

AN ACT

To amend sections 149.43, 2929.20, 5120.115, 5120.21, 5149.10, and 5149.101 and to enact section 5149.102 of the Revised Code to require electronic recordings to be made of certain parole board hearings, to make electronic recordings of full parole board hearings public records, and to provide the prosecuting attorney access to Department of Rehabilitation and Correction health care records for certain parole and judicial release cases.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 149.43, 2929.20, 5120.115, 5120.21, 5149.10, and 5149.101 be amended and section 5149.102 of the Revised Code be enacted to read as follows:

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

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

(a) Medical records;

(b) Records pertaining to ~~probation~~ the following:

(i) Probation and parole proceedings, to proceedings including parole board hearings made as provided in sections 5149.10 and 5149.102 of the Revised Code, revocation hearings under section 2967.15 of the Revised Code, and post-release control violation hearings under section 2967.28 of the Revised Code, except for the electronic recording of full parole board hearings under section 5149.101 of the Revised Code made as provided in section 5149.10 of the Revised Code;

(ii) Proceedings related to the imposition of community control sanctions and post-release control sanctions, ~~or to proceedings~~ including the electronic recording of post-release control hearings under section 2967.28 of the Revised Code made as provided in sections 5149.10 and 5149.102 of the Revised Code;

(iii) Proceedings related to determinations under section 2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;

(iv) All written and oral statements provided by a victim or victim's representative to the department of rehabilitation and correction in connection with the pendency of any pardon, commutation, or parole, and any personally identifying information or information likely to identify a victim or member of the victim's family contained in an electronic recording of a full parole board

hearing.

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

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

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

(f) Records specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records, prior to the conclusion of all direct appeals or, if no appeal is filed, prior to the expiration of the time during which an appeal may be filed, or, if no trial has occurred, until the civil or criminal action or proceeding has ended without the possibility of direct appeal or each agency, office, or official responsible for the matter has made a decision not to proceed with the matter;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records under section 5120.21 of the Revised Code, except for permitted disclosure of the information listed in division (E)(1) of that section;

(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;

(m) Intellectual property records;

(n) Donor profile records;

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

(p) Designated public service worker residential and familial information;

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

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

(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's

review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

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

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or contracts under that section with a private or government entity to administer;

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

(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;

(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;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(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;

(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;

(dd) Personal information, as defined in section 149.45 of the Revised Code;

(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record; records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state; and any real property confidentiality notice filed under section 111.431 of the Revised Code and the information described in division (C) of that section. As used in this division, "confidential address" and "program participant" have the meaning defined in section

111.41 of the Revised Code.

(ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public record on the day that is fifteen years after the published date or effective date of the call to order;

(gg) The name, address, contact information, or other personal information of an individual who is less than eighteen years of age that is included in any record related to a traffic accident involving a school vehicle in which the individual was an occupant at the time of the accident;

(hh) Protected health information, as defined in 45 C.F.R. 160.103, that is in a claim for payment for a health care product, service, or procedure, as well as any other health claims data in another document that reveals the identity of an individual who is the subject of the data or could be used to reveal that individual's identity;

(ii) Any depiction by photograph, film, videotape, or printed or digital image under either of the following circumstances:

(i) The depiction is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity.

(ii) The depiction captures or depicts the victim of a sexually oriented offense, as defined in section 2950.01 of the Revised Code, at the actual occurrence of that offense.

(jj) Restricted portions of a body-worn camera or dashboard camera recording;

(kk) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 5180.27 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section 5180.277 of the Revised Code;

(mm) Except as otherwise provided in division (A)(1)(oo) of this section, telephone numbers for a victim, as defined in section 2930.01 of the Revised Code or a witness to a crime that are listed on any law enforcement record or report.

(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised

Code.

(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.

(pp) Records pertaining to individuals who complete training under section 5502.703 of the Revised Code to be permitted by a school district board of education or governing body of a community school established under Chapter 3314. of the Revised Code, a STEM school established under Chapter 3326. of the Revised Code, or a chartered nonpublic school to convey deadly weapons or dangerous ordnance into a school safety zone;

(qq) Records, documents, reports, or other information presented to a domestic violence fatality review board established under section 307.651 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than a report prepared pursuant to section 307.656 of the Revised Code;

(rr) Records, documents, and information the release of which is prohibited under sections 2930.04 and 2930.07 of the Revised Code;

(ss) Records of an existing qualified nonprofit corporation that creates a special improvement district under Chapter 1710. of the Revised Code that do not pertain to a purpose for which the district is created;

(tt) Educational support services data, as defined in section 3319.325 of the Revised Code;

(uu) Records of the past, current, and future work schedule of a designated public service worker. As used in division (A)(1)(uu) of this section, "work schedule" does not include the docket of cases of a court, judge, or magistrate;

(vv) A request form or confirmation letter submitted to a public office under section 149.45 of the Revised Code;

(ww) An affidavit or confirmation letter submitted under section 319.28 of the Revised Code;

(xx) License or certificate application or renewal responses and supporting documentation submitted to the state medical board regarding an applicant's, or a license or certificate holder's, inability to practice according to acceptable and prevailing standards of care by reason of a medical condition;

(yy) Images and data captured by an automated license plate recognition system that are maintained in a law enforcement database;

(zz) Attorney work product record;

(aaa) Any entry on the public calendar of an elected official that is for any date that is after the date the record is requested;

(bbb) Records pertaining to burial sites under section 149.3010 of the Revised Code.

A record that is not a public record under division (A)(1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, or in the case of a record that is not a public record under division (A)(1)(uu) of this section that is retained, three years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the Revised Code, records pertaining to burial sites under section 149.3010 of the Revised Code, or any record that is exempt from release or disclosure under section 149.433 of the Revised Code. If the record is a birth certificate and a biological parent's name redaction request form has been accepted under section 3107.391 of the Revised Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

(2)(a) "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 high probability of disclosure of any of the following:

(i) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(ii) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(iii) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(iv) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(b) As used in divisions (A)(2) and (18) of this section, "specific investigatory work product" means information assembled by law enforcement officials in connection with a probable or pending criminal or civil proceeding, with the exception of routine incident reports. "Specific investigatory work product" is not a public record prior to the conclusion of all direct appeals, or, if no appeal is filed, prior to the expiration of the time during which an appeal may be filed, or, if no trial has occurred, until the criminal or civil proceeding has ended without possibility of direct appeal or each agency, office, or official responsible for the matter has made a decision not to proceed with the matter.

(3) "Medical record" means any document or combination of documents, except births,

deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record created by or for another party or by or for that party's representative, in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, that is not a confidential law enforcement investigatory record or attorney work product record and that contains factual information that is specifically compiled for that civil or criminal action or proceeding.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

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

(7) "Designated public service worker" means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer.

(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:

(a) The address of the actual personal residence of a designated public service worker, except for the following information:

- (i) The address of the actual personal residence of a prosecuting attorney or judge; and
- (ii) The state or political subdivision in which a designated public service worker resides.

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

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life

insurance benefits, provided to a designated public service worker by the designated public service worker's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a designated public service worker;

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

(9) As used in divisions (A)(7) and (15) to (17) of this section:

"Peace officer" has the meaning defined in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of 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.

"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.

"County or multicounty corrections officer" means any corrections officer employed by any county or multicounty correctional facility.

"Designated Ohio national guard member" means a member of the Ohio national guard who is participating in duties related to remotely piloted aircraft, including, but not limited to, pilots, sensor operators, and mission intelligence personnel, duties related to special forces operations, or duties related to cybersecurity, and is designated by the adjutant general as a designated public service worker for those purposes.

"Protective services worker" means any employee of a county agency who is responsible for child protective services, child support services, or adult protective services.

"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.

"Firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

"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 meanings defined in section 4765.01 of the Revised Code.

"Investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

"Emergency service telecommunicator" means an individual employed by an emergency service provider as defined under section 128.01 of the Revised Code, whose primary responsibility is to be an operator for the receipt or processing of calls for emergency services made by telephone, radio, or other electronic means.

"Forensic mental health provider" means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, and reports to the probate court the respondent's mental condition.

"Regional psychiatric hospital employee" means any employee of the department of ~~mental health and addiction services~~ behavioral health who, in the course of performing the employee's duties, has contact with patients committed to the department of ~~mental health and addiction services~~ behavioral health by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.

(10) "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 pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

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

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

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

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

(11) "Community control sanction" has the meaning defined in section 2929.01 of the Revised Code.

(12) "Post-release control sanction" has the meaning defined in section 2967.01 of the Revised Code.

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

(14) "Designee," "elected official," and "future official" have the meanings defined in section 109.43 of the Revised Code.

(15) "Body-worn camera" means a visual and audio recording device worn on the person of a correctional employee, youth services employee, or peace officer while the correctional employee, youth services employee, or peace officer is engaged in the performance of official duties.

(16) "Dashboard camera" means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the department of rehabilitation and correction, department of youth services, or the law enforcement agency knows or has reason to know the person is a child based on the department's or law enforcement agency's records or the content of the recording;

(b) The death of a person or a deceased person's body, unless the death was caused by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(c) The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(d) Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(f) Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of

the injured person or the injured person's guardian has been obtained;

(g) An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(h) A person's nude body, unless, subject to division (H)(1) of this section, the person's consent has been obtained;

(i) Protected health information, the identity of a person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter;

(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;

(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;

(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;

(m) Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;

(n) A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency;

(o) A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities;

(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer;

(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location.

As used in division (A)(17) of this section:

"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.

"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

"Protected health information" has the same meaning as in 45 C.F.R. 160.103.

"Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties.

"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.

"Sex offense" has the same meaning as in section 2907.10 of the Revised Code.

"Firefighter," "paramedic," and "first responder" have the same meanings as in section 4765.01 of the Revised Code.

(18) "Attorney work product record" means a record that is not specific investigatory work product or a trial preparation record and that is created by an attorney, or by the agent of an attorney, in reasonable anticipation of or for litigation, trial, or administrative proceedings, when acting in an official capacity on behalf of the state, a political subdivision of the state, a state agency, a public official, or a public employee, that documents the independent thought processes, mental impressions, legal theories, strategies, analysis, or reasoning of an attorney or the agent of an attorney.

(19) "Elected official" means a person who is elected or appointed to an elective office of the state or a political subdivision.

(20) "Public calendar" means a calendar or appointment book maintained by an elected official to schedule the elected official's activities in relation to the elected official's position as an elected official. "Public calendar" does not include a personal calendar or appointment book maintained solely for an elected official's personal convenience that does not serve to document the elected official's official activities or functions or the official activities or functions of the elected official's public office.

(21) "Member of the victim's family" has the same meaning as in section 2930.01 of the Revised Code.

(B)(1) Upon request by any person and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time.

When considering whether a state or local law enforcement agency or a prosecuting attorney's office promptly prepared a video record for inspection or produced a copy of a video record within a reasonable period of time, in addition to any other factors, a court shall consider the time required for a state or local law enforcement agency or a prosecuting attorney's office to retrieve, download, review, redact, seek legal advice regarding, and produce the video record. Except as specified in division (B)(11) of this section, notwithstanding any other requirement set

forth in Chapter 149. of the Revised Code, a state or local law enforcement agency or a prosecuting attorney's office may charge a requester the actual cost associated with preparing a video record for inspection or production, not to exceed seventy-five dollars per hour of video produced, nor seven hundred fifty dollars total. As used in this division, "actual cost," with respect to video records only, means all costs incurred by the state or local law enforcement agency or a prosecuting attorney's office in reviewing, blurring or otherwise obscuring, redacting, uploading, or producing the video records, including but not limited to the storage medium on which the record is produced, staff time, and any other relevant overhead necessary to comply with the request. A state or local law enforcement agency or a prosecuting attorney's office may include in its public records policy the requirement that a requester pay the estimated actual cost before beginning the process of preparing a video record for inspection or production. Where a state or local law enforcement agency or a prosecuting attorney's office imposes such a requirement, its obligation to produce a video or make it available for inspection begins once the estimated actual cost is paid in full by the requester. A state or local law enforcement agency or a prosecuting attorney's office shall provide the requester with the estimated actual cost within five business days of receipt of the public records request. If the actual cost exceeds the estimated actual cost, a state or local law enforcement agency or a prosecuting attorney's office may charge a requester for the difference upon fulfilling a request for video records if the requester is notified in advance that the actual cost may be up to twenty per cent higher than the estimated actual cost. A state or local law enforcement agency or a prosecuting attorney's office shall not charge a requester a difference that exceeds twenty per cent of the estimated actual cost.

If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction. When the auditor of state receives a request to inspect or to make a copy of a record that was provided to the auditor of state for purposes of an audit, but the original public office has asserted to the auditor of state that the record is not a public record, the auditor of state may handle the requests by directing the requestor to the original public office that provided the record to the auditor of state.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty

in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

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

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

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

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division. The public office or the person responsible for the public record shall permit the requester to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the requester makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public

record to make the copies of the public record.

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

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

(c) In any policy and procedures adopted under division (B)(7) of this section:

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

(ii) A public office that chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site, may limit to ten per month the number of records requested by a person that the office will deliver in a digital format, unless the requested records are not provided on the web site and unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

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

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the

judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person. As used in this division, "public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation were an adult" includes, but is not limited to, personnel files and payroll and attendance records of designated public service workers.

(9)(a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the designated public service worker's spouse, former spouse, or child, and any past, current, and future work schedules of the designated public service worker. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for:

(i) Customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information;

(ii) Information about minors involved in a school vehicle accident as provided in division (A)(1)(gg) of this section, other than personal information as defined in section 149.45 of the Revised Code;

(iii) A request form submitted to a public office under section 149.45 of the Revised Code;

(iv) An affidavit submitted under section 319.28 of the Revised Code.

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

(10) Upon a request made by a victim, victim's attorney, or victim's representative, as that term is used in section 2930.02 of the Revised Code, a public office or person responsible for public records shall transmit a copy of a depiction of the victim as described in division (A)(1)(ii) of this section to the victim, victim's attorney, or victim's representative.

(11) A state or local law enforcement agency or a prosecuting attorney's office shall not charge a fee for preparing a video record for inspection, or producing a copy of a video record, when the requester of the video record is a victim, as defined in Ohio Constitution, Article I, Section 10a, or who is a victim who suffered loss and could seek remedy through a tort action as defined by section 2307.011 of the Revised Code, who reasonably asserts that the video recording relates to the act or omission that caused the victim's harm or loss, or who is the legal counsel or insurer of the

victim. A fee under this section may only be waived upon the receipt of an affidavit by the victim or the victim's legal counsel identifying that the use of the video is to investigate harm or damages that may have been captured on the video.

As used in this division, "legal counsel of the victim" means an attorney who, at the time of making the request, produces to the state or local law enforcement agency or a prosecuting attorney's office a signed retention agreement or letter of representation that establishes that the attorney is representing the victim.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may serve pursuant to Rule 4 of the Ohio Rules of Civil Procedure a complaint, on a form prescribed by the clerk of the court of claims, to the public office or person responsible for public records allegedly responsible for the alleged failure. Upon receipt of the complaint of the person allegedly aggrieved, the public office or person responsible for public records has three business days to cure or otherwise address the failure alleged in the complaint. The person allegedly aggrieved shall not file a complaint with a court or commence a mandamus action under this section within the three-day period. Upon the expiration of the three-day period, the person allegedly aggrieved may, subject to the requirements of division (C)(2) of this section, do only one of the following, and not both:

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

(b) Commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(3) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(2) Upon filing a complaint or mandamus action with a court under divisions (C)(1)(a) or (b) of this section, a person allegedly aggrieved shall file with the court, in conjunction with the person's complaint or petition, a written affirmation stating that the person properly transmitted a complaint to the public office or person responsible for public records, the failure alleged in the complaint has not been cured or otherwise resolved to the person's satisfaction, and that the complaint was transmitted to the public office or person responsible for public records at least three business days before the filing of the suit. If the person fails to file an affirmation pursuant to this division, the suit

shall be dismissed.

(3) If a requester transmits a written request by hand delivery, electronic submission, or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requester shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section. Statutory damages are not available pursuant to this section to a person committed to the custody of the department of rehabilitation and correction or the United States bureau of prisons, or a child committed to the department of youth services as permitted in Chapter 2152. of the Revised Code.

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

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

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

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

(4) In a mandamus action filed under division (C)(1) of this section, the following apply:

(a)(i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C)(4)(b)(iii) of this section, the

court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to division (C)(5) of this section:

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

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

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

(c) The court shall not award attorney's fees to the relator if the court determines both of the following:

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

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

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

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

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C)(5) (c) of this section.

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

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

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

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

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. A future official may satisfy the requirements of this division by attending the training before taking office, provided that the future official may not send a designee in the future official's place.

(2) All public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

The public office shall distribute the public records policy adopted by the public office under this division to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies

and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

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

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

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

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

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

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

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

(G) A request by a defendant, counsel of a defendant, or any agent of a defendant in a criminal action that public records related to that action be made available under this section shall be considered a demand for discovery pursuant to the Criminal Rules, except to the extent that the Criminal Rules plainly indicate a contrary intent. The defendant, counsel of the defendant, or agent of the defendant making a request under this division shall serve a copy of the request on the prosecuting attorney, director of law, or other chief legal officer responsible for prosecuting the

action.

(H)(1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A)(17)(b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:

(a) The recording will not be used in connection with any probable or pending criminal proceedings;

(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A)(17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

Sec. 2929.20. (A) As used in this section:

(1)(a) Except as provided in division (A)(1)(b) of this section, "eligible offender" means any person who, on or after April 7, 2009, is serving a stated prison term that includes one or more nonmandatory prison terms. A person may be an eligible offender and also may be an eighty per cent-qualifying offender or, during a declared state of emergency, a state of emergency-qualifying offender.

(b) "Eligible offender" does not include any person who, on or after April 7, 2009, is serving a stated prison term for any of the following criminal offenses that was a felony and was committed while the person held a public office in this state:

(i) A violation of section 2921.02, 2921.03, 2921.05, 2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised Code;

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 2921.12 of the Revised Code, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(iii) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(i) of this section;

(iv) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(ii) of this section, when the conduct constituting the violation was related to the duties of the offender's

public office or to the offender's actions as a public official holding that public office;

(v) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(i) or described in division (A)(1)(b)(iii) of this section;

(vi) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(ii) or described in division (A)(1)(b)(iv) of this section, if the conduct constituting the offense that was the subject of the conspiracy, that would have constituted the offense attempted, or constituting the offense in which the offender was complicit was or would have been related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.

(2) "State of emergency-qualifying offender" means any inmate to whom all of the following apply:

(a) The inmate is serving a stated prison term during a state of emergency that is declared by the governor as a direct response to a pandemic or public health emergency.

(b) The geographical area covered by the declared state of emergency includes the location at which the inmate is serving the stated prison term described in division (A)(2)(a) of this section.

(c) There is a direct nexus between the emergency that is the basis of the governor's declaration of the state of emergency and the circumstances of, and need for release of, the inmate.

(3)(a) "Eighty per cent-qualifying offender" means an offender who is serving a stated prison term of one year or more, on or after April 4, 2023, who has commenced service of that stated prison term, who is not serving a stated prison term that includes a disqualifying prison term or a stated prison term that consists solely of one or more restricting prison terms, and to whom either of the following applies:

(i) If the offender is serving a stated prison term of one year or more that includes one or more restricting prison terms and one or more eligible prison terms, the offender has fully served all restricting prison terms and has served eighty per cent of that stated prison term that remains to be served after all restricting prison terms have been fully served.

(ii) If the offender is serving a stated prison term of one year or more that consists solely of one or more eligible prison terms, the offender has served eighty per cent of that stated prison term.

(b) For purposes of determining whether an offender is an eighty per cent-qualifying offender under division (A)(3)(a) of this section:

(i) If the offender's stated prison term includes consecutive prison terms, any restricting prison terms shall be deemed served prior to any eligible prison terms that run consecutively to the restricting prison terms, and the eligible prison terms are deemed to commence after all of the restricting prison terms have been fully served.

(ii) An offender serving a stated prison term of one year or more that includes a mandatory prison term that is not a disqualifying prison term and is not a restricting prison term is not automatically disqualified from being an eighty per cent-qualifying offender as a result of the offender's service of that mandatory term for release from prison under this section, and the offender

may be eligible for release from prison in accordance with this division and division (O) of this section.

(4) "Nonmandatory prison term" means a prison term that is not a mandatory prison term.

(5) "Public office" means any elected federal, state, or local government office in this state.

(6) "Victim's representative" has the same meaning as in section 2930.01 of the Revised Code.

(7) "Imminent danger of death," "medically incapacitated," and "terminal illness" have the same meanings as in section 2967.05 of the Revised Code.

(8) "Aggregated nonmandatory prison term or terms" means the aggregate of the following:

(a) All nonmandatory definite prison terms;

(b) With respect to any non-life felony indefinite prison term, all nonmandatory minimum prison terms imposed as part of the non-life felony indefinite prison term or terms.

(9) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(10) "Disqualifying prison term" means any of the following:

(a) A prison term imposed for aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, kidnapping, rape, aggravated arson, aggravated burglary, or aggravated robbery;

(b) A prison term imposed for complicity in, an attempt to commit, or conspiracy to commit any offense listed in division (A)(10)(a) of this section;

(c) A prison term of life imprisonment, including any term of life imprisonment that has parole eligibility;

(d) A prison term imposed for any felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance;

(e) A prison term imposed for any violation of section 2925.03 of the Revised Code that is a felony of the first or second degree;

(f) A prison term imposed for engaging in a pattern of corrupt activity in violation of section 2923.32 of the Revised Code;

(g) A prison term imposed pursuant to section 2971.03 of the Revised Code;

(h) A prison term imposed for any sexually oriented offense.

(11) "Eligible prison term" means any prison term that is not a disqualifying prison term and is not a restricting prison term.

(12) "Restricting prison term" means any of the following:

(a) A mandatory prison term imposed under division (B)(1)(a), (B)(1)(c), (B)(1)(f), (B)(1)(g), (B)(2), or (B)(7) of section 2929.14 of the Revised Code for a specification of the type described in that division;

(b) In the case of an offender who has been sentenced to a mandatory prison term for a

specification of the type described in division (A)(12)(a) of this section, the prison term imposed for the felony offense for which the specification was stated at the end of the body of the indictment, count in the indictment, or information charging the offense;

(c) A prison term imposed for trafficking in persons;

(d) A prison term imposed for any offense that is described in division (A)(12)(d)(i) of this section if division (A)(12)(d)(ii) of this section applies to the offender:

(i) The offense is a felony of the first or second degree that is an offense of violence and that is not described in division (A)(10)(a) or (b) of this section, an attempt to commit a felony of the first or second degree that is an offense of violence and that is not described in division (A)(10)(a) or (b) of this section if the attempt is a felony of the first or second degree, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to any other offense described in this division.

(ii) The offender previously was convicted of or pleaded guilty to any offense listed in division (A)(10) or (A)(12)(d)(i) of this section.

(13) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(14) "Stated prison term of one year or more" means a definite prison term of one year or more imposed as a stated prison term, or a minimum prison term of one year or more imposed as part of a stated prison term that is a non-life felony indefinite prison term.

(B) On the motion of an eligible offender, on the motion of a state of emergency-qualifying offender made during the declared state of emergency, or on its own motion with respect to an eligible offender or with respect to a state of emergency-qualifying offender during the declared state of emergency, the sentencing court may reduce the offender's aggregated nonmandatory prison term or terms through a judicial release under this section.

(C)(1) Subject to division (C)(2) of this section, an eligible offender may file a motion for judicial release with the sentencing court, or a state of emergency-qualifying offender may file a motion for judicial release with the sentencing court during the declared state of emergency, within the following applicable periods:

(a) If the aggregated nonmandatory prison term or terms is less than two years, the eligible offender or state of emergency-qualifying offender may file the motion at any time after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, at any time after the expiration of all mandatory prison terms.

(b) If the aggregated nonmandatory prison term or terms is at least two years but less than five years, the eligible offender or state of emergency-qualifying offender may file the motion not earlier than one hundred eighty days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than one hundred eighty days after the expiration of all mandatory prison terms.

(c) If the aggregated nonmandatory prison term or terms is five years, the eligible offender

or state of emergency-qualifying offender may file the motion not earlier than the date on which the offender has served four years of the offender's stated prison term or, if the prison term includes a mandatory prison term or terms, not earlier than four years after the expiration of all mandatory prison terms.

(d) If the aggregated nonmandatory prison term or terms is more than five years but not more than ten years, the eligible offender or state of emergency-qualifying offender may file the motion not earlier than the date on which the offender has served five years of the offender's stated prison term or, if the prison term includes a mandatory prison term or terms, not earlier than five years after the expiration of all mandatory prison terms.

(e) If the aggregated nonmandatory prison term or terms is more than ten years, the eligible offender or state of emergency-qualifying offender may file the motion not earlier than the later of the date on which the offender has served one-half of the offender's stated prison term or the date specified in division (C)(1)(d) of this section.

(f) With respect to a state of emergency-qualifying offender, if the offender's prison term does not include a mandatory prison term or terms, or if the offender's prison term includes one or more mandatory prison terms and the offender has completed the mandatory prison term or terms, the state of emergency-qualifying offender may file the motion at any time during the offender's aggregated nonmandatory prison term or terms, provided that time also is during the declared state of emergency.

(2) During any single declared state of emergency, a state of emergency-qualifying offender may only file a motion for judicial release as a state of emergency-qualifying offender with the sentencing court during that declared state of emergency once every six months.

(D)(1)(a) Upon receipt of a timely motion for judicial release filed by an eligible offender or a state of emergency-qualifying offender under division (C) of this section, or upon the sentencing court's own motion made within the appropriate time specified in that division, the court may deny the motion without a hearing or schedule a hearing on the motion. The court may grant the motion without a hearing for an offender under consideration for judicial release as a state of emergency-qualifying offender, but the court shall not grant the motion without a hearing for an offender under consideration as an eligible offender. If a court denies a motion without a hearing, the court later may consider judicial release for that eligible offender or that state of emergency-qualifying offender on a subsequent motion. For an offender under consideration for judicial release as an eligible offender, but not for one under consideration as a state of emergency-qualifying offender, the court may deny the motion with prejudice. If a court denies a motion with prejudice, the court may later consider judicial release on its own motion. For an offender under consideration for judicial release as a state of emergency-qualifying offender, the court shall not deny a motion with prejudice. For an offender under consideration for judicial release as an eligible offender, but not for one under consideration as a state of emergency-qualifying offender, if a court denies a motion after a hearing, the court shall not consider a subsequent motion for that offender based on the offender's

classification as an eligible offender. The court may hold multiple hearings for any offender under consideration for judicial release as a state of emergency-qualifying offender, but shall hold only one hearing for any offender under consideration as an eligible offender.

(b) If an offender is under consideration for judicial release as an eligible offender and the motion is denied, and if the offender at that time also is or subsequently becomes a state of emergency-qualifying offender, the denial does not limit or affect any right of the offender to file a motion under this section for consideration for judicial release as a state of emergency-qualifying offender or for the court on its own motion to consider the offender for judicial release as a state of emergency-qualifying offender.

If an offender is under consideration for judicial release as a state of emergency-qualifying offender and the motion is denied, and if the offender at that time also is or subsequently becomes an eligible offender, the denial does not limit or affect any right of the offender to file a motion under this section for consideration for judicial release as an eligible offender or for the court on its own motion to consider the offender for judicial release as an eligible offender.

(2)(a) With respect to a motion for judicial release filed by an offender as an eligible offender or made by the court on its own motion for an offender as an eligible offender, a hearing under this section shall be conducted in open court not less than thirty or more than sixty days after the motion is filed, provided that the court may delay the hearing for one hundred eighty additional days. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within sixty days after the motion is filed.

(b) With respect to a motion for judicial release filed by an offender as a state of emergency-qualifying offender or made by the court on its own motion for an offender as a state of emergency-qualifying offender, the court shall notify the prosecuting attorney of the county in which the offender was indicted and may order the prosecuting attorney to respond to the motion in writing within ten days. The prosecuting attorney shall notify the victim pursuant to the Ohio Constitution. The prosecuting attorney shall include in the response any statement that the victim wants to be represented to the court. The court shall consider any response from the prosecuting attorney and any statement from the victim in its ruling on the motion. After receiving the response from the prosecuting attorney, the court either shall order a hearing consistent with divisions (E) to (I) of this section as soon as possible, or shall enter its ruling on the motion for judicial release as soon as possible. If the court conducts a hearing, the hearing shall be conducted in open court or by a virtual, telephonic, or other form of remote hearing. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within ten days after the motion is filed or after it receives the response from the prosecuting attorney.

(E) If a court schedules a hearing under divisions (D)(1) and (2)(a) of this section or under divisions (D)(1) and (2)(b) of this section, the court shall notify the subject eligible offender or state

of emergency-qualifying offender and the head of the state correctional institution in which that subject offender is confined prior to the hearing. The head of the state correctional institution immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the subject offender's name and all of the information specified in division (A)(1)(c)(i) of that section. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the subject eligible offender or state of emergency-qualifying offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall do whichever of the following is applicable:

(1) Subject to division (E)(2) of this section, notify the victim of the offense and the victim's representative, if applicable, pursuant to the Ohio Constitution and division (B) of section 2930.16 of the Revised Code;

(2) If the offense was an offense of violence that is a felony of the first, second, or third degree, except as otherwise provided in this division, pursuant to the Ohio Constitution, notify the victim and the victim's representative, if applicable, of the hearing regardless of whether the victim or victim's representative has requested the notification. Except when notice to the victim is required under the Ohio Constitution, the notice of the hearing shall not be given under this division to a victim or victim's representative if the victim or victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or the victim's representative not be provided the notice. If notice is to be provided to a victim or victim's representative under this division, the prosecuting attorney may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The prosecuting attorney, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division. Division (E)(2) of this section, and the notice-related provisions of division (K) of this section, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19 as it existed prior to April 4, 2023, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (E)(2) of this section was enacted, shall be known as "Roberta's Law."

(F) Upon an offender's successful completion of rehabilitative activities, the head of the state correctional institution may notify the sentencing court of the successful completion of the activities.

(G) Prior to the date of the hearing on a motion for judicial release made by an eligible offender, by a state of emergency-qualifying offender, or by a court on its own under this section, the head of the state correctional institution in which the subject offender is confined shall send to

the court an institutional summary report on the offender's conduct in the institution and in any institution from which the offender may have been transferred. Upon the request of the prosecuting attorney of the county in which the subject offender was indicted or of any law enforcement agency, the head of the state correctional institution, at the same time the person sends the institutional summary report to the court, also shall send a copy of the report to the requesting prosecuting attorney and law enforcement agencies. The institutional summary report shall cover the subject offender's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the subject offender. The report shall be made part of the record of the hearing. A presentence investigation report is not required for judicial release.

(H) If the court grants a hearing on a motion for judicial release made by an eligible offender, by a state of emergency-qualifying offender, or by a court on its own under this section, the subject offender shall attend the hearing if ordered to do so by the court. Upon receipt of a copy of the journal entry containing the order, the head of the state correctional institution in which the subject offender is incarcerated shall deliver the subject offender to the sheriff of the county in which the hearing is to be held. The sheriff shall convey the subject offender to and from the hearing.

(I) At the hearing on a motion for judicial release under this section made by an eligible offender, by a state of emergency-qualifying offender, or by a court on its own, the court shall afford the subject offender and the offender's attorney an opportunity to present written and, if present, oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim, the victim's representative, the victim's attorney, if applicable, and any other person the court determines is likely to present additional relevant information. The court shall consider any oral or written statement of a victim, victim's representative, and victim's attorney, if applicable, made pursuant to section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared pursuant to section 2947.051 of the Revised Code, and any report made under division (G) of this section. The court may consider any written statement of any person submitted to the court pursuant to division (L) of this section.

If the motion alleges that the offender who is the subject of the motion is an eligible offender and the court makes an initial determination that the offender satisfies the criteria for being an eligible offender, or if the motion alleges that the offender who is the subject of the motion is a state of emergency-qualifying offender and the court makes an initial determination that the offender satisfies the criteria for being a state of emergency-qualifying offender, the court shall determine whether to grant the motion. After ruling on the motion, the court shall notify the prosecuting attorney of the county in which the eligible offender or state of emergency-qualifying offender was indicted of the ruling, and the prosecuting attorney shall notify the victim and the victim's representative of the ruling in accordance with sections 2930.03 and 2930.16 of the Revised Code or, if the court granted the motion, in accordance with division (K) of this section.

(J)(1) A court shall not grant a judicial release under this section to an offender who is imprisoned for a felony of the first or second degree and who is under consideration as an eligible offender, or to an offender who committed an offense under Chapter 2925. or 3719. of the Revised Code, who is under consideration as an eligible offender, and for whom there was a presumption under section 2929.13 of the Revised Code in favor of a prison term, unless the court, with reference to factors under section 2929.12 of the Revised Code, finds both of the following:

(a) That a sanction other than a prison term would adequately punish the offender and protect the public from future criminal violations by the offender because the applicable factors indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism;

(b) That a sanction other than a prison term would not demean the seriousness of the offense because factors indicating that the offender's conduct in committing the offense was less serious than conduct normally constituting the offense outweigh factors indicating that the eligible offender's conduct was more serious than conduct normally constituting the offense.

(2) A court that grants a judicial release under division (J)(1) of this section to an offender who is under consideration as an eligible offender shall specify on the record both findings required in that division and also shall list all the factors described in that division that were presented at the hearing.

(3)(a) Subject to division (J)(3)(b) of this section, a court shall grant a judicial release under this section to an offender who is under consideration as a state of emergency-qualifying offender if the court determines that the risks posed by incarceration to the health and safety of the offender, because of the nature of the declared state of emergency, outweigh the risk to public safety if the offender were to be released from incarceration.

(b) A court shall not grant a judicial release under this section to an offender who is imprisoned for a felony of the first or second degree and is under consideration for judicial release as a state of emergency-qualifying offender unless the court, with reference to the factors specified under section 2929.12 of the Revised Code, finds both of the criteria set forth in divisions (J)(1)(a) and (b) of this section.

(K) If the court grants a motion for judicial release under this section, the court shall order the release of the eligible offender or state of emergency-qualifying offender, shall place the offender under an appropriate community control sanction, under appropriate conditions, and under the supervision of the department of probation serving the court and shall reserve the right to reimpose the sentence that it reduced if the offender violates the sanction. If the court reimposes the reduced sentence, it may do so either concurrently with, or consecutive to, any new sentence imposed on the eligible offender or state of emergency-qualifying offender as a result of the violation that is a new offense. Except as provided in division (N)(5)(b) of this section, the period of community control shall be no longer than five years. The court, in its discretion, may reduce the period of community control by the amount of time the offender spent in jail or prison for the

offense and in prison. If the court made any findings pursuant to division (J)(1) of this section, the court shall serve a copy of the findings upon counsel for the parties within fifteen days after the date on which the court grants the motion for judicial release.

If the court grants a motion for judicial release, the court shall notify the appropriate person at the department of rehabilitation and correction, and the department shall post notice of the release on the database it maintains pursuant to section 5120.66 of the Revised Code. The court also shall notify the prosecuting attorney of the county in which the eligible offender or state of emergency-qualifying offender was indicted that the motion has been granted. When notice to the victim is required under the Ohio Constitution, the prosecuting attorney shall notify the victim and the victim's representative, if applicable, of the judicial release. In all other cases, unless the victim or the victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or victim's representative not be provided the notice, the prosecuting attorney shall notify the victim and the victim's representative, if applicable, of the judicial release in any manner, and in accordance with the same procedures, pursuant to which the prosecuting attorney is authorized to provide notice of the hearing pursuant to division (E)(2) of this section. If the notice is based on an offense committed prior to March 22, 2013, the notice to the victim or victim's representative also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code.

(L) In addition to and independent of the right of a victim to make a statement pursuant to section 2930.14, 2930.17, or 2946.051 of the Revised Code and any right of a person to present written information or make a statement pursuant to division (I) of this section, any person may submit to the court, at any time prior to the hearing on the motion for judicial release of the eligible offender or state of emergency-qualifying offender, a written statement concerning the effects of the offender's criminal offense, the circumstances surrounding the criminal offense, the manner in which the criminal offense was perpetrated, and the person's opinion as to whether the offender should be released.

(M)(1) The changes to this section that are made on September 30, 2011, apply to any judicial release decision made on or after September 30, 2011, for any eligible offender, subject to division (M)(2) of this section.

(2) The changes to this section that are made on April 4, 2023, apply to any judicial release application, and any judicial release decision, made on or after April 4, 2023, for any eligible offender or state of emergency-qualifying offender.

(N)(1) Notwithstanding the eligibility requirements specified in divisions (A)(1) and (2) of this section and the filing time frames specified in division (C) of this section and notwithstanding the findings required under division (J)(1) and the eligibility criteria specified in division (J)(3) of this section, the sentencing court, upon the court's own motion and after considering whether the release of the offender into society would create undue risk to public safety, may grant a judicial release to an offender who is not serving a life sentence at any time during the offender's imposed

sentence when the director of rehabilitation and correction certifies to the sentencing court through the chief medical officer for the department of rehabilitation and correction that the offender is in imminent danger of death, is medically incapacitated, or has a terminal illness.

(2) The director of rehabilitation and correction shall not certify any offender under division (N)(1) of this section who is serving a death sentence.

(3) A motion made by the court under division (N)(1) of this section is subject to the notice, hearing, and other procedural requirements specified in divisions (D), (E), (G), (H), (I), (K), and (L) of this section with respect to motions for a grant of judicial release to eligible offenders, including notice to the victim, except for the following:

(a) The court may waive the offender's appearance at any hearing scheduled by the court if the offender's condition makes it impossible for the offender to participate meaningfully in the proceeding.

(b) The court may grant the motion without a hearing, provided that the prosecuting attorney, victim, and victim's representative, if applicable, to whom notice of the hearing was provided under division (E) of this section indicate that they do not wish to participate in the hearing or present information relevant to the motion.

~~(4)(4)(a)~~ The court may request health care records from the department of rehabilitation and correction to verify the certification made under division (N)(1) of this section.

(b) The prosecuting attorney may request health care records from the department of rehabilitation and correction for the purpose of presenting information relevant to a motion made under division (N)(1) of this section. Upon request, the department shall provide the requested records.

(5)(a) If the court grants judicial release under division (N)(1) of this section, the court shall do all of the following:

(i) Order the release of the offender;

(ii) Place the offender under an appropriate community control sanction, under appropriate conditions;

(iii) Place the offender under the supervision of the department of probation serving the court or under the supervision of the adult parole authority.

(b) The court, in its discretion, may revoke the judicial release if the offender violates the community control sanction described in division (N)(5)(a) of this section. The period of that community control is not subject to the five-year limitation described in division (K) of this section and shall not expire earlier than the date on which all of the offender's mandatory prison terms expire.

(6) If the health of an offender who is released under division (N)(1) of this section improves so that the offender is no longer terminally ill, medically incapacitated, or in imminent danger of death, the court shall, upon the court's own motion, revoke the judicial release. The court shall not grant the motion without a hearing unless the offender waives a hearing. If a hearing is held, the

court shall afford the offender and the offender's attorney an opportunity to present written and, if the offender or the offender's attorney is present, oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim, the victim's representative, the victim's attorney, if applicable, and any other person the court determines is likely to present additional relevant information. If a hearing is held, the prosecuting attorney shall notify the victim and the victim's representative, if applicable, pursuant to the Ohio Constitution. A court that grants a motion under this division shall specify its findings on the record.

(O)(1) Separate from and independent of the provisions of divisions (A) to (N) of this section, the director of the department of rehabilitation and correction may recommend in writing to the sentencing court that the court consider releasing from prison, through a judicial release, any offender who is confined in a state correctional institution and who is an eighty per cent-qualifying offender. The director may file such a recommendation for judicial release by submitting to the sentencing court a notice, in writing, of the recommendation within the applicable period specified in division (A)(3) of this section for qualifying as an eighty per cent-qualifying offender.

The director shall include with any notice submitted to the sentencing court under this division an institutional summary report that covers the offender's participation while confined in a state correctional institution in school, training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. The director shall include with the notice any other documentation requested by the court, if available.

If the director submits a notice under this division recommending judicial release, the department promptly shall provide to the prosecuting attorney of the county in which the offender was indicted a copy of the written notice and recommendation, a copy of the institutional summary report, and any other information provided to the court, and shall provide a copy of the institutional summary report to any law enforcement agency that requests the report. The department also shall provide written notice of the submission of the director's notice to any victim of the offender or victim's representative, if applicable, in the same manner as is specified in divisions (E)(1) and (2) of this section with respect to notices of hearings.

(2) A recommendation for judicial release in a notice submitted by the director under division (O)(1) of this section is subject to the notice, hearing, and other procedural requirements specified in divisions (E), (H), (I), and (L) of this section, including notice to the victim pursuant to the Ohio Constitution, except as otherwise specified in divisions (O)(3) to (5) of this section, provided that references in divisions (E), (H), (I), (K), and (L) of this section to "the motion" shall be construed for purposes of division (O) of this section as being references to the notice and recommendation specified in division (O)(1) of this section.

(3) The director's submission of a notice under division (O)(1) of this section constitutes a recommendation by the director that the court strongly consider a judicial release of the offender consistent with the purposes and principles of sentencing set forth in sections 2929.11 and 2929.13 of the Revised Code and establishes a rebuttable presumption that the offender shall be released

through a judicial release in accordance with the recommendation. The presumption of release may be rebutted only as described in division (O)(6) of this section. Only an offender recommended by the director under division (O)(1) of this section may be considered for a judicial release under division (O) of this section.

(4) Upon receipt of a notice recommending judicial release submitted by the director under division (O)(1) of this section, the court shall schedule a hearing to consider the recommendation for the judicial release of the offender who is the subject of the notice. The hearing shall be conducted in open court not less than thirty or more than sixty days after the notice is submitted. The court shall inform the department and the prosecuting attorney of the county in which the offender who is the subject of the notice was indicted of the date, time, and location of the hearing. Upon receipt of the notice from the court, the prosecuting attorney shall comply with division (E) of this section, including providing notice to the victim and the victim's representative, if applicable, pursuant to the Ohio Constitution, and the department shall post the information specified in that division.

(5) When a court schedules a hearing under division (O)(4) of this section, at the hearing, the court shall consider all of the following in determining whether to grant the offender judicial release under division (O) of this section:

- (a) The institutional summary report submitted under division (O)(1) of this section;
- (b) The inmate's academic, vocational education programs, or alcohol or drug treatment programs; or involvement in meaningful activity;
- (c) The inmate's assignments and whether the inmate consistently performed each work assignment to the satisfaction of the department staff responsible for supervising the inmate's work;
- (d) The inmate transferred to and actively participated in core curriculum programming at a reintegration center prison;
- (e) The inmate's disciplinary history;
- (f) The inmate's security level;
- (g) All other information, statements, reports, and documentation described in division (I) of this section.

(6) If the court that receives a notice recommending judicial release submitted by the director under division (O)(1) of this section makes an initial determination that the offender satisfies the criteria for being an eighty per cent-qualifying offender, the court then shall determine whether to grant the offender judicial release. In making the second determination, the court shall grant the offender judicial release unless the prosecuting attorney proves to the court, by a preponderance of the evidence, that the legitimate interests of the government in maintaining the offender's confinement outweigh the interests of the offender in being released from that confinement. If the court grants a judicial release under this division, division (K) of this section applies regarding the judicial release, including notice to the victim and the victim's representative, if applicable, pursuant to the Ohio Constitution, provided that references in division (K) of this section to "the motion" shall be construed for purposes of the judicial release granted under this

division as being references to the notice and recommendation specified in division (O)(1) of this section.

The court shall enter its ruling on the notice recommending judicial release submitted by the director under division (O)(1) of this section within ten days after the hearing is conducted. After ruling on whether to grant the offender judicial release under division (O) of this section, the court shall notify the offender, the prosecuting attorney, and the department of rehabilitation and correction of its decision, and shall notify the victim of its decision in accordance with the Ohio Constitution and sections 2930.03 and 2930.16 of the Revised Code. If the court does not enter a ruling on the notice within ten days after the hearing is conducted as required under this division, the division of parole and community services of the department of rehabilitation and correction may release the offender.

(P) All notices to a victim of an offense provided under division (D), (E), (K), (N), or (O) of this section shall be provided in accordance with the Ohio Constitution.

Sec. 5120.115. (A) Each authorized user of the single validated risk assessment tool described in section 5120.114 of the Revised Code shall have access to all reports generated by the risk assessment tool and all data stored in the risk assessment tool. Reports generated by the risk assessment tool shall be disclosed in a manner that ensures the security and confidentiality of information in the reports. An authorized user may disclose any report generated by the risk assessment tool to ~~law~~ any of the following:

(1) Law enforcement agencies, halfway houses, and medical, mental health, and substance abuse treatment providers for penological and rehabilitative purposes. ~~An authorized user may also disclose any report generated by the risk assessment tool to qualified~~;

(2) Attorneys of prisoners and prosecutors for purposes related to parole proceedings;

(3) Qualified persons and research organizations for research, evaluative, and statistical purposes under the terms of written agreements between the authorized user and the recipients of the report. ~~Reports generated by the risk assessment tool shall be disclosed in a manner that ensures the security and confidentiality of information in the reports.~~

(B) All reports generated by or data collected in the risk assessment tool are confidential information and are not a public record. No person shall disclose any report generated by or data collected in the risk assessment tool except as provided in division (A) of this section.

(C) As used in this section, "public record" has the same meaning as in section 149.43 of the Revised Code.

Sec. 5120.21. (A) The department of rehabilitation and correction shall keep in its office, accessible only to its employees, except by the consent of the department or the order of the judge of a court of record, and except as provided in division (C) of this section, a record showing the name, residence, sex, age, nativity, occupation, condition, and date of entrance or commitment of every inmate in the several institutions governed by it. The record also shall include the date, cause, and terms of discharge and the condition of such person at the time of leaving, a record of all transfers

from one institution to another, and, if such inmate is dead, the date and cause of death. These and other facts that the department requires shall be furnished by the managing officer of each institution within ten days after the commitment, entrance, death, or discharge of an inmate.

(B) In case of an accident or injury or peculiar death of an inmate, the managing officer shall make a special report to the department within twenty-four hours thereafter, giving the circumstances as fully as possible.

(C)(1) As used in this division, "medical record" means any document or combination of documents that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(2) A separate medical record of every inmate in an institution governed by the department shall be compiled, maintained, and kept apart from and independently of any other record pertaining to the inmate. Upon the signed written request of the inmate to whom the record pertains together with the written request of a person the inmate designates who is either a licensed attorney at law or a licensed physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner, the department shall make the inmate's medical record available to the designated attorney, physician, or nurse. The record may be inspected or copied by the inmate's designated attorney, physician, or nurse. The department may establish a reasonable fee for the copying of any medical record. If a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner concludes that presentation of all or any part of the medical record directly to the inmate will result in serious medical harm to the inmate, the physician or nurse shall so indicate on the medical record. An inmate's medical record shall be made available to a physician, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or attorney designated in writing by the inmate not more than once every twelve months.

(D) Notwithstanding any other law of this state or the United States to the contrary, the department and the officers of its institutions shall keep confidential and accessible only to its employees, except by the consent of the department or the order of a judge of a court of record, all of the following:

(1) Architectural, engineering, or construction diagrams, drawings, or plans of a correctional institution;

(2) Plans for hostage negotiation, for disturbance control, for the control and location of keys, and for dealing with escapes;

(3) Statements made by inmate informants;

(4) Records that are maintained by the department of youth services, that pertain to children in its custody, and that are released to the department of rehabilitation and correction by the department of youth services pursuant to section 5139.05 of the Revised Code;

(5) Victim impact statements and information provided by victims of crimes that the department considers when determining the security level assignment, program participation, and release eligibility of inmates;

(6) Information and data of any kind or medium pertaining to groups that pose a security threat;

(7) Conversations recorded from the monitored inmate telephones that involve nonprivileged communications.

(E)(1) Records regarding inmates committed to the department of rehabilitation and correction or records of persons under the supervision of the adult parole authority are not public records under section 149.43 of the Revised Code. Nothing in this division prohibits the disclosure of the following information related to inmates committed to the department of rehabilitation and correction:

(a) Name;

(b) Criminal convictions;

(c) Photograph;

(d) Supervision status, including current and past place of incarceration;

(e) Disciplinary history;

(f) Any information in the institutional summary report.

(2) Except as otherwise provided by a law of this state or the United States, the department of rehabilitation and correction may release inmate records to the department of youth services or a court of record, and the department of youth services or the court of record may use those records for the limited purpose of carrying out the duties of the department of youth services or the court of record. Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record shall remain confidential and shall not be considered public records as defined in section 149.43 of the Revised Code.

Sec. 5149.10. (A)(1) The parole board shall consist of up to twelve members, one of whom shall be designated as chairperson by the director of the department of rehabilitation and correction and who shall continue as chairperson until a successor is designated, and any other personnel that are necessary for the orderly performance of the duties of the board. In addition to the rules authorized by section 5149.02 of the Revised Code, the chief of the adult parole authority, subject to the approval of the chief of the division of parole and community services and subject to this section, shall adopt rules governing the proceedings of the parole board. The rules shall provide for all of the following:

(a) The convening of full board hearings;

(b) The procedures to be followed in full board hearings;

(c) General procedures to be followed in other hearings of the board and by the board's hearing officers;

(d) A requirement that a majority of all the board members must agree to any recommendation of clemency transmitted to the governor;

(e) For parole hearings, procedures for considering the report of the warden of the institution in which the eligible prisoner is incarcerated, submitted under section 5120.68 of the Revised Code;

(f) A requirement that electronic recordings be made of full parole board hearings, revocation hearings under section 2967.15 of the Revised Code, and post-release control violation hearings under section 2967.28 of the Revised Code.

(2) When the board members sit as a full board, the chairperson shall preside. The chairperson shall also allocate the work of the parole board among the board members. The full board shall meet at least once each month. In the case of a tie vote on the full board, the chief of the adult parole authority shall cast the deciding vote. The chairperson may designate a person to serve in the chairperson's place.

(3) Except for the chairperson and the member appointed under division (B) of this section, a member appointed to the parole board on or after September 30, 2011, shall be appointed to a six-year term. A member appointed as described in this division shall hold office from the date of appointment until the end of the term for which the member was appointed. A member appointed as described in this division is eligible for reappointment for another six-year term that may or may not be consecutive to the first six-year term. A member appointed as described in this division is not eligible for reappointment after serving two six-year terms whether or not served consecutively. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed as described in this division to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall begin that member's first six-year term upon appointment, regardless of the time remaining in the term of the member's predecessor. A member appointed as described in this division shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(4) Except as otherwise provided in division (B) of this section, no person shall be appointed a member of the board who is not qualified by education or experience in correctional work, including law enforcement, prosecution of offenses, advocating for the rights of victims of crime, probation, or parole, in law, in social work, or in a combination of the three categories.

(B) The director of rehabilitation and correction, in consultation with the governor, shall appoint one member of the board, who shall be a person who has been a victim of crime or who is a member of a victim's family or who represents an organization that advocates for the rights of victims of crime. After appointment, this member shall be an unclassified employee of the department of rehabilitation and correction.

The initial appointment shall be for a term ending four years after July 1, 1996. Thereafter, the term of office of the member appointed under this division shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. The member shall hold office from the date of appointment until the end of the term for which the member was appointed and may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed under this division to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the

remainder of that term. The member appointed under this division shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The member appointed under this division shall be compensated in the same manner as other board members and shall be reimbursed for actual and necessary expenses incurred in the performance of the member's duties. The member may vote on all cases heard by the full board under section 5149.101 of the Revised Code, has such duties as are assigned by the chairperson of the board, and shall coordinate the member's activities with the office of victims' services created under section 5120.60 of the Revised Code.

As used in this division, "crime," "member of the victim's family," and "victim" have the meanings given in section 2930.01 of the Revised Code.

(C) The chairperson shall submit all recommendations for or against clemency directly to the governor.

(D) The chairperson shall transmit to the chief of the adult parole authority all determinations for or against parole made by the board. Parole determinations are final and are not subject to review or change by the chief.

(E) In addition to its duties pertaining to parole and clemency, if an offender is sentenced to a prison term pursuant to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code, the parole board shall have control over the offender's service of the prison term during the entire term unless the board terminates its control in accordance with section 2971.04 of the Revised Code. The parole board may terminate its control over the offender's service of the prison term only in accordance with section 2971.04 of the Revised Code.

(F) All written and oral statements provided by a victim or victim's representative to the department of rehabilitation and correction in connection with the pendency of any pardon, commutation, or parole, and any personally identifying information or information likely to identify a victim or member of the victim's family contained in an electronic recording of a full parole board hearing, are confidential, not subject to subpoena or discovery, and not admissible in evidence in any action.

Sec. 5149.101. (A)(1)(a) A victim of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the victim's representative, or any person described in division (B)(5) of this section may request, through the office of victims' services, for the board to hold a full board hearing that relates to the proposed parole or re-parole of the person that committed the violation. If a victim, victim's representative, or any person described in division (B)(5) of this section requests a full board hearing pursuant to this division, the board shall hold a full board hearing.

(b) A family member of a victim who is not described in division (B)(5) of this section may

request, through the office of victims' services, for the board to hold a full board hearing that relates to the proposed parole or re-parole of a person who committed a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held, if a family member of the victim makes a request pursuant to this division.

(c) If a person is convicted of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the prosecuting attorney may submit a request directly to the board to hold a full board hearing that relates to the proposed parole or re-parole of the person who committed the violation. If the prosecutor requests a full board hearing pursuant to this division, the board shall hold a full board hearing.

(2) At least thirty days before the full hearing, except as otherwise provided in this division, the board shall give notice of the date, time, and place of the hearing to the victim regardless of whether the victim has requested the notification. The notice of the date, time, and place of the hearing shall not be given under this division to a victim if the victim has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the notice not be provided to the victim. At least thirty days before the full board hearing and regardless of whether the victim has requested that the notice be provided or not be provided under this division to the victim, the board shall give similar notice to the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense, and, if different than the victim, the person who requested the full hearing. If the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the board shall include with the notice sent to the prosecuting attorney an institutional summary report that covers the offender's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. If the offender asserts the existence of any medical condition or diagnoses in seeking parole, the board also shall include with the notice sent to the prosecuting attorney any medical records or other health care records related to that medical condition or those diagnoses. Upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the board also shall send a copy of the institutional summary report to the law enforcement agency. If notice is to be provided as described in this division, the board may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The board, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a

record of all attempts to provide the notice, and of all notices provided, under this division.

The preceding paragraph, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19 as it existed prior to April 4, 2023, division (A)(3)(b) of section 2967.26, and division (D)(1) of section 2967.28 of the Revised Code enacted in the act in which this paragraph was enacted, shall be known as "Roberta's Law."

(B) At a full board hearing that relates to the proposed parole or re-parole of a prisoner and that has been petitioned for or requested in accordance with division (A) of this section, the parole board shall permit the following persons to appear and to give testimony or to submit written statements:

(1) The prosecuting attorney of the county in which the original indictment against the prisoner was found and members of any law enforcement agency that assisted in the prosecution of the original offense;

(2) The judge of the court of common pleas who imposed the original sentence of incarceration upon the prisoner, or the judge's successor;

(3) The victim of the original offense for which the prisoner is serving the sentence or the victim's representative designated pursuant to section 2930.02 of the Revised Code;

(4) The victim of any behavior that resulted in parole being revoked;

(5) With respect to a full board hearing held pursuant to division (A)(1)(a) or (c) of this section, all of the following:

(a) The spouse of the victim of the original offense;

(b) The parent or parents of the victim of the original offense;

(c) The sibling of the victim of the original offense;

(d) The child or children of the victim of the original offense.

(6) A state public defender when designated by the director of the department of rehabilitation and correction pursuant to division (A)(5) of section 120.06 of the Revised Code, private counsel, or some other person designated by the prisoner as a representative, as permitted by the board.

(C) Except as otherwise provided in this division, a full board hearing of the parole board is not subject to section 121.22 of the Revised Code. The persons who may attend a full board hearing are the persons described in divisions (B)(1) to (6) of this section, and representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization.

At the request of a person described in division (B)(3) of this section, representatives of the news media described in this division shall be excluded from the hearing while that person is giving testimony at the hearing. The prisoner being considered for parole has no right to be present at the hearing, but may be represented as described in division (B)(6) of this section.

If there is an objection at a full board hearing to a recommendation for the parole of a

prisoner, the board may approve or disapprove the recommendation or defer its decision until a subsequent full board hearing. The board may permit interested persons other than those listed in this division and division (B) of this section to attend full board hearings pursuant to rules adopted by the adult parole authority.

(D) If the victim of the original offense died as a result of the offense and the offense was aggravated murder, murder, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the family of the victim may show at a full board hearing a video recording not exceeding five minutes in length memorializing the victim.

(E) The adult parole authority shall adopt rules for the implementation of this section. The rules shall specify reasonable restrictions on the number of media representatives that may attend a hearing, based on considerations of space, and other procedures designed to accomplish an effective, orderly process for full board hearings.

Sec. 5149.102. (A) As used in this section:

(1) "Member of the victim's family" has the same meaning as in section 2930.01 of the Revised Code.

(2) "Person entitled to receive the electronic recording of a specified parole board hearing" means any of the following persons who are entitled to receive the electronic recording of a revocation hearing under section 2967.15 of the Revised Code or a post-release control revocation hearing under section 2967.28 of the Revised Code:

(a) The person who is the subject of the hearing;

(b) The attorney of the person who is the subject of the hearing;

(c) The prosecuting attorney;

(d) The victim.

(3) "Protected health information" means a medical, mental health, substance abuse, recovery services, or behavioral health record.

(4) "Specified parole board hearing" means a revocation hearing under section 2967.15 of the Revised Code or post-release control violation hearing under section 2967.28 of the Revised Code.

(B)(1) Subject to division (C) of this section, only upon request of a person entitled to receive the electronic recording of a specified parole board hearing, the department of rehabilitation and correction shall provide the electronic recording of the specified parole board hearing to the person entitled to receive the electronic recording. If the person entitled to receive the electronic recording of a specified parole board hearing wishes to have a recording transcribed, the person entitled to receive the electronic recording of the specified parole board hearing shall do so at the expense of the person entitled to receive the electronic recording of the specified parole board hearing.

(2) A person entitled to receive the electronic recording of specified parole board hearings

who receives the electronic recording of a specified parole board hearing shall not make copies of the electronic recording of the specified parole board hearing, shall keep the electronic recording of the specified parole board hearing confidential, and shall not post the electronic recording of the specified parole board hearing on the internet.

(C) The electronic recordings of full parole board hearings provided as public records under section 149.43 of the Revised Code shall exclude victim and victim representative statements and shall not include the following personal identifying information of any victim of a crime or a member of the victim's family:

(1) Name;

(2) Date of birth;

(3) Home or work address;

(4) Social security number;

(5) Age;

(6) Telephone number;

(7) Electronic mail address;

(8) Any other information that is likely to identify the victim or a member of the victim's family.

(D)(1) An incarcerated person whose protected health information is disclosed in a recording, summary, or other communication related to a parole board hearing in violation of this section has a civil cause of action for damages against the person who disclosed that information.

(2) A victim whose personal identifying information is disclosed in a recording, summary, or other communication related to a parole board hearing in violation of this section has a civil cause of action for damages against the person who disclosed that information.

SECTION 2. That existing sections 149.43, 2929.20, 5120.115, 5120.21, 5149.10, and 5149.101 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 31

136th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____