persons with whom such contracts, arrangements, or	610
understandings have been made.	611
(10) A description of the purchase of any security of such	612
issuer or such controlling person during the year preceding the	613
filing of the statement, by any acquiring party, including the	614
dates of purchase, names of the purchasers, and consideration	615

paid or agreed to be paid therefor; 616

(11) A description of any recommendations to purchase any 617  
security of such issuer or such controlling person made during 618  
the year preceding the filing of the statement, by any acquiring 619  
party, or by anyone based upon interviews or at the suggestion 620  
of the acquiring party; 621

(12) Copies of all tender offers for, requests, or 622  
invitations for tenders of, exchange offers for, and agreements 623  
to acquire or exchange any securities of such issuer or such 624  
controlling person, and, if distributed, of additional 625  
solicitation material relating thereto; 626

(13) The terms of any agreement, contract, or 627  
understanding made with or proposed to be made with any broker 628  
or dealer as to solicitation of securities of such issuer or 629  
such controlling person for tender, and the amount of any fees, 630  
commissions, or other compensation to be paid to brokers or 631  
dealers with regard thereto; 632

(14) With respect to proposed affiliations between 633  
depository institutions or any affiliate thereof, within the 634  
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 635  
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 636  
insurer, the proposed effective date of the acquisition or 637  
change of control; 638

(15) An agreement by the person required to file the 639  
statement required by division (B) of this section that the 640  
person will provide the annual registration required by division 641  
(K) of section 3901.33 of the Revised Code for so long as the 642  
person has control of the domestic insurer; 643

(16) An acknowledgment by the person required to file the 644

statement required by division (B) of this section that the 645  
person and all subsidiaries within the person's control in the 646  
insurance holding company system will provide information to the 647  
superintendent upon request as necessary to evaluate enterprise 648  
risk to the insurer; 649

(17) Such additional information as the superintendent may 650  
by rule prescribe as necessary or appropriate for the protection 651  
of policyholders of the domestic insurer or in the public 652  
interest. 653

(D) (1) If the person required to file the statement 654  
required by division (B) (2) of this section is a partnership, 655  
limited partnership, syndicate, or other group, the 656  
superintendent may require that the information required by 657  
division (C) of this section be furnished with respect to each 658  
partner of such partnership or limited partnership, each member 659  
of such syndicate or group, and each person that controls such 660  
partner or member. If any such partner, member, or person is a 661  
corporation, or the person required to file the statement is a 662  
corporation, the superintendent may require that the information 663  
required by division (C) of this section be furnished with 664  
respect to the corporation, each officer and director of the 665  
corporation, and each person that is directly or indirectly the 666  
beneficial owner of more than ten per cent of the outstanding 667  
voting securities of the corporation. 668

(2) If any material change occurs in the facts set forth 669  
in the statement required by division (B) (2) of this section, an 670  
amendment setting forth such change, together with copies of all 671  
documents and other material relevant to the change, shall be 672  
filed with the superintendent by the person subject to division 673  
(B) (2) of this section and sent to the domestic insurer within 674

two business days after such person learns of the occurrence of 675  
the material change. 676

(E) If any offer, request, invitation, agreement, or 677  
acquisition described in division (B)(1) of this section is 678  
proposed to be made by means of a registration statement under 679  
the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or 680  
in circumstances requiring the disclosure of similar information 681  
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 682  
U.S.C.A. 78a, or under a state law requiring similar 683  
registration or disclosure, the person required to file the 684  
statement required by division (B)(2) of this section may use 685  
such documents in furnishing the information required by that 686  
statement. 687

(F)(1) The superintendent shall approve any merger or 688  
other acquisition of control described in division (B)(1) of 689  
this section unless, after a public hearing, the superintendent 690  
finds that any of the following apply: 691

(a) After the change of control, the domestic insurer 692  
would not be able to satisfy the requirements for the issuance 693  
of a license to write the line or lines of insurance for which 694  
it is presently licensed; 695

(b) The effect of the merger or other acquisition of 696  
control would be substantially to lessen competition in 697  
insurance in this state or tend to create a monopoly; 698

(c) The financial condition of any acquiring party is such 699  
as might jeopardize the financial stability of the domestic 700  
insurer, or prejudice the interests of its policyholders; 701

(d) The plans or proposals that the acquiring party has to 702  
liquidate the domestic insurer, sell its assets, or consolidate 703



or merge it with any person, or to make any other material 704  
change in its business or corporate structure or management, are 705  
unfair and unreasonable to policyholders of the domestic insurer 706  
and not in the public interest; 707

(e) The competence, experience, and integrity of those 708  
persons that would control the operation of the domestic insurer 709  
are such that it would not be in the interest of policyholders 710  
of the domestic insurer and of the public to permit the merger 711  
or other acquisition of control; 712

(f) The acquisition is likely to be hazardous or 713  
prejudicial to the insurance-buying public. 714

(2) (a) Chapter 119. of the Revised Code, except for 715  
section 119.09 of the Revised Code, applies to any hearing held 716  
under division (F) (1) of this section, including the notice of 717  
the hearing, the conduct of the hearing, the orders issued 718  
pursuant to it, the review of the orders, and all other matters 719  
relating to the holding of the hearing, but only to the extent 720  
that Chapter 119. of the Revised Code is not inconsistent or in 721  
conflict with this section. 722

(b) The notice of a hearing required under this division 723  
shall be transmitted by personal service, certified mail, e- 724  
mail, or any other method designed to ensure and confirm receipt 725  
of the notice, to the persons and addresses designated to 726  
receive notices and correspondence in the information statement 727  
filed under division (B) (2) of this section. Confirmation of 728  
receipt of the notice, including electronic "Read Receipt" 729  
confirmation, shall constitute evidence of compliance with the 730  
requirement of this section. The notice of hearing shall include 731  
the reasons for the proposed action and a statement informing 732  
the acquiring party that the party is entitled to a hearing. The 733

notice also shall inform the acquiring party that at the hearing 734  
the acquiring party may appear in person, by attorney, or by 735  
such other representative as is permitted to practice before the 736  
superintendent, or that the acquiring party may present its 737  
position, arguments, or contentions in writing, and that at the 738  
hearing the acquiring party may present evidence and examine 739  
witnesses appearing for and against the acquiring party. A copy 740  
of the notice also shall be transmitted to attorneys or other 741  
representatives of record representing the acquiring party. 742

(c) The hearing shall be held at the offices of the 743  
superintendent within ten calendar days, but not earlier than 744  
seven calendar days, of the date of transmission of the notice 745  
of hearing by any means, unless it is postponed or continued; 746  
but in no event shall the hearing be held unless notice is 747  
received at least three days prior to the hearing. The 748  
superintendent may postpone or continue the hearing upon receipt 749  
of a written request by an acquiring party, or upon the 750  
superintendent's motion, provided, however, a hearing in 751  
connection with a proposed change of control involving a 752  
depository institution or any affiliate thereof, within the 753  
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 754  
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 755  
insurer, may be postponed or continued only upon the request of 756  
an acquiring party, or upon the superintendent's motion when the 757  
acquiring party agrees in writing to extend the sixty-day period 758  
provided for in section 104(c) of the "Gramm-Leach-Bliley Act," 759  
by a number of days equal to the number of days of such 760  
postponement or continuance. 761

(d) For the purpose of conducting any hearing held under 762  
this section, the superintendent may require the attendance of 763  
such witnesses and the production of such books, records, and 764

papers as the superintendent desires, and may take the 765  
depositions of witnesses residing within or without the state in 766  
the same manner as is prescribed by law for the taking of 767  
depositions in civil actions in the court of common pleas, and 768  
for that purpose the superintendent may, and upon the request of 769  
an acquiring party shall, issue a subpoena for any witnesses or 770  
a subpoena duces tecum to compel the production of any books, 771  
records, or papers, directed to the sheriff of the county where 772  
such witness resides or is found, which shall be served and 773  
returned in the same manner as a subpoena in a criminal case is 774  
served and returned. The fees of the sheriff shall be the same 775  
as that allowed in the court of common pleas in criminal cases. 776  
Witnesses shall be paid the fees and mileage provided for under 777  
section 119.094 of the Revised Code. Fees and mileage shall be 778  
paid from the fund in the state treasury for the use of the 779  
superintendent in the same manner as other expenses of the 780  
superintendent are paid. In any case of disobedience or neglect 781  
of any subpoena served on any person or the refusal of any 782  
witness to testify in any matter regarding which the witness may 783  
lawfully be interrogated, the court of common pleas of any 784  
county where such disobedience, neglect, or refusal occurs or 785  
any judge thereof, on application by the superintendent, shall 786  
compel obedience by attachment proceedings for contempt, as in 787  
the case of disobedience of the requirements of a subpoena 788  
issued from the court or a refusal to testify therein. 789

In any hearing held under this section, a record of the 790  
testimony, as provided by stenographic means or by use of audio 791  
electronic recording devices, as determined by the 792  
superintendent, and other evidence submitted shall be taken at 793  
the expense of the superintendent. The record shall include all 794  
of the testimony and other evidence, and rulings on the 795

admissibility thereof, presented at the hearing. 796

The superintendent shall pass upon the admissibility of 797  
evidence, but a party to the proceedings may at that time object 798  
to the rulings of the superintendent, and if the superintendent 799  
refuses to admit evidence, the party offering the evidence shall 800  
proffer the evidence. The proffer shall be made a part of the 801  
record of the hearing. 802

In any hearing held under this section, the superintendent 803  
may call any person to testify under oath as upon cross- 804  
examination. The superintendent, or any one delegated by the 805  
superintendent to conduct a hearing, may administer oaths or 806  
affirmations. 807

In any hearing under this section, the superintendent may 808  
appoint a hearing officer to conduct the hearing; the hearing 809  
officer has the same powers and authority in conducting the 810  
hearing as is granted to the superintendent. The hearing officer 811  
shall have been admitted to the practice of law in the state and 812  
be possessed of any additional qualifications as the 813  
superintendent requires. The hearing officer shall submit to the 814  
superintendent a written report setting forth the hearing 815  
officer's finding of fact and conclusions of law and a 816  
recommendation of the action to be taken by the superintendent. 817  
A copy of the written report and recommendation shall, within 818  
seven days of the date of filing thereof, be served upon the 819  
acquiring party or the acquiring party's attorney or other 820  
representative of record, by personal service, certified mail, 821  
electronic mail, or any other method designed to ensure and 822  
confirm receipt of the report. The acquiring party may, within 823  
three days of receipt of the copy of the written report and 824  
recommendation, file with the superintendent written objections 825

to the report and recommendation, which objections the 826  
superintendent shall consider before approving, modifying, or 827  
disapproving the recommendation. The superintendent may grant 828  
extensions of time to the acquiring party within which to file 829  
such objections. No recommendation of the hearing officer shall 830  
be approved, modified, or disapproved by the superintendent 831  
until after three days following the service of the report and 832  
recommendation as provided in this section. The superintendent 833  
may order additional testimony to be taken or permit the 834  
introduction of further documentary evidence. The superintendent 835  
may approve, modify, or disapprove the recommendation of the 836  
hearing officer, and the order of the superintendent based on 837  
the report, recommendation, transcript of testimony, and 838  
evidence, or the objections of the acquiring party, and 839  
additional testimony and evidence shall have the same effect as 840  
if the hearing had been conducted by the superintendent. No such 841  
recommendation is final until confirmed and approved by the 842  
superintendent as indicated by the order entered in the record 843  
of proceedings, and if the superintendent modifies or 844  
disapproves the recommendations of the hearing officer, the 845  
reasons for the modification or disapproval shall be included in 846  
the record of proceedings. 847

After the order is entered, the superintendent shall 848  
transmit in the manner and by any of the methods set forth in 849  
division (F) (2) (b) of this section a certified copy of the order 850  
and a statement of the time and method by which an appeal may be 851  
perfected. A copy of the order shall be mailed to the attorneys 852  
or other representatives of record representing the acquiring 853  
party. 854

(e) An order of disapproval issued by the superintendent 855  
may be appealed to the court of common pleas ~~of Franklin county~~ 856

in accordance with section 119.12 of the Revised Code by filing 857  
a notice of appeal with the superintendent and a copy of the 858  
notice of appeal with the court, within fifteen calendar days 859  
after the transmittal of the copy of the order of disapproval. 860  
The notice of appeal shall set forth the order appealed from and 861  
the grounds for appeal, in accordance with section 119.12 of the 862  
Revised Code. 863

(3) The superintendent may retain at the acquiring party's 864  
expense any attorneys, actuaries, accountants, and other experts 865  
not otherwise a part of the superintendent's staff as may be 866  
reasonably necessary to assist the superintendent in reviewing 867  
the proposed acquisition of control. 868

(G) This section does not apply to either of the 869  
following: 870

(1) Any transaction that is subject to section 3921.14, or 871  
sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 872  
3953.19 of the Revised Code; 873

(2) Any offer, request, invitation, agreement, or 874  
acquisition that the superintendent by order exempts from this 875  
section on either of the following bases: 876

(a) It has not been made or entered into for the purpose 877  
and does not have the effect of changing or influencing the 878  
control of a domestic insurer; 879

(b) It is not otherwise comprehended within the purposes 880  
of this section. 881

(H) Nothing in this section or in any other section of 882  
Title XXXIX of the Revised Code shall be construed to impair the 883  
authority of the attorney general to investigate or prosecute 884  
actions under any state or federal antitrust law with respect to 885

any merger or other acquisition involving domestic insurers. 886

(I) In connection with a proposed change of control 887  
involving a depository institution or any affiliate thereof, 888  
within the meaning of Title I, section 104(c) of the "Gramm- 889  
Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), 890  
and a domestic insurer, not later than sixty days after the date 891  
of the notification of the proposed change in control submitted 892  
pursuant to division (B) (2) of this section, the superintendent 893  
shall make any determination that the person acquiring control 894  
of the insurer shall maintain or restore the capital of the 895  
insurer to the level required by the laws and regulations of 896  
this state. 897

**Sec. 3913.13.** Any policyholder adversely affected by an 898  
order of the superintendent of insurance pursuant to division 899  
(F) of section 3913.11 of the Revised Code, may appeal to the 900  
court of common pleas ~~of Franklin county~~ pursuant to section 901  
119.12 of the Revised Code. 902

**Sec. 3913.23.** Any policyholder adversely affected by an 903  
order of the superintendent of insurance pursuant to division 904  
(F) of section 3913.21 of the Revised Code, may appeal to the 905  
court of common pleas ~~of Franklin county~~ pursuant to section 906  
119.12 of the Revised Code. 907

**Sec. 5101.35.** (A) As used in this section: 908

(1) (a) "Agency" means the following entities that 909  
administer a family services program: 910

(i) The department of job and family services; 911

(ii) A county department of job and family services; 912

(iii) A public children services agency; 913

(iv) A private or government entity administering, in 914  
whole or in part, a family services program for or on behalf of 915  
the department of job and family services or a county department 916  
of job and family services or public children services agency. 917

(b) If the department of medicaid contracts with the 918  
department of job and family services to hear appeals authorized 919  
by section 5160.31 of the Revised Code regarding medical 920  
assistance programs, "agency" includes the department of 921  
medicaid. 922

(2) "Appellant" means an applicant, participant, former 923  
participant, recipient, or former recipient of a family services 924  
program who is entitled by federal or state law to a hearing 925  
regarding a decision or order of the agency that administers the 926  
program. 927

(3) (a) "Family services program" means all of the 928  
following: 929

(i) A Title IV-A program as defined in section 5101.80 of 930  
the Revised Code; 931

(ii) Programs that provide assistance under Chapter 5104. 932  
of the Revised Code; 933

(iii) Programs that provide assistance under section 934  
5101.141, 5101.461, 5101.54, 5119.41, 5153.163, or 5153.165 of 935  
the Revised Code; 936

(iv) Title XX social services provided under section 937  
5101.46 of the Revised Code, other than such services provided 938  
by the department of mental health and addiction services, the 939  
department of developmental disabilities, a board of alcohol, 940  
drug addiction, and mental health services, or a county board of 941  
developmental disabilities. 942



(b) If the department of medicaid contracts with the 943  
department of job and family services to hear appeals authorized 944  
by section 5160.31 of the Revised Code regarding medical 945  
assistance programs, "family services program" includes medical 946  
assistance programs. 947

(4) "Medical assistance program" has the same meaning as 948  
in section 5160.01 of the Revised Code. 949

(B) Except as provided by divisions (G) and (H) of this 950  
section, an appellant who appeals under federal or state law a 951  
decision or order of an agency administering a family services 952  
program shall, at the appellant's request, be granted a state 953  
hearing by the department of job and family services. This state 954  
hearing shall be conducted in accordance with rules adopted 955  
under this section. The state hearing shall be recorded, but 956  
neither the recording nor a transcript of the recording shall be 957  
part of the official record of the proceeding. Except as 958  
provided in section 5160.31 of the Revised Code, a state hearing 959  
decision is binding upon the agency and department, unless it is 960  
reversed or modified on appeal to the director of job and family 961  
services or a court of common pleas. 962

(C) Except as provided by division (G) of this section, an 963  
appellant who disagrees with a state hearing decision may make 964  
an administrative appeal to the director of job and family 965  
services in accordance with rules adopted under this section. 966  
This administrative appeal does not require a hearing, but the 967  
director or the director's designee shall review the state 968  
hearing decision and previous administrative action and may 969  
affirm, modify, remand, or reverse the state hearing decision. 970  
An administrative appeal decision is the final decision of the 971  
department and, except as provided in section 5160.31 of the 972

Revised Code, is binding upon the department and agency, unless 973  
it is reversed or modified on appeal to the court of common 974  
pleas. 975

(D) An agency shall comply with a decision issued pursuant 976  
to division (B) or (C) of this section within the time limits 977  
established by rules adopted under this section. If a county 978  
department of job and family services or a public children 979  
services agency fails to comply within these time limits, the 980  
department may take action pursuant to section 5101.24 of the 981  
Revised Code. If another agency, other than the department of 982  
medicaid, fails to comply within the time limits, the department 983  
may force compliance by withholding funds due the agency or 984  
imposing another sanction established by rules adopted under 985  
this section. 986

(E) An appellant who disagrees with an administrative 987  
appeal decision of the director of job and family services or 988  
the director's designee issued under division (C) of this 989  
section may appeal from the decision to the court of common 990  
pleas pursuant to section 119.12 of the Revised Code. The appeal 991  
shall be governed by section 119.12 of the Revised Code except 992  
that: 993

~~(1) The person may appeal to the court of common pleas of 994  
the county in which the person resides, or to the court of 995  
common pleas of Franklin county if the person does not reside in 996  
this state. 997~~

~~(2) The person may apply to the court for designation as 998  
an indigent and, if the court grants this application, the 999  
appellant shall not be required to furnish the costs of the 1000  
appeal. 1001~~

~~(3)~~ (2) The appellant shall mail the notice of appeal to 1002  
the department of job and family services and file notice of 1003  
appeal with the court within thirty days after the department 1004  
mails the administrative appeal decision to the appellant. For 1005  
good cause shown, the court may extend the time for mailing and 1006  
filing notice of appeal, but such time shall not exceed six 1007  
months from the date the department mails the administrative 1008  
appeal decision. Filing notice of appeal with the court shall be 1009  
the only act necessary to vest jurisdiction in the court. 1010

~~(4)~~ (3) The department shall be required to file a 1011  
transcript of the testimony of the state hearing with the court 1012  
only if the court orders the department to file the transcript. 1013  
The court shall make such an order only if it finds that the 1014  
department and the appellant are unable to stipulate to the 1015  
facts of the case and that the transcript is essential to a 1016  
determination of the appeal. The department shall file the 1017  
transcript not later than thirty days after the day such an 1018  
order is issued. 1019

(F) The department of job and family services shall adopt 1020  
rules in accordance with Chapter 119. of the Revised Code to 1021  
implement this section, including rules governing the following: 1022

(1) State hearings under division (B) of this section. The 1023  
rules shall include provisions regarding notice of eligibility 1024  
termination and the opportunity of an appellant appealing a 1025  
decision or order of a county department of job and family 1026  
services to request a county conference with the county 1027  
department before the state hearing is held. 1028

(2) Administrative appeals under division (C) of this 1029  
section; 1030

(3) Time limits for complying with a decision issued under 1031  
division (B) or (C) of this section; 1032

(4) Sanctions that may be applied against an agency under 1033  
division (D) of this section. 1034

(G) The department of job and family services may adopt 1035  
rules in accordance with Chapter 119. of the Revised Code 1036  
establishing an appeals process for an appellant who appeals a 1037  
decision or order regarding a Title IV-A program identified 1038  
under division (A) (4) (c), (d), (e), (f), or (g) of section 1039  
5101.80 of the Revised Code that is different from the appeals 1040  
process established by this section. The different appeals 1041  
process may include having a state agency that administers the 1042  
Title IV-A program pursuant to an interagency agreement entered 1043  
into under section 5101.801 of the Revised Code administer the 1044  
appeals process. 1045

(H) If an appellant receiving medicaid through a health 1046  
insuring corporation that holds a certificate of authority under 1047  
Chapter 1751. of the Revised Code is appealing a denial of 1048  
medicaid services based on lack of medical necessity or other 1049  
clinical issues regarding coverage by the health insuring 1050  
corporation, the person hearing the appeal may order an 1051  
independent medical review if that person determines that a 1052  
review is necessary. The review shall be performed by a health 1053  
care professional with appropriate clinical expertise in 1054  
treating the recipient's condition or disease. The department 1055  
shall pay the costs associated with the review. 1056

A review ordered under this division shall be part of the 1057  
record of the hearing and shall be given appropriate evidentiary 1058  
consideration by the person hearing the appeal. 1059

(I) The requirements of Chapter 119. of the Revised Code 1060  
apply to a state hearing or administrative appeal under this 1061  
section only to the extent, if any, specifically provided by 1062  
rules adopted under this section. 1063

**Sec. 5164.38.** (A) As used in this section: 1064

(1) "Party" has the same meaning as in division (G) of 1065  
section 119.01 of the Revised Code. 1066

(2) "Revalidate" means to approve a medicaid provider's 1067  
continued enrollment as a medicaid provider in accordance with 1068  
the revalidation process established in rules authorized by 1069  
section 5164.32 of the Revised Code. 1070

(B) This section does not apply to either of the 1071  
following: 1072

(1) Any action taken or decision made by the department of 1073  
medicaid with respect to entering into or refusing to enter into 1074  
a contract with a managed care organization pursuant to section 1075  
5167.10 of the Revised Code; 1076

(2) Any action taken by the department under division (D) 1077  
(2) of section 5124.60, division (D)(1) or (2) of section 1078  
5124.61, or sections 5165.60 to 5165.89 of the Revised Code. 1079

(C) Except as provided in division (E) of this section and 1080  
section 5164.58 of the Revised Code, the department shall do any 1081  
of the following by issuing an order pursuant to an adjudication 1082  
conducted in accordance with Chapter 119. of the Revised Code: 1083

(1) Refuse to enter into a provider agreement with a 1084  
medicaid provider; 1085

(2) Refuse to revalidate a medicaid provider's provider 1086  
agreement; 1087

(3) Suspend or terminate a medicaid provider's provider agreement;	1088 1089
(4) Take any action based upon a final fiscal audit of a medicaid provider.	1090 1091
(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 <del>of Franklin county</del> in accordance with section 119.12 of the Revised Code.	1092 1093 1094 1095
(E) The department is not required to comply with division (C) (1), (2), or (3) of this section whenever any of the following occur:	1096 1097 1098
(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.	1099 1100 1101 1102 1103 1104 1105
(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.	1106 1107 1108 1109 1110 1111 1112
(3) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated or not revalidated, because of or pursuant to any of the following:	1113 1114 1115 1116

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

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

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

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

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

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

(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. 1146

(5) The medicaid provider's provider agreement and 1147  
medicaid payments to the provider are suspended under section 1148  
5164.36 or 5164.37 of the Revised Code. 1149

(6) The medicaid provider's application for a provider 1150  
agreement is denied because the provider's application was not 1151  
complete; 1152

(7) The medicaid provider's provider agreement is 1153  
converted under section 5164.32 of the Revised Code from a 1154  
provider agreement that is not time-limited to a provider 1155  
agreement that is time-limited. 1156

(8) Unless the medicaid provider is a nursing facility or 1157  
ICF/IID, the provider's provider agreement is not revalidated 1158  
pursuant to division (B)(1) of section 5164.32 of the Revised 1159  
Code. 1160

(9) The medicaid provider's provider agreement is 1161  
suspended, terminated, or not revalidated because of either of 1162  
the following: 1163

(a) Any reason authorized or required by one or more of 1164  
the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 1165  
455.450; 1166

(b) The provider has not billed or otherwise submitted a 1167  
medicaid claim for two years or longer. 1168

(F) In the case of a medicaid provider described in 1169  
division (E)(3)(f), (6), (7), or (9)(b) of this section, the 1170  
department may take its action by sending a notice explaining 1171  
the action to the provider. The notice shall be sent to the 1172  
medicaid provider's address on record with the department. The 1173



notice may be sent by regular mail. 1174

(G) The department may withhold payments for medicaid 1175  
services rendered by a medicaid provider during the pendency of 1176  
proceedings initiated under division (C) (1), (2), or (3) of this 1177  
section. If the proceedings are initiated under division (C) (4) 1178  
of this section, the department may withhold payments only to 1179  
the extent that they equal amounts determined in a final fiscal 1180  
audit as being due the state. This division does not apply if 1181  
the department fails to comply with section 119.07 of the 1182  
Revised Code, requests a continuance of the hearing, or does not 1183  
issue a decision within thirty days after the hearing is 1184  
completed. This division does not apply to nursing facilities 1185  
and ICFs/IID. 1186

**Section 2.** That existing sections 119.12, 124.34, 956.11, 1187  
956.15, 3794.09, 3901.321, 3913.13, 3913.23, 5101.35, and 1188  
5164.38 of the Revised Code are hereby repealed. 1189

**Section 3.** Section 956.15 of the Revised Code as presented 1190  
in this act takes effect on the later of October 9, 2021, or the 1191  
effective date of this section. (October 9, 2021 is the 1192  
effective date of an earlier amendment to that section by H.B. 1193  
263 of the 133rd General Assembly.) 1194

**Section 4.** Section 119.12 of the Revised Code is presented 1195  
in this act as a composite of the section as amended by both 1196  
H.B. 52 and H.B. 64 of the 131st General Assembly. The General 1197  
Assembly, applying the principle stated in division (B) of 1198  
section 1.52 of the Revised Code that amendments are to be 1199  
harmonized if reasonably capable of simultaneous operation, 1200  
finds that the composite is the resulting version of the section 1201  
in effect prior to the effective date of the section as 1202  
presented in this act. 1203