

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 340**

**Representative Young**

**Cosponsors: Representatives Becker, Dean, Hambley, Hill, Seitz**

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**A BILL**

To amend sections 5101.27, 5101.99, 5160.45, 1  
5160.46, and 5160.99 and to enact sections 2  
5101.271, 5160.451, and 5167.15 of the Revised 3  
Code regarding the release of information 4  
concerning public and medical assistance 5  
recipients. 6

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

**Section 1.** That sections 5101.27, 5101.99, 5160.45, 7  
5160.46, and 5160.99 be amended and sections 5101.271, 5160.451, 8  
and 5167.15 of the Revised Code be enacted to read as follows: 9

**Sec. 5101.27.** (A) Except as permitted by this section, 10  
section 5101.273, 5101.28, or 5101.29 of the Revised Code, or 11  
rules adopted under section 5101.30 of the Revised Code, or when 12  
required by federal law, no person or government entity shall 13  
knowingly solicit, disclose, receive, use, ~~or knowingly permit~~ 14  
the use of, or participate in the use of any information 15  
regarding a public assistance recipient for any purpose not 16  
directly connected with the administration of a public 17  
assistance program. 18

(B) To the extent permitted by federal law, the department 19  
of job and family services and county agencies shall do all of 20  
the following: 21

(1) Release information regarding a public assistance 22  
recipient, for purposes directly connected to the administration 23  
of the program providing assistance to the recipient, to a 24  
government entity responsible for administering that public 25  
assistance program; 26

(2) Release information regarding a public assistance 27  
recipient to a state, federal, or federally assisted program 28  
that provides cash or in-kind assistance or services directly to 29  
individuals based on need or for the purpose of protecting 30  
children to a government entity responsible for administering a 31  
children's protective services program; 32

(3) Provide information regarding a public assistance 33  
recipient to a law enforcement agency for the purpose of any 34  
investigation, prosecution, or criminal or civil proceeding 35  
relating to the administration of that public assistance 36  
program; 37

~~(3) Provide, for~~ (4) For purposes directly connected to 38  
the administration of a program that assists needy individuals 39  
with the costs of public utility services, provide information 40  
regarding a recipient of financial assistance provided under a 41  
program administered by the department or a county agency 42  
pursuant to Chapter 5107. or 5108. of the Revised Code or 43  
sections 5115.01 to 5115.07 of the Revised Code to an entity 44  
administering the public utility services program; 45

(5) For purposes directly connected to the administration 46  
of a medical assistance program, as defined in section 5160.01 47

of the Revised Code, provide information regarding a public 48  
assistance recipient to a government entity administering the 49  
medical assistance program. 50

(C) To the extent permitted by federal law and section 51  
1347.08 of the Revised Code, the department and county agencies 52  
shall provide access to information regarding a public 53  
assistance recipient to all of the following: 54

(1) The recipient; 55

(2) The authorized representative; 56

(3) The legal guardian of the recipient; 57

(4) The attorney of the recipient, if the attorney has 58  
written authorization that complies with section 5101.272 of the 59  
Revised Code from the recipient. 60

(D) To the extent permitted by federal law ~~and subject to~~ 61  
~~division (E) of this section,~~ the department and county agencies 62  
may ~~do both of the following:~~ 63

~~(1) Release release information about a public assistance~~ 64  
~~recipient if the recipient gives voluntary, written~~ 65  
~~authorization that complies with section 5101.272 of the Revised~~ 66  
~~Code.~~ 67

~~(2) Release information regarding a public assistance~~ 68  
~~recipient to a state, federal, or federally assisted program~~ 69  
~~that provides cash or in-kind assistance or services directly to~~ 70  
~~individuals based on need or for the purpose of protecting~~ 71  
~~children to a government entity responsible for administering a~~ 72  
~~children's protective services program.~~ 73

~~(E) Except when the release is required by division (B),~~ 74  
or (C), or (D) (2) of this section, the department or county 75

agency shall release the information only in accordance with the 76  
authorization. The department or county agency shall provide, at 77  
no cost, a copy of each written authorization to the individual 78  
who signed it. 79

~~(F)~~ (E) Each employee of the department or county agency 80  
who provides or releases information in accordance with this 81  
section shall comply with section 5101.271 of the Revised Code. 82

(F) The department of job and family services may adopt 83  
rules defining "authorized representative" for purposes of 84  
division (C) (2) of this section. 85

**Sec. 5101.271.** (A) Before providing or releasing 86  
information regarding public assistance recipients as provided 87  
in section 5101.27 of the Revised Code, an employee of the 88  
department of job and family services or a county agency shall 89  
complete a form containing all of the following: 90

(1) The employee's name and job title; 91

(2) A statement whereby the employee acknowledges that the 92  
employee understands the requirements of sections 5101.27 and 93  
5101.272 of the Revised Code and agrees to provide or release 94  
information regarding public assistance recipients only in 95  
accordance with those sections; 96

(3) The employee's signature and the date on which the 97  
form was signed. 98

(B) The form described in this section shall be developed 99  
by the department in consultation with county agencies and may 100  
contain any other information the department considers 101  
necessary. 102

(C) The department and each county agency shall inform its 103

employees of the requirements of sections 5101.27 and 5101.272 104  
of the Revised Code. 105

**Sec. 5101.99.** (A) Whoever violates division (A) or (B) of 106  
section 5101.61 of the Revised Code shall be fined not more than 107  
five hundred dollars. 108

(B) Whoever violates division (A) of section 5101.27 of 109  
the Revised Code is guilty of a misdemeanor of the first degree 110  
on a first offense; for each subsequent offense, a person is 111  
guilty of a felony of the fifth degree. 112

(C) Whoever violates section 5101.133 or division (C) (2) 113  
of section 5101.612 of the Revised Code is guilty of a 114  
misdemeanor of the fourth degree. 115

**Sec. 5160.45.** (A) As used in sections 5160.45 to 5160.481 116  
of the Revised Code, "information" means all of the following: 117

(1) Records, as defined in section 149.011 of the Revised 118  
Code; 119

(2) Any other documents in any format; 120

(3) Data derived from records and documents that are 121  
generated, acquired, or maintained by the department of 122  
medicaid, a county department of job and family services, or an 123  
entity performing duties on behalf of the department or a county 124  
department. 125

(B) Except as permitted by this section, section 5160.47, 126  
or rules authorized by section 5160.48 or 5160.481 of the 127  
Revised Code, or when required by federal law, no person or 128  
government entity shall knowingly use or disclose information 129  
regarding a medical assistance recipient for any purpose not 130  
directly connected with the administration of a medical 131

assistance program.	132
(C) Both of the following shall be considered to be	133
purposes directly connected with the administration of a medical	134
assistance program:	135
(1) Treatment, payment, or other operations or activities	136
authorized by 42 C.F.R. Chapter IV;	137
(2) Any administrative function or duty the department of	138
medicaid performs alone or jointly with a federal government	139
entity, another state government entity, or a local government	140
entity implementing a provision of federal law.	141
(D) <u>To the extent permitted by federal law, the department</u>	142
<u>of medicaid or a county department of job and family services</u>	143
<u>shall do all of the following:</u>	144
<u>(1) Disclose information regarding a medical assistance</u>	145
<u>recipient, for purposes directly connected to the administration</u>	146
<u>of the program providing assistance to the recipient, to a</u>	147
<u>government entity responsible for administering that medical</u>	148
<u>assistance program;</u>	149
<u>(2) Disclose information regarding a medical assistance</u>	150
<u>recipient to a state, federal, or federally assisted program</u>	151
<u>that provides cash or in-kind assistance or services directly to</u>	152
<u>individuals based on need or for the purpose of protecting</u>	153
<u>children to a government entity responsible for administering a</u>	154
<u>children's protective services program;</u>	155
<u>(3) For purposes directly connected to the administration</u>	156
<u>of a public assistance program, as defined in section 5101.26 of</u>	157
<u>the Revised Code, provide information regarding a medical</u>	158
<u>assistance recipient to a government entity administering the</u>	159
<u>public assistance program.</u>	160

(E) The department of medicaid or a county department of 161  
job and family services may disclose information regarding a 162  
medical assistance recipient to any of the following: 163

(1) The recipient or the recipient's authorized 164  
representative; 165

(2) The recipient's legal guardian in accordance with 166  
division (C) of section 2111.13 of the Revised Code; 167

(3) The attorney of the recipient, if the department or 168  
county department has obtained authorization from the recipient 169  
or the recipient's authorized representative or legal guardian 170  
that meets all requirements of the Health Insurance Portability 171  
and Accountability Act of 1996, 42 U.S.C. 1320d et seq., 172  
regulations promulgated by the United States department of 173  
health and human services to implement the act, section 5160.46 174  
of the Revised Code, and any rules authorized by section 5160.48 175  
of the Revised Code; 176

(4) A health information or health records management 177  
entity that has executed with the department a business 178  
associate agreement required by 45 C.F.R 164.502(e) (2) and has 179  
been authorized by the recipient or the recipient's authorized 180  
representative or legal guardian to receive the recipient's 181  
electronic health records in accordance with rules authorized by 182  
section 5160.48 of the Revised Code; 183

(5) A court if pursuant to a written order of the court. 184

~~(E)~~ (F) The department of medicaid may receive from county 185  
departments of job and family services information regarding any 186  
medical assistance recipient for purposes of training and 187  
verifying the accuracy of eligibility determinations for a 188  
medical assistance program. The department may assemble 189

information received under this division into a report if the 190  
report is in a form specified by the department. Information 191  
received and assembled into a report under this division shall 192  
remain confidential and not be subject to disclosure pursuant to 193  
section 149.43 or 1347.08 of the Revised Code. 194

~~(F)~~(G) The department of medicaid shall notify courts in 195  
this state regarding its authority, under division ~~(D)~~(E) (5) of 196  
this section, to disclose information regarding a medical 197  
assistance recipient pursuant to a written court order. 198

(H) Each employee of the department of medicaid or a 199  
county department of job and family services who discloses 200  
information in accordance with this section shall comply with 201  
section 5160.451 of the Revised Code. 202

**Sec. 5160.451.** (A) Before disclosing information regarding 203  
medical assistance recipients as provided in section 5160.45 of 204  
the Revised Code, an employee of the department of medicaid or a 205  
county department of job and family services shall complete a 206  
form containing all of the following: 207

(1) The employee's name and job title; 208

(2) A statement whereby the employee acknowledges that the 209  
employee understands the requirements of sections 5160.45 and 210  
5160.46 of the Revised Code and agrees to disclose information 211  
regarding medical assistance recipients only in accordance with 212  
those sections; 213

(3) The employee's signature and the date on which the 214  
form was signed. 215

(B) The form described in this section shall be developed 216  
by the department of medicaid in consultation with county 217  
departments of job and family services and may contain any other 218

information the department considers necessary. 219

(C) The department of medicaid and each county department 220  
of job and family services shall inform its employees of the 221  
requirements of sections 5160.45 and 5160.46 of the Revised 222  
Code. 223

**Sec. 5160.46.** (A) For the purposes of section 5160.45 of 224  
the Revised Code, an authorization shall be made on a form that 225  
uses language understandable to the average person and contains 226  
all of the following: 227

(1) A description of the information to be used or 228  
disclosed that identifies the information in a specific and 229  
meaningful fashion; 230

(2) The name or other specific identification of the 231  
person or class of persons authorized to make the requested use 232  
or disclosure; 233

(3) The name or other specific identification of the 234  
person or government entity to which the information may be 235  
released; 236

(4) A description of each purpose of the requested use or 237  
disclosure of the information; 238

(5) The date on which the authorization expires or an 239  
event related either to the individual who is the subject of the 240  
request or to the purposes of the requested use or disclosure, 241  
the occurrence of which will cause the authorization to expire; 242

(6) A statement that the information used or disclosed 243  
pursuant to the authorization may be disclosed by the recipient 244  
of the information and may no longer be protected from 245  
disclosure; 246

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;	247 248 249
(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;	250 251 252
(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with either of the following:	253 254 255
(a) A description of how the individual or authorized representative may revoke the authorization;	256 257
(b) If the department of medicaid has established a privacy notice that contains a description of how the individual or authorized representative may revoke the authorization, a reference to the privacy notice.	258 259 260 261
(10) A statement that treatment, payment, enrollment, or eligibility for a medical assistance program cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the program.	262 263 264 265 266
(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division <del>(D)</del> (E) (3) of section 5160.45 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules authorized by section 5160.48 or 5160.481 of the Revised Code.	267 268 269 270 271 272 273
(C) When an individual requests information pursuant to section 5160.45 of the Revised Code regarding the individual's	274 275

enrollment in a medical assistance program and does not wish to 276  
provide a statement of purpose, the statement "at request of the 277  
individual" is a sufficient description for purposes of division 278  
(A) (4) of this section. 279

**Sec. 5160.99.** Whoever violates division (B) of section 280  
5160.45 of the Revised Code is guilty of a misdemeanor of the 281  
first degree on a first offense; for each subsequent offense, a 282  
person is guilty of a felony of the fifth degree. 283

**Sec. 5167.15.** The department of medicaid shall require a 284  
medicaid managed care organization to comply with sections 285  
5160.45, 5160.451, and 5160.46 of the Revised Code as if the 286  
organization were the department. 287

**Section 2.** That existing sections 5101.27, 5101.99, 288  
5160.45, 5160.46, and 5160.99 of the Revised Code are hereby 289  
repealed. 290

**Section 3.** Sections 5101.27, 5101.99, 5160.45, 5160.46, 291  
5160.99, and 5167.15 of the Revised Code, as amended or enacted 292  
by this act, shall take effect on the one hundred eightieth day 293  
after the effective date of this act. Sections 5101.271 and 294  
5160.451 of the Revised Code, as enacted by this act, shall take 295  
effect on the ninetieth day after the effective date of this 296  
act. 297