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Senators Eklund, LaRose

Cosponsors: Senators Seitz, Cafaro, Patton, Hughes, Jones, Williams, Uecker, Schiavoni, Beagle, Yuko, Hite, Gardner, Oelslager, Bacon, Balderson, Brown, Burke, Coley, Faber, Gentile, Hottinger, Lehner, Manning, Obhof, Peterson, Sawyer, Skindell, Tavares, Thomas, Widener Representatives Hackett, LaTourette, Bishoff, Gonzales, Henne, Anielski, Arndt, Ashford, Barnes, Blessing, Bocchieri, Boose, Boyd, Brown, Buchy, Burkley, Butler, Celebrezze, Cera, Clyde, Craig, Dever, DeVitis, Dovilla, Driehaus, Duffey, Fedor, Ginter, Green, Grossman, Hall, Hambley, Hayes, Hill, Huffman, Johnson, G., Johnson, T., Koehler, Kuhns, Landis, Leland, Lepore-Hagan, Maag, Manning, McClain, McColley, O'Brien, M., O'Brien, S., Patterson, Perales, Phillips, Ramos, Reece, Reineke, Rezabek, Rogers, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sheehy, Slesnick, Smith, K., Sprague, Stinziano, Strahorn, Sweeney, Sykes, Terhar, Speaker Rosenberger

A BILL

To amend sections 742.63 and 2329.66 and to enact 1
sections 143.01 to 143.11 of the Revised Code to 2
enact the "Jason Gresko Act" to create the 3
Volunteer Peace Officers' Dependents Fund to 4
provide death benefits to survivors of volunteer 5
peace officers killed in the line of duty and 6
disability benefits to disabled volunteer peace 7
officers and to make survivors of gaming agents 8
and Department of Taxation investigators 9
eligible for benefits from the Ohio Public 10
Safety Officers Death Benefit Fund. 11

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

Section 1. That sections 742.63 and 2329.66 be amended and 12
sections 143.01, 143.02, 143.03, 143.04, 143.05, 143.06, 143.07, 13
143.08, 143.09, 143.10, and 143.11 of the Revised Code be 14
enacted to read as follows: 15

Sec. 143.01. As used in this chapter: 16

(A) "Killed in the line of duty" means either of the 17
following: 18

(1) Death in the line of duty; 19

(2) Death from injury sustained in the line of duty, 20
including heart attack or other fatal injury or illness caused 21
while in the line of duty. 22

(B) "Totally and permanently disabled" means unable to 23
engage in any substantial gainful employment for a period of not 24
less than twelve months by reason of a medically determinable 25
physical impairment that is permanent or presumed to be 26
permanent. 27

(C) "Volunteer peace officer" means any person who is 28
employed as a police officer, sheriff's deputy, constable, or 29
deputy marshal in a part-time, reserve, or volunteer capacity by 30
a county sheriff's department or the police department of a 31
municipal corporation, township, township police district, or 32
joint police district and is not a member of the public 33
employees retirement system, Ohio police and fire pension fund, 34
state highway patrol retirement system, or the Cincinnati 35
retirement system. 36

Sec. 143.02. (A) There is hereby established the volunteer 37
peace officers dependents fund. 38

Each county, municipal corporation, township, township 39

police district, and joint police district with a police or 40
sheriff's department that employs volunteer peace officers is a 41
member of the volunteer peace officers' dependents fund and 42
shall establish a volunteer peace officers' dependents fund 43
board. Each board shall consist of the following board members: 44

(1) Two board members, elected by the legislative 45
authority of the fund member that maintains the police or 46
sheriff's department; 47

(2) Two board members, elected by the volunteer peace 48
officers of the police or sheriff's department; 49

(3) One board member, elected by the board members elected 50
pursuant to divisions (A) (1) and (2) of this section. The board 51
member must be an elector of the fund member in which the police 52
or sheriff's department is located, but not a public employee, 53
member of the legislative authority, or peace officer of that 54
police or sheriff's department. 55

(B) The term of office of a board member begins the first 56
day of January and is one year. 57

(C) (1) The election of the board members specified in 58
division (A) (1) of this section shall be held each year not 59
earlier than the first day of November and not later than the 60
second Monday in December. The election of the member specified 61
in division (A) (3) of this section shall be held each year on or 62
before the thirty-first day of December. 63

(2) The members specified in division (A) (2) of this 64
section shall be elected on or before the second Monday in 65
December, as follows: 66

(a) The secretary of the board shall give notice of the 67
election by posting it in a conspicuous place at the 68

headquarters of the police or sheriff's department. Between nine 69
a.m. and nine p.m. on the day designated, each person eligible 70
to vote shall send in writing the name of two persons eligible 71
to be elected to the board who are the person's choices. 72

(b) All votes cast at the election shall be counted and 73
recorded by the board, which shall announce the result. The two 74
persons receiving the highest number of votes are elected. If 75
there is a tie vote for any two persons, the election shall be 76
decided by lot or in any other way agreed on by the persons for 77
whom the tie vote was cast. 78

(D) Any vacancy occurring on a board shall be filled at a 79
special election called by the board's secretary. 80

Sec. 143.03. A volunteer peace officers' dependents fund 81
board shall meet promptly after election of the board's members 82
and organize. The board shall select from among its members a 83
chairperson and a secretary. 84

The secretary of the board shall keep a complete record of 85
the board's proceedings, which shall be maintained as a 86
permanent file. 87

Board members shall serve without compensation. 88

The legislative authority of the fund member shall provide 89
sufficient meeting space and supplies for the board to carry out 90
its duties. 91

The secretary shall submit all of the following to the 92
director of commerce: 93

(A) The name and address of each board member and an 94
indication of the group or authority that elected the member; 95

(B) The names of the chairperson and secretary; 96

(C) A certificate indicating the current assessed property valuation of the fund member that is prepared by the clerk of the fund member. 97
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Sec. 143.04. Each volunteer peace officers' dependents fund board may adopt rules as necessary for handling and processing claims for benefits. 100
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The board shall perform such other duties as are necessary to implement this chapter. 103
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Sec. 143.05. The prosecuting attorney of the county in which a fund member is located shall serve as the legal advisor for the volunteer peace officer's dependents' board. 105
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Sec. 143.06. (A) The volunteer peace officers' dependents fund shall be maintained in the state treasury. All investment earnings of the fund shall be collected by the treasurer of state and placed to the credit of the fund. 108
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(B) Each fund member shall pay to the treasurer of state, to the credit of the fund, an initial premium as follows: 112
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(1) Each member with an assessed property valuation of less than seven million dollars, three hundred dollars; 114
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(2) Each member with an assessed property valuation of seven million dollars but less than fourteen million dollars, three hundred fifty dollars; 116
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(3) Each member with an assessed property valuation of fourteen million dollars but less than twenty-one million dollars, four hundred dollars; 119
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(4) Each member with an assessed property valuation of twenty-one million dollars but less than twenty-eight million dollars, four hundred fifty dollars; 122
123
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(5) Each member with an assessed property valuation of 125
twenty-eight million dollars or over, five hundred dollars. 126

Sec. 143.07. The total of all initial premiums collected 127
by the treasurer of state under section 143.06 of the Revised 128
Code is the basic capital account of the volunteer peace 129
officers' dependents fund. No further contributions are required 130
of fund members until claims against the fund have reduced it to 131
ninety-five per cent or less of its basic capital account. In 132
that event, the director of commerce shall cause the following 133
assessments, based on current property valuation, to be made and 134
certified to the legislative authority of each member of the 135
fund: 136

(A) Each member with an assessed property valuation of 137
less than seven million dollars, ninety dollars; 138

(B) Each member with an assessed property valuation of 139
seven million dollars but less than fourteen million dollars, 140
one hundred five dollars; 141

(C) Each member with an assessed property valuation of 142
fourteen million dollars but less than twenty-one million 143
dollars, one hundred twenty dollars; 144

(D) Each member with an assessed property valuation of 145
twenty-one million dollars but less than twenty-eight million 146
dollars, one hundred thirty-five dollars; 147

(E) Each member with an assessed property valuation of 148
twenty-eight million dollars or more, one hundred fifty dollars. 149

Sec. 143.08. (A) If a premium is not paid as provided in 150
section 143.06 of the Revised Code, the director of commerce 151
shall certify the failure as an assessment against the fund 152
member to the auditor of the county within which the member is 153

located. The county auditor shall withhold the amount of the 154
assessment, together with interest at the rate of six per cent 155
from the due date of the premium, from the next ensuing tax 156
settlement due the member and pay the amount to the treasurer of 157
state to the credit of the volunteer peace officers' dependents 158
fund. 159

If the secretary of a volunteer peace officers' dependents 160
fund board fails to submit to the director a certificate of the 161
current assessed property valuation in accordance with section 162
143.03 of the Revised Code, the director shall use division (B) 163
(5) of section 143.06 of the Revised Code as a basis for the 164
assessment. 165

(B) If a fund member does not pay the assessment provided 166
in section 143.07 of the Revised Code within forty-five days 167
after notice, the director shall proceed with collection in 168
accordance with division (A) of this section. 169

Sec. 143.09. (A) A volunteer peace officer who is totally 170
and permanently disabled as a result of discharging the duties 171
of a volunteer peace officer shall receive a benefit from the 172
volunteer peace officers' dependents fund of three hundred 173
dollars per month, except that no payment shall be made to a 174
volunteer peace officer who is receiving the officer's full 175
salary during the time of the officer's disability. 176

(B) Regardless of whether the volunteer peace officer 177
received a benefit under division (A) of this section, death 178
benefits shall be paid from the fund to the surviving spouse or 179
dependent children of a volunteer peace officer who is killed in 180
the line of duty. Death benefits shall be paid as follows: 181

(1) To the surviving spouse of a volunteer peace officer 182

killed in the line of duty, an award of one thousand dollars, 183
and in addition, a benefit of three hundred dollars per month; 184

(2) To the parent, guardian, or other persons on whom a 185
child of a volunteer peace officer killed in the line of duty is 186
dependent for chief financial support, a benefit of one hundred 187
twenty-five dollars per month for each dependent child under age 188
eighteen, or under age twenty-two if attending an institution of 189
learning or training pursuant to a program designed to complete 190
in each school year the equivalent of at least two-thirds of the 191
full-time curriculum requirements of the institution. 192

(C) An individual eligible for benefits payable under this 193
section shall file a claim for benefits with the appropriate 194
volunteer peace officers' dependents fund board on a form 195
provided by the board. All of the following information shall be 196
submitted with the claim: 197

(1) In the case of a totally and permanently disabled 198
volunteer peace officer, the following: 199

(a) The name of the police or sheriff's department for 200
which the officer was a volunteer peace officer; 201

(b) The date of the injury; 202

(c) Satisfactory medical evidence that the officer is 203
totally and permanently disabled. 204

(2) In the case of a surviving spouse or a parent, 205
guardian, or other person in charge of a dependent child, the 206
following: 207

(a) The full name of the deceased volunteer peace officer; 208

(b) The name of the police or sheriff's department for 209
which the deceased officer was a volunteer peace officer; 210

<u>(c) The name and address of the surviving spouse, as</u>	211
<u>applicable;</u>	212
<u>(d) The names, ages, and addresses of any dependent</u>	213
<u>children;</u>	214
<u>(e) Any other evidence required by the board.</u>	215
<u>(D) All claimants shall certify that neither the claimant</u>	216
<u>nor the person on whose behalf the claim is filed qualifies for</u>	217
<u>other benefits from any of the following based on the officer's</u>	218
<u>service as a volunteer peace officer: the public employees</u>	219
<u>retirement system, Ohio police and fire pension fund, state</u>	220
<u>highway patrol retirement system, Cincinnati retirement system,</u>	221
<u>or Ohio public safety officers death benefit fund.</u>	222
<u>(E) Initial claims shall be filed with the volunteer peace</u>	223
<u>officers' dependents fund board of the fund member in which the</u>	224
<u>officer was a volunteer peace officer. Thereafter, on request of</u>	225
<u>the claimant or the board, claims may be transferred to a board</u>	226
<u>near the claimant's current residence, if the boards concerned</u>	227
<u>agree to the transfer.</u>	228
Sec. 143.10. <u>(A) (1) Not later than five days after receipt</u>	229
<u>of a claim for benefits, a volunteer peace officers' dependents</u>	230
<u>fund board shall meet and determine the validity of the claim.</u>	231
<u>If the board determines that the claim is valid, it shall make a</u>	232
<u>determination of the amount due and certify its determination to</u>	233
<u>the director of commerce for payment. The certificate shall show</u>	234
<u>the name and address of the board, the name and address of each</u>	235
<u>beneficiary, the amount to be received by or on behalf of each</u>	236
<u>beneficiary, and the name and address of the person to whom</u>	237
<u>payments are to be made.</u>	238
<u>(2) If the board determines that a claimant is ineligible</u>	239

for benefits, the board shall deny the claim and issue to the 240
claimant a copy of its order. 241

(B) The board may make a continuing order for monthly 242
payments to a claimant for a period not exceeding three months 243
from the date of the determination. The determination may be 244
modified after issuance to reflect any changes in the claimant's 245
eligibility. If no changes occur at the end of the three-month 246
period, the director may provide for payment if the board 247
certifies that the original certificate is continued for an 248
additional three-month period. 249

Sec. 143.11. The right of an individual to a benefit under 250
this chapter shall not be subject to execution, garnishment, 251
attachment, the operation of bankruptcy or insolvency laws, or 252
other process of law whatsoever, and shall be unassignable 253
except as specifically provided in this chapter and sections 254
3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 3123., 255
and 3125. of the Revised Code. 256

Sec. 742.63. The board of trustees of the Ohio police and 257
fire pension fund shall adopt rules for the management of the 258
Ohio public safety officers death benefit fund and for 259
disbursements of benefits as set forth in this section. 260

(A) As used in this section: 261

(1) "Member" means all of the following: 262

(a) A member of the Ohio police and fire pension fund, 263
including a member of the fund who has elected to participate in 264
the deferred retirement option plan established under section 265
742.43 of the Revised Code or a member of or contributor to a 266
police or firemen's relief and pension fund established under 267
former Chapter 521. or 741. of the Revised Code; 268

(b) A member of the state highway patrol retirement system, including a member who is participating in the deferred retirement option plan established under section 5505.50 of the Revised Code;	269 270 271 272
(c) A member of the public employees retirement system who at the time of the member's death was one of the following:	273 274
(i) A county sheriff or deputy sheriff;	275
(ii) A full-time regular police officer in a municipal corporation or township;	276 277
(iii) A full-time regular firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision;	278 279 280 281
(iv) A full-time park district ranger or patrol trooper;	282
(v) A full-time law enforcement officer of the department of natural resources;	283 284
(vi) A full-time department of public safety enforcement agent;	285 286
(vii) A full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation;	287 288 289
(viii) A full-time law enforcement officer of a conservancy district;	290 291
(ix) A correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction;	292 293 294
(x) A state university law enforcement officer;	295

(xi) An investigator, as defined in section 109.541 of the Revised Code, or an investigator commissioned as a special agent of the bureau of criminal identification and investigation-;	296 297 298
(xii) A drug agent, as defined in section 145.01 of the Revised Code;	299 300
<u>(xiii) A gaming agent, as defined in section 3772.01 of the Revised Code;</u>	301 302
<u>(xiv) An employee of the department of taxation who has been delegated investigation powers pursuant to section 5743.45 of the Revised Code for the enforcement of Chapters 5728., 5735., 5739., 5741., 5743., and 5747. of the Revised Code.</u>	303 304 305 306
(d) A member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation.	307 308 309 310
(2) Notwithstanding section 742.01 of the Revised Code, "fire or police department" includes a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision, the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, the security force of a jail or workhouse under the control of a county, group of counties, or municipal corporation, the security force of a metropolitan, county, or township park district, the security force of lands under the control of the department of natural resources, department of public safety enforcement agents, the security force of parks, waterway lands, or reservoir lands under the control of a municipal corporation,	311 312 313 314 315 316 317 318 319 320 321 322 323 324

the security force of a conservancy district, the police 325
department of a township or municipal corporation, and the 326
police force of a state university. 327

(3) "Firefighter or police officer" includes a state 328
highway patrol trooper, a county sheriff or deputy sheriff, a 329
correction officer at an institution under the control of a 330
county, a group of counties, a municipal corporation, or the 331
department of rehabilitation and correction, a police officer 332
employed by a township or municipal corporation, a firefighter 333
employed by the state, an instrumentality of the state, a 334
municipal corporation, a township, a joint fire district, or 335
another political subdivision, a full-time park district ranger 336
or patrol trooper, a full-time law enforcement officer of the 337
department of natural resources, a full-time department of 338
public safety enforcement agent, a full-time law enforcement 339
officer of parks, waterway lands, or reservoir lands under the 340
control of a municipal corporation, a full-time law enforcement 341
officer of a conservancy district, and a state university law 342
enforcement officer. 343

(4) "Correction officer" includes, in addition to any 344
correction officer, any correction corporal, sergeant, 345
lieutenant, or captain, and the equivalents of all such persons. 346

(5) "A park district ranger or patrol trooper" means a 347
peace officer commissioned to make arrests, execute warrants, 348
and preserve the peace upon lands under the control of a board 349
of park commissioners of a metropolitan, county, or township 350
park district. 351

(6) "Metropolitan, county, or township park district" 352
means a park district created under the authority of Chapter 353
511. or 1545. of the Revised Code. 354

(7) "Conservancy district" means a conservancy district 355
created under the authority of Chapter 6101. of the Revised 356
Code. 357

(8) "Law enforcement officer" means an officer 358
commissioned to make arrests, execute warrants, and preserve the 359
peace upon lands under the control of the governmental entity 360
granting the commission. 361

(9) "Department of natural resources law enforcement 362
officer" includes a forest officer designated pursuant to 363
section 1503.29 of the Revised Code, a preserve officer 364
designated pursuant to section 1517.10 of the Revised Code, a 365
wildlife officer designated pursuant to section 1531.13 of the 366
Revised Code, a park officer designated pursuant to section 367
1541.10 of the Revised Code, and a state watercraft officer 368
designated pursuant to section 1547.521 of the Revised Code. 369

(10) "Retirement eligibility date" means the last day of 370
the month in which a deceased member would have first become 371
eligible, had the member lived, for the retirement pension 372
provided under section 145.332, Chapter 145., 521., or 741., 373
division (C)(1) of section 742.37, or division (A)(1) of section 374
5505.17 of the Revised Code or provided by a retirement system 375
operated by a municipal corporation. 376

(11) "Death benefit amount" means an amount equal to the 377
full monthly salary received by a deceased member prior to 378
death, minus an amount equal to the benefit received under 379
section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code 380
or the benefit received from a retirement system operated by a 381
municipal corporation, plus any increases in salary that would 382
have been granted the deceased member. 383

(12) "Killed in the line of duty" means either of the 384
following: 385

(a) Death in the line of duty; 386

(b) Death from injury sustained in the line of duty, 387
including heart attack or other fatal injury or illness caused 388
while in the line of duty. 389

(B) A spouse of a deceased member shall receive a death 390
benefit each month equal to the full death benefit amount, 391
provided that the deceased member was a firefighter or police 392
officer killed in the line of duty and there are no surviving 393
children eligible for a benefit under this section. The spouse 394
shall receive this benefit during the spouse's natural life 395
until the deceased member's retirement eligibility date, on 396
which date the benefit provided under this division shall 397
terminate. 398

(C) (1) If a member killed in the line of duty as a 399
firefighter or police officer is survived only by a child or 400
children, the child or children shall receive a benefit each 401
month equal to the full death benefit amount. If there is more 402
than one surviving child, the benefit shall be divided equally 403
among these children. 404

(2) If the death benefit paid under this division is 405
divided among two or more surviving children and any of the 406
children become ineligible to continue receiving a portion of 407
the benefit as provided in division (H) of this section, the 408
full death benefit amount shall be paid to the remaining 409
eligible child or divided among the eligible children so that 410
the benefit paid to the remaining eligible child or children 411
equals the full death benefit amount. 412

(3) Notwithstanding divisions (C) (1) and (2) of this section, all death benefits paid under this division shall terminate on the deceased member's retirement eligibility date.

(D) If a member killed in the line of duty as a firefighter or police officer is survived by both a spouse and a child or children, the monthly benefit provided shall be as follows:

(1) (a) If there is a surviving spouse and one surviving child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount and the child shall receive an amount equal to one-half of the full death benefit amount.

(b) If the surviving spouse dies or the child becomes ineligible as provided in division (H) of this section, the surviving spouse or child remaining eligible shall receive the full death benefit amount.

(2) (a) If there is a surviving spouse and more than one child, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount, equally divided among them, equal to two-thirds of the full death benefit amount.

(b) If a spouse and more than one child each are receiving a death benefit under division (D) (2) (a) of this section and the spouse dies, the children shall receive an amount each month, equally divided among them, equal to the full death benefit amount.

(c) If a spouse and more than one child each are receiving a benefit under division (D) (2) (a) of this section and any of the children becomes ineligible to receive a benefit as provided

in division (H) of this section, the spouse and remaining 442
eligible child or children shall receive a death benefit as 443
follows: 444

(i) If there are two or more remaining eligible children, 445
the spouse shall receive an amount each month equal to one-third 446
of the full death benefit amount and the children shall receive 447
an amount each month, equally divided among them, equal to two- 448
thirds of the full death benefit amount; 449

(ii) If there is one remaining eligible child, the spouse 450
shall receive an amount each month equal to one-half of the full 451
death benefit amount, and the child shall receive an amount each 452
month equal to one-half of the full death benefit amount. 453

(d) If a spouse and more than one child each are receiving 454
a benefit under division (D) (2) (a) of this section and all of 455
the children become ineligible to receive a benefit as provided 456
in division (H) of this section, the spouse shall receive the 457
full death benefit amount. 458

(3) Notwithstanding divisions (D) (1) and (2) of this 459
section, death benefits paid under this division to a surviving 460
spouse shall terminate on the member's retirement eligibility 461
date. Death benefits paid to a surviving child or children shall 462
terminate on the deceased member's retirement eligibility date 463
unless earlier terminated pursuant to division (H) of this 464
section. 465

(E) If a member, on or after January 1, 1980, is killed in 466
the line of duty as a firefighter or police officer and is 467
survived by only a parent or parents dependent upon the member 468
for support, the parent or parents shall receive an amount each 469
month equal to the full death benefit amount. If there is more 470

than one surviving parent dependent upon the deceased member for 471
support, the death benefit amount shall be divided equally among 472
the surviving parents. On the death of one of the surviving 473
parents, the full death benefit amount shall be paid to the 474
other parent. 475

(F) (1) The following shall receive a monthly death benefit 476
under this division: 477

(a) A surviving spouse whose benefits are terminated in 478
accordance with division (B) or (D) (3) of this section on the 479
deceased member's retirement eligibility date, or who would 480
qualify for a benefit under division (B) or (D) of this section 481
except that the deceased member reached the member's retirement 482
eligibility date prior to the member's death; 483

(b) A qualified surviving spouse of a deceased member of 484
or contributor to a police or firemen's relief and pension fund 485
established under former Chapter 521. or 741. of the Revised 486
Code who was a firefighter or police officer killed in the line 487
of duty. 488

(2) The monthly death benefit shall be one-half of an 489
amount equal to the monthly salary received by the deceased 490
member prior to the member's death, plus any salary increases 491
the deceased member would have received prior to the member's 492
retirement eligibility date. The benefit shall terminate on the 493
surviving spouse's death. A death benefit payable under this 494
division shall be reduced by an amount equal to any allowance or 495
benefit payable to the surviving spouse under section 742.3714 496
of the Revised Code. 497

(3) A benefit granted to a surviving spouse under division 498
(F) (1) (b) of this section shall commence on the first day of the 499

month immediately following receipt by the board of a completed 500
application on a form provided by the board and any evidence the 501
board may require to establish that the deceased spouse was 502
killed in the line of duty. 503

(G) (1) If there is not a surviving spouse eligible to 504
receive a death benefit under division (F) of this section or 505
the surviving spouse receiving a death benefit under that 506
division dies, a surviving child or children whose benefits 507
under division (C) or (D) of this section are or have been 508
terminated pursuant to division (C) (3) or (D) (3) of this section 509
or who would qualify for a benefit under division (C) or (D) of 510
this section except that the deceased member reached the 511
member's retirement eligibility date prior to the member's death 512
shall receive a monthly death benefit under this division. The 513
monthly death benefit shall be one-half of an amount equal to 514
the monthly salary received by the deceased member prior to the 515
member's death, plus any salary increases the member would have 516
received prior to the member's retirement eligibility date. If 517
there is more than one surviving child, the benefit shall be 518
divided equally among the surviving children. 519

(2) If two or more surviving children each are receiving a 520
benefit under this division and any of those children becomes 521
ineligible to continue receiving a benefit as provided in 522
division (H) of this section, the remaining eligible child or 523
children shall receive an amount equal to one-half of the 524
monthly salary received by the deceased member prior to death, 525
plus any salary increases the deceased member would have 526
received prior to the retirement eligibility date. If there is 527
more than one remaining eligible child, the benefit shall be 528
divided equally among the eligible children. 529

(3) A death benefit, or portion of a death benefit, 530
payable to a surviving child under this division shall be 531
reduced by an amount equal to any allowance or benefit payable 532
to that child under section 742.3714 of the Revised Code, but 533
the reduction in that child's benefit shall not affect the 534
amount payable to any other surviving child entitled to a 535
portion of the death benefit. 536

(H) A death benefit paid to a surviving child under 537
division (C), (D), or (G) of this section shall terminate on the 538
death of the child or, unless one of the following is the case, 539
when the child reaches age eighteen: 540

(1) The child, because of physical or mental disability, 541
is unable to provide the child's own support, in which case the 542
death benefit shall terminate when the disability is removed; 543

(2) The child is unmarried, under age twenty-two, and a 544
student in and attending an institution of learning or training 545
pursuant to a program designed to complete in each school year 546
the equivalent of at least two-thirds of the full-time 547
curriculum requirements of the institution, as determined by the 548
trustees of the fund. 549

(I) Acceptance of any death benefit under this section 550
does not prohibit a spouse or child from receiving other 551
benefits provided under the Ohio police and fire pension fund, 552
the state highway patrol retirement system, the public employees 553
retirement system, or a retirement system operated by a 554
municipal corporation. 555

(J) No person shall receive a benefit under this section 556
if any of the following occur: 557

(1) The person fails to exercise the right to a monthly 558

survivor benefit under division (A) or (B) of section 145.45, 559
division (D), (E), or (F) of section 742.37, or division (A) (3), 560
(4), or (6) of section 5505.17 of the Revised Code; to a monthly 561
survivor benefit from a retirement system operated by a 562
municipal corporation; or to a retirement allowance under 563
section 742.3714 of the Revised Code. 564

(2) The member's accumulated contributions under this 565
chapter or Chapter 145. or 5505. of the Revised Code are 566
refunded unless the member had been a member of the public 567
employees retirement system and had fewer than eighteen months 568
of total service credit at the time of death. 569

(3) In the case of a full-time park district ranger or 570
patrol trooper, a full-time law enforcement officer of the 571
department of natural resources, a full-time law enforcement 572
officer of parks, waterway lands, or reservoir lands under the 573
control of a municipal corporation, a full-time law enforcement 574
officer of a conservancy district, a correction officer at an 575
institution under the control of a county, group of counties, or 576
municipal corporation, or a member of a retirement system 577
operated by a municipal corporation who at the time of the 578
member's death was a full-time law enforcement officer of parks, 579
waterway lands, or reservoir lands under the control of the 580
municipal corporation, the member died prior to April 9, 1981, 581
in the case of a benefit under division (B), (C), or (D) of this 582
section, or prior to January 1, 1980, in the case of a benefit 583
under division (E) of this section. 584

(4) In the case of a full-time department of public safety 585
enforcement agent who prior to June 30, 1999, was a liquor 586
control investigator of the department of public safety, the 587
member died prior to December 23, 1986; 588

(5) In the case of a full-time department of public safety enforcement agent other than an enforcement agent who, prior to June 30, 1999, was a liquor control investigator, the member died prior to June 30, 1999.

(K) A surviving spouse whose benefit was terminated prior to June 30, 1999, due to remarriage shall receive a benefit under division (B), (D), or (F) of this section beginning on the first day of the month following receipt by the board of an application on a form provided by the board. The benefit amount shall be determined as of that date.

(1) If the benefit will begin prior to the deceased member's retirement eligibility date, it shall be paid under division (B) or (D) of this section and shall terminate as provided in those divisions. A benefit paid to a surviving spouse under division (D) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are reduced as a result.

(2) If the benefit will begin on or after the deceased member's retirement eligibility date, it shall be paid under division (F) of this section and shall terminate as provided in that division. A benefit paid to a surviving spouse under division (F) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are terminated as a result.

Sec. 2329.66. (A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows:

(1) (a) In the case of a judgment or order regarding money owed for health care services rendered or health care supplies

provided to the person or a dependent of the person, one parcel 618
or item of real or personal property that the person or a 619
dependent of the person uses as a residence. Division (A) (1) (a) 620
of this section does not preclude, affect, or invalidate the 621
creation under this chapter of a judgment lien upon the exempted 622
property but only delays the enforcement of the lien until the 623
property is sold or otherwise transferred by the owner or in 624
accordance with other applicable laws to a person or entity 625
other than the surviving spouse or surviving minor children of 626
the judgment debtor. Every person who is domiciled in this state 627
may hold exempt from a judgment lien created pursuant to 628
division (A) (1) (a) of this section the person's interest, not to 629
exceed one hundred twenty-five thousand dollars, in the exempted 630
property. 631

(b) In the case of all other judgments and orders, the 632
person's interest, not to exceed one hundred twenty-five 633
thousand dollars, in one parcel or item of real or personal 634
property that the person or a dependent of the person uses as a 635
residence. 636

(c) For purposes of divisions (A) (1) (a) and (b) of this 637
section, "parcel" means a tract of real property as identified 638
on the records of the auditor of the county in which the real 639
property is located. 640

(2) The person's interest, not to exceed three thousand 641
two hundred twenty-five dollars, in one motor vehicle; 642

(3) The person's interest, not to exceed four hundred 643
dollars, in cash on hand, money due and payable, money to become 644
due within ninety days, tax refunds, and money on deposit with a 645
bank, savings and loan association, credit union, public 646
utility, landlord, or other person, other than personal 647

earnings. 648

(4) (a) The person's interest, not to exceed five hundred 649
twenty-five dollars in any particular item or ten thousand seven 650
hundred seventy-five dollars in aggregate value, in household 651
furnishings, household goods, wearing apparel, appliances, 652
books, animals, crops, musical instruments, firearms, and 653
hunting and fishing equipment that are held primarily for the 654
personal, family, or household use of the person; 655

(b) The person's aggregate interest in one or more items 656
of jewelry, not to exceed one thousand three hundred fifty 657
dollars, held primarily for the personal, family, or household 658
use of the person or any of the person's dependents. 659

(5) The person's interest, not to exceed an aggregate of 660
two thousand twenty-five dollars, in all implements, 661
professional books, or tools of the person's profession, trade, 662
or business, including agriculture; 663

(6) (a) The person's interest in a beneficiary fund set 664
apart, appropriated, or paid by a benevolent association or 665
society, as exempted by section 2329.63 of the Revised Code; 666

(b) The person's interest in contracts of life or 667
endowment insurance or annuities, as exempted by section 3911.10 668
of the Revised Code; 669

(c) The person's interest in a policy of group insurance 670
or the proceeds of a policy of group insurance, as exempted by 671
section 3917.05 of the Revised Code; 672

(d) The person's interest in money, benefits, charity, 673
relief, or aid to be paid, provided, or rendered by a fraternal 674
benefit society, as exempted by section 3921.18 of the Revised 675
Code; 676

(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.	677 678 679 680
(7) The person's professionally prescribed or medically necessary health aids;	681 682
(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;	683 684 685
(9) The person's interest in the following:	686
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	687 688
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	689 690
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	691 692
(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	693 694
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	695 696 697
(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code;	698 699
(g) Payments under section 24 or 32 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.	700 701
(10) (a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the	702 703

Revised Code and in which an order for the withholding of 704
restitution from payments was issued under division (C) (2) (b) of 705
that section, in cases in which an order for withholding was 706
issued under section 2907.15 of the Revised Code, in cases in 707
which an order for forfeiture was issued under division (A) or 708
(B) of section 2929.192 of the Revised Code, and in cases in 709
which an order was issued under section 2929.193 or 2929.194 of 710
the Revised Code, and only to the extent provided in the order, 711
and except as provided in sections 3105.171, 3105.63, 3119.80, 712
3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the 713
person's rights to or interests in a pension, benefit, annuity, 714
retirement allowance, or accumulated contributions, the person's 715
rights to or interests in a participant account in any deferred 716
compensation program offered by the Ohio public employees 717
deferred compensation board, a government unit, or a municipal 718
corporation, or the person's other accrued or accruing rights or 719
interests, as exempted by section 143.11, 145.56, 146.13, 720
148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised 721
Code, and the person's rights to or interests in benefits from 722
the Ohio public safety officers death benefit fund; 723

(b) Except as provided in sections 3119.80, 3119.81, 724
3121.02, 3121.03, and 3123.06 of the Revised Code, the person's 725
rights to receive or interests in receiving a payment or other 726
benefits under any pension, annuity, or similar plan or 727
contract, not including a payment or benefit from a stock bonus 728
or profit-sharing plan or a payment included in division (A) (6) 729
(b) or (10) (a) of this section, on account of illness, 730
disability, death, age, or length of service, to the extent 731
reasonably necessary for the support of the person and any of 732
the person's dependents, except if all the following apply: 733

(i) The plan or contract was established by or under the 734

auspices of an insider that employed the person at the time the 735
person's rights or interests under the plan or contract arose. 736

(ii) The payment is on account of age or length of 737
service. 738

(iii) The plan or contract is not qualified under the 739
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 740
amended. 741

(c) Except for any portion of the assets that were 742
deposited for the purpose of evading the payment of any debt and 743
except as provided in sections 3119.80, 3119.81, 3121.02, 744
3121.03, and 3123.06 of the Revised Code, the person's rights or 745
interests in the assets held in, or to directly or indirectly 746
receive any payment or benefit under, any individual retirement 747
account, individual retirement annuity, "Roth IRA," "529 plan," 748
or education individual retirement account that provides 749
payments or benefits by reason of illness, disability, death, 750
retirement, or age or provides payments or benefits for purposes 751
of education, to the extent that the assets, payments, or 752
benefits described in division (A)(10)(c) of this section are 753
attributable to or derived from any of the following or from any 754
earnings, dividends, interest, appreciation, or gains on any of 755
the following: 756

(i) Contributions of the person that were less than or 757
equal to the applicable limits on deductible contributions to an 758
individual retirement account or individual retirement annuity 759
in the year that the contributions were made, whether or not the 760
person was eligible to deduct the contributions on the person's 761
federal tax return for the year in which the contributions were 762
made; 763

(ii) Contributions of the person that were less than or 764
equal to the applicable limits on contributions to a Roth IRA or 765
education individual retirement account in the year that the 766
contributions were made; 767

(iii) Contributions of the person that are within the 768
applicable limits on rollover contributions under subsections 769
219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3) 770
(B), 408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 771
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended; 772

(iv) Contributions by any person into any plan, fund, or 773
account that is formed, created, or administered pursuant to, or 774
is otherwise subject to, section 529 of the "Internal Revenue 775
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 776

(d) Except for any portion of the assets that were 777
deposited for the purpose of evading the payment of any debt and 778
except as provided in sections 3119.80, 3119.81, 3121.02, 779
3121.03, and 3123.06 of the Revised Code, the person's rights or 780
interests in the assets held in, or to receive any payment 781
under, any Keogh or "H.R. 10" plan that provides benefits by 782
reason of illness, disability, death, retirement, or age, to the 783
extent reasonably necessary for the support of the person and 784
any of the person's dependents. 785

(e) The person's rights to or interests in any assets held 786
in, or to directly or indirectly receive any payment or benefit 787
under, any individual retirement account, individual retirement 788
annuity, "Roth IRA," "529 plan," or education individual 789
retirement account that a decedent, upon or by reason of the 790
decedent's death, directly or indirectly left to or for the 791
benefit of the person, either outright or in trust or otherwise, 792
including, but not limited to, any of those rights or interests 793

in assets or to receive payments or benefits that were 794
transferred, conveyed, or otherwise transmitted by the decedent 795
by means of a will, trust, exercise of a power of appointment, 796
beneficiary designation, transfer or payment on death 797
designation, or any other method or procedure. 798

(f) The exemptions under divisions (A) (10) (a) to (e) of 799
this section also shall apply or otherwise be available to an 800
alternate payee under a qualified domestic relations order 801
(QDRO) or other similar court order. 802

(g) A person's interest in any plan, program, instrument, 803
or device described in divisions (A) (10) (a) to (e) of this 804
section shall be considered an exempt interest even if the plan, 805
program, instrument, or device in question, due to an error made 806
in good faith, failed to satisfy any criteria applicable to that 807
plan, program, instrument, or device under the "Internal Revenue 808
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 809

(11) The person's right to receive spousal support, child 810
support, an allowance, or other maintenance to the extent 811
reasonably necessary for the support of the person and any of 812
the person's dependents; 813

(12) The person's right to receive, or moneys received 814
during the preceding twelve calendar months from, any of the 815
following: 816

(a) An award of reparations under sections 2743.51 to 817
2743.72 of the Revised Code, to the extent exempted by division 818
(D) of section 2743.66 of the Revised Code; 819

(b) A payment on account of the wrongful death of an 820
individual of whom the person was a dependent on the date of the 821
individual's death, to the extent reasonably necessary for the 822

support of the person and any of the person's dependents; 823

(c) Except in cases in which the person who receives the 824
payment is an inmate, as defined in section 2969.21 of the 825
Revised Code, and in which the payment resulted from a civil 826
action or appeal against a government entity or employee, as 827
defined in section 2969.21 of the Revised Code, a payment, not 828
to exceed twenty thousand two hundred dollars, on account of 829
personal bodily injury, not including pain and suffering or 830
compensation for actual pecuniary loss, of the person or an 831
individual for whom the person is a dependent; 832

(d) A payment in compensation for loss of future earnings 833
of the person or an individual of whom the person is or was a 834
dependent, to the extent reasonably necessary for the support of 835
the debtor and any of the debtor's dependents. 836

(13) Except as provided in sections 3119.80, 3119.81, 837
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 838
earnings of the person owed to the person for services in an 839
amount equal to the greater of the following amounts: 840

(a) If paid weekly, thirty times the current federal 841
minimum hourly wage; if paid biweekly, sixty times the current 842
federal minimum hourly wage; if paid semimonthly, sixty-five 843
times the current federal minimum hourly wage; or if paid 844
monthly, one hundred thirty times the current federal minimum 845
hourly wage that is in effect at the time the earnings are 846
payable, as prescribed by the "Fair Labor Standards Act of 847
1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended; 848

(b) Seventy-five per cent of the disposable earnings owed 849
to the person. 850

(14) The person's right in specific partnership property, 851

as exempted by the person's rights in a partnership pursuant to 852
section 1776.50 of the Revised Code, except as otherwise set 853
forth in section 1776.50 of the Revised Code; 854

(15) A seal and official register of a notary public, as 855
exempted by section 147.04 of the Revised Code; 856

(16) The person's interest in a tuition unit or a payment 857
under section 3334.09 of the Revised Code pursuant to a tuition 858
payment contract, as exempted by section 3334.15 of the Revised 859
Code; 860

(17) Any other property that is specifically exempted from 861
execution, attachment, garnishment, or sale by federal statutes 862
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 863
11 U.S.C.A. 101, as amended; 864

(18) The person's aggregate interest in any property, not 865
to exceed one thousand seventy-five dollars, except that 866
division (A)(18) of this section applies only in bankruptcy 867
proceedings. 868

(B) On April 1, 2010, and on the first day of April in 869
each third calendar year after 2010, the Ohio judicial 870
conference shall adjust each dollar amount set forth in this 871
section to reflect any increase in the consumer price index for 872
all urban consumers, as published by the United States 873
department of labor, or, if that index is no longer published, a 874
generally available comparable index, for the three-year period 875
ending on the thirty-first day of December of the preceding 876
year. Any adjustments required by this division shall be rounded 877
to the nearest twenty-five dollars. 878

The Ohio judicial conference shall prepare a memorandum 879
specifying the adjusted dollar amounts. The judicial conference 880

shall transmit the memorandum to the director of the legislative 881
service commission, and the director shall publish the 882
memorandum in the register of Ohio. (Publication of the 883
memorandum in the register of Ohio shall continue until the next 884
memorandum specifying an adjustment is so published.) The 885
judicial conference also may publish the memorandum in any other 886
manner it concludes will be reasonably likely to inform persons 887
who are affected by its adjustment of the dollar amounts. 888

(C) As used in this section: 889

(1) "Disposable earnings" means net earnings after the 890
garnishee has made deductions required by law, excluding the 891
deductions ordered pursuant to section 3119.80, 3119.81, 892
3121.02, 3121.03, or 3123.06 of the Revised Code. 893

(2) "Insider" means: 894

(a) If the person who claims an exemption is an 895
individual, a relative of the individual, a relative of a 896
general partner of the individual, a partnership in which the 897
individual is a general partner, a general partner of the 898
individual, or a corporation of which the individual is a 899
director, officer, or in control; 900

(b) If the person who claims an exemption is a 901
corporation, a director or officer of the corporation; a person 902
in control of the corporation; a partnership in which the 903
corporation is a general partner; a general partner of the 904
corporation; or a relative of a general partner, director, 905
officer, or person in control of the corporation; 906

(c) If the person who claims an exemption is a 907
partnership, a general partner in the partnership; a general 908
partner of the partnership; a person in control of the 909

partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;

(d) An entity or person to which or whom any of the following applies:

(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.

(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (C) (2) (d) (i) of this section applies.

(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.

(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.

(e) An insider, as otherwise defined in this section, of a person or entity to which division (C) (2) (d) (i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;

(f) A managing agent of the person who claims an

exemption.	939
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	940 941
(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.	942 943
(D) For purposes of this section, "interest" shall be determined as follows:	944 945
(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code;	946 947 948
(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.	949 950 951
An interest, as determined under division (D) (1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.	952 953 954
Section 2. That existing sections 742.63 and 2329.66 of the Revised Code are hereby repealed.	955 956
Section 3. This act shall be referred to as the "Jason Gresko Act."	957 958
Section 4. (A) Not later than thirty days after the effective date of this section, the legislative authority of the fund member described in section 143.02 of the Revised Code, as enacted by this act, that maintains the police or sheriff's department shall hold the initial election of members to a volunteer peace officers dependents' fund board. A board member shall serve an initial term of office beginning on the day after the member is elected to the board and ending on the thirty-	959 960 961 962 963 964 965 966

first day of December of the year in which the member is 967
elected. Thereafter, members shall be elected to the board and 968
serve terms of office in accordance with section 143.02 of the 969
Revised Code, as enacted by this act. 970

(B) For the initial election of board members specified in 971
division (A) (2) of section 143.02 of the Revised Code, the 972
legislative authority of the fund member that maintains the 973
police or sheriff's department shall do both of the following: 974

(1) Give notice of the election by posting it in a 975
conspicuous place at the headquarters of the police or sheriff's 976
department. Between nine a.m. and nine p.m. on the day 977
designated, each person eligible to vote shall send in writing 978
the name of two persons eligible to be elected to the board who 979
are the person's choices. 980

(2) Count and record all votes cast at the election and 981
announce the result. The two persons receiving the highest 982
number of votes are elected. If there is a tie vote for any two 983
persons, the election shall be decided by lot or in any other 984
way agreed on by the persons for whom the tie vote was cast. 985

Section 5. This act shall have no impact on the Public 986
Employees Retirement System, Ohio Police and Fire Pension Fund, 987
or State Highway Patrol Retirement System. 988

Section 6. Section 2329.66 of the Revised Code is 989
presented in this act as a composite of the section as amended 990
by both Sub. H.B. 479 and Sub. S.B. 343 of the 129th General 991
Assembly. The General Assembly, applying the principle stated in 992
division (B) of section 1.52 of the Revised Code that amendments 993
are to be harmonized if reasonably capable of simultaneous 994
operation, finds that the composite is the resulting version of 995

the section in effect prior to the effective date of the section	996
as presented in this act.	997