

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 321**

**Senator Faber**

**Cosponsors: Senators Burke, Eklund, Jordan, LaRose, Peterson, Seitz**

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**A BILL**

To amend sections 149.43, 2323.52, 2743.03, and 2746.04 and to enact section 2743.75 of the Revised Code to create a procedure within the Court of Claims to hear complaints alleging a denial of access to public records and to modify the circumstances under which a person who files a mandamus action seeking the release of public records may be awarded court costs and attorney's fees.

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

**Section 1.** That sections 149.43, 2323.52, 2743.03, and 2746.04 be amended and section 2743.75 of the Revised Code be enacted to read as follows:

**Sec. 149.43.** (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-

profit entity operating the alternative school pursuant to	19
section 3313.533 of the Revised Code. "Public record" does not	20
mean any of the following:	21
(a) Medical records;	22
(b) Records pertaining to probation and parole proceedings	23
or to proceedings related to the imposition of community control	24
sanctions and post-release control sanctions;	25
(c) Records pertaining to actions under section 2151.85	26
and division (C) of section 2919.121 of the Revised Code and to	27
appeals of actions arising under those sections;	28
(d) Records pertaining to adoption proceedings, including	29
the contents of an adoption file maintained by the department of	30
health under sections 3705.12 to 3705.124 of the Revised Code;	31
(e) Information in a record contained in the putative	32
father registry established by section 3107.062 of the Revised	33
Code, regardless of whether the information is held by the	34
department of job and family services or, pursuant to section	35
3111.69 of the Revised Code, the office of child support in the	36
department or a child support enforcement agency;	37
(f) Records specified in division (A) of section 3107.52	38
of the Revised Code;	39
(g) Trial preparation records;	40
(h) Confidential law enforcement investigatory records;	41
(i) Records containing information that is confidential	42
under section 2710.03 or 4112.05 of the Revised Code;	43
(j) DNA records stored in the DNA database pursuant to	44
section 109.573 of the Revised Code;	45

(k) Inmate records released by the department of 46  
rehabilitation and correction to the department of youth 47  
services or a court of record pursuant to division (E) of 48  
section 5120.21 of the Revised Code; 49

(l) Records maintained by the department of youth services 50  
pertaining to children in its custody released by the department 51  
of youth services to the department of rehabilitation and 52  
correction pursuant to section 5139.05 of the Revised Code; 53

(m) Intellectual property records; 54

(n) Donor profile records; 55

(o) Records maintained by the department of job and family 56  
services pursuant to section 3121.894 of the Revised Code; 57

(p) Peace officer, parole officer, probation officer, 58  
bailiff, prosecuting attorney, assistant prosecuting attorney, 59  
correctional employee, community-based correctional facility 60  
employee, youth services employee, firefighter, EMT, or 61  
investigator of the bureau of criminal identification and 62  
investigation residential and familial information; 63

(q) In the case of a county hospital operated pursuant to 64  
Chapter 339. of the Revised Code or a municipal hospital 65  
operated pursuant to Chapter 749. of the Revised Code, 66  
information that constitutes a trade secret, as defined in 67  
section 1333.61 of the Revised Code; 68

(r) Information pertaining to the recreational activities 69  
of a person under the age of eighteen; 70

(s) In the case of a child fatality review board acting 71  
under sections 307.621 to 307.629 of the Revised Code or a 72  
review conducted pursuant to guidelines established by the 73

director of health under section 3701.70 of the Revised Code, 74  
records provided to the board or director, statements made by 75  
board members during meetings of the board or by persons 76  
participating in the director's review, and all work products of 77  
the board or director, and in the case of a child fatality 78  
review board, child fatality review data submitted by the board 79  
to the department of health or a national child death review 80  
database, other than the report prepared pursuant to division 81  
(A) of section 307.626 of the Revised Code; 82

(t) Records provided to and statements made by the 83  
executive director of a public children services agency or a 84  
prosecuting attorney acting pursuant to section 5153.171 of the 85  
Revised Code other than the information released under that 86  
section; 87

(u) Test materials, examinations, or evaluation tools used 88  
in an examination for licensure as a nursing home administrator 89  
that the board of executives of long-term services and supports 90  
administers under section 4751.04 of the Revised Code or 91  
contracts under that section with a private or government entity 92  
to administer; 93

(v) Records the release of which is prohibited by state or 94  
federal law; 95

(w) Proprietary information of or relating to any person 96  
that is submitted to or compiled by the Ohio venture capital 97  
authority created under section 150.01 of the Revised Code; 98

(x) Financial statements and data any person submits for 99  
any purpose to the Ohio housing finance agency or the 100  
controlling board in connection with applying for, receiving, or 101  
accounting for financial assistance from the agency, and 102

information that identifies any individual who benefits directly	103
or indirectly from financial assistance from the agency;	104
(y) Records listed in section 5101.29 of the Revised Code;	105
(z) Discharges recorded with a county recorder under	106
section 317.24 of the Revised Code, as specified in division (B)	107
(2) of that section;	108
(aa) Usage information including names and addresses of	109
specific residential and commercial customers of a municipally	110
owned or operated public utility;	111
(bb) Records described in division (C) of section 187.04	112
of the Revised Code that are not designated to be made available	113
to the public as provided in that division;	114
(cc) Information and records that are made confidential,	115
privileged, and not subject to disclosure under divisions (B)	116
and (C) of section 2949.221 of the Revised Code.	117
(2) "Confidential law enforcement investigatory record"	118
means any record that pertains to a law enforcement matter of a	119
criminal, quasi-criminal, civil, or administrative nature, but	120
only to the extent that the release of the record would create a	121
high probability of disclosure of any of the following:	122
(a) The identity of a suspect who has not been charged	123
with the offense to which the record pertains, or of an	124
information source or witness to whom confidentiality has been	125
reasonably promised;	126
(b) Information provided by an information source or	127
witness to whom confidentiality has been reasonably promised,	128
which information would reasonably tend to disclose the source's	129
or witness's identity;	130

(c) Specific confidential investigatory techniques or	131
procedures or specific investigatory work product;	132
(d) Information that would endanger the life or physical	133
safety of law enforcement personnel, a crime victim, a witness,	134
or a confidential information source.	135
(3) "Medical record" means any document or combination of	136
documents, except births, deaths, and the fact of admission to	137
or discharge from a hospital, that pertains to the medical	138
history, diagnosis, prognosis, or medical condition of a patient	139
and that is generated and maintained in the process of medical	140
treatment.	141
(4) "Trial preparation record" means any record that	142
contains information that is specifically compiled in reasonable	143
anticipation of, or in defense of, a civil or criminal action or	144
proceeding, including the independent thought processes and	145
personal trial preparation of an attorney.	146
(5) "Intellectual property record" means a record, other	147
than a financial or administrative record, that is produced or	148
collected by or for faculty or staff of a state institution of	149
higher learning in the conduct of or as a result of study or	150
research on an educational, commercial, scientific, artistic,	151
technical, or scholarly issue, regardless of whether the study	152
or research was sponsored by the institution alone or in	153
conjunction with a governmental body or private concern, and	154
that has not been publicly released, published, or patented.	155
(6) "Donor profile record" means all records about donors	156
or potential donors to a public institution of higher education	157
except the names and reported addresses of the actual donors and	158
the date, amount, and conditions of the actual donation.	159

(7) "Peace officer, parole officer, probation officer, 160  
bailiff, prosecuting attorney, assistant prosecuting attorney, 161  
correctional employee, community-based correctional facility 162  
employee, youth services employee, firefighter, EMT, or 163  
investigator of the bureau of criminal identification and 164  
investigation residential and familial information" means any 165  
information that discloses any of the following about a peace 166  
officer, parole officer, probation officer, bailiff, prosecuting 167  
attorney, assistant prosecuting attorney, correctional employee, 168  
community-based correctional facility employee, youth services 169  
employee, firefighter, EMT, or investigator of the bureau of 170  
criminal identification and investigation: 171

(a) The address of the actual personal residence of a 172  
peace officer, parole officer, probation officer, bailiff, 173  
assistant prosecuting attorney, correctional employee, 174  
community-based correctional facility employee, youth services 175  
employee, firefighter, EMT, or an investigator of the bureau of 176  
criminal identification and investigation, except for the state 177  
or political subdivision in which the peace officer, parole 178  
officer, probation officer, bailiff, assistant prosecuting 179  
attorney, correctional employee, community-based correctional 180  
facility employee, youth services employee, firefighter, EMT, or 181  
investigator of the bureau of criminal identification and 182  
investigation resides; 183

(b) Information compiled from referral to or participation 184  
in an employee assistance program; 185

(c) The social security number, the residential telephone 186  
number, any bank account, debit card, charge card, or credit 187  
card number, or the emergency telephone number of, or any 188  
medical information pertaining to, a peace officer, parole 189

officer, probation officer, bailiff, prosecuting attorney, 190  
assistant prosecuting attorney, correctional employee, 191  
community-based correctional facility employee, youth services 192  
employee, firefighter, EMT, or investigator of the bureau of 193  
criminal identification and investigation; 194

(d) The name of any beneficiary of employment benefits, 195  
including, but not limited to, life insurance benefits, provided 196  
to a peace officer, parole officer, probation officer, bailiff, 197  
prosecuting attorney, assistant prosecuting attorney, 198  
correctional employee, community-based correctional facility 199  
employee, youth services employee, firefighter, EMT, or 200  
investigator of the bureau of criminal identification and 201  
investigation by the peace officer's, parole officer's, 202  
probation officer's, bailiff's, prosecuting attorney's, 203  
assistant prosecuting attorney's, correctional employee's, 204  
community-based correctional facility employee's, youth services 205  
employee's, firefighter's, EMT's, or investigator of the bureau 206  
of criminal identification and investigation's employer; 207

(e) The identity and amount of any charitable or 208  
employment benefit deduction made by the peace officer's, parole 209  
officer's, probation officer's, bailiff's, prosecuting 210  
attorney's, assistant prosecuting attorney's, correctional 211  
employee's, community-based correctional facility employee's, 212  
youth services employee's, firefighter's, EMT's, or investigator 213  
of the bureau of criminal identification and investigation's 214  
employer from the peace officer's, parole officer's, probation 215  
officer's, bailiff's, prosecuting attorney's, assistant 216  
prosecuting attorney's, correctional employee's, community-based 217  
correctional facility employee's, youth services employee's, 218  
firefighter's, EMT's, or investigator of the bureau of criminal 219  
identification and investigation's compensation unless the 220

amount of the deduction is required by state or federal law;	221
(f) The name, the residential address, the name of the	222
employer, the address of the employer, the social security	223
number, the residential telephone number, any bank account,	224
debit card, charge card, or credit card number, or the emergency	225
telephone number of the spouse, a former spouse, or any child of	226
a peace officer, parole officer, probation officer, bailiff,	227
prosecuting attorney, assistant prosecuting attorney,	228
correctional employee, community-based correctional facility	229
employee, youth services employee, firefighter, EMT, or	230
investigator of the bureau of criminal identification and	231
investigation;	232
(g) A photograph of a peace officer who holds a position	233
or has an assignment that may include undercover or plain	234
clothes positions or assignments as determined by the peace	235
officer's appointing authority.	236
As used in divisions (A) (7) and (B) (9) of this section,	237
"peace officer" has the same meaning as in section 109.71 of the	238
Revised Code and also includes the superintendent and troopers	239
of the state highway patrol; it does not include the sheriff of	240
a county or a supervisory employee who, in the absence of the	241
sheriff, is authorized to stand in for, exercise the authority	242
of, and perform the duties of the sheriff.	243
As used in divisions (A) (7) and (B) (9) of this section,	244
"correctional employee" means any employee of the department of	245
rehabilitation and correction who in the course of performing	246
the employee's job duties has or has had contact with inmates	247
and persons under supervision.	248
As used in divisions (A) (7) and (B) (9) of this section,	249

"youth services employee" means any employee of the department 250  
of youth services who in the course of performing the employee's 251  
job duties has or has had contact with children committed to the 252  
custody of the department of youth services. 253

As used in divisions (A) (7) and (B) (9) of this section, 254  
"firefighter" means any regular, paid or volunteer, member of a 255  
lawfully constituted fire department of a municipal corporation, 256  
township, fire district, or village. 257

As used in divisions (A) (7) and (B) (9) of this section, 258  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 259  
emergency medical services for a public emergency medical 260  
service organization. "Emergency medical service organization," 261  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 262  
in section 4765.01 of the Revised Code. 263

As used in divisions (A) (7) and (B) (9) of this section, 264  
"investigator of the bureau of criminal identification and 265  
investigation" has the meaning defined in section 2903.11 of the 266  
Revised Code. 267

(8) "Information pertaining to the recreational activities 268  
of a person under the age of eighteen" means information that is 269  
kept in the ordinary course of business by a public office, that 270  
pertains to the recreational activities of a person under the 271  
age of eighteen years, and that discloses any of the following: 272

(a) The address or telephone number of a person under the 273  
age of eighteen or the address or telephone number of that 274  
person's parent, guardian, custodian, or emergency contact 275  
person; 276

(b) The social security number, birth date, or 277  
photographic image of a person under the age of eighteen; 278

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;	279 280
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	281 282 283 284 285 286
(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	287 288
(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	289 290
(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.	291 292 293 294
(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.	295 296
(B) (1) Upon request and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B) (8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make	297 298 299 300 301 302 303 304 305 306 307

available all of the information within the public record that 308  
is not exempt. When making that public record available for 309  
public inspection or copying that public record, the public 310  
office or the person responsible for the public record shall 311  
notify the requester of any redaction or make the redaction 312  
plainly visible. A redaction shall be deemed a denial of a 313  
request to inspect or copy the redacted information, except if 314  
federal or state law authorizes or requires a public office to 315  
make the redaction. 316

(2) To facilitate broader access to public records, a 317  
public office or the person responsible for public records shall 318  
organize and maintain public records in a manner that they can 319  
be made available for inspection or copying in accordance with 320  
division (B) of this section. A public office also shall have 321  
available a copy of its current records retention schedule at a 322  
location readily available to the public. If a requester makes 323  
an ambiguous or overly broad request or has difficulty in making 324  
a request for copies or inspection of public records under this 325  
section such that the public office or the person responsible 326  
for the requested public record cannot reasonably identify what 327  
public records are being requested, the public office or the 328  
person responsible for the requested public record may deny the 329  
request but shall provide the requester with an opportunity to 330  
revise the request by informing the requester of the manner in 331  
which records are maintained by the public office and accessed 332  
in the ordinary course of the public office's or person's 333  
duties. 334

(3) If a request is ultimately denied, in part or in 335  
whole, the public office or the person responsible for the 336  
requested public record shall provide the requester with an 337  
explanation, including legal authority, setting forth why the 338

request was denied. If the initial request was provided in 339  
writing, the explanation also shall be provided to the requester 340  
in writing. The explanation shall not preclude the public office 341  
or the person responsible for the requested public record from 342  
relying upon additional reasons or legal authority in defending 343  
an action commenced under division (C) of this section. 344

(4) Unless specifically required or authorized by state or 345  
federal law or in accordance with division (B) of this section, 346  
no public office or person responsible for public records may 347  
limit or condition the availability of public records by 348  
requiring disclosure of the requester's identity or the intended 349  
use of the requested public record. Any requirement that the 350  
requester disclose the ~~requester's~~requester's identity or the 351  
intended use of the requested public record constitutes a denial 352  
of the request. 353

(5) A public office or person responsible for public 354  
records may ask a requester to make the request in writing, may 355  
ask for the requester's identity, and may inquire about the 356  
intended use of the information requested, but may do so only 357  
after disclosing to the requester that a written request is not 358  
mandatory and that the requester may decline to reveal the 359  
requester's identity or the intended use and when a written 360  
request or disclosure of the identity or intended use would 361  
benefit the requester by enhancing the ability of the public 362  
office or person responsible for public records to identify, 363  
locate, or deliver the public records sought by the requester. 364

(6) If any person chooses to obtain a copy of a public 365  
record in accordance with division (B) of this section, the 366  
public office or person responsible for the public record may 367  
require that person to pay in advance the cost involved in 368

providing the copy of the public record in accordance with the 369  
choice made by the person seeking the copy under this division. 370  
The public office or the person responsible for the public 371  
record shall permit that person to choose to have the public 372  
record duplicated upon paper, upon the same medium upon which 373  
the public office or person responsible for the public record 374  
keeps it, or upon any other medium upon which the public office 375  
or person responsible for the public record determines that it 376  
reasonably can be duplicated as an integral part of the normal 377  
operations of the public office or person responsible for the 378  
public record. When the person seeking the copy makes a choice 379  
under this division, the public office or person responsible for 380  
the public record shall provide a copy of it in accordance with 381  
the choice made by the person seeking the copy. Nothing in this 382  
section requires a public office or person responsible for the 383  
public record to allow the person seeking a copy of the public 384  
record to make the copies of the public record. 385

(7) Upon a request made in accordance with division (B) of 386  
this section and subject to division (B)(6) of this section, a 387  
public office or person responsible for public records shall 388  
transmit a copy of a public record to any person by United 389  
States mail or by any other means of delivery or transmission 390  
within a reasonable period of time after receiving the request 391  
for the copy. The public office or person responsible for the 392  
public record may require the person making the request to pay 393  
in advance the cost of postage if the copy is transmitted by 394  
United States mail or the cost of delivery if the copy is 395  
transmitted other than by United States mail, and to pay in 396  
advance the costs incurred for other supplies used in the 397  
mailing, delivery, or transmission. 398

Any public office may adopt a policy and procedures that 399

it will follow in transmitting, within a reasonable period of 400  
time after receiving a request, copies of public records by 401  
United States mail or by any other means of delivery or 402  
transmission pursuant to this division. A public office that 403  
adopts a policy and procedures under this division shall comply 404  
with them in performing its duties under this division. 405

In any policy and procedures adopted under this division, 406  
a public office may limit the number of records requested by a 407  
person that the office will transmit by United States mail to 408  
ten per month, unless the person certifies to the office in 409  
writing that the person does not intend to use or forward the 410  
requested records, or the information contained in them, for 411  
commercial purposes. For purposes of this division, "commercial" 412  
shall be narrowly construed and does not include reporting or 413  
gathering news, reporting or gathering information to assist 414  
citizen oversight or understanding of the operation or 415  
activities of government, or nonprofit educational research. 416

(8) A public office or person responsible for public 417  
records is not required to permit a person who is incarcerated 418  
pursuant to a criminal conviction or a juvenile adjudication to 419  
inspect or to obtain a copy of any public record concerning a 420  
criminal investigation or prosecution or concerning what would 421  
be a criminal investigation or prosecution if the subject of the 422  
investigation or prosecution were an adult, unless the request 423  
to inspect or to obtain a copy of the record is for the purpose 424  
of acquiring information that is subject to release as a public 425  
record under this section and the judge who imposed the sentence 426  
or made the adjudication with respect to the person, or the 427  
judge's successor in office, finds that the information sought 428  
in the public record is necessary to support what appears to be 429  
a justiciable claim of the person. 430

(9) (a) Upon written request made and signed by a 431  
journalist on or after December 16, 1999, a public office, or 432  
person responsible for public records, having custody of the 433  
records of the agency employing a specified peace officer, 434  
parole officer, probation officer, bailiff, prosecuting 435  
attorney, assistant prosecuting attorney, correctional employee, 436  
community-based correctional facility employee, youth services 437  
employee, firefighter, EMT, or investigator of the bureau of 438  
criminal identification and investigation shall disclose to the 439  
journalist the address of the actual personal residence of the 440  
peace officer, parole officer, probation officer, bailiff, 441  
prosecuting attorney, assistant prosecuting attorney, 442  
correctional employee, community-based correctional facility 443  
employee, youth services employee, firefighter, EMT, or 444  
investigator of the bureau of criminal identification and 445  
investigation and, if the peace officer's, parole officer's, 446  
probation officer's, bailiff's, prosecuting attorney's, 447  
assistant prosecuting attorney's, correctional employee's, 448  
community-based correctional facility employee's, youth services 449  
employee's, firefighter's, EMT's, or investigator of the bureau 450  
of criminal identification and investigation's spouse, former 451  
spouse, or child is employed by a public office, the name and 452  
address of the employer of the peace officer's, parole 453  
officer's, probation officer's, bailiff's, prosecuting 454  
attorney's, assistant prosecuting attorney's, correctional 455  
employee's, community-based correctional facility employee's, 456  
youth services employee's, firefighter's, EMT's, or investigator 457  
of the bureau of criminal identification and investigation's 458  
spouse, former spouse, or child. The request shall include the 459  
journalist's name and title and the name and address of the 460  
journalist's employer and shall state that disclosure of the 461  
information sought would be in the public interest. 462

(b) Division (B) (9) (a) of this section also applies to 463  
journalist requests for customer information maintained by a 464  
municipally owned or operated public utility, other than social 465  
security numbers and any private financial information such as 466  
credit reports, payment methods, credit card numbers, and bank 467  
account information. 468

(c) As used in division (B) (9) of this section, 469  
"journalist" means a person engaged in, connected with, or 470  
employed by any news medium, including a newspaper, magazine, 471  
press association, news agency, or wire service, a radio or 472  
television station, or a similar medium, for the purpose of 473  
gathering, processing, transmitting, compiling, editing, or 474  
disseminating information for the general public. 475

(C) (1) If a person allegedly is aggrieved by the failure 476  
of a public office or the person responsible for public records 477  
to promptly prepare a public record and to make it available to 478  
the person for inspection in accordance with division (B) of 479  
this section or by any other failure of a public office or the 480  
person responsible for public records to comply with an 481  
obligation in accordance with division (B) of this section, the 482  
person allegedly aggrieved may ~~commence~~ do only one of the 483  
following, and not both: 484

(a) File a complaint with the clerk of the court of claims 485  
or the clerk of the court of common pleas under section 2743.75 486  
of the Revised Code; 487

(b) Commence a mandamus action to obtain a judgment that 488  
orders the public office or the person responsible for the 489  
public record to comply with division (B) of this section, that 490  
awards court costs and reasonable attorney's fees to the person 491  
that instituted the mandamus action, and, if applicable, that 492

includes an order fixing statutory damages under division (C) ~~(1)~~— 493  
(2) of this section. The mandamus action may be commenced in the 494  
court of common pleas of the county in which division (B) of 495  
this section allegedly was not complied with, in the supreme 496  
court pursuant to its original jurisdiction under Section 2 of 497  
Article IV, Ohio Constitution, or in the court of appeals for 498  
the appellate district in which division (B) of this section 499  
allegedly was not complied with pursuant to its original 500  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 501

(2) If a ~~requestor~~ requester transmits a written request 502  
by hand delivery or certified mail to inspect or receive copies 503  
of any public record in a manner that fairly describes the 504  
public record or class of public records to the public office or 505  
person responsible for the requested public records, except as 506  
otherwise provided in this section, the ~~requestor~~ requester 507  
shall be entitled to recover the amount of statutory damages set 508  
forth in this division if a court determines that the public 509  
office or the person responsible for public records failed to 510  
comply with an obligation in accordance with division (B) of 511  
this section. 512

The amount of statutory damages shall be fixed at one 513  
hundred dollars for each business day during which the public 514  
office or person responsible for the requested public records 515  
failed to comply with an obligation in accordance with division 516  
(B) of this section, beginning with the day on which the 517  
requester files a mandamus action to recover statutory damages, 518  
up to a maximum of one thousand dollars. The award of statutory 519  
damages shall not be construed as a penalty, but as compensation 520  
for injury arising from lost use of the requested information. 521  
The existence of this injury shall be conclusively presumed. The 522  
award of statutory damages shall be in addition to all other 523

remedies authorized by this section. 524

The court may reduce an award of statutory damages or not 525  
award statutory damages if the court determines both of the 526  
following: 527

(a) That, based on the ordinary application of statutory 528  
law and case law as it existed at the time of the conduct or 529  
threatened conduct of the public office or person responsible 530  
for the requested public records that allegedly constitutes a 531  
failure to comply with an obligation in accordance with division 532  
(B) of this section and that was the basis of the mandamus 533  
action, a well-informed public office or person responsible for 534  
the requested public records reasonably would believe that the 535  
conduct or threatened conduct of the public office or person 536  
responsible for the requested public records did not constitute 537  
a failure to comply with an obligation in accordance with 538  
division (B) of this section; 539

(b) That a well-informed public office or person 540  
responsible for the requested public records reasonably would 541  
believe that the conduct or threatened conduct of the public 542  
office or person responsible for the requested public records 543  
would serve the public policy that underlies the authority that 544  
is asserted as permitting that conduct or threatened conduct. 545

~~(2) (a) If the court issues a writ of (3) In a mandamus 546  
that orders the public office or the person responsible for the 547  
public record to comply with division (B) of this section and 548  
determines that the circumstances described in division (C) (1) 549  
of this section exist, action filed under division (C) (1) of this 550  
section, the following apply: 551~~

(a) (i) If the court orders the public office or the person 552

responsible for the public record to comply with division (B) of 553  
this section, the court shall determine and award to the relator 554  
all court costs, which shall be construed as remedial and not 555  
punitive. 556

(ii) If the court makes a determination described in 557  
division (C) (3) (b) (iii) of this section, the court shall 558  
determine and award to the relator all court costs, which shall 559  
be construed as remedial and not punitive. 560

~~(b) If the court renders a judgment that orders the public~~ 561  
~~office or the person responsible for the public record to comply~~ 562  
~~with division (B) of this section, the~~ The court may award 563  
reasonable attorney's fees to the relator, subject to ~~reduction~~ 564  
~~as described in the provisions of division (C) (2) (c) (4) of this~~ 565  
~~section. The court shall award reasonable attorney's fees,~~ 566  
~~subject to reduction as described in division (C) (2) (c) of this~~ 567  
~~section when either,~~ if the court determines any of the 568  
following applies: 569

(i) The public office or the person responsible for the 570  
public records failed to respond affirmatively or negatively to 571  
the public records request in accordance with the time allowed 572  
under division (B) of this section. 573

(ii) The public office or the person responsible for the 574  
public records promised to permit the relator to inspect or 575  
receive copies of the public records requested within a 576  
specified period of time but failed to fulfill that promise 577  
within that specified period of time. 578

(iii) The public office or the person responsible for the 579  
public records acted in bad faith when the office or person 580  
voluntarily made the public records available to the relator for 581

the first time after the relator commenced the mandamus action, 582  
but before the court issued any order concluding whether or not 583  
the public office or person was required to comply with division 584  
(B) of this section. 585

~~(c) Court costs and reasonable attorney's fees awarded~~ 586  
~~under this section shall be construed as remedial and not~~ 587  
~~punitive. Reasonable attorney's fees shall include reasonable~~ 588  
~~fees incurred to produce proof of the reasonableness and amount~~ 589  
~~of the fees and to otherwise litigate entitlement to the fees.~~ 590  
~~The court may reduce an award of attorney's fees to the relator~~ 591  
~~or shall not award attorney's fees to the relator if the court~~ 592  
~~determines both of the following:~~ 593

(i) That, based on the ordinary application of statutory 594  
law and case law as it existed at the time of the conduct or 595  
threatened conduct of the public office or person responsible 596  
for the requested public records that allegedly constitutes a 597  
failure to comply with an obligation in accordance with division 598  
(B) of this section and that was the basis of the mandamus 599  
action, a well-informed public office or person responsible for 600  
the requested public records reasonably would believe that the 601  
conduct or threatened conduct of the public office or person 602  
responsible for the requested public records did not constitute 603  
a failure to comply with an obligation in accordance with 604  
division (B) of this section; 605

(ii) That a well-informed public office or person 606  
responsible for the requested public records reasonably would 607  
believe that the conduct or threatened conduct of the public 608  
office or person responsible for the requested public records ~~as~~ 609  
~~described in division (C) (2) (c) (i) of this section~~ would serve 610  
the public policy that underlies the authority that is asserted 611

as permitting that conduct or threatened conduct. 612

(4) All of the following apply to any award of reasonable 613  
attorney's fees awarded under division (C) (3) (b) of this 614  
section: 615

(a) The fees shall be construed as remedial and not 616  
punitive. 617

(b) The fees awarded shall not exceed the total of the 618  
reasonable attorney's fees incurred before the public record was 619  
made available to the relator and the fees described in division 620  
(C) (4) (c) of this section. 621

(c) Reasonable attorney's fees shall include reasonable 622  
fees incurred to produce proof of the reasonableness and amount 623  
of the fees and to otherwise litigate entitlement to the fees. 624

(d) The court may reduce the amount of fees awarded if the 625  
court determines that, given the factual circumstances involved 626  
with the specific public records request, an alternative means 627  
should have been pursued to more effectively and efficiently 628  
resolve the dispute that was subject to the mandamus action 629  
filed under division (C) (1) of this section. 630

(5) If the court does not issue a writ of mandamus under 631  
division (C) of this section and the court determines at that 632  
time that the bringing of the mandamus action was frivolous 633  
conduct as defined in division (A) of section 2323.51 of the 634  
Revised Code, the court may award to the public office all court 635  
costs, expenses, and reasonable attorney's fees, as determined 636  
by the court. 637

(D) Chapter 1347. of the Revised Code does not limit the 638  
provisions of this section. 639

(E) (1) To ensure that all employees of public offices are 640  
appropriately educated about a public office's obligations under 641  
division (B) of this section, all elected officials or their 642  
appropriate designees shall attend training approved by the 643  
attorney general as provided in section 109.43 of the Revised 644  
Code. In addition, all public offices shall adopt a public 645  
records policy in compliance with this section for responding to 646  
public records requests. In adopting a public records policy 647  
under this division, a public office may obtain guidance from 648  
the model public records policy developed and provided to the 649  
public office by the attorney general under section 109.43 of 650  
the Revised Code. Except as otherwise provided in this section, 651  
the policy may not limit the number of public records that the 652  
public office will make available to a single person, may not 653  
limit the number of public records that it will make available 654  
during a fixed period of time, and may not establish a fixed 655  
period of time before it will respond to a request for 656  
inspection or copying of public records, unless that period is 657  
less than eight hours. 658

(2) The public office shall distribute the public records 659  
policy adopted by the public office under division (E) (1) of 660  
this section to the employee of the public office who is the 661  
records custodian or records manager or otherwise has custody of 662  
the records of that office. The public office shall require that 663  
employee to acknowledge receipt of the copy of the public 664  
records policy. The public office shall create a poster that 665  
describes its public records policy and shall post the poster in 666  
a conspicuous place in the public office and in all locations 667  
where the public office has branch offices. The public office 668  
may post its public records policy on the internet web site of 669  
the public office if the public office maintains an internet web 670

site. A public office that has established a manual or handbook 671  
of its general policies and procedures for all employees of the 672  
public office shall include the public records policy of the 673  
public office in the manual or handbook. 674

(F) (1) The bureau of motor vehicles may adopt rules 675  
pursuant to Chapter 119. of the Revised Code to reasonably limit 676  
the number of bulk commercial special extraction requests made 677  
by a person for the same records or for updated records during a 678  
calendar year. The rules may include provisions for charges to 679  
be made for bulk commercial special extraction requests for the 680  
actual cost of the bureau, plus special extraction costs, plus 681  
ten per cent. The bureau may charge for expenses for redacting 682  
information, the release of which is prohibited by law. 683

(2) As used in division (F) (1) of this section: 684

(a) "Actual cost" means the cost of depleted supplies, 685  
records storage media costs, actual mailing and alternative 686  
delivery costs, or other transmitting costs, and any direct 687  
equipment operating and maintenance costs, including actual 688  
costs paid to private contractors for copying services. 689

(b) "Bulk commercial special extraction request" means a 690  
request for copies of a record for information in a format other 691  
than the format already available, or information that cannot be 692  
extracted without examination of all items in a records series, 693  
class of records, or database by a person who intends to use or 694  
forward the copies for surveys, marketing, solicitation, or 695  
resale for commercial purposes. "Bulk commercial special 696  
extraction request" does not include a request by a person who 697  
gives assurance to the bureau that the person making the request 698  
does not intend to use or forward the requested copies for 699  
surveys, marketing, solicitation, or resale for commercial 700

purposes. 701

(c) "Commercial" means profit-seeking production, buying, 702  
or selling of any good, service, or other product. 703

(d) "Special extraction costs" means the cost of the time 704  
spent by the lowest paid employee competent to perform the task, 705  
the actual amount paid to outside private contractors employed 706  
by the bureau, or the actual cost incurred to create computer 707  
programs to make the special extraction. "Special extraction 708  
costs" include any charges paid to a public agency for computer 709  
or records services. 710

(3) For purposes of divisions (F) (1) and (2) of this 711  
section, "surveys, marketing, solicitation, or resale for 712  
commercial purposes" shall be narrowly construed and does not 713  
include reporting or gathering news, reporting or gathering 714  
information to assist citizen oversight or understanding of the 715  
operation or activities of government, or nonprofit educational 716  
research. 717

(G) A request by a defendant or counsel of a defendant in 718  
a criminal action that public records related to that action be 719  
made available under this section shall be considered a demand 720  
for discovery pursuant to the Criminal Rules, except to the 721  
extent that the Criminal Rules plainly indicate a contrary 722  
intent. 723

**Sec. 2323.52.** (A) As used in this section: 724

(1) "Conduct" has the same meaning as in section 2323.51 725  
of the Revised Code. 726

(2) "Vexatious conduct" means conduct of a party in a 727  
civil action that satisfies any of the following: 728

(a) The conduct obviously serves merely to harass or 729  
maliciously injure another party to the civil action. 730

(b) The conduct is not warranted under existing law and 731  
cannot be supported by a good faith argument for an extension, 732  
modification, or reversal of existing law. 733

(c) The conduct is imposed solely for delay. 734

(3) "Vexatious litigator" means any person who has 735  
habitually, persistently, and without reasonable grounds engaged 736  
in vexatious conduct in a civil action or actions, whether in 737  
the court of claims or in a court of appeals, court of common 738  
pleas, municipal court, or county court, whether the person or 739  
another person instituted the civil action or actions, and 740  
whether the vexatious conduct was against the same party or 741  
against different parties in the civil action or actions. 742  
"Vexatious litigator" does not include a person who is 743  
authorized to practice law in the courts of this state under the 744  
Ohio Supreme Court Rules for the Government of the Bar of Ohio 745  
unless that person is representing or has represented self pro 746  
se in the civil action or actions. For the purposes of division 747  
(A) (3) of this section, "civil action" includes a proceeding 748  
under section 2743.75 of the Revised Code. 749

(B) A person, the office of the attorney general, or a 750  
prosecuting attorney, city director of law, village solicitor, 751  
or similar chief legal officer of a municipal corporation who 752  
has defended against habitual and persistent vexatious conduct 753  
in the court of claims or in a court of appeals, court of common 754  
pleas, municipal court, or county court may commence a civil 755  
action in a court of common pleas with jurisdiction over the 756  
person who allegedly engaged in the habitual and persistent 757  
vexatious conduct to have that person declared a vexatious 758

litigator. The person, office of the attorney general, 759  
prosecuting attorney, city director of law, village solicitor, 760  
or similar chief legal officer of a municipal corporation may 761  
commence this civil action while the civil action or actions in 762  
which the habitual and persistent vexatious conduct occurred are 763  
still pending or within one year after the termination of the 764  
civil action or actions in which the habitual and persistent 765  
vexatious conduct occurred. 766

(C) A civil action to have a person declared a vexatious 767  
litigator shall proceed as any other civil action, and the Ohio 768  
Rules of Civil Procedure apply to the action. 769

(D) (1) If the person alleged to be a vexatious litigator 770  
is found to be a vexatious litigator, subject to division (D) (2) 771  
of this section, the court of common pleas may enter an order 772  
prohibiting the vexatious litigator from doing one or more of 773  
the following without first obtaining the leave of that court to 774  
proceed: 775

(a) Instituting legal proceedings in the court of claims 776  
or in a court of common pleas, municipal court, or county court; 777

(b) Continuing any legal proceedings that the vexatious 778  
litigator had instituted in any of the courts specified in 779  
division (D) (1) (a) of this section prior to the entry of the 780  
order; 781

(c) Making any application, other than an application for 782  
leave to proceed under division (F) (1) of this section, in any 783  
legal proceedings instituted by the vexatious litigator or 784  
another person in any of the courts specified in division (D) (1) 785  
(a) of this section. 786

(2) If the court of common pleas finds a person who is 787

authorized to practice law in the courts of this state under the 788  
Ohio Supreme Court Rules for the Government of the Bar of Ohio 789  
to be a vexatious litigator and enters an order described in 790  
division (D) (1) of this section in connection with that finding, 791  
the order shall apply to the person only insofar as the person 792  
would seek to institute proceedings described in division (D) (1) 793  
(a) of this section on a pro se basis, continue proceedings 794  
described in division (D) (1) (b) of this section on a pro se 795  
basis, or make an application described in division (D) (1) (c) of 796  
this section on a pro se basis. The order shall not apply to the 797  
person insofar as the person represents one or more other 798  
persons in the person's capacity as a licensed and registered 799  
attorney in a civil or criminal action or proceeding or other 800  
matter in a court of common pleas, municipal court, or county 801  
court or in the court of claims. Division (D) (2) of this section 802  
does not affect any remedy that is available to a court or an 803  
adversely affected party under section 2323.51 or another 804  
section of the Revised Code, under Civil Rule 11 or another 805  
provision of the Ohio Rules of Civil Procedure, or under the 806  
common law of this state as a result of frivolous conduct or 807  
other inappropriate conduct by an attorney who represents one or 808  
more clients in connection with a civil or criminal action or 809  
proceeding or other matter in a court of common pleas, municipal 810  
court, or county court or in the court of claims. 811

(3) A person who is subject to an order entered pursuant 812  
to division (D) (1) of this section may not institute legal 813  
proceedings in a court of appeals, continue any legal 814  
proceedings that the vexatious litigator had instituted in a 815  
court of appeals prior to entry of the order, or make any 816  
application, other than the application for leave to proceed 817  
allowed by division (F) (2) of this section, in any legal 818

proceedings instituted by the vexatious litigator or another 819  
person in a court of appeals without first obtaining leave of 820  
the court of appeals to proceed pursuant to division (F) (2) of 821  
this section. 822

(E) An order that is entered under division (D) (1) of this 823  
section shall remain in force indefinitely unless the order 824  
provides for its expiration after a specified period of time. 825

(F) (1) A court of common pleas that entered an order under 826  
division (D) (1) of this section shall not grant a person found 827  
to be a vexatious litigator leave for the institution or 828  
continuance of, or the making of an application in, legal 829  
proceedings in the court of claims or in a court of common 830  
pleas, municipal court, or county court unless the court of 831  
common pleas that entered that order is satisfied that the 832  
proceedings or application are not an abuse of process of the 833  
court in question and that there are reasonable grounds for the 834  
proceedings or application. If a person who has been found to be 835  
a vexatious litigator under this section requests the court of 836  
common pleas that entered an order under division (D) (1) of this 837  
section to grant the person leave to proceed as described in 838  
division (F) (1) of this section, the period of time commencing 839  
with the filing with that court of an application for the 840  
issuance of an order granting leave to proceed and ending with 841  
the issuance of an order of that nature shall not be computed as 842  
a part of an applicable period of limitations within which the 843  
legal proceedings or application involved generally must be 844  
instituted or made. 845

(2) A person who is subject to an order entered pursuant 846  
to division (D) (1) of this section and who seeks to institute or 847  
continue any legal proceedings in a court of appeals or to make 848

an application, other than an application for leave to proceed 849  
under division (F) (2) of this section, in any legal proceedings 850  
in a court of appeals shall file an application for leave to 851  
proceed in the court of appeals in which the legal proceedings 852  
would be instituted or are pending. The court of appeals shall 853  
not grant a person found to be a vexatious litigator leave for 854  
the institution or continuance of, or the making of an 855  
application in, legal proceedings in the court of appeals unless 856  
the court of appeals is satisfied that the proceedings or 857  
application are not an abuse of process of the court and that 858  
there are reasonable grounds for the proceedings or application. 859  
If a person who has been found to be a vexatious litigator under 860  
this section requests the court of appeals to grant the person 861  
leave to proceed as described in division (F) (2) of this 862  
section, the period of time commencing with the filing with the 863  
court of an application for the issuance of an order granting 864  
leave to proceed and ending with the issuance of an order of 865  
that nature shall not be computed as a part of an applicable 866  
period of limitations within which the legal proceedings or 867  
application involved generally must be instituted or made. 868

(G) During the period of time that the order entered under 869  
division (D) (1) of this section is in force, no appeal by the 870  
person who is the subject of that order shall lie from a 871  
decision of the court of common pleas or court of appeals under 872  
division (F) of this section that denies that person leave for 873  
the institution or continuance of, or the making of an 874  
application in, legal proceedings in the court of claims or in a 875  
court of appeals, court of common pleas, municipal court, or 876  
county court. 877

(H) The clerk of the court of common pleas that enters an 878  
order under division (D) (1) of this section shall send a 879

certified copy of the order to the supreme court for publication 880  
in a manner that the supreme court determines is appropriate and 881  
that will facilitate the clerk of the court of claims and a 882  
clerk of a court of appeals, court of common pleas, municipal 883  
court, or county court in refusing to accept pleadings or other 884  
papers submitted for filing by persons who have been found to be 885  
a vexatious litigator under this section and who have failed to 886  
obtain leave to proceed under this section. 887

(I) Whenever it appears by suggestion of the parties or 888  
otherwise that a person found to be a vexatious litigator under 889  
this section has instituted, continued, or made an application 890  
in legal proceedings without obtaining leave to proceed from the 891  
appropriate court of common pleas or court of appeals to do so 892  
under division (F) of this section, the court in which the legal 893  
proceedings are pending shall dismiss the proceedings or 894  
application of the vexatious litigator. 895

**Sec. 2743.03.** (A) (1) There is hereby created a court of 896  
claims. The court of claims is a court of record and has 897  
exclusive, original jurisdiction of all civil actions against 898  
the state permitted by the waiver of immunity contained in 899  
section 2743.02 of the Revised Code and exclusive jurisdiction 900  
of the causes of action of all parties in civil actions that are 901  
removed to the court of claims. The court shall have full equity 902  
powers in all actions within its jurisdiction and may entertain 903  
and determine all counterclaims, cross-claims, and third-party 904  
claims. 905

(2) If the claimant in a civil action as described in 906  
division (A) (1) of this section also files a claim for a 907  
declaratory judgment, injunctive relief, or other equitable 908  
relief against the state that arises out of the same 909

circumstances that gave rise to the civil action described in 910  
division (A) (1) of this section, the court of claims has 911  
exclusive, original jurisdiction to hear and determine that 912  
claim in that civil action. This division does not affect, and 913  
shall not be construed as affecting, the original jurisdiction 914  
of another court of this state to hear and determine a civil 915  
action in which the sole relief that the claimant seeks against 916  
the state is a declaratory judgment, injunctive relief, or other 917  
equitable relief. 918

(3) In addition to its exclusive, original jurisdiction as 919  
conferred by ~~division~~ divisions (A) (1) and (2) of this section, 920  
the court of claims has exclusive, original jurisdiction as 921  
follows: 922

(a) As described in division (F) of section 2743.02, 923  
division (B) of section 3335.03, and division (C) of section 924  
5903.02 of the Revised Code; 925

(b) Under section 2743.75 of the Revised Code to hear 926  
complaints alleging a denial of access to public records in 927  
violation of division (B) of section 149.43 of the Revised Code, 928  
regardless of whether the public office or person responsible 929  
for public records is an office or employee of the state or of a 930  
political subdivision. 931

(B) The court of claims shall sit in Franklin county, its 932  
hearings shall be public, and it shall consist of incumbent 933  
justices or judges of the supreme court, courts of appeals, or 934  
courts of common pleas, or retired justices or judges eligible 935  
for active duty pursuant to division (C) of Section 6 of Article 936  
IV, Ohio Constitution, sitting by temporary assignment of the 937  
chief justice of the supreme court. The chief justice may direct 938  
the court to sit in any county for cases on removal upon a 939

showing of substantial hardship and whenever justice dictates. 940

(C) (1) A civil action against the state shall be heard and 941  
determined by a single judge. Upon application by the claimant 942  
or the state, the chief justice of the supreme court may assign 943  
a panel of three judges to hear and determine a civil action 944  
presenting novel or complex issues of law or fact. Concurrence 945  
of two members of the panel is necessary for any judgment or 946  
order. 947

(2) Whenever the chief justice of the supreme court 948  
believes an equitable resolution of a case will be expedited, 949  
the chief justice may appoint magistrates in accordance with 950  
Civil Rule 53 to hear the case. 951

(3) When any dispute under division (B) of section 153.12 952  
of the Revised Code is brought to the court of claims, upon 953  
request of either party to the dispute, the chief justice of the 954  
supreme court shall appoint a single referee or a panel of three 955  
referees. The referees need not be attorneys, but shall be 956  
persons knowledgeable about construction contract law, a member 957  
of the construction industry panel of the American arbitration 958  
association, or an individual or individuals deemed qualified by 959  
the chief justice to serve. No person shall serve as a referee 960  
if that person has been employed by an affected state agency or 961  
a contractor or subcontractor involved in the dispute at any 962  
time in the preceding five years. Proceedings governing referees 963  
shall be in accordance with Civil Rule 53, except as modified by 964  
this division. The referee or panel of referees shall submit its 965  
report, which shall include a recommendation and finding of 966  
fact, to the judge assigned to the case by the chief justice, 967  
within thirty days of the conclusion of the hearings. Referees 968  
appointed pursuant to this division shall be compensated on a 969

per diem basis at the same rate as is paid to judges of the 970  
court and also shall be paid their expenses. If a single referee 971  
is appointed or a panel of three referees is appointed, then, 972  
with respect to one referee of the panel, the compensation and 973  
expenses of the referee shall not be taxed as part of the costs 974  
in the case but shall be included in the budget of the court. If 975  
a panel of three referees is appointed, the compensation and 976  
expenses of the two remaining referees shall be taxed as costs 977  
of the case. 978

All costs of a case shall be apportioned among the 979  
parties. The court may not require that any party deposit with 980  
the court cash, bonds, or other security in excess of two 981  
hundred dollars to guarantee payment of costs without the prior 982  
approval in each case of the chief justice. 983

(4) An appeal from a decision of the attorney general 984  
pursuant to sections 2743.51 to 2743.72 of the Revised Code 985  
shall be heard and determined by the court of claims. 986

(D) The Rules of Civil Procedure shall govern practice and 987  
procedure in all actions in the court of claims, except insofar 988  
as inconsistent with this chapter. The supreme court may 989  
promulgate rules governing practice and procedure in actions in 990  
the court as provided in Section 5 of Article IV, Ohio 991  
Constitution. 992

(E) (1) A party who files a counterclaim against the state 993  
or makes the state a third-party defendant in an action 994  
commenced in any court, other than the court of claims, shall 995  
file a petition for removal in the court of claims. The petition 996  
shall state the basis for removal, be accompanied by a copy of 997  
all process, pleadings, and other papers served upon the 998  
petitioner, and shall be signed in accordance with Civil Rule 999

11. A petition for removal based on a counterclaim shall be 1000  
filed within twenty-eight days after service of the counterclaim 1001  
of the petitioner. A petition for removal based on third-party 1002  
practice shall be filed within twenty-eight days after the 1003  
filing of the third-party complaint of the petitioner. 1004

(2) Within seven days after filing a petition for removal, 1005  
the petitioner shall give written notice to the parties, and 1006  
shall file a copy of the petition with the clerk of the court in 1007  
which the action was brought originally. The filing effects the 1008  
removal of the action to the court of claims, and the clerk of 1009  
the court where the action was brought shall forward all papers 1010  
in the case to the court of claims. The court of claims shall 1011  
adjudicate all civil actions removed. The court may remand a 1012  
civil action to the court in which it originated upon a finding 1013  
that the removal petition does not justify removal, or upon a 1014  
finding that the state is no longer a party. 1015

(3) Bonds, undertakings, or security and injunctions, 1016  
attachments, sequestrations, or other orders issued prior to 1017  
removal remain in effect until dissolved or modified by the 1018  
court of claims. 1019

Sec. 2743.75. (A) In order to provide for an expeditious 1020  
and economical procedure that attempts to resolve disputes 1021  
alleging a denial of access to public records in violation of 1022  
division (B) of section 149.43 of the Revised Code, except for a 1023  
court that hears a mandamus action pursuant to that section, the 1024  
court of claims shall be the sole and exclusive authority in 1025  
this state that adjudicates or resolves complaints based on 1026  
alleged violations of that section. The clerk of the court of 1027  
claims shall designate one or more current employees or hire one 1028  
or more individuals to serve as special masters to hear 1029

complaints brought under this section. All special masters shall 1030  
have been engaged in the practice of law in this state for at 1031  
least four years and be in good standing with the supreme court 1032  
at the time of designation or hiring. The clerk may assign 1033  
administrative and clerical work associated with complaints 1034  
brought under this section to current employees or may hire such 1035  
additional employees as may be necessary to perform such work. 1036

(B) The clerk of the court of common pleas in each county 1037  
shall act as the clerk of the court of claims for purposes of 1038  
accepting those complaints filed with the clerk under division 1039  
(D) (1) of this section, accepting filing fees for those 1040  
complaints, and serving those complaints. 1041

(C) (1) Subject to division (C) (2) of this section, a 1042  
person allegedly aggrieved by a denial of access to public 1043  
records in violation of division (B) of section 149.43 of the 1044  
Revised Code may seek relief under that section or under this 1045  
section, provided, however, that if the allegedly aggrieved 1046  
person files a complaint under either section, that person may 1047  
not seek relief that pertains to the same request for records in 1048  
a complaint filed under the other section. 1049

(2) If the allegedly aggrieved person files a complaint 1050  
under this section and the court of claims determines that the 1051  
complaint constitutes a case of first impression that involves 1052  
an issue of substantial public interest, the court shall dismiss 1053  
the complaint without prejudice and direct the allegedly 1054  
aggrieved person to commence a mandamus action in the court of 1055  
appeals with appropriate jurisdiction as provided in division 1056  
(C) (1) of section 149.43 of the Revised Code. 1057

(D) (1) An allegedly aggrieved person who proceeds under 1058  
this section shall file a complaint, on a form prescribed by the 1059

clerk of the court of claims, with the clerk of the court of 1060  
claims or with the clerk of the court of common pleas of the 1061  
county in which the public office from which the records are 1062  
requested is located. The person shall attach to the complaint 1063  
copies of the original records request and any written responses 1064  
or other communications relating to the request from the public 1065  
office or person responsible for public records and shall pay a 1066  
filing fee of twenty-five dollars made payable to the clerk of 1067  
the court with whom the complaint is filed. The clerk shall 1068  
serve a copy of the complaint on the public office or person 1069  
responsible for public records for the particular public office 1070  
in accordance with Civil Rule 4.1 and, if the complaint is filed 1071  
with the clerk of the court of common pleas, shall forward the 1072  
complaint to the clerk of the court of claims, and to no other 1073  
court, within three days after service is complete. 1074

(2) Upon receipt of a complaint filed under division (D) 1075  
(1) of this section, the clerk of the court of claims shall 1076  
assign a case number for the action and a special master to 1077  
examine the complaint. Notwithstanding any provision to the 1078  
contrary in this section, upon the recommendation of the special 1079  
master, the court of claims on its own motion may dismiss the 1080  
complaint at any time. 1081

(E) (1) Upon service of a complaint under division (D) (1) 1082  
of this section, except as otherwise provided in this division, 1083  
the special master assigned by the clerk under division (D) (2) 1084  
of this section immediately shall refer the case to mediation 1085  
services that the court of claims makes available to persons. 1086  
If, in the interest of justice considering the circumstances of 1087  
the case or the parties, the special master determines that the 1088  
case should not be referred to mediation, the special master 1089  
shall notify the court that the case was not referred to 1090

mediation, and the case shall proceed in accordance with 1091  
division (F) of this section. If the case is referred to 1092  
mediation, any further proceedings under division (F) of this 1093  
section shall be stayed until the conclusion of the mediation. 1094  
If an agreement is reached during mediation, a written 1095  
agreement, including its material terms, shall be drafted and 1096  
signed by all of the parties. The court shall then dismiss the 1097  
complaint. If an agreement is not reached, the special master 1098  
shall notify the court that the case was not resolved and that 1099  
the mediation has been terminated. 1100

(2) Within ten business days after the termination of the 1101  
mediation or the notification to the court that the case was not 1102  
referred to mediation under division (E) (1) of this section, the 1103  
public office or person responsible for public records shall 1104  
file a response, and if applicable, a motion to dismiss the 1105  
complaint, with the clerk of the court of claims and transmit 1106  
copies of the pleadings to the allegedly aggrieved party. No 1107  
further motions or pleadings shall be accepted by the clerk of 1108  
the court of claims or by the special master assigned by the 1109  
clerk under division (D) (2) of this section unless the special 1110  
master directs in writing that a further motion or pleading be 1111  
filed. 1112

(3) All of the following apply prior to the submission of 1113  
the special master's report and recommendation to the court of 1114  
claims under division (F) (1) of this section: 1115

(a) The special master shall not permit any discovery. 1116

(b) The parties may attach supporting affidavits to their 1117  
respective pleadings. 1118

(c) The special master may require either or both of the 1119

parties to submit additional information or documentation 1120  
supported by affidavits. 1121

(F) (1) Not later than seven days after receiving the 1122  
response, or motion to dismiss the complaint, if applicable, of 1123  
the public office or person responsible for public records, the 1124  
special master shall submit to the court of claims a report and 1125  
recommendation based on the ordinary application of statutory 1126  
law and case law as they existed at the time of the filing of 1127  
the complaint. For good cause shown, the special master may 1128  
extend the seven-day period for the submission of the report and 1129  
recommendation to the court of claims under this division by an 1130  
additional seven days. 1131

(2) Upon submission of the special master's report and 1132  
recommendation to the court of claims under division (F) (1) of 1133  
this section, the clerk shall send copies of the report and 1134  
recommendation to each party by certified mail, return receipt 1135  
requested, not later than three days after the report and 1136  
recommendation is filed. Either party may object to the report 1137  
and recommendation within seven days after receiving the report 1138  
and recommendation by filing a written objection with the clerk 1139  
and sending a copy to the other party by certified mail, return 1140  
receipt requested. Any objection to the report and 1141  
recommendation shall be specific and state with particularity 1142  
all grounds for the objection. If neither party timely objects, 1143  
the court of claims shall promptly issue a final order adopting 1144  
the report and recommendation, unless it determines that there 1145  
is an error of law or other defect evident on the face of the 1146  
report and recommendation. If either party timely objects, the 1147  
other party may file with the clerk a response within seven days 1148  
after receiving the objection and send a copy of the response to 1149  
the objecting party by certified mail, return receipt requested. 1150

The court, within seven days after the response to the objection 1151  
is filed, shall issue a final order that adopts, modifies, or 1152  
rejects the report and recommendation. 1153

(3) If the court of claims determines that the public 1154  
office or person responsible for the public records denied the 1155  
aggrieved person access to the public records in violation of 1156  
division (B) of section 149.43 of the Revised Code and if no 1157  
appeal from the court's final order is taken under division (G) 1158  
of this section, both of the following apply: 1159

(a) The public office or the person responsible for the 1160  
public records shall permit the aggrieved person to inspect or 1161  
receive copies of the public records that the court requires to 1162  
be disclosed in its order. 1163

(b) The aggrieved person shall be entitled to recover from 1164  
the public office or person responsible for the public records 1165  
the amount of the filing fee of twenty-five dollars and any 1166  
other costs associated with the action that are incurred by the 1167  
aggrieved person, but shall not be entitled to recover 1168  
attorney's fees, except that division (G) (2) of this section 1169  
applies if an appeal is taken under division (G) (1) of this 1170  
section. 1171

(G) (1) Any appeal from a final order of the court of 1172  
claims under this section shall be taken to the court of appeals 1173  
of the appellate district where the principal place of business 1174  
of the public office from which the public record is requested 1175  
is located. However, no appeal may be taken from a final order 1176  
of the court of claims that adopts the special master's report 1177  
and recommendation unless a timely objection to that report and 1178  
recommendation was filed under division (F) (2) of this section. 1179  
If the court of claims materially modifies the special master's 1180

report and recommendation, either party may take an appeal to 1181  
the court of appeals of the appellate district of the principal 1182  
place of business where that public office is located but the 1183  
appeal shall be limited to the issue in the report and 1184  
recommendation that is materially modified by the court of 1185  
claims. In order to facilitate the expeditious resolution of 1186  
disputes over alleged denials of access to public records in 1187  
violation of division (B) of section 149.43 of the Revised Code, 1188  
the appeal shall be given such precedence over other pending 1189  
matters as will ensure that the court will reach a decision 1190  
promptly. 1191

(2) If a court of appeals in any appeal taken under 1192  
division (G) (1) of this section by the public office or person 1193  
responsible for the public records determines that the public 1194  
office or person denied the aggrieved person access to the 1195  
public records in violation of division (B) of section 149.43 of 1196  
the Revised Code and obviously filed the appeal with the intent 1197  
to either delay compliance with the court of claims' order from 1198  
which the appeal is taken for no reasonable cause or unduly 1199  
harass the aggrieved person, the court of appeals may award 1200  
reasonable attorney's fees to the aggrieved person in accordance 1201  
with division (C) of section 149.43 of the Revised Code. 1202

(H) The powers of the court of claims prescribed in 1203  
section 2743.05 of the Revised Code apply to the proceedings in 1204  
that court under this section. 1205

(I) (1) All filing fees collected by a clerk of the court 1206  
of common pleas under division (D) (1) of this section shall be 1207  
paid to the county treasurer for deposit into a fund for 1208  
specified special projects established pursuant to section 1209  
2303.201 of the Revised Code. If there is no such fund, the 1210

filing fees shall be paid to the county treasurer for deposit 1211  
into the county general revenue fund. All such money collected 1212  
during a month shall be transmitted on or before the twentieth 1213  
day of the following month by the clerk of the court of common 1214  
pleas to the county treasurer. 1215

(2) All filing fees collected by the clerk of the court of 1216  
claims under division (D) (1) of this section shall be kept by 1217  
the court of claims to assist in paying for its costs to 1218  
implement this section. Not later than the first day of February 1219  
of each year, the clerk of the court of claims shall prepare a 1220  
report accessible to the public that details the fees collected 1221  
during the preceding calendar year by the clerk of the court of 1222  
claims and the clerks of the courts of common pleas under this 1223  
section. 1224

**Sec. 2746.04.** In addition to any applicable fees or costs 1225  
set forth in sections 2746.01 and 2746.02 of the Revised Code or 1226  
any other applicable provision of law, a court of common pleas 1227  
shall tax as costs or otherwise require the payment of fees for 1228  
the following services rendered or as compensation for the 1229  
following persons or any other of the following fees that are 1230  
applicable in a particular case: 1231

(A) The fees provided for in section 2303.20 of the 1232  
Revised Code; 1233

(B) Additional fees to computerize the court, make 1234  
available computerized legal research services, computerize the 1235  
office of the clerk of the court, provide financial assistance 1236  
to legal aid societies, support the office of the state public 1237  
defender, fund shelters for victims of domestic violence, and 1238  
special projects of the court, as provided in section 2303.201 1239  
and, for a court that has a domestic relations division, section 1240

2301.031 of the Revised Code;	1241
(C) Filing for a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, as provided in section 3109.14 of the Revised Code;	1242 1243 1244
(D) Filing of a foreign judgment pursuant to section 2329.022 of the Revised Code, as provided in section 2329.025 of the Revised Code;	1245 1246 1247
(E) Interpreters, as provided in section 2301.14 of the Revised Code;	1248 1249
(F) Jurors in civil actions, as provided in section 2335.28 of the Revised Code;	1250 1251
(G) Reporters, as provided in sections 2301.21 and 2301.24 of the Revised Code;	1252 1253
(H) In a case involving the operation by a nonresident of a vessel upon the waters in this state, or the operation on the waters in this state of a vessel owned by a nonresident if operated with <del>his</del> <u>the nonresident's</u> consent, actual traveling expenses of the defendant, as provided in section 1547.36 of the Revised Code;	1254 1255 1256 1257 1258 1259
(I) In a civil case, the expenses of taking a deposition of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, as provided in section 2317.06 of the Revised Code;	1260 1261 1262 1263 1264
(J) In proceedings relating to the examination of a judgment debtor under sections 2333.09 to 2333.27 of the Revised Code, compensation for clerks, sheriffs, referees, receivers, and witnesses, as provided in section 2333.27 of the Revised	1265 1266 1267 1268

Code;	1269
(K) In an appeal from an order of an agency issued	1270
pursuant to an adjudication under section 119.12 of the Revised	1271
Code, the expense of preparing and transcribing the record;	1272
(L) In a case in which the court issues a protection order	1273
upon a petition alleging that the respondent engaged in domestic	1274
violence against a family or household member, the cost of	1275
supervision of the respondent's exercise of parenting time,	1276
visitation, or companionship rights, as provided in section	1277
3113.31 of the Revised Code;	1278
(M) Upon a petition to have a person involuntarily	1279
institutionalized, the costs of appointed counsel for the	1280
respondent at a full hearing, as provided in section 5123.76 of	1281
the Revised Code;	1282
(N) In a case before the domestic relations division of	1283
the Hamilton county court of common pleas, the expense of	1284
-serving a summons, warrant, citation, subpoena, or other writ	1285
issued to an officer other than a bailiff, constable, or staff	1286
investigator of the division, as provided in section 2301.03 of	1287
the Revised Code;	1288
<u>(O) The filing fee specified in section 2743.75 of the</u>	1289
<u>Revised Code in a case filed with the court of claims that</u>	1290
<u>alleges a denial of access to public records in violation of</u>	1291
<u>division (B) of section 149.43 of the Revised Code.</u>	1292
<b>Section 2.</b> That existing sections 149.43, 2323.52,	1293
2743.03, and 2746.04 of the Revised Code are hereby repealed.	1294