

130th General Assembly  
Regular Session  
2013-2014

.B. No.

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**A B I L L**

To amend sections 3105.63, 3105.65, 3109.03, 3109.04, 1  
3109.043, 3109.051, 3109.052, 3109.053, 3109.06, 2  
3109.52, 3109.53, and 3109.66; to enact new 3  
section 3109.041; and to repeal section 3109.041 4  
of the Revised Code to ensure that court orders 5  
and decrees that allocate parental rights and 6  
responsibilities with respect to the care of and 7  
access to children provide for substantial 8  
equality between the parents except where the 9  
parents otherwise agree or where clear and 10  
convincing evidence shows that substantial 11  
equality would be harmful to the children. 12

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

**Section 1.** That sections 3105.63, 3105.65, 3109.03, 3109.04, 13  
3109.043, 3109.051, 3109.052, 3109.053, 3109.06, 3109.52, 3109.53, 14  
and 3109.66 be amended and new section 3109.041 of the Revised 15  
Code be enacted to read as follows: 16

**Sec. 3105.63.** (A)(1) A petition for dissolution of marriage 17  
shall be signed by both spouses and shall have attached and 18  
incorporated a separation agreement agreed to by both spouses. The 19  
separation agreement shall provide for a division of all property; 20  
spousal support; if there are minor children of the marriage, the 21  
allocation of parental rights and responsibilities for the care of 22

and access to the minor children, the designation of a residential 23  
parent and legal custodian of the minor children, child support, 24  
and parenting time rights; and, if the spouses so desire, an 25  
authorization for the court to modify the amount or terms of 26  
spousal support, or the division of property, provided in the 27  
separation agreement. If there are minor children of the marriage, 28  
the spouses may address the allocation of the parental rights and 29  
responsibilities for the care of and access to the minor children 30  
by including in the separation agreement a plan under which both 31  
parents will have shared rights and responsibilities for the care 32  
of and access to the minor children. The spouses shall file the 33  
plan with the petition for dissolution of marriage and shall 34  
include in the plan the provisions described in division (G) of 35  
section 3109.04 of the Revised Code. 36

(2) The division of property in the separation agreement 37  
shall include any participant account, as defined in section 38  
148.01 of the Revised Code, of either of the spouses, to the 39  
extent of the following: 40

(a) The moneys that have been deferred by a continuing member 41  
or participating employee, as defined in that section, and that 42  
have been transmitted to the Ohio public employees deferred 43  
compensation board during the marriage and any income that is 44  
derived from the investment of those moneys during the marriage; 45

(b) The moneys that have been deferred by an officer or 46  
employee of a municipal corporation and that have been transmitted 47  
to the governing board, administrator, depository, or trustee of 48  
the deferred compensation program of the municipal corporation 49  
during the marriage and any income that is derived from the 50  
investment of those moneys during the marriage; 51

(c) The moneys that have been deferred by an officer or 52  
employee of a government unit, as defined in section 148.06 of the 53

Revised Code, and that have been transmitted to the governing 54  
board, as defined in that section, during the marriage and any 55  
income that is derived from the investment of those moneys during 56  
the marriage. 57

(3) The separation agreement shall not require or permit the 58  
division or disbursement of the moneys and income described in 59  
division (A)(2) of this section to occur in a manner that is 60  
inconsistent with the law, rules, or plan governing the deferred 61  
compensation program involved or prior to the time that the spouse 62  
in whose name the participant account is maintained commences 63  
receipt of the moneys and income credited to the account in 64  
accordance with that law, rules, and plan. 65

(B) An amended separation agreement may be filed at any time 66  
prior to or during the hearing on the petition for dissolution of 67  
marriage. Upon receipt of a petition for dissolution of marriage, 68  
the court may cause an investigation to be made pursuant to the 69  
Rules of Civil Procedure. 70

(C)(1) If a petition for dissolution of marriage contains an 71  
authorization for the court to modify the amount or terms of 72  
spousal support provided in the separation agreement, the 73  
modification shall be in accordance with section 3105.18 of the 74  
Revised Code. 75

(2) If a petition for dissolution of marriage contains an 76  
authorization for the court to modify the division of property 77  
provided in the separation agreement, the modification shall be 78  
made with the express written consent or agreement of both 79  
spouses. 80

**Sec. 3105.65.** (A) If, at the time of the hearing, either 81  
spouse is not satisfied with the separation agreement or does not 82  
wish a dissolution of the marriage and if neither spouse files a 83  
motion pursuant to division (C) of this section to convert the 84

action to an action for divorce, the court shall dismiss the 85  
petition and refuse to validate the proposed separation agreement. 86

(B) If, upon review of the testimony of both spouses and of 87  
the report of the investigator pursuant to the Rules of Civil 88  
Procedure, the court approves the separation agreement and any 89  
amendments to it agreed upon by the parties, it shall grant a 90  
decree of dissolution of marriage that incorporates the separation 91  
agreement. If the separation agreement contains a plan for the 92  
exercise of shared parenting by the spouses, the court shall 93  
review the plan in accordance with the provisions of division 94  
(D)(1) of section 3109.04 of the Revised Code that govern the 95  
review of a pleading or motion requesting shared parenting jointly 96  
submitted by both spouses to a marriage. A decree of dissolution 97  
of marriage has the same effect upon the property rights of the 98  
parties, including rights of dower and inheritance, as a decree of 99  
divorce. The court has full power to enforce its decree and 100  
retains jurisdiction to modify all matters pertaining to the 101  
allocation of parental rights and responsibilities for the care of 102  
and access to the children, to the designation of a residential 103  
parent and legal custodian of the children, to child support, to 104  
parenting time of parents with the children, and to visitation for 105  
persons who are not the children's parents. The court, only in 106  
accordance with division (E)(2) of section 3105.18 of the Revised 107  
Code, may modify the amount or terms of spousal support. The court 108  
may modify the division of property provided in the separation 109  
agreement only upon the express written consent or agreement of 110  
both spouses. 111

(C) At any time before a decree of dissolution of marriage 112  
has been granted under division (B) of this section, either spouse 113  
may convert the action for dissolution of marriage into a divorce 114  
action by filing a motion with the court in which the action for 115  
dissolution of marriage is pending for conversion of the action 116

for dissolution of marriage. The motion shall contain a complaint 117  
for divorce that contains grounds for a divorce and that otherwise 118  
complies with the Rules of Civil Procedure and this chapter. The 119  
divorce action then shall proceed in accordance with the Rules of 120  
Civil Procedure in the same manner as if the motion had been the 121  
original complaint in the action, including, but not limited to, 122  
the issuance and service of summons pursuant to Civil Rules 4 to 123  
4.6, except that no court fees shall be charged upon conversion of 124  
the action for dissolution of marriage into a divorce action under 125  
this division. 126

**Sec. 3109.03.** When husband and wife are living separate and 127  
apart from each other, or are divorced, and the question as to the 128  
parental rights and responsibilities for the care of and access to 129  
their children and the place of residence and legal custodian of 130  
their children is brought before a court of competent 131  
jurisdiction, they shall stand upon an equality as to the parental 132  
rights and responsibilities for the care of and access to their 133  
children and the place of residence and legal custodian of their 134  
children, so far as parenthood is involved. 135

Except as otherwise provided in section 3109.04 of the 136  
Revised Code, in making at any stage of a proceeding any order or 137  
decree that allocates parental rights and responsibilities 138  
regarding the care of and access to the children of the parents, a 139  
court shall grant substantially equal rights and responsibilities 140  
to the parents, including substantially equal parenting time, 141  
unless the parents agree to a different allocation of parental 142  
rights and responsibilities or the court finds by clear and 143  
convincing evidence that substantially equal rights and 144  
responsibilities would be harmful to the children. Whenever a 145  
court makes an order or decree that does not provide for 146  
substantially equal rights and responsibilities, it shall explain 147  
in writing the reasons for its determination. 148

**Sec. 3109.04.** (A) In any divorce, legal separation, or 149  
annulment proceeding and in any proceeding pertaining to the 150  
allocation of parental rights and responsibilities for the care of 151  
and access to a child, upon hearing the testimony of either or 152  
both parents and considering any mediation report filed pursuant 153  
to section 3109.052 of the Revised Code and in accordance with 154  
sections 3127.01 to 3127.53 of the Revised Code, the court shall 155  
allocate the parental rights and responsibilities for the care of 156  
and access to the minor children of the marriage. ~~Subject to in~~ 157  
~~accordance with~~ division (D)(2) of this section, ~~the court may~~ 158  
~~allocate the parental rights and responsibilities for the care of~~ 159  
~~the children in either of the following ways:~~ 160

~~(1) If neither parent files a pleading or motion in 161  
accordance with division (G) of this section, if at least one 162  
parent files a pleading or motion under that division but no 163  
parent who filed a pleading or motion under that division also 164  
files a plan for shared parenting, or if at least one parent files 165  
both a pleading or motion and a shared parenting plan under that 166  
division but no plan for shared parenting is in the best interest 167  
of the children, the court, in a manner consistent with the best 168  
interest of the children, shall allocate the parental rights and 169  
responsibilities for the care of the children primarily to one of 170  
the parents, designate that parent as the residential parent and 171  
the legal custodian of the child, and divide between the parents 172  
the other rights and responsibilities for the care of the 173  
children, including, but not limited to, the responsibility to 174  
provide support for the children and the right of the parent who 175  
is not the residential parent to have continuing contact with the 176  
children.~~ 177

~~(2) If at least one parent files a pleading or motion in 178  
accordance with division (G) of this section and a plan for shared 179  
parenting pursuant to that division and if a plan for shared 180~~

~~parenting is in the best interest of the children and is approved 181  
by the court in accordance with division (D)(1) of this section, 182  
the court may allocate the parental rights and responsibilities 183  
for the care of the children to both parents and issue a shared 184  
parenting order requiring the parents to share all or some of the 185  
aspects of the physical and legal care of the children in 186  
accordance with the approved plan for shared parenting. If 187~~

~~If the court issues a shared parenting order under this 188  
division section and it is necessary for the purpose of receiving 189  
public assistance, the court shall designate which one of the 190  
parents' residences is to serve as the child's home. This 191  
designation shall be for the sole purpose of receiving public 192  
assistance and shall not affect the designation under division 193  
(L)(6) of this section of each parent as the "residential parent," 194  
the "residential parent and legal custodian," or the "custodial 195  
parent" of the child. The child support obligations of the parents 196  
under a shared parenting order issued under this division section 197  
shall be determined in accordance with Chapters 3119., 3121., 198  
3123., and 3125. of the Revised Code. 199~~

~~(B)(1) When making the allocation of the parental rights and 200  
responsibilities for the care of and access to the children under 201  
this section in an original proceeding or in any proceeding for 202  
modification of a prior order of the court ~~making the allocation,~~ 203  
~~the court shall take into account that which would be in the best 204  
interest of the children. In determining the child's best interest 205  
for purposes of making its allocation of the parental rights and 206  
responsibilities for the care of the child and for purposes of 207  
resolving any issues related to the making of that allocation, the 208  
court, in its discretion, may and, upon the request of either 209  
party, shall interview in chambers any or all of the involved 210  
children regarding their wishes and concerns with respect to the 211  
allocation. 212~~~~

(2) If the court interviews any child pursuant to division	213
(B)(1) of this section, all of the following apply:	214
(a) The court, <del>in its discretion, may and,</del> upon the <u>written</u>	215
motion of either parent, <del>shall</del> <u>may</u> appoint a guardian ad litem for	216
the child. <u>If the court appoints a guardian ad litem, the court</u>	217
<u>shall order that the costs of the guardian ad litem be divided</u>	218
<u>equitably between the parties.</u>	219
(b) The court first shall determine the reasoning ability of	220
the child. If the court determines that the child does not have	221
sufficient reasoning ability to express the child's wishes and	222
<del>concern</del> <u>concerns</u> with respect to the allocation of parental rights	223
and responsibilities for the care of <u>and access to</u> the child, it	224
shall not determine the child's wishes and concerns with respect	225
to the allocation. If the court determines that the child has	226
sufficient reasoning ability to express the child's wishes or	227
concerns with respect to the allocation, it then shall determine	228
<del>whether, because of special circumstances, it would not be in the</del>	229
<del>best interest of the child to determine the child's wishes and</del>	230
<del>concerns with respect to the allocation</del> <u>exist</u> . If the court	231
determines that, because of special circumstances, it would <del>not be</del>	232
<del>in the best interest of the child to determine the child's wishes</del>	233
<del>and concerns with respect to the allocation, it shall not</del>	234
<del>determine the child's wishes and concerns with respect to the</del>	235
<del>allocation and shall enter its written findings of fact and</del>	236
<del>opinion in the journal. If the court determines that it would be</del>	237
in the best interests of the child to determine the child's wishes	238
and concerns with respect to the allocation, it shall proceed to	239
make that determination.	240
(c) The interview shall be conducted in chambers, and no	241
person other than the child, the child's attorney, the judge, any	242
necessary court personnel, and, in the judge's discretion, the	243
attorney of each parent shall be permitted to be present in the	244

chambers during the interview. 245

(3) No person shall obtain or attempt to obtain from a child 246  
a written or recorded statement or affidavit setting forth the 247  
child's wishes and concerns regarding the allocation of parental 248  
rights and responsibilities concerning the child. No court, in 249  
~~determining the child's best interest for purposes of~~ making its 250  
allocation of the parental rights and responsibilities for the 251  
care of and access to the child or for purposes of resolving any 252  
issues related to the making of that allocation, shall accept or 253  
consider a written or recorded statement or affidavit that 254  
purports to set forth the child's wishes and concerns regarding 255  
those matters. 256

(C) Prior to trial, the court may cause an investigation to 257  
be made as to the character, family relations, past conduct, 258  
earning ability, and financial worth of each parent ~~and may order~~ 259  
~~the parents and their minor children to.~~ If either party files a 260  
written motion requesting that the parties submit to medical, 261  
psychological, and psychiatric examinations, the court, in its 262  
discretion, may order the examinations to be conducted and may 263  
divide the costs of the examinations equitably between the parties 264  
or tax the costs to the moving party. ~~The report~~ Reports of the 265  
investigation and examinations shall be made available to ~~either~~ 266  
~~parent~~ the parents or the ~~parent's~~ parents' counsel of record not 267  
less than ~~five~~ fifteen days before trial, ~~upon written request.~~ 268  
~~The report~~ reports shall be signed by the investigator, ~~and the~~ 269  
~~investigator~~ examiners, who shall be subject to cross-examination 270  
by either parent concerning the contents of the ~~report~~ reports. 271  
The court may tax as costs all or any part of the expenses for 272  
each investigation. An investigator shall conduct any 273  
investigation independent of the court. 274

If the court determines that either parent previously has 275  
been convicted of or pleaded guilty to any criminal offense 276

involving any act that resulted in a child being a neglected 277  
child, that either parent previously has been determined to be the 278  
perpetrator of the neglectful act that is the basis of an 279  
adjudication that a child is a neglected child, or that there is 280  
reason to believe that either parent has acted in a manner 281  
resulting in a child being a neglected child, the court shall 282  
consider that fact against naming that parent the residential 283  
parent and against granting a shared parenting decree. When the 284  
court allocates parental rights and responsibilities for the care 285  
of and access to children or determines whether to grant shared 286  
parenting in any proceeding, it shall consider whether either 287  
parent or any member of the household of either parent has been 288  
convicted of or pleaded guilty to a violation of section 2919.25 289  
of the Revised Code or a sexually oriented offense involving a 290  
victim who at the time of the commission of the offense was a 291  
member of the family or household that is the subject of the 292  
proceeding, has been convicted of or pleaded guilty to any 293  
sexually oriented offense or other offense involving a victim who 294  
at the time of the commission of the offense was a member of the 295  
family or household that is the subject of the proceeding and 296  
caused physical harm to the victim in the commission of the 297  
offense, or has been determined to be the perpetrator of the 298  
abusive act that is the basis of an adjudication that a child is 299  
an abused child. If the court determines that either parent has 300  
been convicted of or pleaded guilty to a violation of section 301  
2919.25 of the Revised Code or a sexually oriented offense 302  
involving a victim who at the time of the commission of the 303  
offense was a member of the family or household that is the 304  
subject of the proceeding, has been convicted of or pleaded guilty 305  
to any sexually oriented offense or other offense involving a 306  
victim who at the time of the commission of the offense was a 307  
member of the family or household that is the subject of the 308  
proceeding and caused physical harm to the victim in the 309

commission of the offense, or has been determined to be the 310  
perpetrator of the abusive act that is the basis of an 311  
adjudication that a child is an abused child, it may designate 312  
that parent as the residential parent and may issue a shared 313  
parenting decree or order ~~only if~~ unless it determines that it ~~is~~ 314  
~~in the best interest of~~ would be harmful to the child to name that 315  
parent the residential parent or to issue a shared parenting 316  
decree or order and it makes specific written findings of fact to 317  
support its determination. 318

(D)(1)(a) ~~Upon the filing of a pleading or motion by either~~ 319  
~~parent or both parents, in accordance with division (G) of this~~ 320  
~~section, requesting shared parenting and the filing of a shared~~ 321  
~~parenting plan in accordance with that division, the~~ The court 322  
shall ~~comply with division (D)(1)(a)(i), (ii), or (iii) of this~~ 323  
~~section, whichever is applicable~~ allocate parental rights and 324  
responsibilities as follows: 325

(i) If, under division (G) of this section, both parents 326  
jointly ~~make the request~~ shared parenting in their pleadings or 327  
jointly file ~~the a~~ motion and also jointly file ~~the a~~ plan, the 328  
court shall ~~review the parents' plan to determine if it is in the~~ 329  
~~best interest of the children. If the court determines that the~~ 330  
~~plan is in the best interest of the children, the court shall~~ 331  
~~approve it. If the court determines that the plan or any part of~~ 332  
~~the plan is not in the best interest of the children, the court~~ 333  
~~shall require the parents to make appropriate changes to the plan~~ 334  
~~to meet the court's objections to it. If changes to the plan are~~ 335  
~~made to meet the court's objections, and if the new plan is in the~~ 336  
~~best interest of the children, the court shall approve the plan.~~ 337  
~~If changes to the plan are not made to meet the court's~~ 338  
~~objections, or if the parents attempt to make changes to the plan~~ 339  
~~to meet the court's objections, but the court determines that the~~ 340  
~~new plan or any part of the new plan still is not in the best~~ 341

~~interest of the children, the court may reject the portion of the~~ 342  
~~parents' pleadings or deny their motion requesting shared~~ 343  
~~parenting of the children and proceed as if the request in the~~ 344  
~~pleadings or the motion had not been made. The court shall not~~ 345  
~~approve a plan under this division unless it determines that the~~ 346  
~~plan is in the best interest of the children~~ approve the plan. 347  
However, if the court, prior to approving the plan, finds by clear 348  
and convincing evidence that the plan would be harmful to the 349  
children, the court shall proceed in accordance with division 350  
(D)(1)(a)(v) of this section. If the court approves the plan or 351  
rejects the plan and proceeds in accordance with division 352  
(D)(1)(a)(v) of this section, the court shall enter in the record 353  
of the case findings of fact and conclusions of law as to the 354  
reasons for the approval or rejection of the plan. 355

(ii) If, under division (G) of this section, each parent 356  
makes a request in the parent's pleadings or files a motion and 357  
each also files a separate plan, the court shall review each plan 358  
~~filed to determine if either is in the best interest of the~~ 359  
~~children.~~ If the court determines that one of the filed plans ~~is~~ 360  
~~in the best interest of the children~~ provides for more equality 361  
with regard to the rights and responsibilities for the care of and 362  
access to the children, the court ~~may shall~~ approve ~~the that~~ plan. 363  
If the court determines that neither filed plan ~~is in the best~~ 364  
~~interest of the children~~ provides for substantial equality with 365  
regard to the rights and responsibilities for the care of and 366  
access to the children, the court may order each parent to submit 367  
appropriate changes to the parent's plan or both of the filed 368  
plans to meet the court's objections, or may select one of the 369  
filed plans and order each parent to submit appropriate changes to 370  
the selected plan to meet the court's objections. If changes to 371  
the plan or plans are submitted to meet the court's objections, 372  
and if any of the filed plans with the changes ~~is in the best~~ 373  
~~interest of the children~~ provides for substantial equality with 374

regard to the rights and responsibilities for the care of and 375  
access to the children, the court ~~may~~ shall approve ~~the~~ that plan 376  
with the changes. ~~If changes to the plan or plans are not~~ 377  
~~submitted to meet the court's objections, or if the parents submit~~ 378  
~~changes to the plan or plans to meet the court's objections but~~ 379  
~~the court determines that none of the filed plans with the~~ 380  
~~submitted changes is in the best interest of the children,~~ the 381  
court may reject the portion of the parents' pleadings or deny 382  
their motions requesting shared parenting of the children and 383  
proceed as if the requests in the pleadings or the motions had not 384  
been made If the court, prior to approving the plan, finds by 385  
clear and convincing evidence that approving a shared parenting 386  
plan that provides substantial equality with regard to the rights 387  
and responsibilities for the care of and access to the children 388  
would be harmful to the children, the court shall proceed in 389  
accordance with division (D)(1)(a)(v) of this section. If 390

If the court approves a plan under this division, either as 391  
originally filed or with submitted changes, or if the court 392  
rejects the portion of the parents' pleadings or denies their 393  
motions requesting shared parenting under ~~this~~ division 394  
(D)(1)(a)(ii) of this section and proceeds as ~~if the requests in~~ 395  
~~the pleadings or the motions had not been made~~ in accordance with 396  
division (D)(1)(a)(v) of this section, the court shall enter in 397  
the record of the case findings of fact and conclusions of law as 398  
to the reasons for the approval or the rejection or denial. 399  
Division (D)(1)(b) of this section applies in relation to the 400  
approval or disapproval of a plan under this division. 401

(iii) If, under division (G) of this section, each parent 402  
makes a request for shared parenting in the parent's pleadings or 403  
files a motion but only one parent files a plan, ~~or if only one~~ 404  
~~parent makes a request in the parent's pleadings or files a motion~~ 405  
~~and also files a plan,~~ the court ~~in the best interest of the~~ 406

children may order the other parent to file a plan for shared 407  
parenting in accordance with division (G) of this section. The 408  
court shall review each plan filed ~~to determine if any plan is in~~ 409  
~~the best interest of the children.~~ If the court determines that 410  
one of the filed plans ~~is in the best interest of the children~~ 411  
provides for more equality with regard to the rights and 412  
responsibilities for the care of and access to the children, the 413  
court ~~may~~ shall approve the plan. If the court determines that no 414  
filed plan ~~is in the best interest of the children~~ provides for 415  
substantial equality with regard to the rights and 416  
responsibilities for the care of and access to the children, the 417  
court may order each parent to submit appropriate changes to the 418  
parent's plan or both of the filed plans to meet the court's 419  
objections or may select one filed plan and order each parent to 420  
submit appropriate changes to the selected plan to meet the 421  
court's objections. If changes to the plan or plans are submitted 422  
to meet the court's objections, and if any of the filed plans with 423  
the changes ~~is in the best interest of the children~~ provides for 424  
substantial equality with regard to the rights and 425  
responsibilities for the care of and access to the children, the 426  
court ~~may~~ shall approve the plan with the changes. If ~~changes to~~ 427  
~~the plan or plans are not submitted to meet the court's~~ 428  
~~objections, or if the parents submit changes to the plan or plans~~ 429  
~~to meet the court's objections but the court determines that none~~ 430  
~~of the filed plans with the submitted changes is in the best~~ 431  
~~interest of the children, the court may reject the portion of the~~ 432  
~~parents' pleadings or deny the parents' motion or reject the~~ 433  
~~portion of the parents' pleadings or deny their motions requesting~~ 434  
~~shared parenting of the children and proceed as if the request or~~ 435  
~~requests or the motion or motions had not been made~~ the court, 436  
prior to approving the plan, finds by clear and convincing 437  
evidence that substantial equality with regard to the rights and 438  
responsibilities for the care of and access to the children would 439

be harmful to the children, the court shall proceed in accordance 440  
with division (D)(1)(a)(v) of this section. If 441

If the court approves a plan under this division, either as 442  
originally filed or with submitted changes, or if the court 443  
rejects the portion of the pleadings or denies the motion or 444  
motions requesting shared parenting under this division 445  
(D)(1)(a)(iii) of this section and proceeds as if the request or 446  
requests or the motion or motions had not been made in accordance 447  
with division (D)(1)(a)(v) of this section, the court shall enter 448  
in the record of the case findings of fact and conclusions of law 449  
as to the reasons for the approval or the rejection or denial. 450  
Division (D)(1)(b) of this section applies in relation to the 451  
approval or disapproval of a plan under this division. 452

(iv) If only one parent files a pleading or motion in 453  
accordance with division (G) of this section and a shared 454  
parenting plan, the court shall approve the plan unless the court 455  
determines that the plan does not provide for substantial equality 456  
with regard to the rights and responsibilities for the care of and 457  
access to the children. If the court determines that the plan does 458  
not provide for substantial equality, the court may order the 459  
parent to submit appropriate changes to the plan to meet the 460  
court's objections. If changes to the plan are submitted to meet 461  
the court's objections and if the filed plan with changes provides 462  
for substantial equality with regard to the rights and 463  
responsibilities for the care of and access to the children, the 464  
court shall approve the plan with the changes. If the court prior 465  
to approving the plan finds by clear and convincing evidence that 466  
substantial equality with regard to the rights and 467  
responsibilities for the care of and access to the children would 468  
be harmful to the children, the court shall proceed in accordance 469  
with division (D)(1)(a)(v) of this section. 470

If the court approves the plan under this division either as 471

originally filed or with submitted changes or if the court rejects 472  
the portion of the pleading or denies the motion requesting shared 473  
parenting under division (D)(1)(a)(iv) of this section and 474  
proceeds in accordance with division (D)(1)(a)(v) of this section, 475  
the court shall enter in the record of the case findings of fact 476  
and conclusions of law as to the reasons for the approval or the 477  
rejection or denial. 478

(v) If neither parent files a pleading or motion in 479  
accordance with division (G) of this section or if the court finds 480  
by clear and convincing evidence that substantial equality with 481  
regard to the rights and responsibilities for the care of and 482  
access to the children would be harmful to the children, the court 483  
shall allocate parental rights and responsibilities in a manner 484  
consistent with the best interests of the children, which could 485  
include allocating parental rights and responsibilities primarily 486  
to one of the parents and designating that parent as the 487  
residential parent and legal custodian of the child or issuing a 488  
shared parenting order that allocates parental rights and 489  
responsibilities in a manner that is not substantially equal. 490

The court shall enter into the record all findings of fact 491  
and conclusions of law related to the allocation of parental 492  
rights and responsibilities under division (D)(1)(a)(v) of this 493  
section. 494

~~(b) The approval of a plan under division (D)(1)(a)(ii) or~~ 495  
~~(iii) of this section is discretionary with the court. The court~~ 496  
~~shall not approve more than one plan under either division and~~ 497  
~~shall not approve a plan under either division unless it~~ 498  
~~determines that the plan is in the best interest of the children.~~ 499  
~~If the court, under either division, does not determine that any~~ 500  
~~filed plan or any filed plan with submitted changes is in the best~~ 501  
~~interest of the children, the court shall not approve any plan~~ 502  
~~(D)(1)(a)(ii) or (iii) of this section.~~ 503

(c) ~~Whenever possible, the~~ The court shall require that a 504  
shared parenting plan approved under division (D)(1)(a)(i), (ii), 505  
~~or (iii), or (iv)~~ of this section ensure ~~the opportunity for both~~ 506  
~~parents to have frequent and continuing contact with the child,~~ 507  
~~unless frequent and continuing contact with any parent would not~~ 508  
~~be in the best interest of the child, to the greatest extent~~ 509  
possible, that parental rights and responsibilities for the care 510  
of and access to the children are allocated to the parents on a 511  
substantially equal basis unless the parents agree to a different 512  
allocation of parental rights and responsibilities. 513

(d) If a court approves a shared parenting plan under 514  
division (D)(1)(a)(i), (ii), ~~or (iii), (iv) or (v)~~ of this 515  
section, the approved plan shall be incorporated into a final 516  
shared parenting decree ~~granting the parents the shared parenting~~ 517  
~~of the children.~~ Any final shared parenting decree shall be issued 518  
at the same time as and shall be appended to the final decree of 519  
dissolution, divorce, annulment, or legal separation arising out 520  
of the action out of which the question of the allocation of 521  
parental rights and responsibilities for the care of and access to 522  
the children arose. 523

~~No provisional shared parenting decree shall be issued in~~ 524  
~~relation to any shared parenting plan approved under division~~ 525  
~~(D)(1)(a)(i), (ii), or (iii) of this section. A final shared~~ 526  
~~parenting decree issued under this division has immediate effect~~ 527  
~~as a final decree on the date of its issuance, subject to~~ 528  
~~modification or termination as authorized by this section.~~ 529

(e) If the court allocates parental rights and 530  
responsibilities for the care of and access to the children in a 531  
substantially unequal manner on the basis that a substantially 532  
equal allocation would be harmful to the children, and some of the 533  
grounds for that determination are removed, the court on motion 534  
shall modify its order or decree to provide for greater equality. 535

If all of the grounds for the finding that a substantially equal allocation would be harmful to the children are removed, the court shall modify its order or decree to provide for substantial equality. 536  
537  
538  
539

(2) If the court finds by clear and convincing evidence, with 540  
respect to any child under eighteen years of age, that it ~~is in~~ 541  
~~the best interest of the child for neither~~ would be harmful to the 542  
child for either parent to be designated the residential parent 543  
and legal custodian of the child, it may temporarily commit the 544  
child to a relative of the child ~~or~~ and shall certify a copy of 545  
its findings, together with as much of the record and the further 546  
information, in narrative form or otherwise, that it considers 547  
necessary or as the juvenile court requests, to the juvenile court 548  
for further proceedings, and, upon the certification, the juvenile 549  
court has exclusive jurisdiction. 550

(E)(1)(a) The court shall not modify a prior decree 551  
allocating parental rights and responsibilities for the care of 552  
and access to children unless it finds, based on facts that have 553  
arisen since the prior decree or that were unknown to the court at 554  
the time of the prior decree, that a substantial change has 555  
occurred in the circumstances of the child, ~~the child's~~ 556  
~~residential parent,~~ or either of the parents ~~subject to a shared~~ 557  
~~parenting decree,~~ and that the modification is necessary to serve 558  
the best interest of the child. ~~In applying these standards,~~ the 559  
~~court shall retain the residential parent designated by the prior~~ 560  
~~decree or the prior shared parenting decree, unless a modification~~ 561  
~~is in the best interest of the child and one of the following~~ 562  
~~applies:~~ 563

~~(i) The residential parent agrees to a change in the~~ 564  
~~residential parent or both parents under a shared parenting decree~~ 565  
~~agree to a change in the designation of residential parent.~~ 566

~~(ii) The child, with the consent of the residential parent or~~ 567

~~of both parents under a shared parenting decree, has been~~ 568  
~~integrated into the family of the person seeking to become the~~ 569  
~~residential parent.~~ 570

~~(iii) The harm likely to be caused by a change of environment~~ 571  
~~is outweighed by the advantages of the change of environment to~~ 572  
~~the child.~~ 573

(b) One or both of the parents under a prior decree 574  
allocating parental rights and responsibilities for the care of 575  
and access to children that is not a shared parenting decree may 576  
file a motion requesting that the prior decree be modified to give 577  
both parents ~~shared~~ substantially equal rights and 578  
responsibilities for the care of and access to the children. The 579  
motion shall include both a request for modification of the prior 580  
decree and a request for a shared parenting order that complies 581  
with division (G) of this section. Upon the filing of the motion, 582  
if the court determines that a modification of the prior decree is 583  
authorized under division (E)(1)(a) of this section, the court ~~may~~ 584  
shall modify the prior decree to grant a shared parenting order, 585  
provided that the court shall not modify the prior decree to grant 586  
a shared parenting order ~~unless if~~ the court ~~complies with~~ 587  
~~divisions (A) and (D)(1) of this section and, in accordance with~~ 588  
~~those divisions, approves the submitted shared parenting plan and~~ 589  
determines by clear and convincing evidence that ~~shared parenting~~ 590  
~~would be in the best interest of~~ doing so would be harmful to the 591  
children. 592

(2) In addition to a modification authorized under division 593  
(E)(1) of this section: 594

(a) Both parents under a shared parenting decree jointly may 595  
modify the terms of the plan for shared parenting approved by the 596  
court and incorporated by it into the shared parenting decree. 597  
Modifications under this division may be made at any time. The 598  
modifications to the plan shall be filed jointly by both parents 599

with the court, and the court shall include them in the plan, 600  
unless ~~they are not in the best interest of~~ the court finds by 601  
clear and convincing evidence that doing so would be harmful to 602  
the children. If the modifications are not in the best interests 603  
of the children, the court, in its discretion, may reject the 604  
modifications or make modifications to the proposed modifications 605  
or the plan that are in the best interest of the children. 606  
Modifications jointly submitted by both parents under a shared 607  
parenting decree shall be effective, either as originally filed or 608  
as modified by the court, upon their inclusion by the court in the 609  
plan. Modifications to the plan made by the court shall be 610  
effective upon their inclusion by the court in the plan. 611

(b) The court may modify the terms of the plan for shared 612  
parenting approved by the court and incorporated by it into the 613  
shared parenting decree upon its own motion at any time if the 614  
court determines that the modifications are in the best interest 615  
of the children ~~or upon the request of one or both of the parents~~ 616  
~~under the decree.~~ Modifications under this division may be made at 617  
any time. The court shall not make any modification to the plan 618  
under this division, unless the modification is in the best 619  
interest of the children. 620

(c) The court may terminate a prior final shared parenting 621  
decree that includes a shared parenting plan approved under 622  
division (D)(1)(a)(i), (ii), (iii), (iv), or (v) of this section 623  
upon the request of one or both of the parents or whenever it 624  
determines by clear and convincing evidence that shared parenting 625  
~~is not in the best interest of~~ would be harmful to the children. 626  
~~The court may terminate a prior final shared parenting decree that~~ 627  
~~includes a shared parenting plan approved under division~~ 628  
~~(D)(1)(a)(ii) or (iii) of this section if it determines, upon its~~ 629  
~~own motion or upon the request of one or both parents, that shared~~ 630  
~~parenting is not in the best interest of the children.~~ If 631

modification of the terms of the plan for shared parenting 632  
approved by the court and incorporated by it into the final shared 633  
parenting decree is attempted under division (E)(2)(a) of this 634  
section and the court rejects the modifications, it may terminate 635  
the final shared parenting decree if it determines by clear and 636  
convincing evidence that shared parenting ~~is not in the best~~ 637  
~~interest of~~ would be harmful to the children. 638

(d) Upon the termination of a prior final shared parenting 639  
decree under division (E)(2)(c) of this section, the court shall 640  
proceed and issue a modified decree for the allocation of parental 641  
rights and responsibilities for the care of and access to the 642  
children under the standards applicable under ~~divisions (A), (B),~~ 643  
~~and (C)~~ of this section as if no decree for shared parenting had 644  
been granted and as if no request for shared parenting ever had 645  
been made. 646

(F)(1) In all determinations concerning the allocation of 647  
parental rights and responsibilities for the care of and access to 648  
children, there shall be a presumption that a substantially equal 649  
allocation between the parents of rights and responsibilities for 650  
the care of and access to the children is in the best interest of 651  
the children. In the absence of clear and convincing evidence that 652  
a substantially equal allocation would be harmful to the children, 653  
the court shall allocate parental rights and responsibilities for 654  
the care of and access to the children in a way that is 655  
substantially equal unless the parents agree to a different 656  
allocation. In determining the best interest of a child pursuant 657  
to this section when there is clear and convincing evidence that a 658  
substantially equal allocation would be harmful to the children, 659  
whether on an original decree allocating parental rights and 660  
responsibilities for the care of and access to children or a 661  
modification of a decree allocating those rights and 662  
responsibilities, the court shall consider all relevant factors, 663

including, but not limited to: 664

(a) The wishes of the child's parents regarding the child's 665  
care; 666

(b) If the court has interviewed the child in chambers 667  
pursuant to division (B) of this section regarding the child's 668  
wishes and concerns as to the allocation of parental rights and 669  
responsibilities concerning the child, the wishes and concerns of 670  
the child, as expressed to the court; 671

(c) The child's interaction and interrelationship with the 672  
child's parents, siblings, and any other person who may 673  
significantly affect the child's best interest; 674

(d) The child's adjustment to the child's home, school, and 675  
community; 676

(e) The mental and physical health of all persons involved in 677  
the situation; 678

(f) The parent more likely to honor and facilitate 679  
court-approved parenting time rights or visitation and 680  
companionship rights; 681

(g) Whether either parent has failed to make all child 682  
support payments, including all arrearages, that are required of 683  
that parent pursuant to a child support order under which that 684  
parent is an obligor and whether that parent had the ability to 685  
pay the support ordered; 686

(h) Whether either parent or any member of the household of 687  
either parent previously has been convicted of or pleaded guilty 688  
to any criminal offense involving any act that resulted in a child 689  
being an abused child or a neglected child; whether either parent, 690  
in a case in which a child has been adjudicated an abused child or 691  
a neglected child, previously has been determined to be the 692  
perpetrator of the abusive or neglectful act that is the basis of 693

an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(j) Whether either parent has established a residence, or is planning to establish a residence, outside this state.

(2) In determining whether shared parenting is in the best interest of the children, the court shall consider all relevant factors, including, but not limited to, the factors enumerated in division (F)(1) of this section, the factors enumerated in section 3119.23 of the Revised Code, and all of the following factors:

(a) The ability of the parents to cooperate and make decisions jointly, with respect to the children;

(b) The ability of each parent to encourage the sharing of love, affection, and contact between the child and the other parent;

(c) Any history of, or potential for, child abuse, spouse

abuse, other domestic violence, or parental kidnapping by either 725  
parent; 726

(d) The geographic proximity of the parents to each other, as 727  
the proximity relates to the practical considerations of shared 728  
parenting; 729

(e) The recommendation of the guardian ad litem of the child, 730  
if the child has a guardian ad litem. 731

(3) When allocating parental rights and responsibilities for 732  
the care of and access to children, the court shall not give 733  
preference to a parent because of that parent's financial status 734  
or condition. 735

(G) Either parent or both parents of any children may file a 736  
pleading or motion with the court requesting the court to grant 737  
both parents shared parental rights and responsibilities for the 738  
care of and access to the children in a proceeding held pursuant 739  
to division (A) of this section. If a pleading or motion 740  
requesting shared parenting is filed, the parent or parents filing 741  
the pleading or motion also shall file with the court a shared 742  
parenting plan ~~for the exercise of shared parenting by both~~ 743  
~~parents~~. If each parent files a pleading or motion requesting 744  
shared parenting but only one parent files a plan or if only one 745  
parent files a pleading or motion requesting shared parenting and 746  
also files a plan, the other parent as ordered by the court shall 747  
file with the court a shared parenting plan ~~for the exercise of~~ 748  
~~shared parenting by both parents~~. The plan for shared parenting 749  
shall be filed with the petition for dissolution of marriage, if 750  
the question of parental rights and responsibilities for the care 751  
of and access to the children arises out of an action for 752  
dissolution of marriage, or, in other cases, at a time at least 753  
thirty days prior to the hearing on the issue of the parental 754  
rights and responsibilities for the care of and access to the 755  
children. A shared parenting plan ~~for shared parenting~~ shall 756

include provisions covering all factors that are relevant to the 757  
care of and access to the children, including, ~~but not limited to,~~ 758  
provisions covering factors such as physical living arrangements, 759  
child support obligations, provision for the children's medical 760  
and dental care, school placement, and the parent with ~~which~~ whom 761  
the children will be physically located during legal holidays, 762  
school holidays, and other days of special importance. 763

(H) If an appeal is taken from a decision of a court that 764  
grants or modifies a decree allocating parental rights and 765  
responsibilities for the care of and access to children, the court 766  
of appeals shall give the case calendar priority and handle it 767  
expeditiously. 768

(I)(1) Upon receipt of an order for active military service 769  
in the uniformed services, a parent who is subject to an order 770  
allocating parental rights and responsibilities or in relation to 771  
whom an action to allocate parental rights and responsibilities is 772  
pending and who is ordered for active military service shall 773  
notify the other parent who is subject to the order or in relation 774  
to whom the case is pending of the order for active military 775  
service within three days of receiving the military service order. 776

(2) On receipt of the notice described in division (I)(1) of 777  
this section, either parent may apply to the court for a hearing 778  
to expedite an allocation or modification proceeding so that the 779  
court can issue an order before the parent's active military 780  
service begins. The application shall include the date on which 781  
the active military service begins. 782

The court shall schedule a hearing upon receipt of the 783  
application and hold the hearing not later than thirty days after 784  
receipt of the application, except that the court shall give the 785  
case calendar priority and handle the case expeditiously if 786  
exigent circumstances exist in the case. 787

The court shall not modify a prior decree allocating parental 788  
rights and responsibilities unless the court determines that there 789  
has been a change in circumstances of the child, the child's 790  
residential parent, or either of the parents subject to a shared 791  
parenting decree, and that modification is necessary to serve the 792  
best interest of the child. The court shall not find past, 793  
present, or possible future active military service in the 794  
uniformed services to constitute a change in circumstances 795  
justifying modification of a prior decree pursuant to division (E) 796  
of this section. The court shall make specific written findings of 797  
fact to support any modification under this division. 798

(3) Nothing in division (I) of this section shall prevent a 799  
court from issuing a temporary order allocating or modifying 800  
parental rights and responsibilities for the duration of the 801  
parent's active military service. A temporary order shall specify 802  
whether the parent's active military service is the basis of the 803  
order and shall provide for termination of the temporary order and 804  
resumption of the prior order within ten days after receipt of 805  
notice pursuant to division (I)(5) of this section, unless the 806  
other parent demonstrates that resumption of the prior order is 807  
not in the child's best interest. 808

(4) At the request of a parent who is ordered for active 809  
military service in the uniformed services and who is a subject of 810  
a proceeding pertaining to a temporary order for the allocation or 811  
modification of parental rights and responsibilities, the court 812  
shall permit the parent to participate in the proceeding and 813  
present evidence by electronic means, including communication by 814  
telephone, video, or internet to the extent permitted by the rules 815  
of the supreme court of Ohio. 816

(5) A parent who is ordered for active military service in 817  
the uniformed services and who is a subject of a proceeding 818  
pertaining to the allocation or modification of parental rights 819

and responsibilities shall provide written notice to the court, 820  
child support enforcement agency, and the other parent of the date 821  
of termination of the parent's active military service not later 822  
than thirty days after the date on which the service ends. 823

(J) As used in this section: 824

(1) "Abused child" has the same meaning as in section 825  
2151.031 of the Revised Code. 826

(2) "Active military service" means service by a member of 827  
the uniformed services in compliance with military orders to 828  
report for combat operations, contingency operations, peacekeeping 829  
operations, a remote tour of duty, or other active service for 830  
which the member is required to report unaccompanied by any family 831  
member, including any period of illness, recovery from injury, 832  
leave, or other lawful absence during that operation, duty, or 833  
service. 834

(3) "Neglected child" has the same meaning as in section 835  
2151.03 of the Revised Code. 836

(4) "Sexually oriented offense" has the same meaning as in 837  
section 2950.01 of the Revised Code. 838

(5) "Uniformed services" means the United States armed 839  
forces, the army national guard, and the air national guard or any 840  
reserve component thereof, or the commissioned corps of the United 841  
States public health service. 842

(K) As used in the Revised Code, "shared parenting" means 843  
that the parents share, in the manner set forth in the shared 844  
parenting plan ~~for shared parenting~~ that is approved by the court 845  
under division (D)(1) and described in division (L)(6) of this 846  
section, all or some of the aspects of physical and legal care of 847  
their children. 848

(L) For purposes of the Revised Code: 849

(1) A parent who is granted the care, custody, and control of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting has "custody of the child" and "care, custody, and control of the child" under the order, and is the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child under the order.

(2) A parent who primarily is allocated the parental rights and responsibilities for the care of a child and who is designated as the residential parent and legal custodian of the child under an order that is issued pursuant to this section on or after April 11, 1991, and that does not provide for shared parenting has "custody of the child" and "care, custody, and control of the child" under the order, and is the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child under the order.

(3) A parent who is not granted custody of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting is the "parent who is not the residential parent," the "parent who is not the residential parent and legal custodian," or the "noncustodial parent" of the child under the order.

(4) A parent who is not primarily allocated the parental rights and responsibilities for the care of a child and who is not designated as the residential parent and legal custodian of the child under an order that is issued pursuant to this section on or after April 11, 1991, and that does not provide for shared parenting is the "parent who is not the residential parent," the "parent who is not the residential parent and legal custodian," or the "noncustodial parent" of the child under the order.

(5) Unless the context clearly requires otherwise, if an order is issued by a court pursuant to this section and the order

provides for shared parenting of a child, both parents have 882  
"custody of the child" or "care, custody, and control of the 883  
child" under the order, to the extent and in the manner specified 884  
in the order. 885

(6) Unless the context clearly requires otherwise and except 886  
as otherwise provided in the order, if an order is issued by a 887  
court pursuant to this section and the order provides for shared 888  
parenting of a child, each parent, regardless of where the child 889  
is physically located or with whom the child is residing at a 890  
particular point in time, as specified in the order, is the 891  
"residential parent," the "residential parent and legal 892  
custodian," or the "custodial parent" of the child. 893

(7) Unless the context clearly requires otherwise and except 894  
as otherwise provided in the order, a designation in the order of 895  
a parent as the residential parent for the purpose of determining 896  
the school the child attends, as the custodial parent for purposes 897  
of claiming the child as a dependent pursuant to section 152(e) of 898  
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 899  
1, as amended, or as the residential parent for purposes of 900  
receiving public assistance pursuant to division (A)~~(2)~~ of this 901  
section, does not affect the designation pursuant to division 902  
(L)(6) of this section of each parent as the "residential parent," 903  
the "residential parent and legal custodian," or the "custodial 904  
parent" of the child. 905

(M) The court shall require each parent of a child to file an 906  
affidavit attesting as to whether the parent, and the members of 907  
the parent's household, have been convicted of or pleaded guilty 908  
to any of the offenses identified in divisions (C) and (F)(1)(h) 909  
of this section. 910

**Sec. 3109.041.** (A) If a party to a divorce, legal separation, 911  
or annulment proceeding or a proceeding pertaining to the 912

allocation of parental rights and responsibilities with respect to 913  
the care of and access to children does not comply with that 914  
portion of an order or decree that allocates parental rights and 915  
responsibilities, an aggrieved party may file a family access 916  
motion with the court stating the specific facts that constitute a 917  
violation of the order or decree. On finding on a family access 918  
motion or motion for contempt that the party against whom the 919  
motion was filed has failed, without good cause, to comply with 920  
the order allocating parental rights and responsibilities, the 921  
court shall order a remedy that may include any or all of the 922  
following: 923

(1) A compensatory period of parenting time at a time 924  
convenient for the aggrieved party that is not less than the 925  
period denied; 926

(2) Participation by the violator in counseling to educate 927  
the violator about the importance of providing the children with a 928  
continuing and meaningful relationship with both parents; 929

(3) The assessment of a fine of up to five hundred dollars 930  
against the violator payable to the aggrieved party; 931

(4) A requirement that the violator post bond or security to 932  
ensure compliance with the order or decree; 933

(5) An order that the violator pay the cost of counseling to 934  
reestablish the parent-child relationship between the aggrieved 935  
party and the children; 936

(6) An award to an aggrieved party of reasonable expenses 937  
incurred as a result of the unreasonable denial of or interference 938  
with parental rights and responsibilities, including attorney's 939  
fees and the costs of the family access motion, if requested and 940  
for good cause; 941

(7) Any other remedy that the court could have provided in 942

the absence of this section. 943

(B) The cost of filing a family access motion shall be the 944  
standard court cost otherwise due for instituting a civil action 945  
in the court of common pleas. 946

(C) Final disposition of a family access motion shall take 947  
place not more than sixty days after the service of the motion 948  
unless a later date is agreed to by the parties or is determined 949  
to be in the best interest of the children. Final disposition does 950  
not include appellate review. 951

(D) A family access motion shall be made using a form that is 952  
substantially the same as the following and includes the notice in 953  
boldface type and all capital letters: 954

"COURT OF COMMON PLEAS 955  
DIVISION OF DOMESTIC RELATIONS 956  
..... COUNTY, OHIO 957

..... CASE NO..... 958  
PLAINTIFF JUDGE..... 959  
VS. FAMILY ACCESS MOTION ..... 960  
..... 961  
DEFENDANT 962

An order/decreed allocating parental rights and 963  
responsibilities for the care of and access to a child has been 964  
entered in ..... County, Ohio. 965

(Plaintiff)(Defendant) ..... hereby states that 966  
(Your Name) 967

parental rights and responsibilities as ordered by the court have 968  
been interfered with by a parent or third party without good 969  
cause. The following facts constitute a violation of the court 970  
order. (Please provide the specific facts, including dates and 971  
times, that constitute a violation of the court order.) 972

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..... 989  
..... 990  
  
Pursuant to section 3901.041 of the Ohio Revised Code, I 991  
request that the court find that (defendant)(plaintiff) violated 992  
the order allocating parental rights and responsibilities. 993  
  
I request that the (defendant)(plaintiff) be ordered to: 994  
(check boxes that apply) 995  
  
..... Provide a compensatory period of parenting time at a 996  
time convenient for the aggrieved party not less than the period 997  
denied. 998  
  
..... Participate in counseling to be educated about the 999  
importance of providing the children with a continuing and 1000  
meaningful relationship with both parents. 1001  
  
..... Pay a fine of up to five hundred dollars (\$500.00). 1002  
  
..... Post bond or security to ensure compliance with the 1003  
court's order. 1004

..... Pay the cost of counseling to reestablish the 1005  
parent-child relationship between the aggrieved party and the 1006  
children. 1007

..... Pay the reasonable expenses, including attorney's 1008  
fees and court costs, actually incurred by the aggrieved party as 1009  
a result of the violation of the court's order. 1010

..... Other relief ..... 1011  
..... 1012

The court may schedule alternative dispute resolution. 1013

NOTICE 1014

PURSUANT TO RULE 6(D) OF THE OHIO RULES OF CIVIL PROCEDURE, YOU 1015  
ARE REQUIRED TO RESPOND TO THE CLERK'S OFFICE OF THE COURT OF 1016  
COMMON PLEAS, DOMESTIC RELATIONS DIVISION, ON OR BEFORE ..... 1017  
(DATE)

FAILURE TO RESPOND TO THE COURT CLERK'S OFFICE MAY RESULT IN THE 1018  
FOLLOWING: 1019

(1) AN ORDER FOR A COMPENSATORY PERIOD OF PARENTING TIME AT A TIME 1020  
CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD 1021  
DENIED; 1022

(2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE 1023  
VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILDREN WITH A 1024  
CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS; 1025

(3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS (\$500.00) 1026  
AGAINST THE VIOLATOR; 1027

(4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE 1028  
FUTURE COMPLIANCE WITH THE COURT'S ORDER; 1029

(5) AN ORDER THAT THE VIOLATOR PAY THE COST OF COUNSELING TO 1030  
REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED 1031  
PARTY AND THE CHILDREN; 1032

(6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, 1033

INCLUDING ATTORNEY'S FEES AND COURT COSTS, ACTUALLY INCURRED BY 1034  
THE AGGRIEVED PARTY AS A RESULT OF THE VIOLATION OF THE ORDER 1035  
ALLOCATING PARENTAL RIGHTS AND RESPONSIBILITIES. 1036

Plaintiff/Defendant under oath says that the facts stated in 1037  
the above motion are true according to his or her best knowledge 1038  
and belief. Any false statement of a material fact may serve as 1039  
the basis for prosecution and conviction for perjury or the denial 1040  
of the motion. 1041

..... 1042

DATE PLAINTIFF'S/DEFENDANT'S 1043  
SIGNATURE

Subscribed to and sworn before me on ..... 1044

..... 1045

Deputy Clerk/Notary Public 1046

KEEP A COPY OF THIS MOTION 1047  
AND BRING IT TO COURT"

(E) The clerk of the court of common pleas shall explain to 1048  
persons wishing to file a family access motion the procedures for 1049  
filing the motion. The clerk shall conspicuously post in the 1050  
clerk's office notice that the clerk will provide such assistance 1051  
and shall conspicuously post in the court building the location of 1052  
the office where family access motions may be filed. 1053

**Sec. 3109.043.** In any proceeding pertaining to the allocation 1054  
of parental rights and responsibilities for the care of and access 1055  
to a child, when requested in the complaint, answer, or 1056  
counterclaim, or by motion served with the pleading, ~~upon~~ 1057  
~~satisfactory proof by affidavit~~ duly filed with the clerk of the 1058  
court, the court, ~~without oral hearing and for good cause shown,~~ 1059  
~~may~~ shall make a temporary order regarding the allocation of 1060  
parental rights and responsibilities for the care of and access to 1061  
the child while the action is pending. When determining the 1062

temporary allocation of parental rights and responsibilities, 1063  
there is a presumption that it is in the best interest of the 1064  
children to allocate parental rights and responsibilities for the 1065  
care of and access to the children in a substantially equal 1066  
manner, and the court shall allocate parenting time as equally as 1067  
possible for both parents unless clear and convincing evidence is 1068  
presented that a substantially equal allocation would be harmful 1069  
to the children or the parents have agreed to an alternate 1070  
allocation. If the court issues a temporary order that does not 1071  
provide for substantial equality, it shall explain in writing the 1072  
reasons for its determination. 1073

If a parent and child relationship has not already been 1074  
established pursuant to section 3111.02 of the Revised Code, the 1075  
court may take into consideration when determining whether to 1076  
award parenting time, visitation rights, or temporary custody to a 1077  
putative father that the putative father is named on the birth 1078  
record of the child, the child has the putative father's surname, 1079  
or a clear pattern of a parent and child relationship between the 1080  
child and the putative father exists. 1081

**Sec. 3109.051.** (A) If a divorce, dissolution, legal 1082  
separation, or annulment proceeding involves a child and if the 1083  
court has not issued a shared parenting decree, the court shall 1084  
consider any mediation report filed pursuant to section 3109.052 1085  
of the Revised Code and, in accordance with division (C) of this 1086  
section, shall make a just and reasonable order or decree 1087  
permitting each parent who is not the residential parent to have 1088  
parenting time with the child at the time and under the conditions 1089  
that the court directs, unless the court determines that it would 1090  
not be in the best interest of the child to permit that parent to 1091  
have parenting time with the child and includes in the journal its 1092  
findings of fact and conclusions of law. Whenever possible, the 1093  
order or decree permitting the parenting time shall ensure the 1094

opportunity for both parents to have frequent and continuing 1095  
contact with the child, unless frequent and continuing contact by 1096  
either parent with the child would not be in the best interest of 1097  
the child. The court shall include in its final decree a specific 1098  
schedule of parenting time for that parent. Except as provided in 1099  
division (E)(6) of section 3113.31 of the Revised Code, if the 1100  
court, pursuant to this section, grants parenting time to a parent 1101  
or companionship or visitation rights to any other person with 1102  
respect to any child, it shall not require the public children 1103  
services agency to provide supervision of or other services 1104  
related to that parent's exercise of parenting time or that 1105  
person's exercise of companionship or visitation rights with 1106  
respect to the child. This section does not limit the power of a 1107  
juvenile court pursuant to Chapter 2151. of the Revised Code to 1108  
issue orders with respect to children who are alleged to be 1109  
abused, neglected, or dependent children or to make dispositions 1110  
of children who are adjudicated abused, neglected, or dependent 1111  
children or of a common pleas court to issue orders pursuant to 1112  
section 3113.31 of the Revised Code. 1113

(B)(1) In a divorce, dissolution of marriage, legal 1114  
separation, annulment, or child support proceeding that involves a 1115  
child, the court may grant reasonable companionship or visitation 1116  
rights to any grandparent, any person related to the child by 1117  
consanguinity or affinity, or any other person other than a 1118  
parent, if all of the following apply: 1119

(a) The grandparent, relative, or other person files a motion 1120  
with the court seeking companionship or visitation rights. 1121

(b) The court determines that the grandparent, relative, or 1122  
other person has an interest in the welfare of the child. 1123

(c) The court determines that the granting of the 1124  
companionship or visitation rights is in the best interest of the 1125

child. 1126

(2) A motion may be filed under division (B)(1) of this 1127  
section during the pendency of the divorce, dissolution of 1128  
marriage, legal separation, annulment, or child support proceeding 1129  
or, if a motion was not filed at that time or was filed at that 1130  
time and the circumstances in the case have changed, at any time 1131  
after a decree or final order is issued in the case. 1132

(C) When determining whether to grant parenting time rights 1133  
to a parent pursuant to this section or section 3109.12 of the 1134  
Revised Code or to grant companionship or visitation rights to a 1135  
grandparent, relative, or other person pursuant to this section or 1136  
section 3109.11 or 3109.12 of the Revised Code, when establishing 1137  
a specific parenting time or visitation schedule, and when 1138  
determining other parenting time matters under this section or 1139  
section 3109.12 of the Revised Code or visitation matters under 1140  
this section or section 3109.11 or 3109.12 of the Revised Code, 1141  
the court shall consider any mediation report that is filed 1142  
pursuant to section 3109.052 of the Revised Code and shall 1143  
consider all other relevant factors, including, but not limited 1144  
to, all of the factors listed in division (D) of this section. In 1145  
considering the factors listed in division (D) of this section for 1146  
purposes of determining whether to grant parenting time or 1147  
visitation rights, establishing a specific parenting time or 1148  
visitation schedule, determining other parenting time matters 1149  
under this section or section 3109.12 of the Revised Code or 1150  
visitation matters under this section or under section 3109.11 or 1151  
3109.12 of the Revised Code, and resolving any issues related to 1152  
the making of any determination with respect to parenting time or 1153  
visitation rights or the establishment of any specific parenting 1154  
time or visitation schedule, the court, in its discretion, may 1155  
interview in chambers any or all involved children regarding their 1156  
wishes and concerns. If the court interviews any child concerning 1157

the child's wishes and concerns regarding those parenting time or 1158  
visitation matters, the interview shall be conducted in chambers, 1159  
and no person other than the child, the child's attorney, the 1160  
judge, any necessary court personnel, and, in the judge's 1161  
discretion, the attorney of each parent shall be permitted to be 1162  
present in the chambers during the interview. No person shall 1163  
obtain or attempt to obtain from a child a written or recorded 1164  
statement or affidavit setting forth the wishes and concerns of 1165  
the child regarding those parenting time or visitation matters. A 1166  
court, in considering the factors listed in division (D) of this 1167  
section for purposes of determining whether to grant any parenting 1168  
time or visitation rights, establishing a parenting time or 1169  
visitation schedule, determining other parenting time matters 1170  
under this section or section 3109.12 of the Revised Code or 1171  
visitation matters under this section or under section 3109.11 or 1172  
3109.12 of the Revised Code, or resolving any issues related to 1173  
the making of any determination with respect to parenting time or 1174  
visitation rights or the establishment of any specific parenting 1175  
time or visitation schedule, shall not accept or consider a 1176  
written or recorded statement or affidavit that purports to set 1177  
forth the child's wishes or concerns regarding those parenting 1178  
time or visitation matters. 1179

(D) In determining whether to grant parenting time to a 1180  
parent pursuant to this section or section 3109.12 of the Revised 1181  
Code or companionship or visitation rights to a grandparent, 1182  
relative, or other person pursuant to this section or section 1183  
3109.11 or 3109.12 of the Revised Code, in establishing a specific 1184  
parenting time or visitation schedule, and in determining other 1185  
parenting time matters under this section or section 3109.12 of 1186  
the Revised Code or visitation matters under this section or 1187  
section 3109.11 or 3109.12 of the Revised Code, the court shall 1188  
consider all of the following factors: 1189

(1) The prior interaction and interrelationships of the child	1190
with the child's parents, siblings, and other persons related by	1191
consanguinity or affinity, and with the person who requested	1192
companionship or visitation if that person is not a parent,	1193
sibling, or relative of the child;	1194
(2) The geographical location of the residence of each parent	1195
and the distance between those residences, and if the person is	1196
not a parent, the geographical location of that person's residence	1197
and the distance between that person's residence and the child's	1198
residence;	1199
(3) The child's and parents' available time, including, but	1200
not limited to, each parent's employment schedule, the child's	1201
school schedule, and the child's and the parents' holiday and	1202
vacation schedule;	1203
(4) The age of the child;	1204
(5) The child's adjustment to home, school, and community;	1205
(6) If the court has interviewed the child in chambers,	1206
pursuant to division (C) of this section, regarding the wishes and	1207
concerns of the child as to parenting time by the parent who is	1208
not the residential parent or companionship or visitation by the	1209
grandparent, relative, or other person who requested companionship	1210
or visitation, as to a specific parenting time or visitation	1211
schedule, or as to other parenting time or visitation matters, the	1212
wishes and concerns of the child, as expressed to the court;	1213
(7) The health and safety of the child;	1214
(8) The amount of time that will be available for the child	1215
to spend with siblings;	1216
(9) The mental and physical health of all parties;	1217
(10) Each parent's willingness to reschedule missed parenting	1218
time and to facilitate the other parent's parenting time rights,	1219

and with respect to a person who requested companionship or 1220  
visitation, the willingness of that person to reschedule missed 1221  
visitation; 1222

(11) In relation to parenting time, whether either parent 1223  
previously has been convicted of or pleaded guilty to any criminal 1224  
offense involving any act that resulted in a child being an abused 1225  
child or a neglected child; whether either parent, in a case in 1226  
which a child has been adjudicated an abused child or a neglected 1227  
child, previously has been determined to be the perpetrator of the 1228  
abusive or neglectful act that is the basis of the adjudication; 1229  
and whether there is reason to believe that either parent has 1230  
acted in a manner resulting in a child being an abused child or a 1231  
neglected child; 1232

(12) In relation to requested companionship or visitation by 1233  
a person other than a parent, whether the person previously has 1234  
been convicted of or pleaded guilty to any criminal offense 1235  
involving any act that resulted in a child being an abused child 1236  
or a neglected child; whether the person, in a case in which a 1237  
child has been adjudicated an abused child or a neglected child, 1238  
previously has been determined to be the perpetrator of the 1239  
abusive or neglectful act that is the basis of the adjudication; 1240  
whether either parent previously has been convicted of or pleaded 1241  
guilty to a violation of section 2919.25 of the Revised Code 1242  
involving a victim who at the time of the commission of the 1243  
offense was a member of the family or household that is the 1244  
subject of the current proceeding; whether either parent 1245  
previously has been convicted of an offense involving a victim who 1246  
at the time of the commission of the offense was a member of the 1247  
family or household that is the subject of the current proceeding 1248  
and caused physical harm to the victim in the commission of the 1249  
offense; and whether there is reason to believe that the person 1250  
has acted in a manner resulting in a child being an abused child 1251

or a neglected child;	1252
(13) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;	1253 1254 1255 1256
(14) Whether either parent has established a residence or is planning to establish a residence outside this state;	1257 1258
(15) In relation to requested companionship or visitation by a person other than a parent, the wishes and concerns of the child's parents, as expressed by them to the court;	1259 1260 1261
(16) Any other factor in the best interest of the child.	1262
(E) The remarriage of a residential parent of a child does not affect the authority of a court under this section to grant parenting time rights with respect to the child to the parent who is not the residential parent or to grant reasonable companionship or visitation rights with respect to the child to any grandparent, any person related by consanguinity or affinity, or any other person.	1263 1264 1265 1266 1267 1268 1269
(F)(1) If the court, pursuant to division (A) of this section, denies parenting time to a parent who is not the residential parent or denies a motion for reasonable companionship or visitation rights filed under division (B) of this section and the parent or movant files a written request for findings of fact and conclusions of law, the court shall state in writing its findings of fact and conclusions of law in accordance with Civil Rule 52.	1270 1271 1272 1273 1274 1275 1276 1277
(2) On or before July 1, 1991, each court of common pleas, by rule, shall adopt standard parenting time guidelines. A court shall have discretion to deviate from its standard parenting time guidelines based upon factors set forth in division (D) of this section.	1278 1279 1280 1281 1282

(G)(1) If the residential parent intends to move to a residence other than the residence specified in the parenting time order or decree of the court, the parent shall file a notice of intent to relocate with the court that issued the order or decree. Except as provided in divisions (G)(2), (3), and (4) of this section, the court shall send a copy of the notice to the parent who is not the residential parent. Upon receipt of the notice, the court, on its own motion or the motion of the parent who is not the residential parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child to revise the parenting time schedule for the child.

(2) When a court grants parenting time rights to a parent who is not the residential parent, the court shall determine whether that parent has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child. If the court determines that that parent has not been so convicted and has not been determined to be the perpetrator of an abusive act that is the basis of a child abuse adjudication, the court shall issue an order stating that a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section will be sent to the parent who is given the parenting time rights in accordance with division (G)(1) of this section.

If the court determines that the parent who is granted the

parenting time rights has been convicted of or pleaded guilty to a 1315  
violation of section 2919.25 of the Revised Code involving a 1316  
victim who at the time of the commission of the offense was a 1317  
member of the family or household that is the subject of the 1318  
proceeding, has been convicted of or pleaded guilty to any other 1319  
offense involving a victim who at the time of the commission of 1320  
the offense was a member of the family or household that is the 1321  
subject of the proceeding and caused physical harm to the victim 1322  
in the commission of the offense, or has been determined to be the 1323  
perpetrator of the abusive act that is the basis of an 1324  
adjudication that a child is an abused child, it shall issue an 1325  
order stating that that parent will not be given a copy of any 1326  
notice of relocation that is filed with the court pursuant to 1327  
division (G)(1) of this section unless the court determines that 1328  
it is in the best interest of the children to give that parent a 1329  
copy of the notice of relocation, issues an order stating that 1330  
that parent will be given a copy of any notice of relocation filed 1331  
pursuant to division (G)(1) of this section, and issues specific 1332  
written findings of fact in support of its determination. 1333

(3) If a court, prior to April 11, 1991, issued an order 1334  
granting parenting time rights to a parent who is not the 1335  
residential parent and did not require the residential parent in 1336  
that order to give the parent who is granted the parenting time 1337  
rights notice of any change of address and if the residential 1338  
parent files a notice of relocation pursuant to division (G)(1) of 1339  
this section, the court shall determine if the parent who is 1340  
granted the parenting time rights has been convicted of or pleaded 1341  
guilty to a violation of section 2919.25 of the Revised Code 1342  
involving a victim who at the time of the commission of the 1343  
offense was a member of the family or household that is the 1344  
subject of the proceeding, has been convicted of or pleaded guilty 1345  
to any other offense involving a victim who at the time of the 1346  
commission of the offense was a member of the family or household 1347

that is the subject of the proceeding and caused physical harm to 1348  
the victim in the commission of the offense, or has been 1349  
determined to be the perpetrator of the abusive act that is the 1350  
basis of an adjudication that a child is an abused child. If the 1351  
court determines that the parent who is granted the parenting time 1352  
rights has not been so convicted and has not been determined to be 1353  
the perpetrator of an abusive act that is the basis of a child 1354  
abuse adjudication, the court shall issue an order stating that a 1355  
copy of any notice of relocation that is filed with the court 1356  
pursuant to division (G)(1) of this section will be sent to the 1357  
parent who is granted parenting time rights in accordance with 1358  
division (G)(1) of this section. 1359

If the court determines that the parent who is granted the 1360  
parenting time rights has been convicted of or pleaded guilty to a 1361  
violation of section 2919.25 of the Revised Code involving a 1362  
victim who at the time of the commission of the offense was a 1363  
member of the family or household that is the subject of the 1364  
proceeding, has been convicted of or pleaded guilty to any other 1365  
offense involving a victim who at the time of the commission of 1366  
the offense was a member of the family or household that is the 1367  
subject of the proceeding and caused physical harm to the victim 1368  
in the commission of the offense, or has been determined to be the 1369  
perpetrator of the abusive act that is the basis of an 1370  
adjudication that a child is an abused child, it shall issue an 1371  
order stating that that parent will not be given a copy of any 1372  
notice of relocation that is filed with the court pursuant to 1373  
division (G)(1) of this section unless the court determines that 1374  
it is in the best interest of the children to give that parent a 1375  
copy of the notice of relocation, issues an order stating that 1376  
that parent will be given a copy of any notice of relocation filed 1377  
pursuant to division (G)(1) of this section, and issues specific 1378  
written findings of fact in support of its determination. 1379

(4) If a parent who is granted parenting time rights pursuant 1380  
to this section or any other section of the Revised Code is 1381  
authorized by an order issued pursuant to this section or any 1382  
other court order to receive a copy of any notice of relocation 1383  
that is filed pursuant to division (G)(1) of this section or 1384  
pursuant to court order, if the residential parent intends to move 1385  
to a residence other than the residence address specified in the 1386  
parenting time order, and if the residential parent does not want 1387  
the parent who is granted the parenting time rights to receive a 1388  
copy of the relocation notice because the parent with parenting 1389  
time rights has been convicted of or pleaded guilty to a violation 1390  
of section 2919.25 of the Revised Code involving a victim who at 1391  
the time of the commission of the offense was a member of the 1392  
family or household that is the subject of the proceeding, has 1393  
been convicted of or pleaded guilty to any other offense involving 1394  
a victim who at the time of the commission of the offense was a 1395  
member of the family or household that is the subject of the 1396  
proceeding and caused physical harm to the victim in the 1397  
commission of the offense, or has been determined to be the 1398  
perpetrator of the abusive act that is the basis of an 1399  
adjudication that a child is an abused child, the residential 1400  
parent may file a motion with the court requesting that the parent 1401  
who is granted the parenting time rights not receive a copy of any 1402  
notice of relocation. Upon the filing of the motion, the court 1403  
shall schedule a hearing on the motion and give both parents 1404  
notice of the date, time, and location of the hearing. If the 1405  
court determines that the parent who is granted the parenting time 1406  
rights has been so convicted or has been determined to be the 1407  
perpetrator of an abusive act that is the basis of a child abuse 1408  
adjudication, the court shall issue an order stating that the 1409  
parent who is granted the parenting time rights will not be given 1410  
a copy of any notice of relocation that is filed with the court 1411  
pursuant to division (G)(1) of this section or that the 1412

residential parent is no longer required to give that parent a 1413  
copy of any notice of relocation unless the court determines that 1414  
it is in the best interest of the children to give that parent a 1415  
copy of the notice of relocation, issues an order stating that 1416  
that parent will be given a copy of any notice of relocation filed 1417  
pursuant to division (G)(1) of this section, and issues specific 1418  
written findings of fact in support of its determination. If it 1419  
does not so find, it shall dismiss the motion. 1420

(H)(1) Subject to section 3125.16 and division (F) of section 1421  
3319.321 of the Revised Code, a parent of a child who is not the 1422  
residential parent of the child is entitled to access, under the 1423  
same terms and conditions under which access is provided to the 1424  
residential parent, to any record that is related to the child and 1425  
to which the residential parent of the child legally is provided 1426  
access, unless the court determines that it would not be in the 1427  
best interest of the child for the parent who is not the 1428  
residential parent to have access to the records under those same 1429  
terms and conditions. If the court determines that the parent of a 1430  
child who is not the residential parent should not have access to 1431  
records related to the child under the same terms and conditions 1432  
as provided for the residential parent, the court shall specify 1433  
the terms and conditions under which the parent who is not the 1434  
residential parent is to have access to those records, shall enter 1435  
its written findings of facts and opinion in the journal, and 1436  
shall issue an order containing the terms and conditions to both 1437  
the residential parent and the parent of the child who is not the 1438  
residential parent. The court shall include in every order issued 1439  
pursuant to this division notice that any keeper of a record who 1440  
knowingly fails to comply with the order or division (H) of this 1441  
section is in contempt of court. 1442

(2) Subject to section 3125.16 and division (F) of section 1443  
3319.321 of the Revised Code, subsequent to the issuance of an 1444

order under division (H)(1) of this section, the keeper of any 1445  
record that is related to a particular child and to which the 1446  
residential parent legally is provided access shall permit the 1447  
parent of the child who is not the residential parent to have 1448  
access to the record under the same terms and conditions under 1449  
which access is provided to the residential parent, unless the 1450  
residential parent has presented the keeper of the record with a 1451  
copy of an order issued under division (H)(1) of this section that 1452  
limits the terms and conditions under which the parent who is not 1453  
the residential parent is to have access to records pertaining to 1454  
the child and the order pertains to the record in question. If the 1455  
residential parent presents the keeper of the record with a copy 1456  
of that type of order, the keeper of the record shall permit the 1457  
parent who is not the residential parent to have access to the 1458  
record only in accordance with the most recent order that has been 1459  
issued pursuant to division (H)(1) of this section and presented 1460  
to the keeper by the residential parent or the parent who is not 1461  
the residential parent. Any keeper of any record who knowingly 1462  
fails to comply with division (H) of this section or with any 1463  
order issued pursuant to division (H)(1) of this section is in 1464  
contempt of court. 1465

(3) The prosecuting attorney of any county may file a 1466  
complaint with the court of common pleas of that county requesting 1467  
the court to issue a protective order preventing the disclosure 1468  
pursuant to division (H)(1) or (2) of this section of any 1469  
confidential law enforcement investigatory record. The court shall 1470  
schedule a hearing on the motion and give notice of the date, 1471  
time, and location of the hearing to all parties. 1472

(I) A court that issues a parenting time order or decree 1473  
pursuant to this section or section 3109.12 of the Revised Code 1474  
shall determine whether the parent granted the right of parenting 1475  
time is to be permitted access, in accordance with section 1476

5104.039 of the Revised Code, to any child day-care center that 1477  
is, or that in the future may be, attended by the children with 1478  
whom the right of parenting time is granted. Unless the court 1479  
determines that the parent who is not the residential parent 1480  
should not have access to the center to the same extent that the 1481  
residential parent is granted access to the center, the parent who 1482  
is not the residential parent and who is granted parenting time 1483  
rights is entitled to access to the center to the same extent that 1484  
the residential parent is granted access to the center. If the 1485  
court determines that the parent who is not the residential parent 1486  
should not have access to the center to the same extent that the 1487  
residential parent is granted such access under section 5104.039 1488  
of the Revised Code, the court shall specify the terms and 1489  
conditions under which the parent who is not the residential 1490  
parent is to have access to the center, provided that the access 1491  
shall not be greater than the access that is provided to the 1492  
residential parent under section 5104.039 of the Revised Code, the 1493  
court shall enter its written findings of fact and opinions in the 1494  
journal, and the court shall include the terms and conditions of 1495  
access in the parenting time order or decree. 1496

(J)(1) Subject to division (F) of section 3319.321 of the 1497  
Revised Code, when a court issues an order or decree allocating 1498  
parental rights and responsibilities for the care of and access to 1499  
a child, the parent of the child who is not the residential parent 1500  
of the child is entitled to access, under the same terms and 1501  
conditions under which access is provided to the residential 1502  
parent, to any student activity that is related to the child and 1503  
to which the residential parent of the child legally is provided 1504  
access, unless the court determines that it would not be in the 1505  
best interest of the child to grant the parent who is not the 1506  
residential parent access to the student activities under those 1507  
same terms and conditions. If the court determines that the parent 1508  
of the child who is not the residential parent should not have 1509

access to any student activity that is related to the child under 1510  
the same terms and conditions as provided for the residential 1511  
parent, the court shall specify the terms and conditions under 1512  
which the parent who is not the residential parent is to have 1513  
access to those student activities, shall enter its written 1514  
findings of facts and opinion in the journal, and shall issue an 1515  
order containing the terms and conditions to both the residential 1516  
parent and the parent of the child who is not the residential 1517  
parent. The court shall include in every order issued pursuant to 1518  
this division notice that any school official or employee who 1519  
knowingly fails to comply with the order or division (J) of this 1520  
section is in contempt of court. 1521

(2) Subject to division (F) of section 3319.321 of the 1522  
Revised Code, subsequent to the issuance of an order under 1523  
division (J)(1) of this section, all school officials and 1524  
employees shall permit the parent of the child who is not the 1525  
residential parent to have access to any student activity under 1526  
the same terms and conditions under which access is provided to 1527  
the residential parent of the child, unless the residential parent 1528  
has presented the school official or employee, the board of 1529  
education of the school, or the governing body of the chartered 1530  
nonpublic school with a copy of an order issued under division 1531  
(J)(1) of this section that limits the terms and conditions under 1532  
which the parent who is not the residential parent is to have 1533  
access to student activities related to the child and the order 1534  
pertains to the student activity in question. If the residential 1535  
parent presents the school official or employee, the board of 1536  
education of the school, or the governing body of the chartered 1537  
nonpublic school with a copy of that type of order, the school 1538  
official or employee shall permit the parent who is not the 1539  
residential parent to have access to the student activity only in 1540  
accordance with the most recent order that has been issued 1541  
pursuant to division (J)(1) of this section and presented to the 1542

school official or employee, the board of education of the school, 1543  
or the governing body of the chartered nonpublic school by the 1544  
residential parent or the parent who is not the residential 1545  
parent. Any school official or employee who knowingly fails to 1546  
comply with division (J) of this section or with any order issued 1547  
pursuant to division (J)(1) of this section is in contempt of 1548  
court. 1549

(K) If any person is found in contempt of court for failing 1550  
to comply with or interfering with any order or decree granting 1551  
parenting time rights issued pursuant to this section or section 1552  
3109.12 of the Revised Code or companionship or visitation rights 1553  
issued pursuant to this section, section 3109.11 or 3109.12 of the 1554  
Revised Code, or any other provision of the Revised Code, the 1555  
court that makes the finding, in addition to any other penalty or 1556  
remedy imposed, shall assess all court costs arising out of the 1557  
contempt proceeding against the person and require the person to 1558  
pay any reasonable attorney's fees of any adverse party, as 1559  
determined by the court, that arose in relation to the act of 1560  
contempt, and may award reasonable compensatory parenting time or 1561  
visitation to the person whose right of parenting time or 1562  
visitation was affected by the failure or interference if such 1563  
compensatory parenting time or visitation is in the best interest 1564  
of the child. Any compensatory parenting time or visitation 1565  
awarded under this division shall be included in an order issued 1566  
by the court and, to the extent possible, shall be governed by the 1567  
same terms and conditions as was the parenting time or visitation 1568  
that was affected by the failure or interference. 1569

(L) Any parent who requests reasonable parenting time rights 1570  
with respect to a child under this section or section 3109.12 of 1571  
the Revised Code or any person who requests reasonable 1572  
companionship or visitation rights with respect to a child under 1573  
this section, section 3109.11 or 3109.12 of the Revised Code, or 1574

any other provision of the Revised Code may file a motion with the court requesting that it waive all or any part of the costs that may accrue in the proceedings. If the court determines that the movant is indigent and that the waiver is in the best interest of the child, the court, in its discretion, may waive payment of all or any part of the costs of those proceedings.

(M)(1) A parent who receives an order for active military service in the uniformed services and who is subject to a parenting time order may apply to the court for any of the following temporary orders for the period extending from the date of the parent's departure to the date of return:

(a) An order delegating all or part of the parent's parenting time with the child to a relative or to another person who has a close and substantial relationship with the child if the delegation is in the child's best interest;

(b) An order that the other parent make the child reasonably available for parenting time with the parent when the parent is on leave from active military service;

(c) An order that the other parent facilitate contact, including telephone and electronic contact, between the parent and child while the parent is on active military service.

(2)(a) Upon receipt of an order for active military service, a parent who is subject to a parenting time order and seeks an order under division (M)(1) of this section shall notify the other parent who is subject to the parenting time order and apply to the court as soon as reasonably possible after receipt of the order for active military service. The application shall include the date on which the active military service begins.

(b) The court shall schedule a hearing upon receipt of an application under division (M) of this section and hold the hearing not later than thirty days after its receipt, except that

the court shall give the case calendar priority and handle the 1606  
case expeditiously if exigent circumstances exist in the case. No 1607  
hearing shall be required if both parents agree to the terms of 1608  
the requested temporary order and the court determines that the 1609  
order is in the child's best interest. 1610

(c) In determining whether a delegation under division 1611  
(M)(1)(a) of this section is in the child's best interest, the 1612  
court shall consider all relevant factors, including the factors 1613  
set forth in division (D) of this section. 1614

(d) An order delegating all or part of the parent's parenting 1615  
time pursuant to division (M)(1)(a) of this section does not 1616  
create standing on behalf of the person to whom parenting time is 1617  
delegated to assert visitation or companionship rights independent 1618  
of the order. 1619

(3) At the request of a parent who is ordered for active 1620  
military service in the uniformed services and who is a subject of 1621  
a proceeding pertaining to a parenting time order or pertaining to 1622  
a request for companionship rights or visitation with a child, the 1623  
court shall permit the parent to participate in the proceeding and 1624  
present evidence by electronic means, including communication by 1625  
telephone, video, or internet to the extent permitted by rules of 1626  
the supreme court of Ohio. 1627

(N) The juvenile court has exclusive jurisdiction to enter 1628  
the orders in any case certified to it from another court. 1629

(O) As used in this section: 1630

(1) "Abused child" has the same meaning as in section 1631  
2151.031 of the Revised Code, and "neglected child" has the same 1632  
meaning as in section 2151.03 of the Revised Code. 1633

(2) "Active military service" and "uniformed services" have 1634  
the same meanings as in section 3109.04 of the Revised Code. 1635

(3) "Confidential law enforcement investigatory record" has 1636  
the same meaning as in section 149.43 of the Revised Code. 1637

(4) "Parenting time order" means an order establishing the 1638  
amount of time that a child spends with the parent who is not the 1639  
residential parent or the amount of time that the child is to be 1640  
physically located with a parent under a shared parenting order. 1641

(5) "Record" means any record, document, file, or other 1642  
material that contains information directly related to a child, 1643  
including, but not limited to, any of the following: 1644

(a) Records maintained by public and nonpublic schools; 1645

(b) Records maintained by facilities that provide child care, 1646  
as defined in section 5104.01 of the Revised Code, publicly funded 1647  
child care, as defined in section 5104.01 of the Revised Code, or 1648  
pre-school services operated by or under the supervision of a 1649  
school district board of education or a nonpublic school; 1650

(c) Records maintained by hospitals, other facilities, or 1651  
persons providing medical or surgical care or treatment for the 1652  
child; 1653

(d) Records maintained by agencies, departments, 1654  
instrumentalities, or other entities of the state or any political 1655  
subdivision of the state, other than a child support enforcement 1656  
agency. Access to records maintained by a child support 1657  
enforcement agency is governed by section 3125.16 of the Revised 1658  
Code. 1659

**Sec. 3109.052.** (A) If a proceeding for divorce, dissolution, 1660  
legal separation, annulment, or the allocation of parental rights 1661  
and responsibilities for the care of and access to a child 1662  
involves one or more children, if the parents of the children do 1663  
not agree upon an appropriate allocation of parental rights and 1664  
responsibilities for the care of and access to their children or 1665

do not agree upon a specific schedule of parenting time for their 1666  
children, the court may order the parents to mediate their 1667  
differences on those matters in accordance with mediation 1668  
procedures adopted by the court by local rule. When the court 1669  
determines whether mediation is appropriate in any proceeding, it 1670  
shall consider whether either parent previously has been convicted 1671  
of or pleaded guilty to a violation of section 2919.25 of the 1672  
Revised Code involving a victim who at the time of the commission 1673  
of the offense was a member of the family or household that is the 1674  
subject of the proceeding, whether either parent previously has 1675  
been convicted of or pleaded guilty to an offense involving a 1676  
victim who at the time of the commission of the offense was a 1677  
member of the family or household that is the subject of the 1678  
proceeding and caused physical harm to the victim in the 1679  
commission of the offense, and whether either parent has been 1680  
determined to be the perpetrator of the abusive act that is the 1681  
basis of an adjudication that a child is an abused child. If 1682  
either parent has been convicted of or pleaded guilty to a 1683  
violation of section 2919.25 of the Revised Code involving a 1684  
victim who at the time of the commission of the offense was a 1685  
member of the family or household that is the subject of the 1686  
proceeding, has been convicted of or pleaded guilty to any other 1687  
offense involving a victim who at the time of the commission of 1688  
the offense was a member of the family or household that is the 1689  
subject of the proceeding and caused physical harm to the victim 1690  
in the commission of the offense, or has been determined to be the 1691  
perpetrator of the abusive act that is the basis of an 1692  
adjudication that a child is an abused child, the court may order 1693  
mediation only if the court determines that it is in the best 1694  
interests of the parties to order mediation and makes specific 1695  
written findings of fact to support its determination. 1696  
  
If a court issues an order pursuant to this division 1697

requiring mediation, it also may order the parents to file a mediation report within a specified period of time and order the parents to pay the cost of mediation, unless either or both of the parents file a motion requesting that the court waive that requirement. Upon the filing of a motion requesting the waiver of that requirement, the court, for good cause shown, may waive the requirement that either or both parents pay the cost of mediation or may require one of the parents to pay the entire cost of mediation. Any mediation procedures adopted by local court rule for use under this division shall include, but are not limited to, provisions establishing qualifications for mediators who may be employed or used and provisions establishing standards for the conduct of the mediation.

(B) If a mediation order is issued under division (A) of this section and the order requires the parents to file a mediation report, the mediator and each parent who takes part in mediation in accordance with the order jointly shall file a report of the results of the mediation process with the court that issued the order under that division. A mediation report shall indicate only whether agreement has been reached on any of the issues that were the subject of the mediation, and, if agreement has been reached, the content and details of the agreement. No mediation report shall contain any background information concerning the mediation process or any information discussed or presented in the process. The court shall consider the mediation report when it allocates parental rights and responsibilities for the care of and access to children under section 3109.04 of the Revised Code and when it establishes a specific schedule of parenting time under section 3109.051 of the Revised Code. The court is not bound by the mediation report and shall consider the best interest of the children when making that allocation or establishing the parenting time schedule.

(C) If a mediation order is issued under division (A) of this section, the mediator shall not be made a party to, and shall not be called as a witness or testify in, any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of and access to the parents' children, or to the awarding of parenting time rights in relation to their children. The mediator shall not be made a party to, or be called as a witness or testify in, such an action or proceeding even if both parents give their prior consent to the mediator being made a party to or being called as a witness or to testify in the action or proceeding.

(D) Division (A) of this section does not apply to either of the following:

(1) Any proceeding, or the use of mediation in any proceeding that is not a proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of and access to a child;

(2) The use of mediation in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of and access to a child, in relation to issues other than the appropriate allocation of parental rights and responsibilities for the care of and access to the parents' children and other than a specific parenting time schedule for the parents' children.

**Sec. 3109.053.** In any divorce, legal separation, or annulment proceeding and in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of and access to

a child, the court may require, by rule or otherwise, that the  
parents attend classes on parenting or other related issues or  
obtain counseling before the court issues an order allocating the  
parental rights and responsibilities for the care of and access to  
the minor children of the marriage. If a court in any proceeding  
requires parents to attend classes on parenting or other related  
issues or to obtain counseling, the court may require that the  
parents' children attend the classes or counseling with the  
parents. If the court orders the parents to attend classes or  
obtain counseling, the court shall impose the cost of the classes  
and counseling on, and may allocate the costs between, the  
parents, except that if the court determines that both parents are  
indigent, the court shall not impose the cost of the classes or  
counseling on the parents.

**Sec. 3109.06.** Except as provided in division (K) of section  
2301.03 of the Revised Code, any court, other than a juvenile  
court, that has jurisdiction in any case respecting the allocation  
of parental rights and responsibilities for the care of and access  
to a child under eighteen years of age and the designation of the  
child's place of residence and legal custodian or in any case  
respecting the support of a child under eighteen years of age,  
may, on its own motion or on motion of any interested party, with  
the consent of the juvenile court, certify the record in the case  
or so much of the record and such further information, in  
narrative form or otherwise, as the court deems necessary or the  
juvenile court requests, to the juvenile court for further  
proceedings; upon the certification, the juvenile court shall have  
exclusive jurisdiction.

In cases in which the court of common pleas finds the parents  
unsuitable to have the parental rights and responsibilities for  
the care of and access to the child or children and unsuitable to  
provide the place of residence and to be the legal custodian of

the child or children, consent of the juvenile court shall not be 1793  
required to such certification. This section applies to actions 1794  
pending on August 28, 1951. 1795

In any case in which a court of common pleas, or other court 1796  
having jurisdiction, has issued an order that allocates parental 1797  
rights and responsibilities for the care of and access to minor 1798  
children and designates their place of residence and legal 1799  
custodian of minor children, has made an order for support of 1800  
minor children, or has done both, the jurisdiction of the court 1801  
shall not abate upon the death of the person awarded custody but 1802  
shall continue for all purposes during the minority of the 1803  
children. The court, upon its own motion or the motion of either 1804  
parent or of any interested person acting on behalf of the 1805  
children, may proceed to make further disposition of the case in 1806  
the best interests of the children and subject to sections 3109.42 1807  
to 3109.48 of the Revised Code. If the children are under eighteen 1808  
years of age, it may certify them, pursuant to this section, to 1809  
the juvenile court of any county for further proceedings. After 1810  
certification to a juvenile court, the jurisdiction of the court 1811  
of common pleas, or other court, shall cease, except as to any 1812  
payments of spousal support due for the spouse and support 1813  
payments due and unpaid for the children at the time of the 1814  
certification. 1815

Any disposition made pursuant to this section, whether by a 1816  
juvenile court after a case is certified to it, or by any court 1817  
upon the death of a person awarded custody of a child, shall be 1818  
made in accordance with sections 3109.04 and 3109.42 to 3109.48 of 1819  
the Revised Code. If an appeal is taken from a decision made 1820  
pursuant to this section that allocates parental rights and 1821  
responsibilities for the care of and access to a minor child and 1822  
designates the child's place of residence and legal custodian, the 1823  
court of appeals shall give the case calendar priority and handle 1824

it expeditiously. 1825

**Sec. 3109.52.** The parent, guardian, or custodian of a child 1826  
may create a power of attorney that grants to a grandparent of the 1827  
child with whom the child is residing any of the parent's, 1828  
guardian's, or custodian's rights and responsibilities regarding 1829  
the care, physical custody, and control of the child, including 1830  
the ability to enroll the child in school, to obtain from the 1831  
school district educational and behavioral information about the 1832  
child, to consent to all school-related matters regarding the 1833  
child, and to consent to medical, psychological, or dental 1834  
treatment for the child. The power of attorney may not grant 1835  
authority to consent to the marriage or adoption of the child. The 1836  
power of attorney does not affect the rights of the parent, 1837  
guardian, or custodian of the child in any future proceeding 1838  
concerning custody of the child or the allocation of parental 1839  
rights and responsibilities for the care of and access to the 1840  
child and does not grant legal custody to the attorney in fact. 1841

**Sec. 3109.53.** To create a power of attorney under section 1842  
3109.52 of the Revised Code, a parent, guardian, or custodian 1843  
shall use a form that is identical in form and content to the 1844  
following: 1845

POWER OF ATTORNEY 1846

I, the undersigned, residing at ....., in the county of 1847  
....., state of ....., hereby appoint the child's 1848  
grandparent, ....., residing at ....., in the county of 1849  
....., in the state of Ohio, with whom the child of whom I 1850  
am the parent, guardian, or custodian is residing, my attorney in 1851  
fact to exercise any and all of my rights and responsibilities 1852  
regarding the care, physical custody, and control of the child, 1853  
....., born ....., having social security number 1854  
(optional) ....., except my authority to consent to marriage 1855

or adoption of the child . . . . ., and to perform all acts 1856  
necessary in the execution of the rights and responsibilities 1857  
hereby granted, as fully as I might do if personally present. The 1858  
rights I am transferring under this power of attorney include the 1859  
ability to enroll the child in school, to obtain from the school 1860  
district educational and behavioral information about the child, 1861  
to consent to all school-related matters regarding the child, and 1862  
to consent to medical, psychological, or dental treatment for the 1863  
child. This transfer does not affect my rights in any future 1864  
proceedings concerning the custody of the child or the allocation 1865  
of the parental rights and responsibilities for the care of and 1866  
access to the child and does not give the attorney in fact legal 1867  
custody of the child. This transfer does not terminate my right to 1868  
have regular contact with the child. 1869

I hereby certify that I am transferring the rights and 1870  
responsibilities designated in this power of attorney because one 1871  
of the following circumstances exists: 1872

(1) I am: (a) Seriously ill, incarcerated, or about to be 1873  
incarcerated, (b) Temporarily unable to provide financial support 1874  
or parental guidance to the child, (c) Temporarily unable to 1875  
provide adequate care and supervision of the child because of my 1876  
physical or mental condition, (d) Homeless or without a residence 1877  
because the current residence is destroyed or otherwise 1878  
uninhabitable, or (e) In or about to enter a residential treatment 1879  
program for substance abuse; 1880

(2) I am a parent of the child, the child's other parent is 1881  
deceased, and I have authority to execute the power of attorney; 1882  
or 1883

(3) I have a well-founded belief that the power of attorney 1884  
is in the child's best interest. 1885

I hereby certify that I am not transferring my rights and 1886

responsibilities regarding the child for the purpose of enrolling 1887  
the child in a school or school district so that the child may 1888  
participate in the academic or interscholastic athletic programs 1889  
provided by that school or district. 1890

I understand that this document does not authorize a child 1891  
support enforcement agency to redirect child support payments to 1892  
the grandparent designated as attorney in fact. I further 1893  
understand that to have an existing child support order modified 1894  
or a new child support order issued administrative or judicial 1895  
proceedings must be initiated. 1896

If there is a court order naming me the residential parent 1897  
and legal custodian of the child who is the subject of this power 1898  
of attorney and I am the sole parent signing this document, I 1899  
hereby certify that one of the following is the case: 1900

(1) I have made reasonable efforts to locate and provide 1901  
notice of the creation of this power of attorney to the other 1902  
parent and have been unable to locate that parent; 1903

(2) The other parent is prohibited from receiving a notice of 1904  
relocation; or 1905

(3) The parental rights of the other parent have been 1906  
terminated by order of a juvenile court. 1907

This POWER OF ATTORNEY is valid until the occurrence of 1908  
whichever of the following events occurs first: (1) I revoke this 1909  
POWER OF ATTORNEY in writing and give notice of the revocation to 1910  
the grandparent designated as attorney in fact and the juvenile 1911  
court with which this POWER OF ATTORNEY was filed; (2) the child 1912  
ceases to reside with the grandparent designated as attorney in 1913  
fact; (3) this POWER OF ATTORNEY is terminated by court order; (4) 1914  
the death of the child who is the subject of the power of 1915  
attorney; or (5) the death of the grandparent designated as the 1916  
attorney in fact. 1917

WARNING: DO NOT EXECUTE THIS POWER OF ATTORNEY IF ANY STATEMENT MADE IN THIS INSTRUMENT IS UNTRUE. FALSIFICATION IS A CRIME UNDER SECTION 2921.13 OF THE REVISED CODE, PUNISHABLE BY THE SANCTIONS UNDER CHAPTER 2929. OF THE REVISED CODE, INCLUDING A TERM OF IMPRISONMENT OF UP TO 6 MONTHS, A FINE OF UP TO \$1,000, OR BOTH.

Witness my hand this ..... day of ....., .....

.....

Parent/Custodian/Guardian's signature

.....

Parent's signature

.....

Grandparent designated as attorney in fact

State of Ohio )

) ss:

County of .....)

Subscribed, sworn to, and acknowledged before me this ..... day

of ....., .....

.....

Notary Public

Notices:

1. A power of attorney may be executed only if one of the following circumstances exists: (1) The parent, guardian, or custodian of the child is: (a) Seriously ill, incarcerated, or about to be incarcerated; (b) Temporarily unable to provide financial support or parental guidance to the child; (c) Temporarily unable to provide adequate care and supervision of the child because of the parent's, guardian's, or custodian's physical or mental condition; (d) Homeless or without a residence because the current residence is destroyed or otherwise uninhabitable; or (e) In or about to enter a

residential treatment program for substance abuse; (2) One of the child's parents is deceased and the other parent, with authority to do so, seeks to execute a power of attorney; or (3) The parent, guardian, or custodian has a well-founded belief that the power of attorney is in the child's best interest.

2. The signatures of the parent, guardian, or custodian of the child and the grandparent designated as the attorney in fact must be notarized by an Ohio notary public. 1940
3. A parent, guardian, or custodian who creates a power of attorney must notify the parent of the child who is not the residential parent and legal custodian of the child unless one of the following circumstances applies: (a) the parent is prohibited from receiving a notice of relocation in accordance with section 3109.051 of the Revised Code of the creation of the power of attorney; (b) the parent's parental rights have been terminated by order of a juvenile court pursuant to Chapter 2151. of the Revised Code; (c) the parent cannot be located with reasonable efforts; (d) both parents are executing the power of attorney. The notice must be sent by certified mail not later than five days after the power of attorney is created and must state the name and address of the person designated as the attorney in fact. 1941  
1942
4. A parent, guardian, or custodian who creates a power of attorney must file it with the juvenile court of the county in which the attorney in fact resides, or any other court that has jurisdiction over the child under a previously filed motion or proceeding. The power of attorney must be filed not later than five days after the date it is created and be accompanied by a receipt showing that the notice of creation of the power of attorney was sent to the parent who is not the residential parent and legal custodian by certified mail. 1943

5. This power of attorney does not affect the rights of the child's parents, guardian, or custodian regarding any future proceedings concerning the custody of the child or the allocation of the parental rights and responsibilities for the care of and access to the child and does not give the attorney in fact legal custody of the child. 1944

6. A person or entity that relies on this power of attorney, in good faith, has no obligation to make any further inquiry or investigation. 1945

7. This power of attorney terminates on the occurrence of whichever of the following occurs first: (1) the power of attorney is revoked in writing by the person who created it and that person gives written notice of the revocation to the grandparent who is the attorney in fact and the juvenile court with which the power of attorney was filed; (2) the child ceases to live with the grandparent who is the attorney in fact; (3) the power of attorney is terminated by court order; (4) the death of the child who is the subject of the power of attorney; or (5) the death of the grandparent designated as the attorney in fact. 1946

If this power of attorney terminates other than by the death of the attorney in fact, the grandparent who served as the attorney in fact shall notify, in writing, all of the following: 1947

(a) Any schools, health care providers, or health insurance coverage provider with which the child has been involved through the grandparent; 1948

(b) Any other person or entity that has an ongoing relationship with the child or grandparent such that the other person or entity would reasonably rely on the power of attorney unless notified of the termination; 1949

(c) The court in which the power of attorney was filed after its creation; 1950

(d) The parent who is not the residential parent and legal 1951  
custodian of the child who is required to be given notice of  
its creation. The grandparent shall make the notifications not  
later than one week after the date the power of attorney  
terminates.

8. If this power of attorney is terminated by written revocation 1952  
of the person who created it, or the revocation is regarding a  
second or subsequent power of attorney, a copy of the  
revocation must be filed with the court with which that power  
of attorney was filed.

Additional information: 1953

To the grandparent designated as attorney in fact: 1954

1. If the child stops living with you, you are required to 1956  
notify, in writing, any school, health care provider, or  
health care insurance provider to which you have given this  
power of attorney. You are also required to notify, in  
writing, any other person or entity that has an ongoing  
relationship with you or the child such that the person or  
entity would reasonably rely on the power of attorney unless  
notified. The notification must be made not later than one  
week after the child stops living with you.

2. You must include with the power of attorney the following 1957  
information:

(a) The child's present address, the addresses of the 1958  
places where the child has lived within the last five years,  
and the name and present address of each person with whom the  
child has lived during that period;

(b) Whether you have participated as a party, a witness, or 1959  
in any other capacity in any other litigation, in this state  
or any other state, that concerned the allocation, between the  
parents of the same child, of parental rights and

responsibilities for the care of and access to the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child;

(c) Whether you have information of any parenting proceeding concerning the child pending in a court of this or any other state; 1960

(d) Whether you know of any person who has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child; 1961

(e) Whether you previously have been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child's being an abused child or a neglected child or previously have been determined, in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication. 1962

3. If you receive written notice of revocation of the power of attorney or the parent, custodian, or guardian removes the child from your home and if you believe that the revocation or removal is not in the best interest of the child, you may, within fourteen days, file a complaint in the juvenile court to seek custody. You may retain physical custody of the child until the fourteen-day period elapses or, if you file a complaint, until the court orders otherwise. 1963

To school officials: 1964

1. Except as provided in section 3313.649 of the Revised Code, this power of attorney, properly completed and notarized, authorizes the child in question to attend school in the district in which the grandparent designated as attorney in 1965

fact resides and that grandparent is authorized to provide consent in all school-related matters and to obtain from the school district educational and behavioral information about the child. This power of attorney does not preclude the parent, guardian, or custodian of the child from having access to all school records pertinent to the child.

2. The school district may require additional reasonable evidence that the grandparent lives in the school district. 1966
3. A school district or school official that reasonably and in good faith relies on this power of attorney has no obligation to make any further inquiry or investigation. 1967

To health care providers: 1968

1. A person or entity that acts in good faith reliance on a power of attorney to provide medical, psychological, or dental treatment, without actual knowledge of facts contrary to those stated in the power of attorney, is not subject to criminal liability or to civil liability to any person or entity, and is not subject to professional disciplinary action, solely for such reliance if the power of attorney is completed and the signatures of the parent, guardian, or custodian of the child and the grandparent designated as attorney in fact are notarized. 1969
2. The decision of a grandparent designated as attorney in fact, based on a power of attorney, shall be honored by a health care facility or practitioner, school district, or school official. 1970

**Sec. 3109.66.** The caretaker authorization affidavit that a grandparent described in section 3109.65 of the Revised Code may execute shall be identical in form and content to the following: 1971  
1972  
1973

CARETAKER AUTHORIZATION AFFIDAVIT 1974

Use of this affidavit is authorized by sections 3109.65 to 3109.73 of the Ohio Revised Code. 1975  
1976

Completion of items 1-7 and the signing and notarization of this affidavit is sufficient to authorize the grandparent signing to exercise care, physical custody, and control of the child who is its subject, including authority to enroll the child in school, to discuss with the school district the child's educational progress, to consent to all school-related matters regarding the child, and to consent to medical, psychological, or dental treatment for the child.	1977 1978 1979 1980 1981 1982 1983 1984
The child named below lives in my home, I am 18 years of age or older, and I am the child's grandparent.	1985 1986
1. Name of child:	1987
2. Child's date and year of birth:	1988
3. Child's social security number (optional):	1989
4. My name:	1990
5. My home address:	1991
6. My date and year of birth:	1992
7. My Ohio driver's license number or identification card number:	1993
8. Despite having made reasonable attempts, I am either:	1994
(a) Unable to locate or contact the child's parents, or the child's guardian or custodian; or	1995
(b) I am unable to locate or contact one of the child's parents and I am not required to contact the other parent because paternity has not been established; or	1996
(c) I am unable to locate or contact one of the child's parents and I am not required to contact the other parent because there is a custody order regarding the child and one of the following is the case:	1997
(i) The parent has been prohibited from receiving notice of a relocation; or	1998
(ii) The parental rights of the parent have been terminated.	1999
9. I hereby certify that this affidavit is not being executed for	2000

the purpose of enrolling the child in a school or school district so that the child may participate in the academic or interscholastic athletic programs provided by that school or district.

I understand that this document does not authorize a child support enforcement agency to redirect child support payments. I further understand that to have an existing child support order modified or a new child support order issued administrative or judicial proceedings must be initiated.

WARNING: DO NOT SIGN THIS FORM IF ANY OF THE ABOVE STATEMENTS ARE INCORRECT. FALSIFICATION IS A CRIME UNDER SECTION 2921.13 OF THE REVISED CODE, PUNISHABLE BY THE SANCTIONS UNDER CHAPTER 2929. OF THE REVISED CODE, INCLUDING A TERM OF IMPRISONMENT OF UP TO 6 MONTHS, A FINE OF UP TO \$1,000, OR BOTH.

I declare that the foregoing is true and correct:

Signed:..... Date:.....

Grandparent

State of Ohio )

) ss:

County of .....)

Subscribed, sworn to, and acknowledged before me this ..... day of ....., .....

.....  
Notary Public

Notices:

1. The grandparent's signature must be notarized by an Ohio notary public.
2. The grandparent who executed this affidavit must file it with the juvenile court of the county in which the grandparent resides or any other court that has jurisdiction over the

child under a previously filed motion or proceeding not later than five days after the date it is executed.

3. This affidavit does not affect the rights of the child's parents, guardian, or custodian regarding the care, physical custody, and control of the child, and does not give the grandparent legal custody of the child. 2020

4. A person or entity that relies on this affidavit, in good faith, has no obligation to make any further inquiry or investigation. 2021

5. This affidavit terminates on the occurrence of whichever of the following occurs first: (1) the child ceases to live with the grandparent who signs this form; (2) the parent, guardian, or custodian of the child acts to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit, and the grandparent either voluntarily returns the child to the physical custody of the parent, guardian, or custodian or fails to file a complaint to seek custody within fourteen days; (3) the affidavit is terminated by court order; (4) the death of the child who is the subject of the affidavit; or (5) the death of the grandparent who executed the affidavit. 2022

A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit. 2023

If this affidavit terminates other than by the death of the grandparent, the grandparent who signed this affidavit shall notify, in writing, all of the following: 2024

(a) Any schools, health care providers, or health insurance coverage provider with which the child has been involved through the grandparent; 2025

(b) Any other person or entity that has an ongoing relationship with the child or grandparent such that the person or entity would reasonably rely on the affidavit unless notified of the termination; 2026

(c) The court in which the affidavit was filed after its creation. 2027

The grandparent shall make the notifications not later than one week after the date the affidavit terminates. 2028

6. The decision of a grandparent to consent to or to refuse medical treatment or school enrollment for a child is superseded by a contrary decision of a parent, custodian, or guardian of the child, unless the decision of the parent, guardian, or custodian would jeopardize the life, health, or safety of the child. 2029

Additional information: 2030

To caretakers: 2031

1. If the child stops living with you, you are required to notify, in writing, any school, health care provider, or health care insurance provider to which you have given this affidavit. You are also required to notify, in writing, any other person or entity that has an ongoing relationship with you or the child such that the person or entity would reasonably rely on the affidavit unless notified. The notifications must be made not later than one week after the child stops living with you. 2032

2. If you do not have the information requested in item 7 (Ohio driver's license or identification card), provide another form of identification such as your social security number or medicaid number. 2033

3. You must include with the caretaker authorization affidavit the following information: 2034

(a) The child's present address, the addresses of the 2035

places where the child has lived within the last five years, and the name and present address of each person with whom the child has lived during that period;

(b) Whether you have participated as a party, a witness, or in any other capacity in any other litigation, in this state or any other state, that concerned the allocation, between the parents of the same child, of parental rights and responsibilities for the care of and access to the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child; 2036

(c) Whether you have information of any parenting proceeding concerning the child pending in a court of this or any other state; 2037

(d) Whether you know of any person who has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child; 2038

(e) Whether you previously have been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child's being an abused child or a neglected child or previously have been determined, in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication. 2039

4. If the child's parent, guardian, or custodian acts to terminate the caretaker authorization affidavit by delivering a written notice of negation, reversal, or disapproval of an action or decision of yours or removes the child from your home and if you believe that the termination or removal is not in the best interest of the child, you may, within fourteen 2040

days, file a complaint in the juvenile court to seek custody. You may retain physical custody of the child until the fourteen-day period elapses or, if you file a complaint, until the court orders otherwise.

- To school officials: 2041
1. This affidavit, properly completed and notarized, authorizes 2042  
the child in question to attend school in the district in  
which the grandparent who signed this affidavit resides and  
the grandparent is authorized to provide consent in all  
school-related matters and to discuss with the school district  
the child's educational progress. This affidavit does not  
preclude the parent, guardian, or custodian of the child from  
having access to all school records pertinent to the child.
  2. The school district may require additional reasonable evidence 2043  
that the grandparent lives at the address provided in item 5  
of the affidavit.
  3. A school district or school official that reasonably and in 2044  
good faith relies on this affidavit has no obligation to make  
any further inquiry or investigation.
  4. The act of a parent, guardian, or custodian of the child to 2045  
negate, reverse, or otherwise disapprove an action or decision  
of the grandparent who signed this affidavit constitutes  
termination of this affidavit. A parent, guardian, or  
custodian may negate, reverse, or disapprove a grandparent's  
action or decision only by delivering written notice of  
negation, reversal, or disapproval to the grandparent and the  
person acting on the grandparent's action or decision in  
reliance on this affidavit.
- To health care providers: 2046
1. A person or entity that acts in good faith reliance on a 2047  
CARETAKER AUTHORIZATION AFFIDAVIT to provide medical,  
psychological, or dental treatment, without actual knowledge

of facts contrary to those stated in the affidavit, is not subject to criminal liability or to civil liability to any person or entity, and is not subject to professional disciplinary action, solely for such reliance if the applicable portions of the form are completed and the grandparent's signature is notarized.

2. The decision of a grandparent, based on a CARETAKER AUTHORIZATION AFFIDAVIT, shall be honored by a health care facility or practitioner, school district, or school official unless the health care facility or practitioner or educational facility or official has actual knowledge that a parent, guardian, or custodian of a child has made a contravening decision to consent to or to refuse medical treatment for the child. 2048
3. The act of a parent, guardian, or custodian of the child to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit constitutes termination of this affidavit. A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit. 2049
- Section 2.** That existing sections 3105.63, 3105.65, 3109.03, 3109.04, 3109.043, 3109.051, 3109.052, 3109.053, 3109.06, 3109.52, 3109.53, and 3109.66 and section 3109.041 of the Revised Code are hereby repealed. 2050  
2051  
2052  
2053