

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 707

Representative Forhan

A BILL

To enact sections 2747.01, 2747.02, 2747.03, 1
2747.04, 2747.05, 2747.06, 2747.07, 2747.08, 2
2747.09, and 2747.10 of the Revised Code to 3
enact the Ohio False Claims and Whistleblower 4
Protection Act. 5

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

Section 1. That sections 2747.01, 2747.02, 2747.03, 6
2747.04, 2747.05, 2747.06, 2747.07, 2747.08, 2747.09, and 7
2747.10 of the Revised Code be enacted to read as follows: 8

Sec. 2747.01. As used in this chapter: 9

(A) "Claim" includes any request or demand, whether under 10
a contract or otherwise, for money or property that is made to a 11
contractor, grantee, or other recipient if the state provides 12
any portion of the money or property that is requested or 13
demanded or if the state will reimburse the contractor, grantee, 14
or other recipient for any portion of the money or property that 15
is requested or demanded. 16

(B) "Documentary material" includes the original or any 17
copy of any book, record, report, memorandum, paper, 18
communication, tabulation, chart, or other document, or data 19

compilations stored in or accessible through computer or other 20
information retrieval systems, together with instructions and 21
all other materials necessary to use or interpret the data 22
compilations, and any product of discovery. 23

(C) "Knowing" and "knowingly" mean that a person, with 24
respect to information and with or without a specific intent to 25
defraud, meets at least one of the following criteria: 26

(1) The person has actual knowledge of the information. 27

(2) The person acts in deliberate ignorance of the truth 28
or falsity of the information. 29

(3) The person acts in reckless disregard of the truth or 30
falsity of the information. 31

(D) "Product of discovery" includes all of the following: 32

(1) The original or duplicate of any deposition, 33
interrogatory, document, thing, result of the inspection of land 34
or other property, examination, or admission, that is obtained 35
by any method of discovery in any judicial or administrative 36
proceeding of an adversarial nature; 37

(2) Any digest, analysis, selection, compilation, or 38
derivation of any item listed in division (D) (1) of this 39
section; 40

(3) Any index or other manner of access to any item listed 41
in division (D) (1) of this section. 42

Sec. 2747.02. (A) No person shall do any of the following: 43

(1) Knowingly present, or cause to be presented, to an 44
officer or employee of the state or to the state a false or 45
misleading claim for payment or approval; 46

(2) Knowingly make, use, or cause to be made or used a false record or statement to get the state to pay or approve a false or misleading claim; 47
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(3) Conspire to defraud the state by getting a false or fraudulent claim allowed or paid; 50
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(4) Have possession, custody, or control of property or money used or to be used by the state and, with intent to conceal the property or money, deliver or cause to be delivered less property or money than the amount for which the person receives a certificate or receipt; 52
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(5) With intent to defraud, make or deliver a document that certifies receipt of property used by the state or to be used by the state and that the person is authorized to make or deliver if the person does not know that the information on the document is true; 57
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(6) Knowingly buy, or receive as a pledge of an obligation or debt, public property from an officer or employee of the state who lawfully may not sell or pledge the property; 62
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(7) Knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state; 65
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(8) Knowingly solicit, receive, offer to pay, or pay a kickback, bribe, rebate, or any other form of remuneration, directly or indirectly, overtly or covertly, in cash or in kind, for referring an individual to a health care provider or managed care organization or to a third person for the purpose of referral of the individual by the third person to a health care provider or managed care organization for furnishing the individual with goods or services that may be paid for, in whole 68
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or in part, by the medicaid program or by the bureau of workers' 76
compensation under Chapters 4121. or 4123. of the Revised Code 77
and rules adopted pursuant to those chapters. 78

(B)(1) Except as provided in division (B)(2) of this 79
section, whoever violates division (A) of this section is liable 80
to the state for a civil penalty of not less than five thousand 81
dollars and not more than ten thousand dollars for each false or 82
misleading claim, plus three times the amount of damages that 83
the state sustains because of the violation. 84

(2) Whoever violates division (A) of this section is 85
liable to the state for a civil penalty of not less than two 86
times the amount of damages that the state sustains because of 87
the violation, plus the costs of a civil action brought to 88
recover any such penalty or damages, if the court finds all of 89
the following: 90

(a) The person committing the violation furnished the 91
attorney general with all information known to the person about 92
the violation within thirty days after the date on which the 93
person first obtained the information. 94

(b) The person fully cooperated with any state 95
investigation of the violation. 96

(c) At the time the person furnished the attorney general 97
with the information about the violation, no criminal 98
prosecution, civil action, or administrative action had been 99
commenced with respect to the violation, and the person did not 100
have actual knowledge of the existence of an investigation into 101
the violation. 102

(C) Any information furnished as described in division (B) 103
(2)(a), (b), or (c) of this section is not a public record under 104

and is exempt from disclosure under section 149.43 of the 105
Revised Code. 106

(D) Commencement of an action or investigation under this 107
chapter does not preclude either of the following: 108

(1) Commencement of an action under section 5164.35 of the 109
Revised Code with regard to claims, payments, reports, or 110
documents to which section 5164.35 of the Revised Code applies; 111

(2) Commencement of any other action otherwise authorized 112
by law. 113

Sec. 2747.03. (A) The attorney general diligently shall 114
investigate violations of section 2747.02 of the Revised Code. 115
If the attorney general finds that a person has violated or is 116
violating that section, the attorney general may bring a civil 117
action under this section against the person. 118

(B) (1) A person may bring a civil action for a violation 119
of section 2747.02 of the Revised Code on behalf of the person 120
and on behalf of the state. A person may not bring an action 121
under this division against the state or a political 122
subdivision, any department, board, office, commission, agency, 123
institution, or other instrumentality of the state or a 124
political subdivision, or any officer or employee of the state 125
or a political subdivision. A person shall bring the action in 126
the name of the state. 127

(2) A copy of the complaint and written disclosure of 128
substantially all material evidence and information the person 129
possesses shall be served on the attorney general pursuant to 130
Civil Rule 4.2(J). The complaint shall be filed in camera, shall 131
remain under seal for at least sixty days, and shall not be 132
served on the defendant until the court so orders. The state may 133

elect to intervene and proceed with the action within sixty days 134
after it receives both the complaint and the material evidence 135
and information. 136

(3) The state, for good cause shown, may file motions with 137
the court requesting extensions of the time during which the 138
complaint remains under seal, and the state may intervene under 139
division (B) (2) of this section. The motion may be supported by 140
affidavits or other submissions in camera. The defendant is not 141
required to respond to any complaint filed under this section 142
until twenty-eight days after the complaint is unsealed and 143
served on the defendant pursuant to Civil Rule 4. 144

(4) Before the expiration of the sixty-day period under 145
division (B) (2) of this section or any extensions obtained under 146
division (B) (3) of this section, the state shall either proceed 147
with the action or notify the court that it declines to proceed 148
with the action. If the state proceeds with the action, the 149
state shall conduct the action. If the state declines to proceed 150
with the action, the person bringing the action has the right to 151
conduct the action. 152

(5) When a person brings an action under division (B) (1) 153
of this section, no person other than the state may intervene or 154
bring a related action based on the facts underlying that 155
pending action. 156

(C) (1) If the state proceeds with an action under division 157
(B) of this section, it has the primary responsibility for 158
prosecuting the action and is not bound by an action of the 159
person bringing the action. The person bringing the action has 160
the right to continue as a party to the action, subject to the 161
limitations set forth in divisions (C) (2) to (4) of this 162
section. 163

(2) The state may dismiss an action brought under division 164
(B) of this section notwithstanding the objections of the person 165
initiating the action if the state notifies the person of the 166
filing of the motion to dismiss and the court has provided the 167
person with an opportunity for a hearing on the motion. 168

(3) The state may settle an action brought under division 169
(B) of this section with the defendant notwithstanding the 170
objections of the person initiating the action if the court 171
determines, after a hearing, that the proposed settlement is 172
fair, adequate, and reasonable under all the circumstances. On a 173
showing of good cause, the court may hold the hearing in camera. 174

(4) On a showing by the state that unrestricted 175
participation during the course of the litigation by the person 176
initiating the action would interfere with or unduly delay the 177
state's prosecution of the case or would be repetitious, 178
irrelevant, or for purposes of harassment, the court, in its 179
discretion, may impose limitations on the person's 180
participation, including all of the following: 181

(a) Limiting the number of witnesses the person may call; 182

(b) Limiting the length of the testimony of witnesses; 183

(c) Limiting the person's cross-examination of witnesses; 184

(d) Otherwise limiting the participation by the person in 185
the litigation. 186

(5) On a showing by the defendant that unrestricted 187
participation during the course of the litigation by the person 188
initiating an action under division (B) of this section would be 189
for purposes of harassment or would cause the defendant undue 190
burden or unnecessary expense, the court may limit participation 191
by the person initiating the action in the litigation. 192

(D) If the state elects not to proceed with an action 193
brought by a person under division (B) of this section, the 194
person has the right to conduct the action. If the state so 195
requests, it shall be served with copies of all pleadings filed 196
in the action and shall be supplied with copies of all 197
deposition transcripts at the state's expense. When the person 198
proceeds with the action, the court, without limiting the status 199
and rights of the person initiating the action, may nevertheless 200
permit the state to intervene at a later date on a showing of 201
good cause. 202

(E) Whether or not the state proceeds with the action, on 203
a showing by the state that certain discovery by the person 204
initiating the action would interfere with the state's 205
investigation or prosecution of a criminal or civil matter 206
arising out of the same facts, the court may stay that discovery 207
for a period of not more than sixty days. The showing shall be 208
conducted in camera. The court may extend the sixty-day period 209
on a further showing in camera that the state has pursued the 210
criminal or civil investigation or proceedings with reasonable 211
diligence and any proposed discovery in the civil action will 212
interfere with the ongoing criminal or civil investigation or 213
proceedings. 214

(F) The state may elect to pursue its claim through any 215
available means other than an action brought under division (B) 216
of this section, including an administrative proceeding to 217
determine a civil monetary penalty. If an alternate remedy is 218
pursued in another proceeding, the person initiating the action 219
has the same rights in that proceeding as the person would have 220
had if the action had continued under this section. Any finding 221
of fact or conclusion of law made in the other proceeding that 222
has become final is conclusive on all parties to an action under 223

this section. A finding or conclusion is final if it has been 224
finally determined on appeal to the appropriate court, if the 225
time for filing an appeal with respect to the finding or 226
conclusion has expired, or if the finding or conclusion is not 227
subject to judicial review. 228

(G) (1) Except as provided in division (G) (1) of this 229
section, if the state proceeds with an action brought by a 230
person under division (B) of this section, the person shall 231
receive at least fifteen per cent but not more than twenty-five 232
per cent of the proceeds of the action or settlement of the 233
claim, depending on the extent to which the person substantially 234
contributed to the prosecution of the action. If the action is 235
one that the court finds to be based primarily on disclosures of 236
specific information, other than information provided by the 237
person bringing the action, relating to allegations or 238
transactions in a criminal or civil hearing, in a legislative or 239
administrative report, hearing, audit, or investigation, or from 240
the news media, the court may award the sums that it considers 241
appropriate, but in no case more than ten per cent of the 242
proceeds, taking into account the significance of the 243
information and the role of the person bringing the action in 244
advancing the case to litigation. Any payment to a person under 245
division (G) (1) of this section shall be made from the proceeds. 246
The person also shall receive an amount for reasonable expenses 247
that the court finds to have been necessarily incurred, plus 248
reasonable attorney's fees and costs. All expenses, fees, and 249
costs shall be awarded against the defendant. 250

(2) If the state does not proceed with an action brought 251
by a person under division (B) of this section, the person 252
bringing the action or settling the claim shall receive an 253
amount that the court decides is reasonable for collecting the 254

civil penalty and damages. The amount shall be not less than 255
twenty-five per cent and not more than thirty per cent of the 256
proceeds of the action or settlement and shall be paid out of 257
the proceeds. The remainder of the proceeds shall be paid to the 258
state. The person also shall receive an amount for reasonable 259
expenses that the court finds to have been necessarily incurred, 260
plus reasonable attorney's fees and costs. All expenses, fees, 261
and costs shall be awarded against the defendant. 262

(3) Whether or not the state proceeds with the action, if 263
the court finds that the action was brought by a person who 264
planned and initiated the violation of section 2747.02 of the 265
Revised Code on which the action was brought, then the court 266
may, to the extent the court considers appropriate, eliminate or 267
reduce the share of the proceeds of the action that the person 268
would otherwise receive under division (G) (1) or (2) of this 269
section, taking into account the role of that person in 270
advancing the case to litigation and any relevant circumstances 271
pertaining to the violation. If the person bringing the action 272
is convicted of criminal conduct arising from the person's role 273
in the violation of section 2747.02 the Revised Code, the civil 274
action shall be dismissed. The dismissal does not prejudice the 275
right of the state to continue the action. 276

(4) If the state does not proceed with the action and the 277
person bringing the action conducts the action, the court may 278
award to the defendant its reasonable attorney's fees and 279
expenses if the defendant prevails in the action and the court 280
finds that the claim of the person bringing the action was 281
clearly frivolous, clearly vexatious, or brought primarily for 282
purposes of harassment. 283

(H) (1) In no event may a person bring an action under 284

division (B) of this section that is based on allegations or 285
transactions that are the subject of a civil suit or an 286
administrative civil money penalty proceeding in which the state 287
is already a party. 288

(2) In no event may a person bring an action under this 289
section based on the public disclosure of allegations or 290
transactions in a criminal, civil, legislative, or 291
administrative hearing, report, audit, or investigation, or from 292
the news media, unless the person bringing the action has direct 293
and independent knowledge of the information on which the 294
allegations are based and has voluntarily provided the 295
information to the state before filing an action based on the 296
information under this section. This division does not apply to 297
the bringing of an action by the state. 298

(I) The state is not liable for expenses that a person 299
incurs in bringing an action under this section. 300

(J) Any employee who is discharged, demoted, suspended, 301
threatened, harassed, or in any other manner discriminated 302
against in the terms and conditions of employment by the 303
employee's employer because of lawful acts done by the employee 304
on behalf of the employee or others in furtherance of an action 305
under this section, including investigation for, initiation of, 306
testimony for, or assistance in an action filed or to be filed 307
under this section, is entitled to all relief necessary to make 308
the employee whole. The relief includes reinstatement with the 309
same seniority status the employee would have had but for the 310
discrimination, two times the amount of back pay, interest on 311
the back pay, and compensation for any special damages sustained 312
as a result of the discrimination, including litigation costs 313
and reasonable attorney's fees. An employee may bring an action 314

in the appropriate court of common pleas for the relief provided 315
in this division. 316

Sec. 2747.04. (A) A subpoena requiring the attendance of a 317
witness at a trial or hearing conducted under section 2747.03 of 318
the Revised Code may be served pursuant to Civil Rule 45. 319

(B) A civil action under section 2747.03 of the Revised 320
Code may not be brought after the later of the date that is six 321
years after the date on which the violation of section 2747.02 322
of the Revised Code is committed or three years after the date 323
when facts material to the right of action are known or 324
reasonably should have been known by the attorney general. 325

(C) In any action brought under section 2747.03 of the 326
Revised Code, the state or, if the state elects to not proceed 327
with the action, the person bringing the action, shall prove all 328
essential elements of the cause of action, including damages, by 329
a preponderance of the evidence. 330

(D) A final judgment rendered in favor of the state in any 331
criminal proceeding charging fraud or false statements, whether 332
on a verdict after trial or on a plea of guilty or nolo 333
contendere, estops the defendant from denying the essential 334
elements of the offense in any action that involves the same 335
transaction as in the criminal proceeding and that is brought 336
under division (A) or (B) of section 2747.03 of the Revised 337
Code. 338

Sec. 2747.05. (A) Except as provided in division (B) of 339
this section, an action under section 2747.03 of the Revised 340
Code may be brought in the court of common pleas of Franklin 341
county or of any county in which the defendant or, in the case 342
of multiple defendants, any one defendant can be found, resides, 343

or transacts business, or in which any act prohibited by section 344
2747.02 of the Revised Code occurred. 345

(B) A civil action under section 2747.03 of the Revised 346
Code against an officer or employee of the state is subject to 347
section 9.86 and division (F) of section 2743.02 of the Revised 348
Code. 349

Sec. 2747.06. (A) Whenever the attorney general has reason 350
to believe that a person may be in possession, custody, or 351
control of any documentary material or information relevant to 352
an investigation conducted under section 2747.03 of the Revised 353
Code, the attorney general may, before commencing a civil 354
proceeding under that section, issue in writing and cause to be 355
served on the person a civil investigative demand requiring the 356
person to do any of the following: 357

(1) Produce the documentary material for inspection and 358
copying in accordance with section 2747.07 of the Revised Code; 359

(2) Answer in writing written interrogatories with respect 360
to the documentary material or information in accordance with 361
section 2747.08 of the Revised Code; 362

(3) Give oral testimony concerning the documentary 363
material or information in accordance with section 2747.09 of 364
the Revised Code; 365

(4) Furnish any combination of the material, answers, or 366
testimony. 367

(B) Each civil investigative demand issued under this 368
section shall state the nature of the conduct constituting the 369
alleged violation of section 2747.02 of the Revised Code that is 370
under investigation. 371

(C) A civil investigative demand may not require the 372
production of any documentary material, the submission of any 373
answers to written interrogatories, or the giving of any oral 374
testimony if the material, answers, or testimony would be 375
protected from disclosure under either of the following: 376

(1) The standards applicable to subpoenas or subpoenas 377
duces tecum issued by a court to aid in a grand jury 378
investigation; 379

(2) The standards applicable to discovery requests under 380
the Rules of Civil Procedure, to the extent that the application 381
of the standards to the demand is appropriate and consistent 382
with the provisions and purposes of this section. 383

(D) Whenever any person fails to comply with any civil 384
investigative demand issued under this section, or whenever 385
satisfactory copying or reproduction of any material requested 386
in the demand cannot be done and the person refuses to surrender 387
the material, the attorney general may file in the court of 388
common pleas in Franklin county or in the county in which the 389
person resides, is found, or transacts business, and serve upon 390
the person, a petition for an order of the court for the 391
enforcement of the civil investigative demand. 392

(E) Any civil investigative demand issued under division 393
(A) of this section or petition filed under division (D) of this 394
section may be served in the same manner as a summons under 395
Civil Rules 4 to 4.3 and 4.5. A verified return by the 396
individual serving a civil investigative demand or petition 397
setting forth the manner of the service is proof of the service. 398
In the case of service by registered or certified mail, the 399
return shall be accompanied by the return post office receipt of 400
delivery of the demand. 401

Sec. 2747.07. (A) If the attorney general demands the 402
production of documentary material under section 2747.06 of the 403
Revised Code, the attorney general shall do both of the 404
following: 405

(1) Describe each class of documentary material to be 406
produced with such definiteness and certainty as to permit the 407
material to be fairly identified; 408

(2) Prescribe a return date for each class of documentary 409
material that will provide a reasonable period of time within 410
which the material may be assembled and made available for 411
inspection and copying. 412

(B) The production of documentary material in response to 413
a civil investigative demand shall be made under a sworn 414
certificate, in any form that the demand designates, by the 415
following methods: 416

(1) In the case of a natural person, the person to whom 417
the demand is directed; 418

(2) In the case of a person other than a natural person, a 419
person having knowledge of the facts and circumstances relating 420
to the production and authorized to act on behalf of the person. 421

(C) The certificate shall state that all of the 422
documentary material required by the demand and in the 423
possession, custody, or control of the person to whom the demand 424
is directed has been produced and made available to the attorney 425
general. 426

(D) Any person on whom any civil investigative demand for 427
the production of documentary material has been served shall 428
make the material available for inspection and copying to the 429
attorney general at the principal place of business of the 430

person or at any other place that the attorney general and the 431
person after service of the demand may agree and prescribe in 432
writing. The person shall make the material available on the 433
return date specified in the demand, or on any later date that 434
the attorney general may prescribe in writing. The person may, 435
on written agreement between the person and the attorney 436
general, substitute copies for originals of all or any part of 437
the material. 438

Sec. 2747.08. (A) If the attorney general demands answers 439
to written interrogatories under section 2747.06 of the Revised 440
Code, the attorney general shall do both of the following: 441

(1) Set forth with specificity the written interrogatories 442
to be answered; 443

(2) Prescribe dates at which time answers to the written 444
interrogatories must be submitted. 445

(B) Each interrogatory in a civil investigative demand 446
shall be answered separately and fully in writing under oath and 447
shall be submitted under a sworn certificate, in the form that 448
the demand designates, by the following persons: 449

(1) In the case of a natural person, the person to whom 450
the demand is directed; 451

(2) In the case of a person other than a natural person, 452
the person or persons responsible for answering each 453
interrogatory. 454

(C) If any interrogatory is objected to, the reasons for 455
the objection shall be stated in the certificate instead of an 456
answer. The certificate shall state that all information 457
required by the demand and in the possession, custody, control, 458
or knowledge of the person to whom the demand is directed has 459

been submitted. To the extent that any information is not 460
furnished, the information shall be identified and reasons set 461
forth with particularity regarding the reasons why the 462
information was not furnished. 463

Sec. 2747.09. (A) If the attorney general demands the 464
giving of oral testimony under section 2747.06 of the Revised 465
Code, the attorney general shall do all of the following: 466

(1) Prescribe a date, time, and place at which oral 467
testimony will commence; 468

(2) Specify that the attendance and testimony are 469
necessary to the conduct of the investigation; 470

(3) Notify the person receiving the demand of the right to 471
be accompanied by an attorney and any other representative; 472

(4) Describe the general purpose for which the demand is 473
being issued and the general nature of the testimony, including 474
the primary areas of inquiry, that will be taken pursuant to the 475
demand. 476

(B) The date prescribed for the commencement of oral 477
testimony shall be a date that is not less than seven days after 478
the date on which the demand is received, unless the attorney 479
general determines that exceptional circumstances are present 480
that warrant the commencement of the testimony within a lesser 481
period of time. 482

(C) The attorney general shall not issue more than one 483
civil investigative demand for oral testimony by the same person 484
unless the person requests otherwise or unless the attorney 485
general, after investigation, notifies the person in writing 486
that an additional demand for oral testimony is necessary. 487

(D) The examination of any person pursuant to a civil 488
investigative demand for oral testimony shall be taken before an 489
officer authorized by law to administer oaths and affirmations. 490
The officer before whom the testimony is to be taken shall put 491
the witness on oath or affirmation and shall, personally or by 492
someone acting under the direction of the officer and in the 493
officer's presence, record the testimony of the witness. The 494
testimony shall be taken stenographically or otherwise recorded 495
in accordance with the Rules of Civil Procedure and shall be 496
transcribed. When the testimony is fully transcribed, the 497
officer before whom the testimony is taken shall promptly 498
transmit a copy of the transcript of the testimony to the 499
attorney general. This section does not preclude the taking of 500
testimony by any means authorized by, and in a manner consistent 501
with, the Rules of Civil Procedure. 502

(E) The attorney general shall exclude from the place 503
where the examination is held all persons except the person 504
giving the testimony, the attorney for and any other 505
representative of the person giving the testimony, any person 506
who may be agreed on by the attorney general and the person 507
giving the testimony, the officer before whom the testimony is 508
to be taken, and any stenographer or other person recording the 509
testimony. 510

The oral testimony of any person shall be taken in 511
Franklin county or in the county within which the person 512
resides, is found, or transacts business, or in any other place 513
that may be agreed on by the attorney general and the person. 514

(F) When the testimony is fully transcribed, the attorney 515
general or the officer before whom the testimony is taken shall 516
afford the witness, who may be accompanied by counsel, a 517

reasonable opportunity to examine and read the transcript, 518
unless examination and reading are waived by the witness. Any 519
changes in form or substance that the witness desires to make 520
shall be entered and identified on the transcript by the officer 521
or the attorney general, with a statement of the reasons given 522
by the witness for making the changes. The transcript shall then 523
be signed by the witness, unless the witness waives the signing 524
in writing, is ill, cannot be found, or refuses to sign. If the 525
transcript is not signed by the witness within thirty days after 526
being afforded a reasonable opportunity to examine it, the 527
officer or the attorney general shall sign it and state on the 528
record the fact of the waiver, illness, absence of the witness, 529
or the refusal to sign, together with the reasons, if any, given 530
therefor. 531

The officer before whom the testimony is taken shall 532
certify on the transcript that the witness was sworn by the 533
officer and that the transcript is a true record of the 534
testimony given by the witness, and the officer or attorney 535
general shall take custody of the transcript. 536

(G) Any person compelled to appear for oral testimony 537
under a civil investigative demand may be accompanied, 538
represented, and advised by counsel. Counsel may advise the 539
person, in confidence, with respect to any question asked of the 540
person. The person or counsel may object on the record to any 541
question, in whole or in part, and shall briefly state for the 542
record the reason for the objection. An objection may be made, 543
received, and entered on the record when it is claimed that the 544
person is entitled to refuse to answer the question on the 545
grounds of any constitutional or other legal right or privilege, 546
including the privilege against self-incrimination. The person 547
may not otherwise object to or refuse to answer any question, 548

and may not directly or through counsel otherwise interrupt the 549
oral examination. If the person refuses to answer any question, 550
a petition may be filed in the court of common pleas in Franklin 551
county or in the county in which the examination takes place for 552
an order compelling the person to answer the question. 553

If the person refuses to answer any question on the 554
grounds of the privilege against self-incrimination, the 555
testimony of the person may be compelled in the manner provided 556
in section 2945.44 of the Revised Code. 557

(H) Any person appearing for oral testimony under a civil 558
investigative demand is entitled to the same fees and allowances 559
that are paid to witnesses in the court of common pleas. 560

Sec. 2747.10. (A) Except as provided in this division, 561
documentary material, answers to interrogatories, or transcripts 562
of oral testimony received under section 2747.06 of the Revised 563
Code, or copies of documentary material, answers to 564
interrogatories, or transcripts of oral testimony so received, 565
while in the possession of the attorney general, are not 566
available for examination by any individual other than an 567
employee of the attorney general. This prohibition on the 568
availability of material, answers, or transcripts does not apply 569
if the person who produced the material, answers, or transcripts 570
gives consent. Nothing in this division is intended to prevent 571
disclosure to the general assembly, including any committee or 572
subcommittee of the general assembly, to any other state agency 573
for use by the agency in furtherance of its statutory 574
responsibilities, or to any law enforcement officer for use in 575
the furtherance of the law enforcement officer's duties. 576
Disclosure of information to any agency other than those 577
specified in this division shall be allowed only on application, 578

made by the attorney general to a court of common pleas showing 579
substantial need for the use of the information by the agency in 580
furtherance of its statutory responsibilities. 581

(B) While in the possession of the attorney general and 582
under any reasonable terms and conditions that the attorney 583
general prescribes, documentary material and answers to 584
interrogatories received under section 2747.06 of the Revised 585
Code shall be available for examination by the person who 586
produced the material or answers, or by a representative of that 587
person authorized by that person to examine the material and 588
answers. 589

The attorney general may use any documentary material, 590
answers to interrogatories, or transcripts of oral testimony 591
received under section 2747.06 of the Revised Code in connection 592
with any case or proceeding before a court, grand jury, or state 593
agency. 594

(C) If any documentary material has been produced by any 595
person in the course of any investigation pursuant to a civil 596
investigative demand under section 2747.06 of the Revised Code, 597
the attorney general shall, on written request of the person who 598
produced the material, return to the person the documentary 599
material, other than copies furnished to the attorney general 600
under division (D) of section 2747.07 of the Revised Code or 601
made for the attorney general under division (B) of this 602
section, that has not passed into the control of any court, 603
grand jury, or agency through introduction into the record of 604
the case or proceeding, or into the control of any law 605
enforcement officer, if either of the following applies: 606

(1) Any case or proceeding before the court or grand jury 607
arising out of the investigation, or any proceeding before any 608

state agency involving the material, has been completed. 609

(2) No case or proceeding in which the material may be 610
used has been commenced within a reasonable time after 611
completion of the examination and analysis of all documentary 612
material and other information assembled in the course of the 613
investigation. 614

(D) Documentary material, answers to written 615
interrogatories, and oral testimony provided under a civil 616
investigative demand issued under section 2747.06 of the Revised 617
Code are not public records and are exempt from disclosure under 618
section 149.43 of the Revised Code. 619

Section 2. This act shall be known as the Ohio False 620
Claims and Whistleblower Protection Act. 621