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Sub. S. B. No. 321

Senator Faber

Cosponsors: Senators Burke, Eklund, Jordan, LaRose, Peterson, Seitz, Obhof, Skindell, Bacon, Balderson, Beagle, Brown, Coley, Gardner, Hackett, Hite, Hottinger, Hughes, Jones, Lehner, Manning, Oelslager, Patton, Sawyer, Schiavoni, Thomas, Uecker, Yuko, Tavares, Williams

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A BILL

To amend sections 149.43, 149.433, 2323.52, 1
2743.03, 2746.04, and 3333.0412 and to enact 2
section 2743.75 of the Revised Code to create a 3
procedure within the Court of Claims to hear 4
complaints alleging a denial of access to public 5
records, to modify the circumstances under which 6
a person who files a mandamus action seeking the 7
release of public records may be awarded court 8
costs and attorney's fees, to expand the 9
infrastructure record exemption under Public 10
Records Law, and to generally protect a private, 11
nonprofit institution of higher education from 12
liability for a breach of confidentiality or 13
other claim that arises from the institution's 14
disclosure of public records. 15

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

Section 1. That sections 149.43, 149.433, 2323.52, 16
2743.03, 2746.04, and 3333.0412 be amended and section 2743.75 17
of the Revised Code be enacted to read as follows: 18

Sec. 149.43. (A) As used in this section: 19

(1) "Public record" means records kept by any public 20
office, including, but not limited to, state, county, city, 21
village, township, and school district units, and records 22
pertaining to the delivery of educational services by an 23
alternative school in this state kept by the nonprofit or for- 24
profit entity operating the alternative school pursuant to 25
section 3313.533 of the Revised Code. "Public record" does not 26
mean any of the following: 27

(a) Medical records; 28

(b) Records pertaining to probation and parole proceedings 29
or to proceedings related to the imposition of community control 30
sanctions and post-release control sanctions; 31

(c) Records pertaining to actions under section 2151.85 32
and division (C) of section 2919.121 of the Revised Code and to 33
appeals of actions arising under those sections; 34

(d) Records pertaining to adoption proceedings, including 35
the contents of an adoption file maintained by the department of 36
health under sections 3705.12 to 3705.124 of the Revised Code; 37

(e) Information in a record contained in the putative 38
father registry established by section 3107.062 of the Revised 39
Code, regardless of whether the information is held by the 40
department of job and family services or, pursuant to section 41
3111.69 of the Revised Code, the office of child support in the 42
department or a child support enforcement agency; 43

(f) Records specified in division (A) of section 3107.52 of the Revised Code;	44 45
(g) Trial preparation records;	46
(h) Confidential law enforcement investigatory records;	47
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	48 49
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	50 51
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	52 53 54 55
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	56 57 58 59
(m) Intellectual property records;	60
(n) Donor profile records;	61
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	62 63
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	64 65 66 67 68 69
(q) In the case of a county hospital operated pursuant to	70

Chapter 339. of the Revised Code or a municipal hospital	71
operated pursuant to Chapter 749. of the Revised Code,	72
information that constitutes a trade secret, as defined in	73
section 1333.61 of the Revised Code;	74
(r) Information pertaining to the recreational activities	75
of a person under the age of eighteen;	76
(s) In the case of a child fatality review board acting	77
under sections 307.621 to 307.629 of the Revised Code or a	78
review conducted pursuant to guidelines established by the	79
director of health under section 3701.70 of the Revised Code,	80
records provided to the board or director, statements made by	81
board members during meetings of the board or by persons	82
participating in the director's review, and all work products of	83
the board or director, and in the case of a child fatality	84
review board, child fatality review data submitted by the board	85
to the department of health or a national child death review	86
database, other than the report prepared pursuant to division	87
(A) of section 307.626 of the Revised Code;	88
(t) Records provided to and statements made by the	89
executive director of a public children services agency or a	90
prosecuting attorney acting pursuant to section 5153.171 of the	91
Revised Code other than the information released under that	92
section;	93
(u) Test materials, examinations, or evaluation tools used	94
in an examination for licensure as a nursing home administrator	95
that the board of executives of long-term services and supports	96
administers under section 4751.04 of the Revised Code or	97
contracts under that section with a private or government entity	98
to administer;	99

(v) Records the release of which is prohibited by state or federal law;	100 101
(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;	102 103 104
(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;	105 106 107 108 109 110
(y) Records listed in section 5101.29 of the Revised Code;	111
(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	112 113 114
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	115 116 117
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	118 119 120
(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code.	121 122 123
(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a	124 125 126 127

high probability of disclosure of any of the following:	128
(a) The identity of a suspect who has not been charged	129
with the offense to which the record pertains, or of an	130
information source or witness to whom confidentiality has been	131
reasonably promised;	132
(b) Information provided by an information source or	133
witness to whom confidentiality has been reasonably promised,	134
which information would reasonably tend to disclose the source's	135
or witness's identity;	136
(c) Specific confidential investigatory techniques or	137
procedures or specific investigatory work product;	138
(d) Information that would endanger the life or physical	139
safety of law enforcement personnel, a crime victim, a witness,	140
or a confidential information source.	141
(3) "Medical record" means any document or combination of	142
documents, except births, deaths, and the fact of admission to	143
or discharge from a hospital, that pertains to the medical	144
history, diagnosis, prognosis, or medical condition of a patient	145
and that is generated and maintained in the process of medical	146
treatment.	147
(4) "Trial preparation record" means any record that	148
contains information that is specifically compiled in reasonable	149
anticipation of, or in defense of, a civil or criminal action or	150
proceeding, including the independent thought processes and	151
personal trial preparation of an attorney.	152
(5) "Intellectual property record" means a record, other	153
than a financial or administrative record, that is produced or	154
collected by or for faculty or staff of a state institution of	155
higher learning in the conduct of or as a result of study or	156

research on an educational, commercial, scientific, artistic, 157
technical, or scholarly issue, regardless of whether the study 158
or research was sponsored by the institution alone or in 159
conjunction with a governmental body or private concern, and 160
that has not been publicly released, published, or patented. 161

(6) "Donor profile record" means all records about donors 162
or potential donors to a public institution of higher education 163
except the names and reported addresses of the actual donors and 164
the date, amount, and conditions of the actual donation. 165

(7) "Peace officer, parole officer, probation officer, 166
bailiff, prosecuting attorney, assistant prosecuting attorney, 167
correctional employee, community-based correctional facility 168
employee, youth services employee, firefighter, EMT, or 169
investigator of the bureau of criminal identification and 170
investigation residential and familial information" means any 171
information that discloses any of the following about a peace 172
officer, parole officer, probation officer, bailiff, prosecuting 173
attorney, assistant prosecuting attorney, correctional employee, 174
community-based correctional facility employee, youth services 175
employee, firefighter, EMT, or investigator of the bureau of 176
criminal identification and investigation: 177

(a) The address of the actual personal residence of a 178
peace officer, parole officer, probation officer, bailiff, 179
assistant prosecuting attorney, correctional employee, 180
community-based correctional facility employee, youth services 181
employee, firefighter, EMT, or an investigator of the bureau of 182
criminal identification and investigation, except for the state 183
or political subdivision in which the peace officer, parole 184
officer, probation officer, bailiff, assistant prosecuting 185
attorney, correctional employee, community-based correctional 186

facility employee, youth services employee, firefighter, EMT, or 187
investigator of the bureau of criminal identification and 188
investigation resides; 189

(b) Information compiled from referral to or participation 190
in an employee assistance program; 191

(c) The social security number, the residential telephone 192
number, any bank account, debit card, charge card, or credit 193
card number, or the emergency telephone number of, or any 194
medical information pertaining to, a peace officer, parole 195
officer, probation officer, bailiff, prosecuting attorney, 196
assistant prosecuting attorney, correctional employee, 197
community-based correctional facility employee, youth services 198
employee, firefighter, EMT, or investigator of the bureau of 199
criminal identification and investigation; 200

(d) The name of any beneficiary of employment benefits, 201
including, but not limited to, life insurance benefits, provided 202
to a peace officer, parole officer, probation officer, bailiff, 203
prosecuting attorney, assistant prosecuting attorney, 204
correctional employee, community-based correctional facility 205
employee, youth services employee, firefighter, EMT, or 206
investigator of the bureau of criminal identification and 207
investigation by the peace officer's, parole officer's, 208
probation officer's, bailiff's, prosecuting attorney's, 209
assistant prosecuting attorney's, correctional employee's, 210
community-based correctional facility employee's, youth services 211
employee's, firefighter's, EMT's, or investigator of the bureau 212
of criminal identification and investigation's employer; 213

(e) The identity and amount of any charitable or 214
employment benefit deduction made by the peace officer's, parole 215
officer's, probation officer's, bailiff's, prosecuting 216

attorney's, assistant prosecuting attorney's, correctional 217
employee's, community-based correctional facility employee's, 218
youth services employee's, firefighter's, EMT's, or investigator 219
of the bureau of criminal identification and investigation's 220
employer from the peace officer's, parole officer's, probation 221
officer's, bailiff's, prosecuting attorney's, assistant 222
prosecuting attorney's, correctional employee's, community-based 223
correctional facility employee's, youth services employee's, 224
firefighter's, EMT's, or investigator of the bureau of criminal 225
identification and investigation's compensation unless the 226
amount of the deduction is required by state or federal law; 227

(f) The name, the residential address, the name of the 228
employer, the address of the employer, the social security 229
number, the residential telephone number, any bank account, 230
debit card, charge card, or credit card number, or the emergency 231
telephone number of the spouse, a former spouse, or any child of 232
a peace officer, parole officer, probation officer, bailiff, 233
prosecuting attorney, assistant prosecuting attorney, 234
correctional employee, community-based correctional facility 235
employee, youth services employee, firefighter, EMT, or 236
investigator of the bureau of criminal identification and 237
investigation; 238

(g) A photograph of a peace officer who holds a position 239
or has an assignment that may include undercover or plain 240
clothes positions or assignments as determined by the peace 241
officer's appointing authority. 242

As used in divisions (A) (7) and (B) (9) of this section, 243
"peace officer" has the same meaning as in section 109.71 of the 244
Revised Code and also includes the superintendent and troopers 245
of the state highway patrol; it does not include the sheriff of 246

a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A) (7) and (B) (9) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A) (7) and (B) (9) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

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

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

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

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is

kept in the ordinary course of business by a public office, that 276
pertains to the recreational activities of a person under the 277
age of eighteen years, and that discloses any of the following: 278

(a) The address or telephone number of a person under the 279
age of eighteen or the address or telephone number of that 280
person's parent, guardian, custodian, or emergency contact 281
person; 282

(b) The social security number, birth date, or 283
photographic image of a person under the age of eighteen; 284

(c) Any medical record, history, or information pertaining 285
to a person under the age of eighteen; 286

(d) Any additional information sought or required about a 287
person under the age of eighteen for the purpose of allowing 288
that person to participate in any recreational activity 289
conducted or sponsored by a public office or to use or obtain 290
admission privileges to any recreational facility owned or 291
operated by a public office. 292

(9) "Community control sanction" has the same meaning as 293
in section 2929.01 of the Revised Code. 294

(10) "Post-release control sanction" has the same meaning 295
as in section 2967.01 of the Revised Code. 296

(11) "Redaction" means obscuring or deleting any 297
information that is exempt from the duty to permit public 298
inspection or copying from an item that otherwise meets the 299
definition of a "record" in section 149.011 of the Revised Code. 300

(12) "Designee" and "elected official" have the same 301
meanings as in section 109.43 of the Revised Code. 302

(B) (1) Upon request and subject to division (B) (8) of this 303

section, all public records responsive to the request shall be 304
promptly prepared and made available for inspection to any 305
person at all reasonable times during regular business hours. 306
Subject to division (B) (8) of this section, upon request, a 307
public office or person responsible for public records shall 308
make copies of the requested public record available at cost and 309
within a reasonable period of time. If a public record contains 310
information that is exempt from the duty to permit public 311
inspection or to copy the public record, the public office or 312
the person responsible for the public record shall make 313
available all of the information within the public record that 314
is not exempt. When making that public record available for 315
public inspection or copying that public record, the public 316
office or the person responsible for the public record shall 317
notify the requester of any redaction or make the redaction 318
plainly visible. A redaction shall be deemed a denial of a 319
request to inspect or copy the redacted information, except if 320
federal or state law authorizes or requires a public office to 321
make the redaction. 322

(2) To facilitate broader access to public records, a 323
public office or the person responsible for public records shall 324
organize and maintain public records in a manner that they can 325
be made available for inspection or copying in accordance with 326
division (B) of this section. A public office also shall have 327
available a copy of its current records retention schedule at a 328
location readily available to the public. If a requester makes 329
an ambiguous or overly broad request or has difficulty in making 330
a request for copies or inspection of public records under this 331
section such that the public office or the person responsible 332
for the requested public record cannot reasonably identify what 333
public records are being requested, the public office or the 334

person responsible for the requested public record may deny the 335
request but shall provide the requester with an opportunity to 336
revise the request by informing the requester of the manner in 337
which records are maintained by the public office and accessed 338
in the ordinary course of the public office's or person's 339
duties. 340

(3) If a request is ultimately denied, in part or in 341
whole, the public office or the person responsible for the 342
requested public record shall provide the requester with an 343
explanation, including legal authority, setting forth why the 344
request was denied. If the initial request was provided in 345
writing, the explanation also shall be provided to the requester 346
in writing. The explanation shall not preclude the public office 347
or the person responsible for the requested public record from 348
relying upon additional reasons or legal authority in defending 349
an action commenced under division (C) of this section. 350

(4) Unless specifically required or authorized by state or 351
federal law or in accordance with division (B) of this section, 352
no public office or person responsible for public records may 353
limit or condition the availability of public records by 354
requiring disclosure of the requester's identity or the intended 355
use of the requested public record. Any requirement that the 356
requester disclose the ~~requester's~~ requester's identity or the 357
intended use of the requested public record constitutes a denial 358
of the request. 359

(5) A public office or person responsible for public 360
records may ask a requester to make the request in writing, may 361
ask for the requester's identity, and may inquire about the 362
intended use of the information requested, but may do so only 363
after disclosing to the requester that a written request is not 364

mandatory and that the requester may decline to reveal the 365
requester's identity or the intended use and when a written 366
request or disclosure of the identity or intended use would 367
benefit the requester by enhancing the ability of the public 368
office or person responsible for public records to identify, 369
locate, or deliver the public records sought by the requester. 370

(6) If any person chooses to obtain a copy of a public 371
record in accordance with division (B) of this section, the 372
public office or person responsible for the public record may 373
require that person to pay in advance the cost involved in 374
providing the copy of the public record in accordance with the 375
choice made by the person seeking the copy under this division. 376
The public office or the person responsible for the public 377
record shall permit that person to choose to have the public 378
record duplicated upon paper, upon the same medium upon which 379
the public office or person responsible for the public record 380
keeps it, or upon any other medium upon which the public office 381
or person responsible for the public record determines that it 382
reasonably can be duplicated as an integral part of the normal 383
operations of the public office or person responsible for the 384
public record. When the person seeking the copy makes a choice 385
under this division, the public office or person responsible for 386
the public record shall provide a copy of it in accordance with 387
the choice made by the person seeking the copy. Nothing in this 388
section requires a public office or person responsible for the 389
public record to allow the person seeking a copy of the public 390
record to make the copies of the public record. 391

(7) (a) Upon a request made in accordance with division (B) 392
of this section and subject to division (B) (6) of this section, 393
a public office or person responsible for public records shall 394
transmit a copy of a public record to any person by United 395

States mail or by any other means of delivery or transmission 396
within a reasonable period of time after receiving the request 397
for the copy. The public office or person responsible for the 398
public record may require the person making the request to pay 399
in advance the cost of postage if the copy is transmitted by 400
United States mail or the cost of delivery if the copy is 401
transmitted other than by United States mail, and to pay in 402
advance the costs incurred for other supplies used in the 403
mailing, delivery, or transmission. 404

(b) Any public office may adopt a policy and procedures 405
that it will follow in transmitting, within a reasonable period 406
of time after receiving a request, copies of public records by 407
United States mail or by any other means of delivery or 408
transmission pursuant to ~~this~~ division (B) (7) of this section. A 409
public office that adopts a policy and procedures under ~~this~~ 410
division (B) (7) of this section shall comply with them in 411
performing its duties under ~~this~~ that division. 412

(c) In any policy and procedures adopted under ~~this~~ 413
division, ~~a~~ (B) (7) of this section: 414

(i) A public office may limit the number of records 415
requested by a person that the office will ~~transmit physically~~ 416
deliver by United States mail or by another delivery service to 417
ten per month, unless the person certifies to the office in 418
writing that the person does not intend to use or forward the 419
requested records, or the information contained in them, for 420
commercial purposes. ~~For~~; 421

(ii) A public office that chooses to provide some or all 422
of its public records on a web site that is fully accessible to 423
and searchable by members of the public at all times, other than 424
during acts of God outside the public office's control or 425

maintenance, and that charges no fee to search, access, 426
download, or otherwise receive records provided on the web site, 427
may limit to ten per month the number of records requested by a 428
person that the office will deliver in a digital format, unless 429
the requested records are not provided on the web site and 430
unless the person certifies to the office in writing that the 431
person does not intend to use or forward the requested records, 432
or the information contained in them, for commercial purposes. 433

(iii) For purposes of ~~this~~ division (B)(7) of this 434
section, "commercial" shall be narrowly construed and does not 435
include reporting or gathering news, reporting or gathering 436
information to assist citizen oversight or understanding of the 437
operation or activities of government, or nonprofit educational 438
research. 439

(8) A public office or person responsible for public 440
records is not required to permit a person who is incarcerated 441
pursuant to a criminal conviction or a juvenile adjudication to 442
inspect or to obtain a copy of any public record concerning a 443
criminal investigation or prosecution or concerning what would 444
be a criminal investigation or prosecution if the subject of the 445
investigation or prosecution were an adult, unless the request 446
to inspect or to obtain a copy of the record is for the purpose 447
of acquiring information that is subject to release as a public 448
record under this section and the judge who imposed the sentence 449
or made the adjudication with respect to the person, or the 450
judge's successor in office, finds that the information sought 451
in the public record is necessary to support what appears to be 452
a justiciable claim of the person. 453

(9) (a) Upon written request made and signed by a 454
journalist on or after December 16, 1999, a public office, or 455

person responsible for public records, having custody of the 456
records of the agency employing a specified peace officer, 457
parole officer, probation officer, bailiff, prosecuting 458
attorney, assistant prosecuting attorney, correctional employee, 459
community-based correctional facility employee, youth services 460
employee, firefighter, EMT, or investigator of the bureau of 461
criminal identification and investigation shall disclose to the 462
journalist the address of the actual personal residence of the 463
peace officer, parole officer, probation officer, bailiff, 464
prosecuting attorney, assistant prosecuting attorney, 465
correctional employee, community-based correctional facility 466
employee, youth services employee, firefighter, EMT, or 467
investigator of the bureau of criminal identification and 468
investigation and, if the peace officer's, parole officer's, 469
probation officer's, bailiff's, prosecuting attorney's, 470
assistant prosecuting attorney's, correctional employee's, 471
community-based correctional facility employee's, youth services 472
employee's, firefighter's, EMT's, or investigator of the bureau 473
of criminal identification and investigation's spouse, former 474
spouse, or child is employed by a public office, the name and 475
address of the employer of the peace officer's, parole 476
officer's, probation officer's, bailiff's, prosecuting 477
attorney's, assistant prosecuting attorney's, correctional 478
employee's, community-based correctional facility employee's, 479
youth services employee's, firefighter's, EMT's, or investigator 480
of the bureau of criminal identification and investigation's 481
spouse, former spouse, or child. The request shall include the 482
journalist's name and title and the name and address of the 483
journalist's employer and shall state that disclosure of the 484
information sought would be in the public interest. 485

(b) Division (B) (9) (a) of this section also applies to 486

journalist requests for customer information maintained by a 487
municipally owned or operated public utility, other than social 488
security numbers and any private financial information such as 489
credit reports, payment methods, credit card numbers, and bank 490
account information. 491

(c) As used in division (B) (9) of this section, 492
"journalist" means a person engaged in, connected with, or 493
employed by any news medium, including a newspaper, magazine, 494
press association, news agency, or wire service, a radio or 495
television station, or a similar medium, for the purpose of 496
gathering, processing, transmitting, compiling, editing, or 497
disseminating information for the general public. 498

(C) (1) If a person allegedly is aggrieved by the failure 499
of a public office or the person responsible for public records 500
to promptly prepare a public record and to make it available to 501
the person for inspection in accordance with division (B) of 502
this section or by any other failure of a public office or the 503
person responsible for public records to comply with an 504
obligation in accordance with division (B) of this section, the 505
person allegedly aggrieved may ~~commence~~ do only one of the 506
following, and not both: 507

(a) File a complaint with the clerk of the court of claims 508
or the clerk of the court of common pleas under section 2743.75 509
of the Revised Code; 510

(b) Commence a mandamus action to obtain a judgment that 511
orders the public office or the person responsible for the 512
public record to comply with division (B) of this section, that 513
awards court costs and reasonable attorney's fees to the person 514
that instituted the mandamus action, and, if applicable, that 515
includes an order fixing statutory damages under division (C) ~~(1)~~ 516

(2) of this section. The mandamus action may be commenced in the 517
court of common pleas of the county in which division (B) of 518
this section allegedly was not complied with, in the supreme 519
court pursuant to its original jurisdiction under Section 2 of 520
Article IV, Ohio Constitution, or in the court of appeals for 521
the appellate district in which division (B) of this section 522
allegedly was not complied with pursuant to its original 523
jurisdiction under Section 3 of Article IV, Ohio Constitution. 524

(2) If a ~~requestor~~ requester transmits a written request 525
by hand delivery or certified mail to inspect or receive copies 526
of any public record in a manner that fairly describes the 527
public record or class of public records to the public office or 528
person responsible for the requested public records, except as 529
otherwise provided in this section, the ~~requestor~~ requester 530
shall be entitled to recover the amount of statutory damages set 531
forth in this division if a court determines that the public 532
office or the person responsible for public records failed to 533
comply with an obligation in accordance with division (B) of 534
this section. 535

The amount of statutory damages shall be fixed at one 536
hundred dollars for each business day during which the public 537
office or person responsible for the requested public records 538
failed to comply with an obligation in accordance with division 539
(B) of this section, beginning with the day on which the 540
requester files a mandamus action to recover statutory damages, 541
up to a maximum of one thousand dollars. The award of statutory 542
damages shall not be construed as a penalty, but as compensation 543
for injury arising from lost use of the requested information. 544
The existence of this injury shall be conclusively presumed. The 545
award of statutory damages shall be in addition to all other 546
remedies authorized by this section. 547

The court may reduce an award of statutory damages or not 548
award statutory damages if the court determines both of the 549
following: 550

(a) That, based on the ordinary application of statutory 551
law and case law as it existed at the time of the conduct or 552
threatened conduct of the public office or person responsible 553
for the requested public records that allegedly constitutes a 554
failure to comply with an obligation in accordance with division 555
(B) of this section and that was the basis of the mandamus 556
action, a well-informed public office or person responsible for 557
the requested public records reasonably would believe that the 558
conduct or threatened conduct of the public office or person 559
responsible for the requested public records did not constitute 560
a failure to comply with an obligation in accordance with 561
division (B) of this section; 562

(b) That a well-informed public office or person 563
responsible for the requested public records reasonably would 564
believe that the conduct or threatened conduct of the public 565
office or person responsible for the requested public records 566
would serve the public policy that underlies the authority that 567
is asserted as permitting that conduct or threatened conduct. 568

~~(2) (a) If the court issues a writ of (3) In a mandamus~~ 569
~~that orders the public office or the person responsible for the~~ 570
~~public record to comply with division (B) of this section and~~ 571
~~determines that the circumstances described in division (C) (1)~~ 572
~~of this section exist, action filed under division (C) (1) of this~~ 573
section, the following apply: 574

(a) (i) If the court orders the public office or the person 575
responsible for the public record to comply with division (B) of 576
this section, the court shall determine and award to the relator 577

all court costs, which shall be construed as remedial and not 578
punitive. 579

(ii) If the court makes a determination described in 580
division (C) (3) (b) (iii) of this section, the court shall 581
determine and award to the relator all court costs, which shall 582
be construed as remedial and not punitive. 583

(b) If the court renders a judgment that orders the public 584
office or the person responsible for the public record to comply 585
with division (B) of this section or if the court determines any 586
of the following, the court may award reasonable attorney's fees 587
to the relator, subject to ~~reduction as described in the~~ 588
provisions of division (C) (2) (e) (4) of this section. ~~The court~~ 589
~~shall award reasonable attorney's fees, subject to reduction as~~ 590
~~described in division (C) (2) (e) of this section when either of~~ 591
~~the following applies:~~ 592

(i) The public office or the person responsible for the 593
public records failed to respond affirmatively or negatively to 594
the public records request in accordance with the time allowed 595
under division (B) of this section. 596

(ii) The public office or the person responsible for the 597
public records promised to permit the relator to inspect or 598
receive copies of the public records requested within a 599
specified period of time but failed to fulfill that promise 600
within that specified period of time. 601

(iii) The public office or the person responsible for the 602
public records acted in bad faith when the office or person 603
voluntarily made the public records available to the relator for 604
the first time after the relator commenced the mandamus action, 605
but before the court issued any order concluding whether or not 606

the public office or person was required to comply with division 607
(B) of this section. No discovery may be conducted on the issue 608
of the alleged bad faith of the public office or person 609
responsible for the public records. This division shall not be 610
construed as creating a presumption that the public office or 611
the person responsible for the public records acted in bad faith 612
when the office or person voluntarily made the public records 613
available to the relator for the first time after the relator 614
commenced the mandamus action, but before the court issued any 615
order described in this division. 616

~~(c) Court costs and reasonable attorney's fees awarded~~ 617
~~under this section shall be construed as remedial and not~~ 618
~~punitive. Reasonable attorney's fees shall include reasonable~~ 619
~~fees incurred to produce proof of the reasonableness and amount~~ 620
~~of the fees and to otherwise litigate entitlement to the fees.~~ 621
The court may reduce an award of attorney's fees to the relator 622
~~or shall not~~ award attorney's fees to the relator if the court 623
determines both of the following: 624

(i) That, based on the ordinary application of statutory 625
law and case law as it existed at the time of the conduct or 626
threatened conduct of the public office or person responsible 627
for the requested public records that allegedly constitutes a 628
failure to comply with an obligation in accordance with division 629
(B) of this section and that was the basis of the mandamus 630
action, a well-informed public office or person responsible for 631
the requested public records reasonably would believe that the 632
conduct or threatened conduct of the public office or person 633
responsible for the requested public records did not constitute 634
a failure to comply with an obligation in accordance with 635
division (B) of this section; 636

(ii) That a well-informed public office or person 637
responsible for the requested public records reasonably would 638
believe that the conduct or threatened conduct of the public 639
office or person responsible for the requested public records ~~as-~~ 640
~~described in division (C) (2) (c) (i) of this section~~ would serve 641
the public policy that underlies the authority that is asserted 642
as permitting that conduct or threatened conduct. 643

(4) All of the following apply to any award of reasonable 644
attorney's fees awarded under division (C) (3) (b) of this 645
section: 646

(a) The fees shall be construed as remedial and not 647
punitive. 648

(b) The fees awarded shall not exceed the total of the 649
reasonable attorney's fees incurred before the public record was 650
made available to the relator and the fees described in division 651
(C) (4) (c) of this section. 652

(c) Reasonable attorney's fees shall include reasonable 653
fees incurred to produce proof of the reasonableness and amount 654
of the fees and to otherwise litigate entitlement to the fees. 655

(d) The court may reduce the amount of fees awarded if the 656
court determines that, given the factual circumstances involved 657
with the specific public records request, an alternative means 658
should have been pursued to more effectively and efficiently 659
resolve the dispute that was subject to the mandamus action 660
filed under division (C) (1) of this section. 661

(5) If the court does not issue a writ of mandamus under 662
division (C) of this section and the court determines at that 663
time that the bringing of the mandamus action was frivolous 664
conduct as defined in division (A) of section 2323.51 of the 665

Revised Code, the court may award to the public office all court 666
costs, expenses, and reasonable attorney's fees, as determined 667
by the court. 668

(D) Chapter 1347. of the Revised Code does not limit the 669
provisions of this section. 670

(E) (1) To ensure that all employees of public offices are 671
appropriately educated about a public office's obligations under 672
division (B) of this section, all elected officials or their 673
appropriate designees shall attend training approved by the 674
attorney general as provided in section 109.43 of the Revised 675
Code. In addition, all public offices shall adopt a public 676
records policy in compliance with this section for responding to 677
public records requests. In adopting a public records policy 678
under this division, a public office may obtain guidance from 679
the model public records policy developed and provided to the 680
public office by the attorney general under section 109.43 of 681
the Revised Code. Except as otherwise provided in this section, 682
the policy may not limit the number of public records that the 683
public office will make available to a single person, may not 684
limit the number of public records that it will make available 685
during a fixed period of time, and may not establish a fixed 686
period of time before it will respond to a request for 687
inspection or copying of public records, unless that period is 688
less than eight hours. 689

(2) The public office shall distribute the public records 690
policy adopted by the public office under division (E) (1) of 691
this section to the employee of the public office who is the 692
records custodian or records manager or otherwise has custody of 693
the records of that office. The public office shall require that 694
employee to acknowledge receipt of the copy of the public 695

records policy. The public office shall create a poster that 696
describes its public records policy and shall post the poster in 697
a conspicuous place in the public office and in all locations 698
where the public office has branch offices. The public office 699
may post its public records policy on the internet web site of 700
the public office if the public office maintains an internet web 701
site. A public office that has established a manual or handbook 702
of its general policies and procedures for all employees of the 703
public office shall include the public records policy of the 704
public office in the manual or handbook. 705

(F) (1) The bureau of motor vehicles may adopt rules 706
pursuant to Chapter 119. of the Revised Code to reasonably limit 707
the number of bulk commercial special extraction requests made 708
by a person for the same records or for updated records during a 709
calendar year. The rules may include provisions for charges to 710
be made for bulk commercial special extraction requests for the 711
actual cost of the bureau, plus special extraction costs, plus 712
ten per cent. The bureau may charge for expenses for redacting 713
information, the release of which is prohibited by law. 714

(2) As used in division (F) (1) of this section: 715

(a) "Actual cost" means the cost of depleted supplies, 716
records storage media costs, actual mailing and alternative 717
delivery costs, or other transmitting costs, and any direct 718
equipment operating and maintenance costs, including actual 719
costs paid to private contractors for copying services. 720

(b) "Bulk commercial special extraction request" means a 721
request for copies of a record for information in a format other 722
than the format already available, or information that cannot be 723
extracted without examination of all items in a records series, 724
class of records, or database by a person who intends to use or 725

forward the copies for surveys, marketing, solicitation, or 726
resale for commercial purposes. "Bulk commercial special 727
extraction request" does not include a request by a person who 728
gives assurance to the bureau that the person making the request 729
does not intend to use or forward the requested copies for 730
surveys, marketing, solicitation, or resale for commercial 731
purposes. 732

(c) "Commercial" means profit-seeking production, buying, 733
or selling of any good, service, or other product. 734

(d) "Special extraction costs" means the cost of the time 735
spent by the lowest paid employee competent to perform the task, 736
the actual amount paid to outside private contractors employed 737
by the bureau, or the actual cost incurred to create computer 738
programs to make the special extraction. "Special extraction 739
costs" include any charges paid to a public agency for computer 740
or records services. 741

(3) For purposes of divisions (F) (1) and (2) of this 742
section, "surveys, marketing, solicitation, or resale for 743
commercial purposes" shall be narrowly construed and does not 744
include reporting or gathering news, reporting or gathering 745
information to assist citizen oversight or understanding of the 746
operation or activities of government, or nonprofit educational 747
research. 748

(G) A request by a defendant, counsel of a defendant, or 749
any agent of a defendant in a criminal action that public 750
records related to that action be made available under this 751
section shall be considered a demand for discovery pursuant to 752
the Criminal Rules, except to the extent that the Criminal Rules 753
plainly indicate a contrary intent. The defendant, counsel of 754
the defendant, or agent of the defendant making a request under 755

this division shall serve a copy of the request on the 756
prosecuting attorney, director of law, or other chief legal 757
officer responsible for prosecuting the action. 758

Sec. 149.433. (A) As used in this section: 759

~~(1)~~ "Act of terrorism" has the same meaning as in section 760
2909.21 of the Revised Code. 761

~~(2)~~ "Express statement" means a written statement 762
substantially similar to the following: "This information is 763
voluntarily submitted to a public office in expectation of 764
protection from disclosure as provided by section 149.433 of the 765
Revised Code." 766

"Infrastructure record" means any record that discloses 767
the configuration of ~~a public office's or chartered nonpublic~~ 768
~~school's~~ critical systems including, but not limited to, 769
communication, computer, electrical, mechanical, ventilation, 770
water, and plumbing systems, security codes, or the 771
infrastructure or structural configuration of ~~the a building in~~ 772
~~which a public office or chartered nonpublic school is located.~~ 773
~~"Infrastructure"~~ 774

"Infrastructure record" includes a risk assessment of 775
infrastructure performed by a state or local law enforcement 776
agency at the request of a property owner or manager. 777

"Infrastructure record" does not mean a simple floor plan 778
that discloses only the spatial relationship of components of ~~a~~ 779
~~public office or chartered nonpublic school or the building in~~ 780
~~which a public office or chartered nonpublic school is located.~~ 781

~~(3)~~ "Security record" means any of the following: 782

~~(a)~~ (1) Any record that contains information directly used 783

for protecting or maintaining the security of a public office 784
against attack, interference, or sabotage; 785

~~(b)~~ (2) Any record assembled, prepared, or maintained by a 786
public office or public body to prevent, mitigate, or respond to 787
acts of terrorism, including any of the following: 788

~~(i)~~ (a) Those portions of records containing specific and 789
unique vulnerability assessments or specific and unique response 790
plans either of which is intended to prevent or mitigate acts of 791
terrorism, and communication codes or deployment plans of law 792
enforcement or emergency response personnel; 793

~~(ii)~~ (b) Specific intelligence information and specific 794
investigative records shared by federal and international law 795
enforcement agencies with state and local law enforcement and 796
public safety agencies; 797

~~(iii)~~ (c) National security records classified under 798
federal executive order and not subject to public disclosure 799
under federal law that are shared by federal agencies, and other 800
records related to national security briefings to assist state 801
and local government with domestic preparedness for acts of 802
terrorism. 803

~~(e)~~ (3) An emergency management plan adopted pursuant to 804
section 3313.536 of the Revised Code. 805

(B) (1) A record kept by a public office that is a security 806
record ~~or an infrastructure record~~ is not a public record under 807
section 149.43 of the Revised Code and is not subject to 808
mandatory release or disclosure under that section. 809

(2) A record kept by a public office that is an 810
infrastructure record of a public office or a chartered 811
nonpublic school is not a public record under section 149.43 of 812

the Revised Code and is not subject to mandatory release or 813
disclosure under that section. 814

(3) A record kept by a public office that is an 815
infrastructure record of a private entity may be exempted from 816
release or disclosure under division (C) of this section. 817

(C) A record prepared by, submitted to, or kept by a 818
public office that is an infrastructure record of a private 819
entity, which is submitted to the public office for use by the 820
public office, when accompanied by an express statement, is 821
exempt from release or disclosure under section 149.43 of the 822
Revised Code for a period of twenty-five years after its 823
creation if it is retained by the public office for that length 824
of time. 825

(D) Notwithstanding any other section of the Revised Code, 826
disclosure by a public office, public employee, chartered 827
nonpublic school, or chartered nonpublic school employee of a 828
security record or infrastructure record that is necessary for 829
construction, renovation, or remodeling work on any public 830
building or project or chartered nonpublic school does not 831
constitute public disclosure for purposes of waiving division 832
(B) of this section and does not result in that record becoming 833
a public record for purposes of section 149.43 of the Revised 834
Code. 835

Sec. 2323.52. (A) As used in this section: 836

(1) "Conduct" has the same meaning as in section 2323.51 837
of the Revised Code. 838

(2) "Vexatious conduct" means conduct of a party in a 839
civil action that satisfies any of the following: 840

(a) The conduct obviously serves merely to harass or 841

maliciously injure another party to the civil action. 842

(b) The conduct is not warranted under existing law and 843
cannot be supported by a good faith argument for an extension, 844
modification, or reversal of existing law. 845

(c) The conduct is imposed solely for delay. 846

(3) "Vexatious litigator" means any person who has 847
habitually, persistently, and without reasonable grounds engaged 848
in vexatious conduct in a civil action or actions, whether in 849
the court of claims or in a court of appeals, court of common 850
pleas, municipal court, or county court, whether the person or 851
another person instituted the civil action or actions, and 852
whether the vexatious conduct was against the same party or 853
against different parties in the civil action or actions. 854
"Vexatious litigator" does not include a person who is 855
authorized to practice law in the courts of this state under the 856
Ohio Supreme Court Rules for the Government of the Bar of Ohio 857
unless that person is representing or has represented self pro 858
se in the civil action or actions. For the purposes of division 859
(A) (3) of this section, "civil action" includes a proceeding 860
under section 2743.75 of the Revised Code. 861

(B) A person, the office of the attorney general, or a 862
prosecuting attorney, city director of law, village solicitor, 863
or similar chief legal officer of a municipal corporation who 864
has defended against habitual and persistent vexatious conduct 865
in the court of claims or in a court of appeals, court of common 866
pleas, municipal court, or county court may commence a civil 867
action in a court of common pleas with jurisdiction over the 868
person who allegedly engaged in the habitual and persistent 869
vexatious conduct to have that person declared a vexatious 870
litigator. The person, office of the attorney general, 871

prosecuting attorney, city director of law, village solicitor, 872
or similar chief legal officer of a municipal corporation may 873
commence this civil action while the civil action or actions in 874
which the habitual and persistent vexatious conduct occurred are 875
still pending or within one year after the termination of the 876
civil action or actions in which the habitual and persistent 877
vexatious conduct occurred. 878

(C) A civil action to have a person declared a vexatious 879
litigator shall proceed as any other civil action, and the Ohio 880
Rules of Civil Procedure apply to the action. 881

(D) (1) If the person alleged to be a vexatious litigator 882
is found to be a vexatious litigator, subject to division (D) (2) 883
of this section, the court of common pleas may enter an order 884
prohibiting the vexatious litigator from doing one or more of 885
the following without first obtaining the leave of that court to 886
proceed: 887

(a) Instituting legal proceedings in the court of claims 888
or in a court of common pleas, municipal court, or county court; 889

(b) Continuing any legal proceedings that the vexatious 890
litigator had instituted in any of the courts specified in 891
division (D) (1) (a) of this section prior to the entry of the 892
order; 893

(c) Making any application, other than an application for 894
leave to proceed under division (F) (1) of this section, in any 895
legal proceedings instituted by the vexatious litigator or 896
another person in any of the courts specified in division (D) (1) 897
(a) of this section. 898

(2) If the court of common pleas finds a person who is 899
authorized to practice law in the courts of this state under the 900

Ohio Supreme Court Rules for the Government of the Bar of Ohio 901
to be a vexatious litigator and enters an order described in 902
division (D) (1) of this section in connection with that finding, 903
the order shall apply to the person only insofar as the person 904
would seek to institute proceedings described in division (D) (1) 905
(a) of this section on a pro se basis, continue proceedings 906
described in division (D) (1) (b) of this section on a pro se 907
basis, or make an application described in division (D) (1) (c) of 908
this section on a pro se basis. The order shall not apply to the 909
person insofar as the person represents one or more other 910
persons in the person's capacity as a licensed and registered 911
attorney in a civil or criminal action or proceeding or other 912
matter in a court of common pleas, municipal court, or county 913
court or in the court of claims. Division (D) (2) of this section 914
does not affect any remedy that is available to a court or an 915
adversely affected party under section 2323.51 or another 916
section of the Revised Code, under Civil Rule 11 or another 917
provision of the Ohio Rules of Civil Procedure, or under the 918
common law of this state as a result of frivolous conduct or 919
other inappropriate conduct by an attorney who represents one or 920
more clients in connection with a civil or criminal action or 921
proceeding or other matter in a court of common pleas, municipal 922
court, or county court or in the court of claims. 923

(3) A person who is subject to an order entered pursuant 924
to division (D) (1) of this section may not institute legal 925
proceedings in a court of appeals, continue any legal 926
proceedings that the vexatious litigator had instituted in a 927
court of appeals prior to entry of the order, or make any 928
application, other than the application for leave to proceed 929
allowed by division (F) (2) of this section, in any legal 930
proceedings instituted by the vexatious litigator or another 931

person in a court of appeals without first obtaining leave of 932
the court of appeals to proceed pursuant to division (F) (2) of 933
this section. 934

(E) An order that is entered under division (D) (1) of this 935
section shall remain in force indefinitely unless the order 936
provides for its expiration after a specified period of time. 937

(F) (1) A court of common pleas that entered an order under 938
division (D) (1) of this section shall not grant a person found 939
to be a vexatious litigator leave for the institution or 940
continuance of, or the making of an application in, legal 941
proceedings in the court of claims or in a court of common 942
pleas, municipal court, or county court unless the court of 943
common pleas that entered that order is satisfied that the 944
proceedings or application are not an abuse of process of the 945
court in question and that there are reasonable grounds for the 946
proceedings or application. If a person who has been found to be 947
a vexatious litigator under this section requests the court of 948
common pleas that entered an order under division (D) (1) of this 949
section to grant the person leave to proceed as described in 950
division (F) (1) of this section, the period of time commencing 951
with the filing with that court of an application for the 952
issuance of an order granting leave to proceed and ending with 953
the issuance of an order of that nature shall not be computed as 954
a part of an applicable period of limitations within which the 955
legal proceedings or application involved generally must be 956
instituted or made. 957

(2) A person who is subject to an order entered pursuant 958
to division (D) (1) of this section and who seeks to institute or 959
continue any legal proceedings in a court of appeals or to make 960
an application, other than an application for leave to proceed 961

under division (F) (2) of this section, in any legal proceedings 962
in a court of appeals shall file an application for leave to 963
proceed in the court of appeals in which the legal proceedings 964
would be instituted or are pending. The court of appeals shall 965
not grant a person found to be a vexatious litigator leave for 966
the institution or continuance of, or the making of an 967
application in, legal proceedings in the court of appeals unless 968
the court of appeals is satisfied that the proceedings or 969
application are not an abuse of process of the court and that 970
there are reasonable grounds for the proceedings or application. 971
If a person who has been found to be a vexatious litigator under 972
this section requests the court of appeals to grant the person 973
leave to proceed as described in division (F) (2) of this 974
section, the period of time commencing with the filing with the 975
court of an application for the issuance of an order granting 976
leave to proceed and ending with the issuance of an order of 977
that nature shall not be computed as a part of an applicable 978
period of limitations within which the legal proceedings or 979
application involved generally must be instituted or made. 980

(G) During the period of time that the order entered under 981
division (D) (1) of this section is in force, no appeal by the 982
person who is the subject of that order shall lie from a 983
decision of the court of common pleas or court of appeals under 984
division (F) of this section that denies that person leave for 985
the institution or continuance of, or the making of an 986
application in, legal proceedings in the court of claims or in a 987
court of appeals, court of common pleas, municipal court, or 988
county court. 989

(H) The clerk of the court of common pleas that enters an 990
order under division (D) (1) of this section shall send a 991
certified copy of the order to the supreme court for publication 992

in a manner that the supreme court determines is appropriate and 993
that will facilitate the clerk of the court of claims and a 994
clerk of a court of appeals, court of common pleas, municipal 995
court, or county court in refusing to accept pleadings or other 996
papers submitted for filing by persons who have been found to be 997
a vexatious litigator under this section and who have failed to 998
obtain leave to proceed under this section. 999

(I) Whenever it appears by suggestion of the parties or 1000
otherwise that a person found to be a vexatious litigator under 1001
this section has instituted, continued, or made an application 1002
in legal proceedings without obtaining leave to proceed from the 1003
appropriate court of common pleas or court of appeals to do so 1004
under division (F) of this section, the court in which the legal 1005
proceedings are pending shall dismiss the proceedings or 1006
application of the vexatious litigator. 1007

Sec. 2743.03. (A) (1) There is hereby created a court of 1008
claims. The court of claims is a court of record and has 1009
exclusive, original jurisdiction of all civil actions against 1010
the state permitted by the waiver of immunity contained in 1011
section 2743.02 of the Revised Code and exclusive jurisdiction 1012
of the causes of action of all parties in civil actions that are 1013
removed to the court of claims. The court shall have full equity 1014
powers in all actions within its jurisdiction and may entertain 1015
and determine all counterclaims, cross-claims, and third-party 1016
claims. 1017

(2) If the claimant in a civil action as described in 1018
division (A) (1) of this section also files a claim for a 1019
declaratory judgment, injunctive relief, or other equitable 1020
relief against the state that arises out of the same 1021
circumstances that gave rise to the civil action described in 1022

division (A) (1) of this section, the court of claims has 1023
exclusive, original jurisdiction to hear and determine that 1024
claim in that civil action. This division does not affect, and 1025
shall not be construed as affecting, the original jurisdiction 1026
of another court of this state to hear and determine a civil 1027
action in which the sole relief that the claimant seeks against 1028
the state is a declaratory judgment, injunctive relief, or other 1029
equitable relief. 1030

(3) In addition to its exclusive, original jurisdiction as 1031
conferred by ~~division~~ divisions (A) (1) and (2) of this section, 1032
the court of claims has exclusive, original jurisdiction as 1033
follows: 1034

(a) As described in division (F) of section 2743.02, 1035
division (B) of section 3335.03, and division (C) of section 1036
5903.02 of the Revised Code; 1037

(b) Under section 2743.75 of the Revised Code to hear 1038
complaints alleging a denial of access to public records in 1039
violation of division (B) of section 149.43 of the Revised Code, 1040
regardless of whether the public office or person responsible 1041
for public records is an office or employee of the state or of a 1042
political subdivision. 1043

(B) The court of claims shall sit in Franklin county, its 1044
hearings shall be public, and it shall consist of incumbent 1045
justices or judges of the supreme court, courts of appeals, or 1046
courts of common pleas, or retired justices or judges eligible 1047
for active duty pursuant to division (C) of Section 6 of Article 1048
IV, Ohio Constitution, sitting by temporary assignment of the 1049
chief justice of the supreme court. The chief justice may direct 1050
the court to sit in any county for cases on removal upon a 1051
showing of substantial hardship and whenever justice dictates. 1052

(C) (1) A civil action against the state shall be heard and 1053
determined by a single judge. Upon application by the claimant 1054
or the state, the chief justice of the supreme court may assign 1055
a panel of three judges to hear and determine a civil action 1056
presenting novel or complex issues of law or fact. Concurrence 1057
of two members of the panel is necessary for any judgment or 1058
order. 1059

(2) Whenever the chief justice of the supreme court 1060
believes an equitable resolution of a case will be expedited, 1061
the chief justice may appoint magistrates in accordance with 1062
Civil Rule 53 to hear the case. 1063

(3) When any dispute under division (B) of section 153.12 1064
of the Revised Code is brought to the court of claims, upon 1065
request of either party to the dispute, the chief justice of the 1066
supreme court shall appoint a single referee or a panel of three 1067
referees. The referees need not be attorneys, but shall be 1068
persons knowledgeable about construction contract law, a member 1069
of the construction industry panel of the American arbitration 1070
association, or an individual or individuals deemed qualified by 1071
the chief justice to serve. No person shall serve as a referee 1072
if that person has been employed by an affected state agency or 1073
a contractor or subcontractor involved in the dispute at any 1074
time in the preceding five years. Proceedings governing referees 1075
shall be in accordance with Civil Rule 53, except as modified by 1076
this division. The referee or panel of referees shall submit its 1077
report, which shall include a recommendation and finding of 1078
fact, to the judge assigned to the case by the chief justice, 1079
within thirty days of the conclusion of the hearings. Referees 1080
appointed pursuant to this division shall be compensated on a 1081
per diem basis at the same rate as is paid to judges of the 1082
court and also shall be paid their expenses. If a single referee 1083

is appointed or a panel of three referees is appointed, then, 1084
with respect to one referee of the panel, the compensation and 1085
expenses of the referee shall not be taxed as part of the costs 1086
in the case but shall be included in the budget of the court. If 1087
a panel of three referees is appointed, the compensation and 1088
expenses of the two remaining referees shall be taxed as costs 1089
of the case. 1090

All costs of a case shall be apportioned among the 1091
parties. The court may not require that any party deposit with 1092
the court cash, bonds, or other security in excess of two 1093
hundred dollars to guarantee payment of costs without the prior 1094
approval in each case of the chief justice. 1095

(4) An appeal from a decision of the attorney general 1096
pursuant to sections 2743.51 to 2743.72 of the Revised Code 1097
shall be heard and determined by the court of claims. 1098

(D) The Rules of Civil Procedure shall govern practice and 1099
procedure in all actions in the court of claims, except insofar 1100
as inconsistent with this chapter. The supreme court may 1101
promulgate rules governing practice and procedure in actions in 1102
the court as provided in Section 5 of Article IV, Ohio 1103
Constitution. 1104

(E) (1) A party who files a counterclaim against the state 1105
or makes the state a third-party defendant in an action 1106
commenced in any court, other than the court of claims, shall 1107
file a petition for removal in the court of claims. The petition 1108
shall state the basis for removal, be accompanied by a copy of 1109
all process, pleadings, and other papers served upon the 1110
petitioner, and shall be signed in accordance with Civil Rule 1111
11. A petition for removal based on a counterclaim shall be 1112
filed within twenty-eight days after service of the counterclaim 1113

of the petitioner. A petition for removal based on third-party 1114
practice shall be filed within twenty-eight days after the 1115
filing of the third-party complaint of the petitioner. 1116

(2) Within seven days after filing a petition for removal, 1117
the petitioner shall give written notice to the parties, and 1118
shall file a copy of the petition with the clerk of the court in 1119
which the action was brought originally. The filing effects the 1120
removal of the action to the court of claims, and the clerk of 1121
the court where the action was brought shall forward all papers 1122
in the case to the court of claims. The court of claims shall 1123
adjudicate all civil actions removed. The court may remand a 1124
civil action to the court in which it originated upon a finding 1125
that the removal petition does not justify removal, or upon a 1126
finding that the state is no longer a party. 1127

(3) Bonds, undertakings, or security and injunctions, 1128
attachments, sequestrations, or other orders issued prior to 1129
removal remain in effect until dissolved or modified by the 1130
court of claims. 1131

Sec. 2743.75. (A) In order to provide for an expeditious 1132
and economical procedure that attempts to resolve disputes 1133
alleging a denial of access to public records in violation of 1134
division (B) of section 149.43 of the Revised Code, except for a 1135
court that hears a mandamus action pursuant to that section, the 1136
court of claims shall be the sole and exclusive authority in 1137
this state that adjudicates or resolves complaints based on 1138
alleged violations of that section. The clerk of the court of 1139
claims shall designate one or more current employees or hire one 1140
or more individuals to serve as special masters to hear 1141
complaints brought under this section. All special masters shall 1142
have been engaged in the practice of law in this state for at 1143

least four years and be in good standing with the supreme court 1144
at the time of designation or hiring. The clerk may assign 1145
administrative and clerical work associated with complaints 1146
brought under this section to current employees or may hire such 1147
additional employees as may be necessary to perform such work. 1148

(B) The clerk of the court of common pleas in each county 1149
shall act as the clerk of the court of claims for purposes of 1150
accepting those complaints filed with the clerk under division 1151
(D) (1) of this section, accepting filing fees for those 1152
complaints, and serving those complaints. 1153

(C) (1) Subject to division (C) (2) of this section, a 1154
person allegedly aggrieved by a denial of access to public 1155
records in violation of division (B) of section 149.43 of the 1156
Revised Code may seek relief under that section or under this 1157
section, provided, however, that if the allegedly aggrieved 1158
person files a complaint under either section, that person may 1159
not seek relief that pertains to the same request for records in 1160
a complaint filed under the other section. 1161

(2) If the allegedly aggrieved person files a complaint 1162
under this section and the court of claims determines that the 1163
complaint constitutes a case of first impression that involves 1164
an issue of substantial public interest, the court shall dismiss 1165
the complaint without prejudice and direct the allegedly 1166
aggrieved person to commence a mandamus action in the court of 1167
appeals with appropriate jurisdiction as provided in division 1168
(C) (1) of section 149.43 of the Revised Code. 1169

(D) (1) An allegedly aggrieved person who proceeds under 1170
this section shall file a complaint, on a form prescribed by the 1171
clerk of the court of claims, with the clerk of the court of 1172
claims or with the clerk of the court of common pleas of the 1173

county in which the public office from which the records are 1174
requested is located. The person shall attach to the complaint 1175
copies of the original records request and any written responses 1176
or other communications relating to the request from the public 1177
office or person responsible for public records and shall pay a 1178
filing fee of twenty-five dollars made payable to the clerk of 1179
the court with whom the complaint is filed. The clerk shall 1180
serve a copy of the complaint on the public office or person 1181
responsible for public records for the particular public office 1182
in accordance with Civil Rule 4.1 and, if the complaint is filed 1183
with the clerk of the court of common pleas, shall forward the 1184
complaint to the clerk of the court of claims, and to no other 1185
court, within three business days after service is complete. 1186

(2) Upon receipt of a complaint filed under division (D) 1187
(1) of this section, the clerk of the court of claims shall 1188
assign a case number for the action and a special master to 1189
examine the complaint. Notwithstanding any provision to the 1190
contrary in this section, upon the recommendation of the special 1191
master, the court of claims on its own motion may dismiss the 1192
complaint at any time. The allegedly aggrieved person may 1193
voluntarily dismiss the complaint filed by that person under 1194
division (D) (1) of this section. 1195

(E) (1) Upon service of a complaint under division (D) (1) 1196
of this section, except as otherwise provided in this division, 1197
the special master assigned by the clerk under division (D) (2) 1198
of this section immediately shall refer the case to mediation 1199
services that the court of claims makes available to persons. 1200
If, in the interest of justice considering the circumstances of 1201
the case or the parties, the special master determines that the 1202
case should not be referred to mediation, the special master 1203
shall notify the court that the case was not referred to 1204

mediation, and the case shall proceed in accordance with 1205
division (F) of this section. If the case is referred to 1206
mediation, any further proceedings under division (F) of this 1207
section shall be stayed until the conclusion of the mediation. 1208
Any mediation proceedings under this division may be conducted 1209
by teleconference, telephone, or other electronic means. If an 1210
agreement is reached during mediation, the court shall dismiss 1211
the complaint. If an agreement is not reached, the special 1212
master shall notify the court that the case was not resolved and 1213
that the mediation has been terminated. 1214

(2) Within ten business days after the termination of the 1215
mediation or the notification to the court that the case was not 1216
referred to mediation under division (E)(1) of this section, the 1217
public office or person responsible for public records shall 1218
file a response, and if applicable, a motion to dismiss the 1219
complaint, with the clerk of the court of claims and transmit 1220
copies of the pleadings to the allegedly aggrieved party. No 1221
further motions or pleadings shall be accepted by the clerk of 1222
the court of claims or by the special master assigned by the 1223
clerk under division (D)(2) of this section unless the special 1224
master directs in writing that a further motion or pleading be 1225
filed. 1226

(3) All of the following apply prior to the submission of 1227
the special master's report and recommendation to the court of 1228
claims under division (F)(1) of this section: 1229

(a) The special master shall not permit any discovery. 1230

(b) The parties may attach supporting affidavits to their 1231
respective pleadings. 1232

(c) The special master may require either or both of the 1233

parties to submit additional information or documentation 1234
supported by affidavits. 1235

(F) (1) Not later than seven business days after receiving 1236
the response, or motion to dismiss the complaint, if applicable, 1237
of the public office or person responsible for public records, 1238
the special master shall submit to the court of claims a report 1239
and recommendation based on the ordinary application of 1240
statutory law and case law as they existed at the time of the 1241
filing of the complaint. For good cause shown, the special 1242
master may extend the seven-day period for the submission of the 1243
report and recommendation to the court of claims under this 1244
division by an additional seven business days. 1245

(2) Upon submission of the special master's report and 1246
recommendation to the court of claims under division (F) (1) of 1247
this section, the clerk shall send copies of the report and 1248
recommendation to each party by certified mail, return receipt 1249
requested, not later than three business days after the report 1250
and recommendation is filed. Either party may object to the 1251
report and recommendation within seven business days after 1252
receiving the report and recommendation by filing a written 1253
objection with the clerk and sending a copy to the other party 1254
by certified mail, return receipt requested. Any objection to 1255
the report and recommendation shall be specific and state with 1256
particularity all grounds for the objection. If neither party 1257
timely objects, the court of claims shall promptly issue a final 1258
order adopting the report and recommendation, unless it 1259
determines that there is an error of law or other defect evident 1260
on the face of the report and recommendation. If either party 1261
timely objects, the other party may file with the clerk a 1262
response within seven business days after receiving the 1263
objection and send a copy of the response to the objecting party 1264

by certified mail, return receipt requested. The court, within 1265
seven business days after the response to the objection is 1266
filed, shall issue a final order that adopts, modifies, or 1267
rejects the report and recommendation. 1268

(3) If the court of claims determines that the public 1269
office or person responsible for the public records denied the 1270
aggrieved person access to the public records in violation of 1271
division (B) of section 149.43 of the Revised Code and if no 1272
appeal from the court's final order is taken under division (G) 1273
of this section, both of the following apply: 1274

(a) The public office or the person responsible for the 1275
public records shall permit the aggrieved person to inspect or 1276
receive copies of the public records that the court requires to 1277
be disclosed in its order. 1278

(b) The aggrieved person shall be entitled to recover from 1279
the public office or person responsible for the public records 1280
the amount of the filing fee of twenty-five dollars and any 1281
other costs associated with the action that are incurred by the 1282
aggrieved person, but shall not be entitled to recover 1283
attorney's fees, except that division (G) (2) of this section 1284
applies if an appeal is taken under division (G) (1) of this 1285
section. 1286

(G) (1) Any appeal from a final order of the court of 1287
claims under this section or from an order of the court of 1288
claims dismissing the complaint as provided in division (D) (2) 1289
of this section shall be taken to the court of appeals of the 1290
appellate district where the principal place of business of the 1291
public office from which the public record is requested is 1292
located. However, no appeal may be taken from a final order of 1293
the court of claims that adopts the special master's report and 1294

recommendation unless a timely objection to that report and 1295
recommendation was filed under division (F) (2) of this section. 1296
If the court of claims materially modifies the special master's 1297
report and recommendation, either party may take an appeal to 1298
the court of appeals of the appellate district of the principal 1299
place of business where that public office is located but the 1300
appeal shall be limited to the issue in the report and 1301
recommendation that is materially modified by the court of 1302
claims. In order to facilitate the expeditious resolution of 1303
disputes over alleged denials of access to public records in 1304
violation of division (B) of section 149.43 of the Revised Code, 1305
the appeal shall be given such precedence over other pending 1306
matters as will ensure that the court will reach a decision 1307
promptly. 1308

(2) If a court of appeals in any appeal taken under 1309
division (G) (1) of this section by the public office or person 1310
responsible for the public records determines that the public 1311
office or person denied the aggrieved person access to the 1312
public records in violation of division (B) of section 149.43 of 1313
the Revised Code and obviously filed the appeal with the intent 1314
to either delay compliance with the court of claims' order from 1315
which the appeal is taken for no reasonable cause or unduly 1316
harass the aggrieved person, the court of appeals may award 1317
reasonable attorney's fees to the aggrieved person in accordance 1318
with division (C) of section 149.43 of the Revised Code. No 1319
discovery may be conducted on the issue of the public office or 1320
person responsible for the public records filing the appeal with 1321
the alleged intent to either delay compliance with the court of 1322
claims' order for no reasonable cause or unduly harass the 1323
aggrieved person. This division shall not be construed as 1324
creating a presumption that the public office or the person 1325

responsible for the public records filed the appeal with the 1326
intent to either delay compliance with the court of claims' 1327
order for no reasonable cause or unduly harass the aggrieved 1328
person. 1329

(H) The powers of the court of claims prescribed in 1330
section 2743.05 of the Revised Code apply to the proceedings in 1331
that court under this section. 1332

(I) (1) All filing fees collected by a clerk of the court 1333
of common pleas under division (D) (1) of this section shall be 1334
paid to the county treasurer for deposit into the county general 1335
revenue fund. All such money collected during a month shall be 1336
transmitted on or before the twentieth day of the following 1337
month by the clerk of the court of common pleas to the county 1338
treasurer. 1339

(2) All filing fees collected by the clerk of the court of 1340
claims under division (D) (1) of this section shall be kept by 1341
the court of claims to assist in paying for its costs to 1342
implement this section. Not later than the first day of February 1343
of each year, the clerk of the court of claims shall prepare a 1344
report accessible to the public that details the fees collected 1345
during the preceding calendar year by the clerk of the court of 1346
claims and the clerks of the courts of common pleas under this 1347
section. 1348

(J) Nothing in this section shall be construed to limit 1349
the authority of the auditor of state under division (G) of 1350
section 109.43 of the Revised Code. 1351

Sec. 2746.04. In addition to any applicable fees or costs 1352
set forth in sections 2746.01 and 2746.02 of the Revised Code or 1353
any other applicable provision of law, a court of common pleas 1354

shall tax as costs or otherwise require the payment of fees for 1355
the following services rendered or as compensation for the 1356
following persons or any other of the following fees that are 1357
applicable in a particular case: 1358

(A) The fees provided for in section 2303.20 of the 1359
Revised Code; 1360

(B) Additional fees to computerize the court, make 1361
available computerized legal research services, computerize the 1362
office of the clerk of the court, provide financial assistance 1363
to legal aid societies, support the office of the state public 1364
defender, fund shelters for victims of domestic violence, and 1365
special projects of the court, as provided in section 2303.201 1366
and, for a court that has a domestic relations division, section 1367
2301.031 of the Revised Code; 1368

(C) Filing for a divorce decree under section 3105.10 or a 1369
decree of dissolution under section 3105.65 of the Revised Code, 1370
as provided in section 3109.14 of the Revised Code; 1371

(D) Filing of a foreign judgment pursuant to section 1372
2329.022 of the Revised Code, as provided in section 2329.025 of 1373
the Revised Code; 1374

(E) Interpreters, as provided in section 2301.14 of the 1375
Revised Code; 1376

(F) Jurors in civil actions, as provided in section 1377
2335.28 of the Revised Code; 1378

(G) Reporters, as provided in sections 2301.21 and 2301.24 1379
of the Revised Code; 1380

(H) In a case involving the operation by a nonresident of 1381
a vessel upon the waters in this state, or the operation on the 1382

waters in this state of a vessel owned by a nonresident if 1383
operated with ~~his~~ the nonresident's consent, actual traveling 1384
expenses of the defendant, as provided in section 1547.36 of the 1385
Revised Code; 1386

(I) In a civil case, the expenses of taking a deposition 1387
of a person who is imprisoned in a workhouse, juvenile detention 1388
facility, jail, or state correctional institution within this 1389
state, or who is in the custody of the department of youth 1390
services, as provided in section 2317.06 of the Revised Code; 1391

(J) In proceedings relating to the examination of a 1392
judgment debtor under sections 2333.09 to 2333.27 of the Revised 1393
Code, compensation for clerks, sheriffs, referees, receivers, 1394
and witnesses, as provided in section 2333.27 of the Revised 1395
Code; 1396

(K) In an appeal from an order of an agency issued 1397
pursuant to an adjudication under section 119.12 of the Revised 1398
Code, the expense of preparing and transcribing the record; 1399

(L) In a case in which the court issues a protection order 1400
upon a petition alleging that the respondent engaged in domestic 1401
violence against a family or household member, the cost of 1402
supervision of the respondent's exercise of parenting time, 1403
visitation, or companionship rights, as provided in section 1404
3113.31 of the Revised Code; 1405

(M) Upon a petition to have a person involuntarily 1406
institutionalized, the costs of appointed counsel for the 1407
respondent at a full hearing, as provided in section 5123.76 of 1408
the Revised Code; 1409

(N) In a case before the domestic relations division of 1410
the Hamilton county court of common pleas, the expense of 1411

1412 serving a summons, warrant, citation, subpoena, or other writ
1413 issued to an officer other than a bailiff, constable, or staff
1414 investigator of the division, as provided in section 2301.03 of
1415 the Revised Code;

1416 (O) The filing fee specified in section 2743.75 of the
1417 Revised Code in a case filed with the court of claims that
1418 alleges a denial of access to public records in violation of
1419 division (B) of section 149.43 of the Revised Code.

1420 **Sec. 3333.0412.** (A) No nonprofit institution that holds a
1421 certificate of authorization issued under Chapter 1713. of the
1422 Revised Code shall be liable for a breach of confidentiality
1423 arising from the institution's submission of student data or
1424 records to the chancellor of higher education or any other state
1425 agency in compliance with any law, rule, or regulation, provided
1426 that the breach occurs as a result of one of the following:

1427 ~~(A)~~ (1) An action by a third party during and after the
1428 transmission of the data or records by the institution but prior
1429 to receipt of the data or records by the chancellor of higher
1430 education or other state agency;

1431 ~~(B)~~ (2) An action by the chancellor of higher education or
1432 the state agency.

1433 (B) No nonprofit institution that holds a certificate of
1434 authorization issued under Chapter 1713. of the Revised Code
1435 shall be liable for a breach of confidentiality or any other
1436 claim that arises from the institution's disclosure of the
1437 public records pursuant to a request for public records made
1438 under section 149.43 of the Revised Code, except for claims
1439 based on the institution's failure to disclose public records as
1440 required by law.

This provision shall apply to the submission of any 1441
student data or records that are subject to any laws of this 1442
state or, to the extent permitted, any federal law, including 1443
the "Family Educational Rights and Privacy Act of 1974," 88 1444
Stat. 571, 20 U.S.C. 1232g. 1445

Section 2. That existing sections 149.43, 149.433, 1446
2323.52, 2743.03, 2746.04, and 3333.0412 of the Revised Code are 1447
hereby repealed. 1448