

**As Passed by the House**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. H. B. No. 595**

**Representatives Cupp, Rezabek**

**Cosponsors: Representatives Seitz, Riedel, Manning, Anielski, Ashford, Blessing,  
Brown, Craig, Dever, Ginter, Green, Hambley, Holmes, Leland, Miller, Perales,  
Rogers, Wiggam, Wilkin**

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**A BILL**

To amend sections 313.14, 2101.24, 2105.19, 1  
2107.01, 2107.05, 2107.07, 2107.08, 2107.09, 2  
2107.10, 2107.11, 2107.12, 2107.16, 2107.18, 3  
2107.20, 2107.22, 2107.33, 2107.52, 2107.71, 4  
2137.01, 2721.03, 5802.03, 5806.04, and 5808.19, 5  
to enact sections 2111.182, 2111.52, 2113.032, 6  
5802.05, 5817.01, 5817.02, 5817.03, 5817.04, 7  
5817.05, 5817.06, 5817.07, 5817.08, 5817.09, 8  
5817.10, 5817.11, 5817.12, 5817.13, and 5817.14, 9  
and to repeal sections 2107.081, 2107.082, 10  
2107.083, 2107.084, and 2107.085 of the Revised 11  
Code relative to procedures for a testator to 12  
file a declaratory judgment action to declare 13  
the validity of a will prior to death and the 14  
settlor of a trust to file such an action to 15  
declare its validity, exceptions to antilapse 16  
provisions in class gifts in wills and trusts, 17  
incorporation of a written trust into a will, 18  
trusts for a minor, arbitration of trust 19  
disputes, the creation of county and multicounty 20  
guardianship services boards, the coroner's 21  
disposition of person dying of suspicious or 22

unusual death, an application for the release of 23  
medical records and medical billing records, and 24  
adding involuntary manslaughter not resulting 25  
from a felony vehicular homicide offense to the 26  
list of offenses excluding an individual from 27  
inheriting from a decedent. 28

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

**Section 1.** That sections 313.14, 2101.24, 2105.19, 29  
2107.01, 2107.05, 2107.07, 2107.08, 2107.09, 2107.10, 2107.11, 30  
2107.12, 2107.16, 2107.18, 2107.20, 2107.22, 2107.33, 2107.52, 31  
2107.71, 2137.01, 2721.03, 5802.03, 5806.04, and 5808.19 be 32  
amended and sections 2111.182, 2111.52, 2113.032, 5802.05, 33  
5817.01, 5817.02, 5817.03, 5817.04, 5817.05, 5817.06, 5817.07, 34  
5817.08, 5817.09, 5817.10, 5817.11, 5817.12, 5817.13, and 35  
5817.14 of the Revised Code be enacted to read as follows: 36

**Sec. 313.14.** (A) (1) The coroner shall make a reasonable 37  
effort to notify any known relatives of a deceased person who 38  
meets death in the manner described by section 313.12 of the 39  
Revised Code by letter or otherwise. ~~The next of kin, other~~ 40  
~~relatives, or friends of the deceased person, in the order~~ 41  
~~named, shall have prior right as to disposition of the body of~~ 42  
~~such deceased person. If relatives of the deceased are unknown,~~ 43  
~~the coroner shall make a diligent effort to ascertain the next~~ 44  
~~of kin, other relatives, or friends of the deceased person~~ 45  
coroner shall also make a reasonable effort to determine the 46  
identity of the person who has been assigned the rights of 47  
disposition for the deceased person under sections 2108.70 to 48  
2108.90 of the Revised Code and shall notify that person. After 49

the coroner has completed the performance of the coroner's legal 50  
duties with respect to the body of the deceased person, the 51  
coroner shall return the body to that person. 52

(2) The coroner shall take charge and possession of all 53  
moneys, clothing, and other valuable personal effects of ~~such~~ 54  
the deceased person, found in connection with or pertaining to 55  
~~such~~ the body, and shall store ~~such~~ the possessions in the 56  
county coroner's office or such other suitable place as is 57  
provided for ~~such~~ that storage by the board of county 58  
commissioners. If the coroner considers it advisable, the 59  
coroner may, after taking adequate precautions for the security 60  
of ~~such~~ those possessions, store the possessions where the 61  
coroner finds them until other storage space becomes available. 62  
The person who has been assigned the rights of disposition for 63  
the deceased person under sections 2108.70 to 2108.90 of the 64  
Revised Code may request the coroner to give those possessions 65  
to that person. 66

(B) In cases in which the cost of the burial is paid by 67  
the county, after using such of the clothing as is necessary in 68  
the burial of the body, the coroner shall sell at public auction 69  
the valuable personal effects of ~~such~~ the deceased persons, 70  
found in connection with or pertaining to the unclaimed dead 71  
body, except firearms, which shall be disposed of as provided in 72  
division (C) of this section. The coroner shall make a verified 73  
inventory of ~~such~~ the effects and they shall be sold within 74  
eighteen months after burial, or after delivery of ~~such~~ the body 75  
in accordance with section 1713.34 of the Revised Code. All 76  
moneys derived from ~~such~~ the sale shall be deposited in the 77  
county treasury. A notice of ~~such~~ the sale shall be given in one 78  
newspaper of general circulation in the county, for five days in 79  
succession, and the sale shall be held immediately thereafter. 80

The cost of such advertisement and notices shall be paid by the 81  
board upon the submission of a verified statement ~~therefor~~ for 82  
that cost, certified to the coroner. 83

(C) If a firearm is included in the personal effects of a 84  
deceased person who meets death in the manner described by 85  
section 313.12 of the Revised Code, the coroner shall deliver 86  
the firearm to the chief of police of the municipal corporation 87  
within which the body is found, or to the sheriff of the county 88  
if the body is not found within a municipal corporation. Upon 89  
delivery of the firearm to the chief of police or the sheriff, 90  
the chief of police or sheriff shall give the coroner a receipt 91  
for the firearm that states the date of delivery and an accurate 92  
description of the firearm. The firearm shall be used for 93  
evidentiary purposes only. 94

The person who has been assigned the rights of disposition 95  
for the deceased person's next of kin or other relative person 96  
under sections 2108.70 to 2108.90 of the Revised Code may 97  
request that the firearm be given to ~~the next of kin or other~~ 98  
~~relative that person~~ once the firearm is no longer needed for 99  
evidentiary purposes. The chief of police or the sheriff shall 100  
give the firearm to ~~the next of kin or other relative that~~ 101  
person who requested the firearm only if the ~~next of kin or~~ 102  
~~other relative person~~ may lawfully possess the firearm under 103  
applicable law of this state or the United States. The chief of 104  
police or the sheriff shall keep a record identifying the ~~next~~ 105  
~~of kin or other relative person~~ to whom the firearm is given, 106  
the date the firearm was given to ~~the next of kin or other~~ 107  
~~relative that person~~, and an accurate description of the 108  
firearm. 109

If a ~~next of kin or other relative~~ the person who has been 110

assigned the rights of disposition for the deceased person under 111  
sections 2108.70 to 2108.90 of the Revised Code does not request 112  
the firearm or is not entitled to possess the firearm, the 113  
firearm shall be used at the discretion of the chief of police 114  
or the sheriff. 115

(D) This section does not invalidate section 1713.34 of 116  
the Revised Code. 117

**Sec. 2101.24.** (A) (1) Except as otherwise provided by law, 118  
the probate court has exclusive jurisdiction: 119

(a) To take the proof of wills and to admit to record 120  
authenticated copies of wills executed, proved, and allowed in 121  
the courts of any other state, territory, or country. If the 122  
probate judge is unavoidably absent, any judge of the court of 123  
common pleas may take proof of wills and approve bonds to be 124  
given, but the record of these acts shall be preserved in the 125  
usual records of the probate court. 126

(b) To grant and revoke letters testamentary and of 127  
administration; 128

(c) To direct and control the conduct and settle the 129  
accounts of executors and administrators and order the 130  
distribution of estates; 131

(d) To appoint the attorney general to serve as the 132  
administrator of an estate pursuant to section 2113.06 of the 133  
Revised Code; 134

(e) To appoint and remove guardians, conservators, and 135  
testamentary trustees, direct and control their conduct, and 136  
settle their accounts; 137

(f) To grant marriage licenses; 138

(g) To make inquests respecting persons who are so	139
mentally impaired as a result of a mental or physical illness or	140
disability, as a result of intellectual disability, or as a	141
result of chronic substance abuse, that they are unable to	142
manage their property and affairs effectively, subject to	143
guardianship;	144
(h) To qualify assignees, appoint and qualify trustees and	145
commissioners of insolvents, control their conduct, and settle	146
their accounts;	147
(i) To authorize the sale of lands, equitable estates, or	148
interests in lands or equitable estates, and the assignments of	149
inchoate dower in such cases of sale, on petition by executors,	150
administrators, and guardians;	151
(j) To authorize the completion of real property contracts	152
on petition of executors and administrators;	153
(k) To construe wills;	154
(l) To render declaratory judgments, including, but not	155
limited to, those rendered pursuant to <del>section 2107.084</del> <u>Chapter</u>	156
<u>5817.</u> of the Revised Code;	157
(m) To direct and control the conduct of fiduciaries and	158
settle their accounts;	159
(n) To authorize the sale or lease of any estate created	160
by will if the estate is held in trust, on petition by the	161
trustee;	162
(o) To terminate a testamentary trust in any case in which	163
a court of equity may do so;	164
(p) To hear and determine actions to contest the validity	165
of wills;	166

(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	167 168 169
(r) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	170 171
(s) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	172 173
(t) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	174 175 176
(u) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	177 178 179
(v) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	180 181 182
(w) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;	183 184 185 186 187 188
(x) To hear and determine applications that pertain to the withholding or withdrawal of nutrition and hydration from certain patients allegedly in a permanently unconscious state pursuant to section 2133.09 of the Revised Code, in accordance with that section;	189 190 191 192 193
(y) To hear and determine applications of attending	194

physicians in accordance with division (B) of section 2133.15 of	195
the Revised Code;	196
(z) To hear and determine actions relative to the use or	197
continuation of comfort care in connection with certain	198
principals under durable powers of attorney for health care,	199
declarants under declarations, or patients in accordance with	200
division (E) of either section 1337.16 or 2133.12 of the Revised	201
Code;	202
(aa) To hear and determine applications for an order	203
relieving an estate from administration under section 2113.03 of	204
the Revised Code;	205
(bb) To hear and determine applications for an order	206
granting a summary release from administration under section	207
2113.031 of the Revised Code;	208
(cc) To hear and determine actions relating to the	209
exercise of the right of disposition, in accordance with section	210
2108.90 of the Revised Code;	211
(dd) To hear and determine actions relating to the	212
disinterment and reinterment of human remains under section	213
517.23 of the Revised Code;	214
(ee) To hear and determine petitions for an order for	215
treatment of a person suffering from alcohol and other drug	216
abuse filed under section 5119.93 of the Revised Code and to	217
order treatment of that nature in accordance with, and take	218
other actions afforded to the court under, sections 5119.90 to	219
5119.98 of the Revised Code.	220
(2) In addition to the exclusive jurisdiction conferred	221
upon the probate court by division (A) (1) of this section, the	222
probate court shall have exclusive jurisdiction over a	223



particular subject matter if both of the following apply:	224
(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court.	225 226
(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.	227 228 229
(B) (1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows:	230 231 232 233
(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter;	234 235 236 237
(b) Any action that involves an inter vivos trust; a trust created pursuant to section 5815.28 of the Revised Code; a charitable trust or foundation; subject to divisions (A) (1) (t) and (y) of this section, a power of attorney, including, but not limited to, a durable power of attorney; the medical treatment of a competent adult; or a writ of habeas corpus;	238 239 240 241 242 243
(c) Subject to section 2101.31 of the Revised Code, any action with respect to a probate estate, guardianship, trust, or post-death dispute that involves any of the following:	244 245 246
(i) A designation or removal of a beneficiary of a life insurance policy, annuity contract, retirement plan, brokerage account, security account, bank account, real property, or tangible personal property;	247 248 249 250
(ii) A designation or removal of a payable-on-death	251

beneficiary or transfer-on-death beneficiary;	252
(iii) A change in the title to any asset involving a joint and survivorship interest;	253 254
(iv) An alleged gift;	255
(v) The passing of assets upon the death of an individual otherwise than by will, intestate succession, or trust.	256 257
(2) Any action that involves a concurrent jurisdiction subject matter and that is before the probate court may be transferred by the probate court, on its order, to the general division of the court of common pleas.	258 259 260 261
<u>(3) Notwithstanding that the probate court has exclusive jurisdiction to render declaratory judgments under Chapter 5817. of the Revised Code, the probate court may transfer the proceeding to the general division of the court of common pleas pursuant to division (A) of section 5817.04 of the Revised Code.</u>	262 263 264 265 266
(C) The probate court has plenary power at law and in equity to dispose fully of any matter that is properly before the court, unless the power is expressly otherwise limited or denied by a section of the Revised Code.	267 268 269 270
(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.	271 272 273
<b>Sec. 2105.19.</b> (A) Except as provided in division (C) of this section, no person who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of section 2903.01, 2903.02, or 2903.03 of the Revised Code <u>or a violation of division (A) of section 2903.04 of the Revised Code that is not a proximate</u>	274 275 276 277 278 279

result of a felony violation of section 2903.06 of the Revised 280  
Code, or of an existing or former law of any other state, the 281  
United States, or a foreign nation, substantially equivalent to 282  
a violation of or complicity in the violation of any of these 283  
sections, no person who is indicted for a violation of or 284  
complicity in the violation of any of those sections or laws and 285  
subsequently is adjudicated incompetent to stand trial on that 286  
charge, and no juvenile who is found to be a delinquent child by 287  
reason of committing an act that, if committed by an adult, 288  
would be a violation of or complicity in the violation of any of 289  
those sections or laws, shall in any way benefit by the death. 290  
All property of the decedent, and all money, insurance proceeds, 291  
or other property or benefits payable or distributable in 292  
respect of the decedent's death, shall pass or be paid or 293  
distributed as if the person who caused the death of the 294  
decedent had predeceased the decedent. 295

(B) A person prohibited by division (A) of this section 296  
from benefiting by the death of another is a constructive 297  
trustee for the benefit of those entitled to any property or 298  
benefit that the person has obtained, or over which the person 299  
has exerted control, because of the decedent's death. A person 300  
who purchases any such property or benefit from the constructive 301  
trustee, for value, in good faith, and without notice of the 302  
constructive trustee's disability under division (A) of this 303  
section, acquires good title, but the constructive trustee is 304  
accountable to the beneficiaries for the proceeds or value of 305  
the property or benefit. 306

(C) A person who is prohibited from benefiting from a 307  
death pursuant to division (A) of this section either because 308  
the person was adjudicated incompetent to stand trial or was 309  
found not guilty by reason of insanity, or the person's guardian 310

appointed pursuant to Chapter 2111. of the Revised Code or other 311  
legal representative, may file a complaint to declare the 312  
person's right to benefit from the death in the probate court in 313  
which the decedent's estate is being administered or that 314  
released the estate from administration. The complaint shall be 315  
filed no later than sixty days after the person is adjudicated 316  
incompetent to stand trial or found not guilty by reason of 317  
insanity. The court shall notify each person who is a devisee or 318  
legatee under the decedent's will, or if there is no will, each 319  
person who is an heir of the decedent pursuant to section 320  
2105.06 of the Revised Code that a complaint of that nature has 321  
been filed within ten days after the filing of the complaint. 322  
The person who files the complaint, and each person who is 323  
required to be notified of the filing of the complaint under 324  
this division, is entitled to a jury trial in the action. To 325  
assert the right, the person desiring a jury trial shall demand 326  
a jury in the manner prescribed in the Civil Rules. 327

A person who files a complaint pursuant to this division 328  
shall be restored to the person's right to benefit from the 329  
death unless the court determines, by a preponderance of the 330  
evidence, that the person would have been convicted of a 331  
violation of, or complicity in the violation of, section 332  
2903.01, 2903.02, or 2903.03 of the Revised Code or a violation 333  
of division (A) of section 2903.04 of the Revised Code that is 334  
not a proximate result of a felony violation of section 2903.06 335  
of the Revised Code, or of a law of another state, the United 336  
States, or a foreign nation that is substantially similar to any 337  
of those sections, if the person had been brought to trial in 338  
the case in which the person was adjudicated incompetent or if 339  
the person were not insane at the time of the commission of the 340  
offense. 341

**Sec. 2107.01.** As used in Chapters 2101. to 2131. of the Revised Code:

(A) "Will" includes codicils to wills admitted to probate, lost, spoliated, or destroyed wills, and instruments ~~admitted to probate~~ declared valid under division (A)(1) of section 2107.081-5817.10 of the Revised Code, but "will" does not include inter vivos trusts or other instruments that have not been admitted to probate.

(B) "Testator" means any person who makes a will.

**Sec. 2107.05.** (A) An existing document, book, record, or memorandum may be incorporated in a will by reference, if referred to as being in existence at the time the will is executed. That document, book, record, or memorandum shall be deposited in the probate court when the will is probated or within thirty days after the will is probated, unless the court grants an extension of time for good cause shown. A copy may be substituted for the original document, book, record, or memorandum if the copy is certified to be correct by a person authorized to take acknowledgments.

(B) Notwithstanding division (A) of this section, if a will incorporates a trust instrument only in the event that a bequest or devise to the trust is ineffective, the trust instrument shall be deposited in the probate court not later than thirty days after the final determination that such bequest or devise is ineffective.

(C) If a testator intends to incorporate a trust instrument in a will, the testator's will shall manifest that intent through the use of the term "incorporate," "made a part of," or similar language. In the absence of such clear and

express intent, a trust instrument shall not be incorporated 371  
into or made a part of the will. Any language in the testator's 372  
will that only identifies a trust shall not be sufficient to 373  
manifest an intent to incorporate that trust instrument by 374  
reference in the will. 375

(D) The amendment of this section by adding divisions (B) 376  
and (C) applies, and shall be construed as applying, to the 377  
wills of testators who die on or after the effective date of 378  
this amendment. 379

**Sec. 2107.07.** A will may be deposited by the testator, or 380  
by some person for the testator, in the office of the judge of 381  
the probate court in the county in which the testator lives, 382  
before or after the death of the testator, and if deposited 383  
after the death of the testator, with or without applying for 384  
its probate. Upon the payment of the fee of twenty-five dollars 385  
to the court, the judge shall receive, keep, and give a 386  
certificate of deposit for the will. That will shall be safely 387  
kept until delivered or disposed of as provided by section 388  
2107.08 of the Revised Code. If the will is not delivered or 389  
disposed of as provided in that section within one hundred years 390  
after the date the will was deposited, the judge may dispose of 391  
the will in any manner the judge considers feasible. The judge 392  
shall retain an electronic copy of the will prior to its 393  
disposal after one hundred years under this section. 394

Every will that is so deposited shall be enclosed in a 395  
sealed envelope that shall be indorsed with the name of the 396  
testator. The judge shall indorse on the envelope the date of 397  
delivery and the person by whom the will was delivered. The 398  
envelope may be indorsed with the name of a person to whom it is 399  
to be delivered after the death of the testator. The will shall 400

not be opened or read until delivered to a person entitled to 401  
receive it, until the testator files a complaint in the probate 402  
court for a declaratory judgment of the validity of the will 403  
pursuant to section ~~2107.081~~ 5817.02 of the Revised Code, or 404  
until otherwise disposed of as provided in section 2107.08 of 405  
the Revised Code. Subject to section 2107.08 of the Revised 406  
Code, the deposited will shall not be a public record until the 407  
time that an application is filed to probate it. 408

**Sec. 2107.08.** During the lifetime of a testator, the 409  
testator's will, deposited according to section 2107.07 of the 410  
Revised Code, shall be delivered only to the testator, to some 411  
person authorized by the testator by a written order, or to a 412  
probate court for a determination of its validity when the 413  
testator so requests. After the testator's death, the will shall 414  
be delivered to the person named in the indorsement on the 415  
envelope of the will, if there is a person named who demands it. 416  
If the testator has filed a complaint in the probate court for a 417  
judgment declaring the validity of the will pursuant to section 418  
~~2107.081~~ 5817.02 of the Revised Code and ~~the court has rendered~~ 419  
~~the a judgment~~ is rendered pursuant to division (A)(1) of 420  
section 5817.10 of the Revised Code declaring the will valid, 421  
~~the probate judge with possession of the court who rendered the~~ 422  
judgment shall deliver the will to the proper probate court as 423  
determined under section 2107.11 of the Revised Code, upon the 424  
death of the testator, for probate. 425

If no person named in the indorsement demands the will and 426  
it is not one that has been declared valid pursuant to division 427  
(A)(1) of section ~~2107.084~~ 5817.10 of the Revised Code, it shall 428  
be publicly opened in the probate court within one month after 429  
notice of the testator's death and retained in the office of the 430  
probate judge until offered for probate. If the jurisdiction 431

belongs to any other probate court, the will shall be delivered 432  
to the person entitled to its custody, to be presented for 433  
probate in the other court. If the probate judge who opens the 434  
will has jurisdiction of it, the probate judge immediately shall 435  
give notice of its existence to the executor named in the will 436  
or, if any, to the persons holding a power to nominate an 437  
executor as described in section 2107.65 of the Revised Code, 438  
or, if it is the case, to the executor named in the will and to 439  
the persons holding a power to nominate a coexecutor as 440  
described in that section. If no executor is named and no 441  
persons hold a power to nominate an executor as described in 442  
that section, the probate judge shall give notice to other 443  
persons immediately interested. 444

**Sec. 2107.09.** (A) If real property is devised or personal 445  
property is bequeathed by a will, the executor or any interested 446  
person may cause the will to be brought before the probate court 447  
of the county in which the decedent was domiciled. By judicial 448  
order, the court may compel the person having the custody or 449  
control of the will to produce it before the court for the 450  
purpose of being proved. 451

If the person having the custody or control of the will 452  
intentionally conceals or withholds it or neglects or refuses to 453  
produce it for probate without reasonable cause, the person may 454  
be committed to the county jail and kept in custody until the 455  
will is produced. The person also shall be liable to any party 456  
aggrieved for the damages sustained by that neglect or refusal. 457

Any judicial order issued pursuant to this section may be 458  
issued into any county in the state and shall be served and 459  
returned by the officer to whom it is delivered. 460

The officer to whom the process is delivered shall be 461



liable for neglect in its service or return in the same manner 462  
as sheriffs are liable for neglect in not serving or returning a 463  
capias issued upon an indictment. 464

(B) In the case of a will that has been declared valid 465  
pursuant to division (A) (1) of section 2107.084-5817.10 of the 466  
Revised Code, the probate judge of the probate court or of the 467  
general division of the court of common pleas to which the 468  
proceeding was transferred pursuant to division (A) of section 469  
5817.04 of the Revised Code who made the declaration ~~or who has~~ 470  
~~possession of the will~~ shall cause ~~the will and the~~ judgment 471  
declaring ~~validity~~ the will valid to be brought before the 472  
proper probate court as determined by section 2107.11 of the 473  
Revised Code at a time after the death of the testator. If the 474  
death of the testator is brought to the attention of the ~~probate~~ 475  
applicable judge by an interested party, the judge shall cause 476  
the judgment declaring the will valid to be brought before the 477  
proper probate court at that time. 478

**Sec. 2107.10.** (A) No property or right, testate or 479  
intestate, shall pass to a beneficiary named in a will who knows 480  
of the existence of the will for one year after the death of the 481  
testator and has the power to control it and, without reasonable 482  
cause, intentionally conceals or withholds it or neglects or 483  
refuses within that one year to cause it to be offered for or 484  
admitted to probate. The property devised or bequeathed to that 485  
beneficiary shall pass as if the beneficiary had predeceased the 486  
testator. 487

(B) No property or right, testate or intestate, passes to 488  
a beneficiary named in a will when the will was declared valid 489  
~~and filed with a probate judge by a court pursuant to~~ division 490  
(A) (1) of section 2107.084-5817.10 of the Revised Code, the 491

declaration ~~and filing~~ took place in a county different from the 492  
county in which the will of the testator would be probated under 493  
section 2107.11 of the Revised Code, and the named beneficiary 494  
knew of the declaration ~~and filing~~ and of the death of the 495  
testator and did not notify the ~~probate judge with whom of the~~  
court in which the will was filed declared valid. This division 496  
does not preclude a named beneficiary from acquiring property or 497  
rights from the estate of the testator for failing to notify a 498  
~~probate judge of that court~~ if the named beneficiary reasonably 499  
believes that the judge has previously been notified of the 500  
testator's death. 501  
502

**Sec. 2107.11.** (A) A will shall be admitted to probate: 503

(1) In the county in this state in which the testator was 504  
domiciled at the time of the testator's death; 505

(2) In any county of this state where any real property or 506  
personal property of the testator is located if, at the time of 507  
the testator's death, the testator was not domiciled in this 508  
state, and provided that the will has not previously been 509  
admitted to probate in this state or in the state of the 510  
testator's domicile; 511

(3) In the county of this state in which a ~~probate court~~ 512  
rendered a judgment declaring that the will was valid ~~and in~~  
~~which the will was filed with the probate court pursuant to~~  
division (A) (1) of section 5817.10 of the Revised Code. 513  
514  
515

(B) For the purpose of division (A) (2) of this section, 516  
intangible personal property is located in the place where the 517  
instrument evidencing a debt, obligation, stock, or chose in 518  
action is located or if there is no instrument of that nature 519  
where the debtor resides. 520

**Sec. 2107.12.** When a will is presented for probate or for 521  
a declaratory judgment of its validity pursuant to ~~section~~ 522  
~~2107.081~~ Chapter 5817. of the Revised Code, persons interested 523  
in its outcome may contest the jurisdiction of the court to 524  
entertain the application. Preceding a hearing of a contest as 525  
to jurisdiction, all parties named in such will as legatees, 526  
 devisees, trustees, or executors shall have notice ~~thereof~~ of 527  
the hearing in such manner as may be ordered by the court. 528

When ~~such~~ that contest is made, the parties may call 529  
witnesses and shall be heard upon the question involved. The 530  
decision of the court as to its jurisdiction may be reviewed on 531  
error. 532

**Sec. 2107.16.** (A) When offered for probate, a will may be 533  
admitted to probate and allowed upon such proof as would be 534  
satisfactory, and in like manner as if an absent or incompetent 535  
witness were dead: 536

(1) If it appears to the probate court that a witness to 537  
such will has gone to parts unknown; 538

(2) If the witness was competent at the time of attesting 539  
its execution and afterward became incompetent; 540

(3) If testimony of a witness cannot be obtained within a 541  
reasonable time. 542

(B) When offered for probate, a will shall be admitted to 543  
probate and allowed when there has been a prior judgment by a 544  
~~probate~~ court declaring that the will is valid pursuant to 545  
division (A) (1) of section 2107.084-5817.10 of the Revised Code, 546  
if the will ~~has not been removed from the possession of the~~ 547  
~~probate judge and has not been modified or revoked under~~ 548  
~~division (C) or (D) of section 2107.084 of the Revised Code.~~ 549

**Sec. 2107.18.** The probate court shall admit a will to 550  
probate if it appears from the face of the will, or if the 551  
probate court requires, in its discretion, the testimony of the 552  
witnesses to a will and it appears from that testimony, that the 553  
execution of the will complies with the law in force at the time 554  
of the execution of the will in the jurisdiction in which it was 555  
executed, with the law in force in this state at the time of the 556  
death of the testator, or with the law in force in the 557  
jurisdiction in which the testator was domiciled at the time of 558  
the testator's death. 559

The probate court shall admit a will to probate when there 560  
has been a prior judgment by a ~~probate~~ court declaring that the 561  
will is valid, rendered pursuant to division (A) (1) of section 562  
~~2107.084-5817.10~~ of the Revised Code, if the will ~~has not been~~ 563  
~~removed from the possession of the probate judge and has not~~ 564  
~~been modified or revoked under division (C) or (D) of section~~ 565  
~~2107.084 of the Revised Code.~~ 566

**Sec. 2107.20.** When admitted to probate every will shall be 567  
filed in the office of the probate judge and recorded, together 568  
with any testimony or prior judgment of a ~~probate~~ court 569  
declaring the will valid pursuant to division (A) (1) of section 570  
5817.10 of the Revised Code, by the judge or the clerk of the 571  
probate court in a book to be kept for that purpose. 572

A copy of the recorded will, with a copy of the order of 573  
probate annexed to the copy of the recorded will, certified by 574  
the judge under seal of the judge's court, shall be as effectual 575  
in all cases as the original would be, if established by proof. 576

**Sec. 2107.22.** (A) (1) (a) When a will has been admitted to 577  
probate by a probate court and another will of later date is 578  
presented to the same court for probate, notice of the will of 579

later date shall be given to those persons required to be 580  
notified under section 2107.19 of the Revised Code, and to the 581  
fiduciaries and beneficiaries under the will of earlier date. 582  
The probate court may admit the will of later date to probate 583  
the same as if no earlier will had been so admitted if it 584  
appears from the face of the will of later date, or if an 585  
interested person makes a demand as described in division (A) (1) 586  
(b) of this section and it appears from the testimony of the 587  
witnesses to the will given in accordance with that division, 588  
that the execution of the will complies with the law in force at 589  
the time of the execution of the will in the jurisdiction in 590  
which it was executed, with the law in force in this state at 591  
the time of the death of the testator, or with the law in force 592  
in the jurisdiction in which the testator was domiciled at the 593  
time of the testator's death. 594

(b) Upon the demand of a person interested in having a 595  
will of later date admitted to probate, the probate court shall 596  
cause at least two of the witnesses to the will of later date, 597  
and any other witnesses that the interested person desires to 598  
have appear, to come before the probate court and provide 599  
testimony. If the interested person so requests, the probate 600  
court shall issue a subpoena to compel the presence of any such 601  
witness before the probate court to provide testimony. 602

Witnesses before the probate court pursuant to this 603  
division shall be examined, and may be cross-examined, in open 604  
court, and their testimony shall be reduced to writing and then 605  
filed in the records of the probate court pertaining to the 606  
testator's estate. 607

(2) When an authenticated copy of a will has been admitted 608  
to record by a probate court, and an authenticated copy of a 609

will of later date that was executed and proved as required by 610  
law, is presented to the same court for record, it shall be 611  
admitted to record in the same manner as if no authenticated 612  
copy of the will of earlier date had been so admitted. 613

(3) If a probate court admits a will of later date to 614  
probate, or an authenticated copy of a will of later date to 615  
record, its order shall operate as a revocation of the order 616  
admitting the will of earlier date to probate, or shall operate 617  
as a revocation of the order admitting the authenticated copy of 618  
the will of earlier date to record. The probate court shall 619  
enter on the record of the earlier will a marginal note "later 620  
will admitted to probate ..." (giving the date admitted). 621

(B) When a will that has been declared valid pursuant to 622  
division (A) (1) of section 2107.084-5817.10 of the Revised Code 623  
has been admitted to probate by a probate court, and an 624  
authenticated copy of another will of later date that was 625  
executed and proved as required by law is presented to the same 626  
court for record, the will of later date shall be admitted the 627  
same as if no other will had been admitted and the proceedings 628  
shall continue as provided in this section. 629

**Sec. 2107.33.** (A) A will shall be revoked in the following 630  
manners: 631

(1) By the testator by tearing, canceling, obliterating, 632  
or destroying it with the intention of revoking it; 633

(2) By some person, at the request of the testator and in 634  
the testator's presence, by tearing, canceling, obliterating, or 635  
destroying it with the intention of revoking it; 636

(3) By some person tearing, canceling, obliterating, or 637  
destroying it pursuant to the testator's express written 638

direction; 639

(4) By some other written will or codicil, executed as 640  
prescribed by this chapter; 641

(5) By some other writing that is signed, attested, and 642  
subscribed in the manner provided by this chapter. 643

~~(B) A will that has been declared valid and is in the 644  
possession of a probate judge also may be revoked according to 645  
division (C) of section 2107.084 of the Revised Code. 646~~

~~(C) If a testator removes a will that has been declared 647  
valid and is in the possession of a probate judge pursuant to 648  
section 2107.084 of the Revised Code from the possession of the 649  
judge, the declaration of validity that was rendered no longer 650  
has any effect. 651~~

~~(D) If after executing a will, a testator is divorced, 652  
obtains a dissolution of marriage, has the testator's marriage 653  
annulled, or, upon actual separation from the testator's spouse, 654  
enters into a separation agreement pursuant to which the parties 655  
intend to fully and finally settle their prospective property 656  
rights in the property of the other, whether by expected 657  
inheritance or otherwise, any disposition or appointment of 658  
property made by the will to the former spouse or to a trust 659  
with powers created by or available to the former spouse, any 660  
provision in the will conferring a general or special power of 661  
appointment on the former spouse, and any nomination in the will 662  
of the former spouse as executor, trustee, or guardian shall be 663  
revoked unless the will expressly provides otherwise. 664~~

~~(E) (C) Property prevented from passing to a former spouse 665  
or to a trust with powers created by or available to the former 666  
spouse because of revocation by this section shall pass as if 667~~

the former spouse failed to survive the decedent, and other 668  
provisions conferring some power or office on the former spouse 669  
shall be interpreted as if the spouse failed to survive the 670  
decedent. If provisions are revoked solely by this section, they 671  
shall be deemed to be revived by the testator's remarriage with 672  
the former spouse or upon the termination of a separation 673  
agreement executed by them. 674

~~(F)~~ (D) A bond, agreement, or covenant made by a testator, 675  
for a valuable consideration, to convey property previously 676  
devised or bequeathed in a will does not revoke the devise or 677  
bequest. The property passes by the devise or bequest, subject 678  
to the remedies on the bond, agreement, or covenant, for a 679  
specific performance or otherwise, against the devisees or 680  
legatees, that might be had by law against the heirs of the 681  
testator, or the testator's next of kin, if the property had 682  
descended to them. 683

~~(G)~~ (E) A testator's revocation of a will shall be valid 684  
only if the testator, at the time of the revocation, has the 685  
same capacity as the law requires for the execution of a will. 686

~~(H)~~ (F) As used in this section: 687

(1) "Trust with powers created by or available to the 688  
former spouse" means a trust that is revocable by the former 689  
spouse, with respect to which the former spouse has a power of 690  
withdrawal, or with respect to which the former spouse may take 691  
a distribution that is not subject to an ascertainable standard 692  
but does not mean a trust in which those powers of the former 693  
spouse are revoked by section 5815.31 of the Revised Code or 694  
similar provisions in the law of another state. 695

(2) "Ascertainable standard" means a standard that is 696



related to a trust beneficiary's health, maintenance, support, 697  
or education. 698

**Sec. 2107.52.** (A) As used in this section: 699

(1) "Class member" means an individual who fails to 700  
survive the testator but who would have taken under a devise in 701  
the form of a class gift had the individual survived the 702  
testator. 703

(2) "Descendant of a grandparent" means an individual who 704  
qualifies as a descendant of a grandparent of the testator or of 705  
the donor of a power of appointment under either of the 706  
following: 707

(a) The rules of construction applicable to a class gift 708  
created in the testator's will if the devise or the exercise of 709  
the power of appointment is in the form of a class gift; 710

(b) The rules for intestate succession if the devise or 711  
the exercise of the power of appointment is not in the form of a 712  
class gift. 713

(3) "Devise" means an alternative devise, a devise in the 714  
form of a class gift, or an exercise of a power of appointment. 715

(4) "Devisee" means any of the following: 716

(a) A class member if the devise is in the form of a class 717  
gift; 718

(b) An individual or class member who was deceased at the 719  
time the testator executed the testator's will or an individual 720  
or class member who was then living but who failed to survive 721  
the testator; 722

(c) An appointee under a power of appointment exercised by 723

the testator's will. 724

(5) "Per stirpes" means that the shares of the descendants 725  
of a devisee who does not survive the testator are determined in 726  
the same way they would have been determined under division (A) 727  
of section 2105.06 of the Revised Code if the devisee had died 728  
intestate and unmarried on the date of the testator's death. 729

(6) "Stepchild" means a child of the surviving, deceased, 730  
or former spouse of the testator or of the donor of a power of 731  
appointment and not of the testator or donor. 732

(7) "Surviving devisee" or "surviving descendant" means a 733  
devisee or descendant, whichever is applicable, who survives the 734  
testator by at least one hundred twenty hours. 735

(8) "Testator" includes the donee of a power of 736  
appointment if the power is exercised in the testator's will. 737

(B) (1) As used in "surviving descendants" in divisions (B) 738  
(2) (a) and (b) of this section, "descendants" means the 739  
descendants of a deceased devisee or class member under the 740  
applicable division who would take under a class gift created in 741  
the testator's will. 742

(2) Unless a contrary intent appears in the will, if a 743  
devisee fails to survive the testator and is a grandparent, a 744  
descendant of a grandparent, or a stepchild of either the 745  
testator or the donor of a power of appointment exercised by the 746  
testator's will, either of the following applies: 747

(a) If the devise is not in the form of a class gift and 748  
the deceased devisee leaves surviving descendants, a substitute 749  
gift is created in the devisee's surviving descendants. The 750  
surviving descendants take, per stirpes, the property to which 751  
the devisee would have been entitled had the devisee survived 752

the testator. 753

(b) If the devise is in the form of a class gift, other 754  
than a devise to "issue," "descendants," "heirs of the body," 755  
"heirs," "next of kin," "relatives," or "family," or a class 756  
described by language of similar import that includes more than 757  
one generation, a substitute gift is created in the surviving 758  
descendants of any deceased devisee. The property to which the 759  
devisees would have been entitled had all of them survived the 760  
testator passes to the surviving devisees and the surviving 761  
descendants of the deceased devisees. Each surviving devisee 762  
takes the share to which the surviving devisee would have been 763  
entitled had the deceased devisees survived the testator. Each 764  
deceased devisee's surviving descendants who are substituted for 765  
the deceased devisee take, per stirpes, the share to which the 766  
deceased devisee would have been entitled had the deceased 767  
devisee survived the testator. For purposes of division (B) (2) 768  
(b) of this section, "deceased devisee" means a class member who 769  
failed to survive the testator by at least one hundred twenty 770  
hours and left one or more surviving descendants. 771

(C) For purposes of this section, each of the following 772  
applies: 773

(1) Attaching the word "surviving" or "living" to a 774  
devise, such as a gift "to my surviving (or living) children," 775  
is not, in the absence of other language in the will or other 776  
evidence to the contrary, a sufficient indication of an intent 777  
to negate the application of division (B) of this section. 778

(2) Attaching other words of survivorship to a devise, 779  
such as "to my child, if my child survives me," is, in the 780  
absence of other language in the will or other evidence to the 781  
contrary, a sufficient indication of an intent to negate the 782

application of division (B) of this section.	783
(3) A residuary clause is not a sufficient indication of an intent to negate the application of division (B) of this section unless the will specifically provides that upon lapse or failure the nonresiduary devise, or nonresiduary devises in general, pass under the residuary clause.	784 785 786 787 788
(4) Unless the language creating a power of appointment expressly excludes the substitution of the descendants of an appointee for the appointee, a surviving descendant of a deceased appointee of a power of appointment may be substituted for the appointee under this section, whether or not the descendant is an object of the power of appointment.	789 790 791 792 793 794
(D) Except as provided in division (A), (B), or (C) of this section, each of the following applies:	795 796
(1) A devise, other than a residuary devise, that fails for any reason becomes a part of the residue.	797 798
(2) If the residue is devised to two or more persons, the share of a residuary devisee that fails for any reason passes to the other residuary devisee, or to other residuary devisees in proportion to the interest of each in the remaining part of the residue.	799 800 801 802 803
(3) If a residuary devise fails for any reason in its entirety, the residue passes by intestate succession.	804 805
(E) This section applies only to outright devises and appointments. Devises and appointments in trust, including to a testamentary trust, are subject to section 5808.19 of the Revised Code.	806 807 808 809
(F) This section applies to wills of decedents who die on	810

or after ~~the effective date of this section~~ March 22, 2012. 811

**Sec. 2107.71.** (A) A person interested in a will or codicil 812  
admitted to probate in the probate court that has not been 813  
declared valid by judgment of a ~~probate court~~ pursuant to 814  
division (A) (1) of section 2107.084-5817.10 of the Revised Code 815  
~~or that has been declared valid by judgment of a probate court~~ 816  
~~pursuant to section 2107.084 of the Revised Code but has been~~ 817  
~~removed from the possession of the probate judge,~~ may contest 818  
its validity by filing a complaint in the probate court in the 819  
county in which the will or codicil was admitted to probate. 820

(B) Except as otherwise provided in this division, no 821  
person may contest the validity of any will or codicil as to 822  
facts decided if it was submitted to a probate court by the 823  
testator during the testator's lifetime and declared valid by 824  
judgment of ~~the probate a court and filed with the judge of the~~ 825  
~~probate court~~ pursuant to division (A) (1) of section 2107.084- 826  
5817.10 of the Revised Code ~~and if the will was not removed from~~ 827  
~~the possession of the probate judge.~~ A person may contest the 828  
validity of that will, ~~modification,~~ or codicil as to those 829  
facts if the person is one who should have been named a party 830  
defendant in the action in which the will, ~~modification,~~ or 831  
codicil was declared valid, pursuant to division (A) of section 832  
2107.081 or 2107.084-5817.05 of the Revised Code, and if the 833  
person was not named a defendant and properly served in that 834  
action. Upon the filing of a complaint contesting the validity 835  
of a will or codicil that is authorized by this division, the 836  
court shall proceed with the action ~~in the same manner as if the~~ 837  
~~will, modification, or codicil had not been previously declared~~ 838  
~~valid under sections 2107.081 to 2107.085 of the Revised Code.~~ 839

(C) No person may introduce, as evidence in an action 840

authorized by this section contesting the validity of a will, 841  
the fact that the testator of the will did not file a complaint 842  
for a judgment declaring its validity under ~~section 2107.081~~ 843  
Chapter 5817. of the Revised Code. 844

Sec. 2111.182. If a minor is entitled to money or property 845  
whether by settlement or judgment for personal injury or damage 846  
to tangible or intangible property, inheritance or otherwise, 847  
the probate court may order that all or a portion of the amount 848  
received by the minor be deposited into a trust for the benefit 849  
of that beneficiary until the beneficiary reaches twenty-five 850  
years of age, and order the distribution of the amount in 851  
accordance with the provisions of the trust. Prior to the 852  
appointment as a trustee of a trust created pursuant to this 853  
section, the person to be appointed shall be approved by a 854  
parent or guardian of the minor beneficiary of the trust, unless 855  
otherwise ordered by the probate court. 856

Sec. 2111.52. (A) A probate court may accept funds or 857  
other program assistance from, or charge fees for services 858  
described in division (C) of this section rendered to, 859  
individuals, corporations, agencies, or organizations, 860  
including, but not limited to, a county board of alcohol, drug 861  
addiction, and mental health services or a county board of 862  
developmental disabilities, unless a county board of alcohol, 863  
drug addiction, and mental health services or a county board of 864  
developmental disabilities does not agree to the payment of 865  
those fees. Any funds or fees received by the probate court 866  
under this division shall be paid into the county treasury and 867  
credited to a fund to be known as the county probate court 868  
guardianship services fund. 869

(B) The probate courts of two or more counties may accept 870

funds or other program assistance from, or charge fees for 871  
services described in division (C) of this section rendered to, 872  
individuals, corporations, agencies, or organizations, 873  
including, but not limited to, a county board of alcohol, drug 874  
addiction, and mental health services or a county board of 875  
developmental disabilities, unless a county board of alcohol, 876  
drug addiction, and mental health services or a county board of 877  
developmental disabilities does not agree to the payment of 878  
those fees. Any funds or fees received by the probate courts of 879  
two or more counties under this division shall be paid into the 880  
county treasury of one or more of the counties and credited to a 881  
fund to be known as the multicounty probate court guardianship 882  
services fund. 883

(C) The moneys in a county or multicounty probate court 884  
guardianship services fund shall be used for services to help 885  
ensure the treatment of any person who is under the care of a 886  
county board of alcohol, drug addiction, and mental health 887  
services or a county board of developmental disabilities, or any 888  
other guardianships. These services include, but are not limited 889  
to, involuntary commitment proceedings and the establishment and 890  
management of adult guardianships, including all associated 891  
expenses, for wards who are under the care of a county board of 892  
alcohol, drug addiction, and mental health services, a county 893  
board of developmental disabilities, or any other guardianships. 894

(D) If a judge of a probate court determines that some of 895  
the moneys in the county or multicounty probate court 896  
guardianship services fund are needed for the efficient 897  
operation of that probate court, the moneys may be used for the 898  
acquisition of equipment, the hiring and training of staff, 899  
community services programs, volunteer guardianship training 900  
services, the employment of magistrates, and other related 901

services. 902

(E) The moneys in the county or multicounty probate court guardianship services fund that may be used in part for the establishment and management of adult guardianships under division (C) of this section may be utilized to establish a county or multicounty guardianship service. 903  
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(F) (1) A county or multicounty guardianship service under division (E) of this section is established by creating a county or multicounty guardianship service board. The judge of the probate court shall appoint one member. The board of directors of a county board of developmental disabilities shall appoint one member. The board of directors of a county board of alcohol, drug addiction, and mental health services shall appoint one member. The term of appointment of each member is four years. 908  
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(2) The county or multicounty guardianship services board may appoint a director of the board. The board shall determine the compensation of the director based on the availability of funds contained in the county or multicounty probate court guardianship services fund. 916  
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(3) The county or multicounty guardianship services board may receive appointments from one or more county probate courts to serve as guardians of both the person and estate of wards. The director or any designee of a county or multicounty guardianship services board may act on behalf of the board in relation to all guardianship matters. 921  
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(4) The director of a county or multicounty guardianship services board may hire employees subject to available funds in the county or multicounty probate court guardianship services fund. 927  
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(5) The county or multicounty guardianship services board 931  
may charge a reasonable fee for services provided to wards. A 932  
probate judge shall approve any fees charged by the board under 933  
division (F) (5) of this section. 934

(6) The county or multicounty guardianship services board 935  
that is created under division (F) (1) of this section shall 936  
promulgate all rules and regulations necessary for the efficient 937  
operation of the board and the county or multicounty 938  
guardianship services. 939

**Sec. 2113.032.** Any person who is entitled to be appointed 940  
as a personal representative of a decedent may file an 941  
application with the probate court in the county in which the 942  
decedent resided seeking the release of the decedent's medical 943  
records and medical billing records. The application shall 944  
include a decedent's estate form listing the decedent's known 945  
surviving spouse, children, next of kin, legatees, and devisees, 946  
if any. The application may be filed prior to the filing of any 947  
application for authority to administer the decedent's estate. 948  
Upon the filing of the application and the payment of a filing 949  
fee as determined by the court, the probate court may order that 950  
release without a hearing and direct all medical providers that 951  
provided medical care or treatment to the decedent to release 952  
those medical records and medical billing records to the 953  
applicant for the limited purpose of deciding whether or not to 954  
file a wrongful death claim. The medical records and medical 955  
billing records are confidential and shall not be made available 956  
for public viewing. The probate court shall send copies of the 957  
application and the judgment entry to anyone listed on the 958  
decedent's estate form described in this section. Upon obtaining 959  
the requested applicable records, the applicant shall file a 960  
report with the court certifying that all requested medical 961

records and medical billing records have been received and shall 962  
indicate whether an administration of the decedent's estate will 963  
be filed within the applicable statute of limitations filing 964  
time. 965

**Sec. 2137.01.** As used in this chapter: 966

(A) "Account" means an arrangement under a terms-of- 967  
service agreement in which a custodian carries, maintains, 968  
processes, receives, or stores a digital asset of the user or 969  
provides goods or services to the user. 970

(B) "Agent" means a person granted authority to act for a 971  
principal under a power of attorney, whether denominated as 972  
agent, attorney in fact, or otherwise. 973

(C) "Carries" means engages in the transmission of an 974  
electronic communication. 975

(D) "Catalogue of electronic communications" means 976  
information that identifies each person with which a user has 977  
had an electronic communication, the time and date of the 978  
communication, and the electronic address of the person. 979

(E) "Content of an electronic communication" means 980  
information concerning the substance or meaning of the 981  
communication that meets all of the following conditions: 982

(1) It has been sent or received by a user. 983

(2) It is in electronic storage by a custodian providing 984  
an electronic-communication service to the public or is carried 985  
or maintained by a custodian providing a remote-computing 986  
service to the public. 987

(3) It is not readily accessible to the public. 988

(F) "Court" means the probate court for all matters in	989
which the court has exclusive jurisdiction under section 2101.24	990
of the Revised Code. "Court" also includes the probate court or	991
the general division of the court of common pleas for matters in	992
which such courts have concurrent jurisdiction under section	993
2101.24 of the Revised Code.	994
(G) "Custodian" means a person that carries, maintains,	995
processes, receives, or stores a digital asset of a user.	996
(H) "Designated recipient" means a person chosen by a user	997
using an online tool to administer digital assets of the user.	998
(I) "Digital asset" means an electronic record in which an	999
individual has a right or interest. "Digital asset" does not	1000
include an underlying asset or liability unless the asset or	1001
liability is itself an electronic record.	1002
(J) "Electronic" means relating to technology having	1003
electrical, digital, magnetic, wireless, optical,	1004
electromagnetic, or similar capabilities.	1005
(K) "Electronic communication" has the same meaning as in	1006
18 U.S.C. 2510(12), as amended.	1007
(L) "Electronic-communication service" means a custodian	1008
that provides to a user the ability to send or receive an	1009
electronic communication.	1010
(M) "Fiduciary" means an original, additional, or	1011
successor agent, guardian, personal representative, or trustee.	1012
(N) (1) "Guardian" means any person, association, or	1013
corporation appointed by the probate court to have the care and	1014
management of the person, the estate, or the person and the	1015
estate of an incompetent or minor. When applicable, "guardian"	1016

includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes both of the following:

(a) An agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent;

(b) A conservator appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of the Revised Code.

(2) "Guardian" does not include a guardian under sections 5905.01 to 5905.19 of the Revised Code.

(O) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(P) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(Q) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental agency or instrumentality, public corporation, or any other legal or commercial entity.

(R) "Personal representative" means an executor, administrator, special administrator, or other person acting

under the authority of the probate court to perform 1046  
substantially the same function under the law of this state. 1047  
"Personal representative" also includes a commissioner in a 1048  
release of assets from administration under section 2113.03 of 1049  
the Revised Code and an applicant for summary release from 1050  
administration under section 2113.031 of the Revised Code. 1051

(S) "Power of attorney" means a writing or other record 1052  
that grants authority to an agent to act in the place of the 1053  
principal. 1054

(T) "Principal" means an individual who grants authority 1055  
to an agent in a power of attorney. 1056

(U) "Record" means information that is inscribed on a 1057  
tangible medium or that is stored in an electronic or other 1058  
medium and is retrievable in perceivable form. 1059

(V) "Remote-computing service" means a custodian that 1060  
provides to a user computer-processing services or the storage 1061  
of digital assets by means of an electronic communications 1062  
system, as defined in 18 U.S.C. 2510(14), as amended. 1063

(W) "Terms-of-service agreement" means an agreement that 1064  
controls the relationship between a user and a custodian. 1065

(X) "Trustee" means a fiduciary with legal title to 1066  
property pursuant to an agreement or declaration that creates a 1067  
beneficial interest in another. "Trustee" includes an original, 1068  
additional, and successor trustee and a cotrustee. 1069

(Y) "User" means a person that has an account with a 1070  
custodian. 1071

(Z) "Ward" means any person for whom a guardian is acting 1072  
or for whom the probate court is acting pursuant to section 1073

2111.50 of the Revised Code. "Ward" includes a person for whom a conservator has been appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of the Revised Code.

(AA) "Will" includes codicils to wills admitted to probate, lost, spoliated, or destroyed wills, and instruments admitted to probate under ~~section 2107.081~~ Chapter 5817. of the Revised Code. "Will" does not include inter vivos trusts or other instruments that have not been admitted to probate.

**Sec. 2721.03.** Subject to division (B) of section 2721.02 of the Revised Code, any person interested under a deed, will, written contract, or other writing constituting a contract or any person whose rights, status, or other legal relations are affected by a constitutional provision, statute, rule as defined in section 119.01 of the Revised Code, municipal ordinance, township resolution, contract, or franchise may have determined any question of construction or validity arising under the instrument, constitutional provision, statute, rule, ordinance, resolution, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it.

The testator of a will may have the validity of the will determined at any time during the testator's lifetime pursuant to ~~sections 2107.081 to 2107.085~~ Chapter 5817. of the Revised Code. The settlor of a trust may have the validity of the trust determined at any time during the settlor's lifetime pursuant to Chapter 5817. of the Revised Code.

**Sec. 5802.03.** ~~The~~ (A) Except as otherwise provided in division (B) of this section, the probate division of the court of common pleas has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the

court of common pleas to issue writs and orders and to hear and 1104  
determine any action that involves an inter vivos trust. 1105

(B) The probate division of the court of common pleas has 1106  
exclusive jurisdiction to render declaratory judgments under 1107  
Chapter 5817. of the Revised Code. However, the probate division 1108  
of the court of common pleas may transfer a declaratory judgment 1109  
proceeding under that chapter to the general division of the 1110  
court of common pleas pursuant to division (A) of section 1111  
5817.04 of the Revised Code. 1112

**Sec. 5802.05.** (A) A provision in the terms of a trust, 1113  
excluding a testamentary trust, that requires the arbitration of 1114  
disputes, other than disputes of the validity of all or a part 1115  
of a trust instrument, between or among the beneficiaries and a 1116  
fiduciary under the trust, or a combination of those persons or 1117  
entities, is enforceable. 1118

(B) Unless otherwise specified in the terms of the trust, 1119  
a trust provision requiring arbitration as described in division 1120  
(A) of this section shall be presumed to require binding 1121  
arbitration under Chapter 2711. of the Revised Code. 1122

**Sec. 5806.04.** (A) ~~Any~~ Subject to division (E) of this 1123  
section, any of the following actions pertaining to a revocable 1124  
trust that is made irrevocable by the death of the settlor of 1125  
the trust shall be commenced by the earlier of the date that is 1126  
two years after the date of the death of the settlor of the 1127  
trust or that is six months from the date on which the trustee 1128  
sends the person bringing the action a copy of the trust 1129  
instrument and a notice informing the person of the trust's 1130  
existence, of the trustee's name and address, and of the time 1131  
allowed under this division for commencing an action: 1132

(1) An action to contest the validity of the trust;	1133
(2) An action to contest the validity of any amendment to the trust that was made during the lifetime of the settlor of the trust;	1134 1135 1136
(3) An action to contest the revocation of the trust during the lifetime of the settlor of the trust;	1137 1138
(4) An action to contest the validity of any transfer made to the trust during the lifetime of the settlor of the trust.	1139 1140
(B) Upon the death of the settlor of a revocable trust that was made irrevocable by the death of the settlor, the trustee, without liability, may proceed to distribute the trust property in accordance with the terms of the trust unless either of the following applies:	1141 1142 1143 1144 1145
(1) The trustee has actual knowledge of a pending action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the settlor of the trust.	1146 1147 1148 1149
(2) The trustee receives written notification from a potential contestant of a potential action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the settlor of the trust, and the action is actually filed within ninety days after the written notification was given to the trustee.	1150 1151 1152 1153 1154 1155 1156
(C) If a distribution of trust property is made pursuant to division (B) of this section, a beneficiary of the trust shall return any distribution to the extent that it exceeds the distribution to which the beneficiary is entitled if the trust, an amendment to the trust, or a transfer made to the trust later	1157 1158 1159 1160 1161



is determined to be invalid. 1162

(D) This section applies only to revocable trusts that are 1163  
made irrevocable by the death of the settlor of the trust if the 1164  
grantor dies on or after July 23, 2002. 1165

(E) Except as otherwise provided in this division, no 1166  
person may contest the validity of any trust as to facts decided 1167  
if the trust was submitted to a probate court by the settlor 1168  
during the settlor's lifetime and declared valid by the judgment 1169  
of a court pursuant to division (B) (1) of section 5817.10 of the 1170  
Revised Code. A person may contest the validity of that trust as 1171  
to those facts if the person is one who should have been named a 1172  
party defendant in the action in which the trust was declared 1173  
valid, pursuant to division (A) of section 5817.06 of the 1174  
Revised Code, and if the person was not named a defendant and 1175  
properly served in that action. 1176

**Sec. 5808.19.** (A) As used in this section, unless 1177  
otherwise provided in any other provision in this section: 1178

(1) "Beneficiary" means the beneficiary of a future 1179  
interest and includes a class member if the future interest is 1180  
in the form of a class gift. 1181

(2) "Class member" means an individual who fails to 1182  
survive the distribution date by at least one hundred twenty 1183  
hours but who would have taken under a future interest in the 1184  
form of a class gift had the individual survived the 1185  
distribution date by at least one hundred twenty hours. 1186

(3) "Descendant of a grandparent of the transferor" means 1187  
an individual who would qualify as a descendant of a grandparent 1188  
of the transferor under the rules of construction that would 1189  
apply to a class gift under the transferor's will to the 1190

descendants of the transferor's grandparent. 1191

(4) "Distribution date," with respect to a future 1192  
interest, means the time when the future interest is to take 1193  
effect in possession or enjoyment. The distribution date need 1194  
not occur at the beginning or end of a calendar day but may 1195  
occur at a time during the course of a day. 1196

(5) "Future interest" means an alternative future interest 1197  
or a future interest in the form of a class gift. 1198

(6) "Future interest under the terms of a trust" means a 1199  
future interest that was created by a transfer creating a trust 1200  
or a transfer to an existing trust, or by an exercise of a power 1201  
of appointment to an existing trust, that directs the 1202  
continuance of an existing trust, designates a beneficiary of an 1203  
existing trust, or creates a trust. 1204

(7) "Per stirpes" means that the shares of the descendants 1205  
of a beneficiary who does not survive the distribution date by 1206  
at least one hundred twenty hours are determined in the same way 1207  
they would have been determined under division (A) of section 1208  
2105.06 of the Revised Code if the beneficiary had died 1209  
intestate and unmarried on the distribution date. 1210

(8) "Revocable trust" means a trust that was revocable 1211  
immediately before the settlor's death by the settlor alone or 1212  
by the settlor with the consent of any person other than a 1213  
person holding an adverse interest. A trust's characterization 1214  
as revocable is not affected by the settlor's lack of capacity 1215  
to exercise the power of revocation, regardless of whether an 1216  
agent of the settlor under a power of attorney, or a guardian of 1217  
the person or estate of the settlor, was serving. 1218

(9) "Stepchild" means a child of the surviving, deceased, 1219

or former spouse of the transferor and not of the transferor. 1220

(10) "Transferor" means any of the following: 1221

(a) The donor and donee of a power of appointment, if the 1222  
future interest was in property as a result of the exercise of a 1223  
power of appointment; 1224

(b) The testator, if the future interest was devised by 1225  
will; 1226

(c) The settlor, if the future interest was conveyed by 1227  
inter vivos trust. 1228

(B) (1) (a) As used in "surviving descendants" in divisions 1229  
(B) (2) (b) (i) and (ii) of this section, "descendants" means the 1230  
descendants of a deceased beneficiary or class member who would 1231  
take under a class gift created in the trust. 1232

(b) As used in divisions (B) (2) (b) (i) and (ii) of this 1233  
section, "surviving beneficiaries" or "surviving descendants" 1234  
means beneficiaries or descendants, whichever is applicable, who 1235  
survive the distribution date by at least one hundred twenty 1236  
hours. 1237

(2) Unless a contrary intent appears in the instrument 1238  
creating a future interest under the terms of a trust, each of 1239  
the following applies: 1240

(a) A future interest under the terms of a trust is 1241  
contingent on the beneficiary's surviving the distribution date 1242  
by at least one hundred twenty hours. 1243

(b) If a beneficiary of a future interest under the terms 1244  
of a trust does not survive the distribution date by at least 1245  
one hundred twenty hours and if the beneficiary is a grandparent 1246  
of the transferor, a descendant of a grandparent of the 1247

transferor, or a stepchild of the transferor, either of the 1248  
following applies: 1249

(i) If the future interest is not in the form of a class 1250  
gift and the deceased beneficiary leaves surviving descendants, 1251  
a substitute gift is created in the beneficiary's surviving 1252  
descendants. The surviving descendants take, per stirpes, the 1253  
property to which the beneficiary would have been entitled had 1254  
the beneficiary survived the distribution date by at least one 1255  
hundred twenty hours. 1256

(ii) If the future interest is in the form of a class 1257  
gift, other than a future interest to "issue," "descendants," 1258  
"heirs of the body," "heirs," "next of kin," "relatives," or 1259  
"family," or a class described by language of similar import 1260  
that includes more than one generation, a substitute gift is 1261  
created in the surviving descendants of the deceased beneficiary 1262  
or beneficiaries. The property to which the beneficiaries would 1263  
have been entitled had all of them survived the distribution 1264  
date by at least one hundred twenty hours passes to the 1265  
surviving beneficiaries and the surviving descendants of the 1266  
deceased beneficiaries. Each surviving beneficiary takes the 1267  
share to which the surviving beneficiary would have been 1268  
entitled had the deceased beneficiaries survived the 1269  
distribution date by at least one hundred twenty hours. Each 1270  
deceased beneficiary's surviving descendants who are substituted 1271  
for the deceased beneficiary take, per stirpes, the share to 1272  
which the deceased beneficiary would have been entitled had the 1273  
deceased beneficiary survived the distribution date by at least 1274  
one hundred twenty hours. For purposes of division (B) (2) (b) (ii) 1275  
of this section, "deceased beneficiary" means a class member who 1276  
failed to survive the distribution date by at least one hundred 1277  
twenty hours and left one or more surviving descendants. 1278

(C) For purposes of this section, each of the following applies:	1279 1280
(1) Describing a class of beneficiaries as "surviving" or "living," without specifying when the beneficiaries must be surviving or living, such as a gift "for my spouse for life, then to my surviving (or living) children," is not, in the absence of other language in the trust instrument or other evidence to the contrary, a sufficient indication of an intent to negate the application of division (B) (2) (b) of this section.	1281 1282 1283 1284 1285 1286 1287
(2) Subject to division (C) (1) of this section, attaching words of survivorship to a future interest under the terms of a trust, such as "for my spouse for life, then to my children who survive my spouse" or "for my spouse for life, then to my then-living children" is, in the absence of other language in the trust instrument or other evidence to the contrary, a sufficient indication of an intent to negate the application of division (B) (2) (b) of this section. Words of survivorship under division (C) (2) of this section include words of survivorship that relate to the distribution date or to an earlier or an unspecified time, whether those words of survivorship are expressed as condition-precedent, condition-subsequent, or in any other form.	1288 1289 1290 1291 1292 1293 1294 1295 1296 1297 1298 1299
(3) A residuary clause in a will is not a sufficient indication of an intent that is contrary to the application of this section, whether or not the will specifically provides that lapsed or failed devises are to pass under the residuary clause. A residuary clause in a revocable trust instrument is not a sufficient indication of an intent that is contrary to the application of this section unless the distribution date is the date of the settlor's death and the revocable trust instrument specifically provides that upon lapse or failure the	1300 1301 1302 1303 1304 1305 1306 1307 1308

nonresiduary devise, or nonresiduary devises in general, pass 1309  
under the residuary clause. 1310

(D) If, after the application of divisions (B) and (C) of 1311  
this section there is no surviving taker of the property, and a 1312  
contrary intent does not appear in the instrument creating the 1313  
future interest, the property passes in the following order: 1314

(1) If the future interest was created by the exercise of 1315  
a power of appointment, the property passes under the donor's 1316  
gift-in-default clause, if any, which clause is treated as 1317  
creating a future interest under the terms of a trust. 1318

(2) If no taker is produced under division (D) (1) of this 1319  
section and the trust was created in a nonresiduary devise in 1320  
the transferor's will or in a codicil to the transferor's will, 1321  
the property passes under the residuary clause in the 1322  
transferor's will. For purposes of division (D) (2) of this 1323  
section, the residuary clause is treated as creating a future 1324  
interest under the terms of a trust. 1325

(3) If no taker is produced under divisions (D) (1) and (2) 1326  
of this section, the transferor is deceased, and the trust was 1327  
created in a nonresiduary gift under the terms of a revocable 1328  
trust of the transferor, the property passes under the residuary 1329  
clause in the transferor's revocable trust instrument. For 1330  
purposes of division (D) (3) of this section, the residuary 1331  
clause in the transferor's revocable trust instrument is treated 1332  
as creating a future interest under the terms of a trust. 1333

(4) If no taker is produced under divisions (D) (1), (2), 1334  
and (3) of this section, the property passes to those persons 1335  
who would succeed to the transferor's intestate estate and in 1336  
the shares as provided in the intestate succession law of the 1337

transferor's domicile if the transferor died on the distribution 1338  
date. Notwithstanding division (A) (10) of this section, for 1339  
purposes of division (D) (4) of this section, if the future 1340  
interest was created by the exercise of a power of appointment, 1341  
"transferor" means the donor if the power is a nongeneral power, 1342  
or the donee if the power is a general power. 1343

(E) This section applies to all trusts that become 1344  
irrevocable on or after ~~the effective date of this section~~ March 1345  
22, 2012. This section does not apply to any trust that was 1346  
irrevocable before ~~the effective date of this section~~ March 22, 1347  
2012, even if property was added to the trust on or after ~~that~~ 1348  
~~effective date~~ March 22, 2012. 1349

**Sec. 5817.01. As used in this chapter:** 1350

(A) (1) "Beneficiary under a trust" means either of the 1351  
following: 1352

(a) Any person that has a present or future beneficial 1353  
interest in a trust, whether vested or contingent; 1354

(b) Any person that, in a capacity other than that of 1355  
trustee, holds a power of appointment over trust property, but 1356  
does not include the class of permitted appointees among whom 1357  
the power holder may appoint. 1358

(2) "Beneficiary under a trust" includes a charitable 1359  
organization that is expressly designated in the terms of the 1360  
trust to receive distributions, but does not include any 1361  
charitable organization that is not expressly designated in the 1362  
terms of the trust to receive distributions, but to whom the 1363  
trustee may in its discretion make distributions. 1364

(B) (1) "Beneficiary under a will" means either of the 1365  
following: 1366

(a) Any person designated in a will to receive a 1367  
testamentary disposition of real or personal property; 1368

(b) Any person that, in a capacity other than that of 1369  
executor, holds a power of appointment over estate assets, but 1370  
does not include the class of permitted appointees among whom 1371  
the power holder may appoint. 1372

(2) "Beneficiary under a will" includes a charitable 1373  
organization that is expressly designated in the terms of the 1374  
will to receive testamentary distributions, but does not include 1375  
any charitable organization that is not expressly designated in 1376  
the terms of the will to receive distributions, but to whom the 1377  
executor may in its discretion make distributions. 1378

(C) "Court" means the probate court of the county in which 1379  
the complaint under section 5817.02 or 5817.03 of the Revised 1380  
Code is filed or the general division of the court of common 1381  
pleas to which the probate court transfers the proceeding under 1382  
division (A) of section 5817.04 of the Revised Code. 1383

(D) "Related trust" means a trust for which both of the 1384  
following apply: 1385

(1) The testator is the settlor of the trust. 1386

(2) The trust is named as a beneficiary in the will in 1387  
accordance with section 2107.63 of the Revised Code. 1388

(E) "Related will" means a will for which both of the 1389  
following apply: 1390

(1) The testator is the settlor of a trust. 1391

(2) The will names the trust as a beneficiary in 1392  
accordance with section 2107.63 of the Revised Code. 1393



(F) "Trust" means an inter vivos revocable or irrevocable trust instrument to which, at the time the complaint for declaration of validity is filed under section 5817.03 of the Revised Code, either of the following applies: 1394  
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1396  
1397

(1) The settlor resides in, or is domiciled in, this state. 1398  
1399

(2) The trust's principal place of administration is in this state. 1400  
1401

**Sec. 5817.02.** (A) A testator may file a complaint with the probate court to determine before the testator's death that the testator's will is a valid will subject only to subsequent revocation or modification of the will. The right to file a complaint for a determination of the validity of a testator's will under this chapter, or to voluntarily dismiss a complaint once filed, is personal to the testator and may not be exercised by the testator's guardian or an agent under the testator's power of attorney. 1402  
1403  
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(B) A testator who desires to obtain a validity determination as to the testator's will shall file a complaint to determine the validity of both the will and any related trust. 1411  
1412  
1413  
1414

(C) The failure of a testator to file a complaint for a judgment declaring the validity of a will shall not be construed as evidence or an admission that the will is not valid. 1415  
1416  
1417

(D) A complaint for a determination of the validity of a testator's will shall be accompanied by an express written waiver of the testator's physician-patient privilege provided in division (B) of section 2317.02 of the Revised Code. 1418  
1419  
1420  
1421

**Sec. 5817.03.** (A) A settlor may file a complaint with the 1422

probate court to determine before the settlor's death that the 1423  
settlor's trust is valid and enforceable under its terms, 1424  
subject only to a subsequent revocation or modification of the 1425  
trust. The right to file a complaint for a determination of the 1426  
validity of a settlor's trust under this chapter, or to 1427  
voluntarily dismiss a complaint once filed, is personal to the 1428  
settlor and may not be exercised by the settlor's guardian or an 1429  
agent under the settlor's power of attorney. 1430

(B) A settlor who desires to obtain a validity 1431  
determination as to the settlor's trust shall file a complaint 1432  
to determine the validity of both the trust and the related 1433  
will. 1434

(C) The failure of a settlor to file a complaint for a 1435  
judgment declaring the validity of a trust shall not be 1436  
construed as evidence or an admission that the trust is not 1437  
valid. 1438

(D) A complaint for a determination of the validity of a 1439  
settlor's trust shall be accompanied by an express written 1440  
waiver of the settlor's physician-patient privilege provided in 1441  
division (B) of section 2317.02 of the Revised Code. 1442

**Sec. 5817.04.** (A) A complaint to determine the validity of 1443  
a will or a trust shall be filed with the probate court. The 1444  
probate judge, upon the motion of a party or the judge's own 1445  
motion, may transfer the proceeding to the general division of 1446  
the court of common pleas. 1447

(B) The venue for a complaint under section 5817.02 of the 1448  
Revised Code is either of the following: 1449

(1) The probate court of the county in this state where 1450  
the testator is domiciled; 1451

(2) If the testator is not domiciled in this state, the 1452  
probate court of any county in this state where any real 1453  
property or personal property of the testator is located or, if 1454  
there is no such property, the probate court of any county in 1455  
this state. 1456

(C) The venue for a complaint under section 5817.03 of the 1457  
Revised Code is either of the following: 1458

(1) The probate court of the county in this state where 1459  
the settlor resides or is domiciled; 1460

(2) If the settlor does not reside or is not domiciled in 1461  
this state, the probate court of the county in this state in 1462  
which the trust's principal place of administration is located. 1463

**Sec. 5817.05.** (A) A complaint under section 5817.02 of the 1464  
Revised Code shall name as party defendants all of the 1465  
following, as applicable: 1466

(1) The testator's spouse; 1467

(2) The testator's children; 1468

(3) The testator's heirs who would take property pursuant 1469  
to section 2105.06 of the Revised Code had the testator died 1470  
intestate at the time the complaint is filed; 1471

(4) The testator's beneficiaries under the will; 1472

(5) Any beneficiary under the testator's most recent prior 1473  
will. 1474

(B) A complaint under section 5817.02 of the Revised Code 1475  
may name as a party defendant any other person that the testator 1476  
believes may have a pecuniary interest in the determination of 1477  
the validity of the testator's will. 1478

<u>(C) A complaint under section 5817.02 of the Revised Code</u>	1479
<u>may contain all or any of the following:</u>	1480
<u>(1) A statement that a copy of the will has been filed</u>	1481
<u>with the court;</u>	1482
<u>(2) A statement that the will is in writing;</u>	1483
<u>(3) A statement that the will was signed by the testator,</u>	1484
<u>or was signed in the testator's name by another person in the</u>	1485
<u>testator's conscious presence and at the testator's express</u>	1486
<u>direction;</u>	1487
<u>(4) A statement that the will was signed in the conscious</u>	1488
<u>presence of the testator by two or more competent individuals,</u>	1489
<u>each of whom either witnessed the testator sign the will, or</u>	1490
<u>heard the testator acknowledge signing the will;</u>	1491
<u>(5) A statement that the will was executed with the</u>	1492
<u>testator's testamentary intent;</u>	1493
<u>(6) A statement that the testator had testamentary</u>	1494
<u>capacity;</u>	1495
<u>(7) A statement that the testator executed the will free</u>	1496
<u>from undue influence, not under restraint or duress, and in the</u>	1497
<u>exercise of the testator's free will;</u>	1498
<u>(8) A statement that the execution of the will was not the</u>	1499
<u>result of fraud or mistake;</u>	1500
<u>(9) The names and addresses of the testator and all of the</u>	1501
<u>defendants and, if any of the defendants are minors, their ages;</u>	1502
<u>(10) A statement that the will has not been revoked or</u>	1503
<u>modified;</u>	1504
<u>(11) A statement that the testator is familiar with the</u>	1505

<u>contents of the will.</u>	1506
<u>Sec. 5817.06. (A) A complaint under section 5817.03 of the</u>	1507
<u>Revised Code shall name as party defendants the following, as</u>	1508
<u>applicable:</u>	1509
<u>(1) The settlor's spouse;</u>	1510
<u>(2) The settlor's children;</u>	1511
<u>(3) The settlor's heirs who would take property pursuant</u>	1512
<u>to section 2105.06 of the Revised Code had the settlor died</u>	1513
<u>intestate at the time the complaint is filed;</u>	1514
<u>(4) The trustee or trustees under the trust;</u>	1515
<u>(5) The beneficiaries under the trust;</u>	1516
<u>(6) If the trust amends, amends and restates, or replaces</u>	1517
<u>a prior trust, any beneficiary under the settlor's most recent</u>	1518
<u>prior trust.</u>	1519
<u>(B) A complaint under section 5817.03 of the Revised Code</u>	1520
<u>may name as a party defendant any other person that the settlor</u>	1521
<u>believes may have a pecuniary interest in the determination of</u>	1522
<u>the validity of the settlor's trust.</u>	1523
<u>(C) A complaint under section 5817.03 of the Revised Code</u>	1524
<u>may contain all or any of the following:</u>	1525
<u>(1) A statement that a copy of the trust has been filed</u>	1526
<u>with the court;</u>	1527
<u>(2) A statement that the trust is in writing and was</u>	1528
<u>signed by the settlor;</u>	1529
<u>(3) A statement that the trust was executed with the</u>	1530
<u>intent to create a trust;</u>	1531

<u>(4) A statement that the settlor had the legal capacity to enter into and establish the trust;</u>	1532
	1533
<u>(5) A statement that the trust has a definite beneficiary or is one of the following:</u>	1534
	1535
<u>(a) A charitable trust;</u>	1536
<u>(b) A trust for the care of an animal as provided in section 5804.08 of the Revised Code;</u>	1537
	1538
<u>(c) A trust for a noncharitable purpose as provided in section 5804.09 of the Revised Code.</u>	1539
	1540
<u>(6) A statement that the trustee of the trust has duties to perform;</u>	1541
	1542
<u>(7) A statement that the same person is not the sole trustee and sole beneficiary of the trust;</u>	1543
	1544
<u>(8) A statement that the settlor executed the trust free from undue influence, not under restraint or duress, and in the exercise of the settlor's free will;</u>	1545
	1546
	1547
<u>(9) A statement that execution of the trust was not the result of fraud or mistake;</u>	1548
	1549
<u>(10) The names and addresses of the settlor and all of the defendants and, if any of the defendants are minors, their ages;</u>	1550
	1551
<u>(11) A statement that the trust has not been revoked or modified;</u>	1552
	1553
<u>(12) A statement that the settlor is familiar with the contents of the trust.</u>	1554
	1555
<b><u>Sec. 5817.07. (A) Service of process, with a copy of the complaint and the will, and a copy of the related trust, if applicable, shall be made on every party defendant named in the</u></b>	1556
	1557
	1558

complaint filed under section 5817.02 of the Revised Code, as 1559  
provided in the applicable Rules of Civil Procedure. 1560

(B) Service of process, with a copy of the complaint and 1561  
the trust, and a copy of the related will, if applicable, shall 1562  
be made on every party defendant named in the complaint filed 1563  
under section 5817.03 of the Revised Code, as provided in the 1564  
applicable Rules of Civil Procedure. 1565

**Sec. 5817.08.** (A) After a complaint is filed under section 1566  
5817.02 or 5817.03 of the Revised Code, the court shall fix a 1567  
time and place for a hearing. 1568

(B) Notice of the hearing shall be given to the testator 1569  
or settlor, as applicable, and to all party defendants, as 1570  
provided in the applicable Rules of Civil Procedure. 1571

(C) The hearing shall be adversarial in nature and shall 1572  
be conducted pursuant to sections 2101.31 and 2721.10 of the 1573  
Revised Code, except as otherwise provided in this chapter. 1574

**Sec. 5817.09.** (A) The testator or settlor has the burden 1575  
of establishing prima facie proof of the execution of the will 1576  
or trust, as applicable. A person who opposes the complaint has 1577  
the burden of establishing one or more of the following: 1578

(1) The lack of testamentary intent or the intent to 1579  
create a trust, as the case may be; 1580

(2) The lack of the testator's testamentary capacity, or 1581  
the settlor's legal capacity to enter into and establish the 1582  
trust; 1583

(3) Undue influence, restraint, or duress on the testator 1584  
or settlor; 1585

(4) Fraud or mistake in the execution of the will or 1586

trust; 1587

(5) Revocation of the will or trust. 1588

(B) A party to the proceeding has the ultimate burden of 1589  
persuasion as to the matters for which the party has the initial 1590  
burden of proof. 1591

**Sec. 5817.10.** (A) (1) The court shall declare the will 1592  
valid if it finds all of the following: 1593

(a) The will was properly executed pursuant to section 1594  
2107.03 of the Revised Code or under any prior law of this state 1595  
that was in effect at the time of execution. 1596

(b) The testator had the requisite testamentary capacity, 1597  
was free from undue influence, and was not under restraint or 1598  
duress. 1599

(c) The execution of the will was not the result of fraud 1600  
or mistake. 1601

(2) After the testator's death, unless the will is 1602  
modified or revoked after the court's declaration under division 1603  
(A) (1) of this section, the will has full legal effect as the 1604  
instrument of the disposition of the testator's estate and shall 1605  
be admitted to probate upon request. 1606

(B) (1) The court shall declare the trust valid if it finds 1607  
all of the following: 1608

(a) The trust meets the requirements of section 5804.02 of 1609  
the Revised Code. 1610

(b) The settlor had the legal capacity to enter into and 1611  
establish the trust, was free from undue influence, and was not 1612  
under restraint or duress. 1613



(c) The execution of the trust was not the result of fraud 1614  
or mistake. 1615

(2) Unless the trust is modified or revoked after the 1616  
court's declaration, the trust has full legal effect. 1617

(C) The court may, if it finds the will or trust to be 1618  
valid, attach a copy of the valid document to the court's 1619  
judgment entry, but failure to do so shall not affect the 1620  
determination of validity of the will or trust. 1621

**Sec. 5817.11.** (A) Unless the will or trust is modified or 1622  
revoked, and except as otherwise provided in this section, no 1623  
person may contest the validity of a will or trust that is 1624  
declared valid in a proceeding pursuant to this chapter. 1625

(B) The failure to name a necessary defendant under 1626  
division (A) of section 5817.05 of the Revised Code is not 1627  
jurisdictional. A declaration of a will's validity under this 1628  
chapter shall be binding upon all defendants who were named or 1629  
represented, and properly served pursuant to division (A) of 1630  
section 5817.07 of the Revised Code, notwithstanding the failure 1631  
to name a necessary defendant. However, if a person is one who 1632  
should have been named a party defendant in the action in which 1633  
the will was declared valid and if the person was not named a 1634  
defendant and properly served in that action, that person, after 1635  
the testator's death, may contest the validity of a will 1636  
declared valid. 1637

(C) The failure to name a necessary defendant under 1638  
division (A) of section 5817.06 of the Revised Code is not 1639  
jurisdictional. A declaration of a trust's validity under this 1640  
chapter shall be binding upon all defendants who were named or 1641  
represented, and properly served pursuant to division (B) of 1642

section 5817.07 of the Revised Code, notwithstanding the failure 1643  
to name a necessary defendant. However, if a person is one who 1644  
should have been named a party defendant in the action in which 1645  
the trust was declared valid and if the person was not named a 1646  
defendant and properly served in that action, that person may 1647  
contest the validity of a trust declared valid. 1648

(D) In determining whether a person was a party defendant 1649  
and properly served in an action to declare a will or trust 1650  
valid under this chapter, the representation rules of Chapter 1651  
5803. of the Revised Code shall be applied, and a person 1652  
represented in the action under those rules is bound by the 1653  
declaration of validity even if, by the time of the testator's 1654  
death, or the challenge to the trust, the representing person 1655  
has died or would no longer be able to represent the person to 1656  
be represented in the proceeding under this chapter. 1657

Sec. 5817.12. (A) After a declaration of a will's validity 1658  
under division (A) (1) of section 5817.10 of the Revised Code, 1659  
the will may be modified by a later will or codicil executed 1660  
according to the laws of this state or another state, and the 1661  
will may be revoked under section 2107.33 of the Revised Code or 1662  
other applicable law. 1663

(B) The revocation by a later will, or other document 1664  
under section 2107.33 of the Revised Code, of a will that has 1665  
been declared valid under division (A) (1) of section 5817.10 of 1666  
the Revised Code does not affect the will or the prior 1667  
declaration of its validity if the later will or other document 1668  
is found by a court of competent jurisdiction to be invalid due 1669  
to the testator's lack of testamentary capacity, or undue 1670  
influence, restraint, or duress on the testator, or otherwise. 1671

(C) The amendment by a later codicil of a will that has 1672

been declared valid under division (A) (1) of section 5817.10 of 1673  
the Revised Code does not affect the will or the prior 1674  
declaration of its validity except as provided by the codicil. 1675  
However, the codicil is not considered validated under this 1676  
chapter unless its validity is also declared as provided in this 1677  
chapter. 1678

**Sec. 5817.13.** (A) After a declaration of a trust's 1679  
validity under division (B) (1) of section 5817.10 of the Revised 1680  
Code, the trust may be modified, terminated, revoked, or 1681  
reformed under sections 5804.10 to 5804.16 of the Revised Code, 1682  
or other applicable law. 1683

(B) The modification, termination, revocation, or 1684  
reformation by a new trust or other document of a trust that has 1685  
been declared valid under division (B) (1) of section 5817.10 of 1686  
the Revised Code does not affect the trust or the prior 1687  
declaration of its validity if the later trust or other document 1688  
is found by a court of competent jurisdiction to be invalid due 1689  
to the settlor's lack of capacity, or undue influence, 1690  
restraint, or duress on the settlor, or otherwise. 1691

(C) An amendment of a trust that has been declared valid 1692  
under division (B) (1) of section 5817.10 of the Revised Code 1693  
does not affect the trust or the prior declaration of its 1694  
validity except as provided by the amendment. However, the 1695  
amendment is not considered validated under this chapter unless 1696  
its validity is also declared as provided in this chapter. 1697

**Sec. 5817.14.** (A) The finding of facts by a court in a 1698  
proceeding brought under this chapter is not admissible as 1699  
evidence in any proceeding other than a proceeding brought to 1700  
determine the validity of a will or trust. 1701

(B) The determination or judgment rendered in a proceeding 1702  
under this chapter is not binding upon the parties to that 1703  
proceeding in any action that is not brought to determine the 1704  
validity of a will or trust. 1705

(C) The failure of a testator to file a complaint for a 1706  
judgment declaring the validity of a will that the testator has 1707  
executed is not admissible as evidence in any proceeding to 1708  
determine the validity of that will or any other will executed 1709  
by the testator. 1710

(D) The failure of a settlor to file a complaint for a 1711  
judgment declaring the validity of a trust that the settlor has 1712  
executed is not admissible as evidence in any proceeding to 1713  
determine the validity of that trust or any other trust executed 1714  
by the settlor. 1715

**Section 2.** That existing sections 313.14, 2101.24, 1716  
2105.19, 2107.01, 2107.05, 2107.07, 2107.08, 2107.09, 2107.10, 1717  
2107.11, 2107.12, 2107.16, 2107.18, 2107.20, 2107.22, 2107.33, 1718  
2107.52, 2107.71, 2137.01, 2721.03, 5802.03, 5806.04, and 1719  
5808.19 and sections 2107.081, 2107.082, 2107.083, 2107.084, and 1720  
2107.085 of the Revised Code are hereby repealed. 1721

**Section 3.** This act's amendment of section 2107.05 of the 1722  
Revised Code is intended to abrogate the holdings of the Ohio 1723  
Supreme Court in *Hageman v. Cleveland Trust Company*, 45 Ohio 1724  
St.2d 178 (1976) and the Ohio Second District Court of Appeals 1725  
in *Gehrke v. Senkiw*, 2016 Ohio 2657 (2016). 1726

**Section 4.** Section 2101.24 of the Revised Code is 1727  
presented in this act as a composite of the section as amended 1728  
by both Sub. S.B. 23 of the 130th General Assembly and Sub. H.B. 1729  
158 of the 131st General Assembly. The General Assembly, 1730

applying the principle stated in division (B) of section 1.52 of	1731
the Revised Code that amendments are to be harmonized if	1732
reasonably capable of simultaneous operation, finds that the	1733
composite is the resulting version of the section in effect	1734
prior to the effective date of the section as presented in this	1735
act.	1736