

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 13

**Senator Tavares
Cosponsor: Senator Thomas**

A BILL

To amend sections 2315.18, 2323.43, 2744.02,
2744.03, 2744.04, and 2744.05 and to enact
sections 2743.021, 2744.021, and 2744.022 of the
Revised Code to grant a person the right to
lawfully record any incident involving a law
enforcement officer and to impose civil
liability upon the state or a local law
enforcement agency if a law enforcement officer
employed by the state or local law enforcement
agency interferes with the recording of the
incident, destroys the recording, seizes the
recording without a warrant or subpoena or the
person's consent, or retaliates against the
person who recorded the incident.

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

Section 1. That sections 2315.18, 2323.43, 2744.02,
2744.03, 2744.04, and 2744.05 be amended and sections 2743.021,
2744.021, and 2744.022 of the Revised Code be enacted to read as
follows:

Sec. 2315.18. (A) As used in this section and in section	19
2315.19 of the Revised Code:	20
(1) "Asbestos claim" has the same meaning as in section	21
2307.91 of the Revised Code.	22
(2) "Economic loss" means any of the following types of	23
pecuniary harm:	24
(a) All wages, salaries, or other compensation lost as a	25
result of an injury or loss to person or property that is a	26
subject of a tort action;	27
(b) All expenditures for medical care or treatment,	28
rehabilitation services, or other care, treatment, services,	29
products, or accommodations as a result of an injury or loss to	30
person or property that is a subject of a tort action;	31
(c) Any other expenditures incurred as a result of an	32
injury or loss to person or property that is a subject of a tort	33
action, other than attorney's fees incurred in connection with	34
that action.	35
(3) "Medical claim," "dental claim," "optometric claim,"	36
and "chiropractic claim" have the same meanings as in section	37
2305.113 of the Revised Code.	38
(4) "Noneconomic loss" means nonpecuniary harm that	39
results from an injury or loss to person or property that is a	40
subject of a tort action, including, but not limited to, pain	41
and suffering, loss of society, consortium, companionship, care,	42
assistance, attention, protection, advice, guidance, counsel,	43
instruction, training, or education, disfigurement, mental	44
anguish, and any other intangible loss.	45
(5) "Occurrence" means all claims resulting from or	46

arising out of any one person's bodily injury. 47

(6) "Product liability claim" has the same meaning as in 48
section 2307.71 of the Revised Code. 49

(7) "Tort action" means a civil action for damages for 50
injury or loss to person or property. "Tort action" includes a 51
civil action upon a product liability claim or an asbestos 52
claim. "Tort action" does not include a civil action upon a 53
medical claim, dental claim, optometric claim, or chiropractic 54
claim or a civil action for damages for a breach of contract or 55
another agreement between persons. 56

(8) "Trier of fact" means the jury or, in a nonjury 57
action, the court. 58

(B) In a tort action to recover damages for injury or loss 59
to person or property, all of the following apply: 60

(1) There shall not be any limitation on the amount of 61
compensatory damages that represents the economic loss of the 62
person who is awarded the damages in the tort action. 63

(2) Except as otherwise provided in division (B)(3) of 64
this section, the amount of compensatory damages that represents 65
damages for noneconomic loss that is recoverable in a tort 66
action under this section to recover damages for injury or loss 67
to person or property shall not exceed the greater of two 68
hundred fifty thousand dollars or an amount that is equal to 69
three times the economic loss, as determined by the trier of 70
fact, of the plaintiff in that tort action to a maximum of three 71
hundred fifty thousand dollars for each plaintiff in that tort 72
action or a maximum of five hundred thousand dollars for each 73
occurrence that is the basis of that tort action. 74

(3) There shall not be any limitation on the amount of 75

compensatory damages that represents damages for noneconomic	76
loss that is recoverable in a tort action to recover damages for	77
injury or loss to person or property if the noneconomic losses	78
of the plaintiff are for either of the following:	79
(a) Permanent and substantial physical deformity, loss of	80
use of a limb, or loss of a bodily organ system;	81
(b) Permanent physical functional injury that permanently	82
prevents the injured person from being able to independently	83
care for self and perform life-sustaining activities.	84
(c) In determining an award of compensatory damages for	85
noneconomic loss in a tort action, the trier of fact shall not	86
consider any of the following:	87
(1) Evidence of a defendant's alleged wrongdoing,	88
misconduct, or guilt;	89
(2) Evidence of the defendant's wealth or financial	90
resources;	91
(3) All other evidence that is offered for the purpose of	92
punishing the defendant, rather than offered for a compensatory	93
purpose.	94
(d) If a trial is conducted in a tort action to recover	95
damages for injury or loss to person or property and a plaintiff	96
prevails in that action, the court in a nonjury trial shall make	97
findings of fact, and the jury in a jury trial shall return a	98
general verdict accompanied by answers to interrogatories, that	99
shall specify all of the following:	100
(1) The total compensatory damages recoverable by the	101
plaintiff;	102
(2) The portion of the total compensatory damages that	103

represents damages for economic loss; 104

(3) The portion of the total compensatory damages that 105
represents damages for noneconomic loss. 106

(E) (1) After the trier of fact in a tort action to recover 107
damages for injury or loss to person or property complies with 108
division (D) of this section, the court shall enter a judgment 109
in favor of the plaintiff for compensatory damages for economic 110
loss in the amount determined pursuant to division (D) (2) of 111
this section, and, subject to division (F) (1) of this section, 112
the court shall enter a judgment in favor of the plaintiff for 113
compensatory damages for noneconomic loss. Except as provided in 114
division (B) (3) of this section, in no event shall a judgment 115
for compensatory damages for noneconomic loss exceed the maximum 116
recoverable amount that represents damages for noneconomic loss 117
as provided in division (B) (2) of this section. Division (B) of 118
this section shall be applied in a jury trial only after the 119
jury has made its factual findings and determination as to the 120
damages. 121

(2) Prior to the trial in the tort action described in 122
division (D) of this section, any party may seek summary 123
judgment with respect to the nature of the alleged injury or 124
loss to person or property, seeking a determination of the 125
damages as described in division (B) (2) of this section. 126

(F) (1) A court of common pleas has no jurisdiction to 127
enter judgment on an award of compensatory damages for 128
noneconomic loss in excess of the limits set forth in this 129
section. 130

(2) If the trier of fact is a jury, the court shall not 131
instruct the jury with respect to the limit on compensatory 132

damages for noneconomic loss described in division (B) (2) of 133
this section, and neither counsel for any party nor a witness 134
shall inform the jury or potential jurors of that limit. 135

(G) With respect to a tort action to which division (B) (2) 136
of this section applies, any excess amount of compensatory 137
damages for noneconomic loss that is greater than the applicable 138
amount specified in division (B) (2) of this section shall not be 139
reallocated to any other tortfeasor beyond the amount of 140
compensatory damages that the tortfeasor would otherwise be 141
responsible for under the laws of this state. 142

(H) This section does not apply to any of the following: 143

(1) Tort actions that are brought against the state in the 144
court of claims, including, but not limited to, those actions in 145
which a state university or college is a defendant and to which 146
division (B) (3) of section 3345.40 of the Revised Code applies; 147

(2) Tort actions that are brought against political 148
subdivisions of this state and that are commenced under or are 149
subject to Chapter 2744. of the Revised Code. Division ~~(C)~~ (A) 150
(3) of section 2744.05 of the Revised Code applies to 151
recoverable damages in those actions. 152

(3) Wrongful death actions brought pursuant to Chapter 153
2125. of the Revised Code. 154

(I) If the provisions regarding the limits on compensatory 155
damages for noneconomic loss set forth in division (B) (2) of 156
this section have been determined to be unconstitutional, then 157
division (C) of this section and section 2315.19 of the Revised 158
Code shall govern the determination of an award of compensatory 159
damages for noneconomic loss in a tort action. 160

Sec. 2323.43. (A) In a civil action upon a medical, 161

dental, optometric, or chiropractic claim to recover damages for 162
injury, death, or loss to person or property, all of the 163
following apply: 164

(1) There shall not be any limitation on compensatory 165
damages that represent the economic loss of the person who is 166
awarded the damages in the civil action. 167

(2) Except as otherwise provided in division (A) (3) of 168
this section, the amount of compensatory damages that represents 169
damages for noneconomic loss that is recoverable in a civil 170
action under this section to recover damages for injury, death, 171
or loss to person or property shall not exceed the greater of 172
two hundred fifty thousand dollars or an amount that is equal to 173
three times the plaintiff's economic loss, as determined by the 174
trier of fact, to a maximum of three hundred fifty thousand 175
dollars for each plaintiff or a maximum of five hundred thousand 176
dollars for each occurrence. 177

(3) The amount recoverable for noneconomic loss in a civil 178
action under this section may exceed the amount described in 179
division (A) (2) of this section but shall not exceed five 180
hundred thousand dollars for each plaintiff or one million 181
dollars for each occurrence if the noneconomic losses of the 182
plaintiff are for either of the following: 183

(a) Permanent and substantial physical deformity, loss of 184
use of a limb, or loss of a bodily organ system; 185

(b) Permanent physical functional injury that permanently 186
prevents the injured person from being able to independently 187
care for self and perform life sustaining activities. 188

(B) If a trial is conducted in a civil action upon a 189
medical, dental, optometric, or chiropractic claim to recover 190

damages for injury, death, or loss to person or property and a 191
plaintiff prevails with respect to that claim, the court in a 192
nonjury trial shall make findings of fact, and the jury in a 193
jury trial shall return a general verdict accompanied by answers 194
to interrogatories, that shall specify all of the following: 195

(1) The total compensatory damages recoverable by the 196
plaintiff; 197

(2) The portion of the total compensatory damages that 198
represents damages for economic loss; 199

(3) The portion of the total compensatory damages that 200
represents damages for noneconomic loss. 201

(C) (1) After the trier of fact in a civil action upon a 202
medical, dental, optometric, or chiropractic claim to recover 203
damages for injury, death, or loss to person or property 204
complies with division (B) of this section, the court shall 205
enter a judgment in favor of the plaintiff for compensatory 206
damages for economic loss in the amount determined pursuant to 207
division (B) (2) of this section, and, subject to division (D) (1) 208
of this section, the court shall enter a judgment in favor of 209
the plaintiff for compensatory damages for noneconomic loss. In 210
no event shall a judgment for compensatory damages for 211
noneconomic loss exceed the maximum recoverable amount that 212
represents damages for noneconomic loss as provided in divisions 213
(A) (2) and (3) of this section. Division (A) of this section 214
shall be applied in a jury trial only after the jury has made 215
its factual findings and determination as to the damages. 216

(2) Prior to the trial in the civil action, any party may 217
seek summary judgment with respect to the nature of the alleged 218
injury or loss to person or property, seeking a determination of 219

the damages as described in division (A) (2) or (3) of this section. 220
221

(D) (1) A court of common pleas has no jurisdiction to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set forth in this section. 222
223
224
225

(2) If the trier of fact is a jury, the court shall not instruct the jury with respect to the limit on compensatory damages for noneconomic loss described in divisions (A) (2) and (3) of this section, and neither counsel for any party nor a witness shall inform the jury or potential jurors of that limit. 226
227
228
229
230

(E) Any excess amount of compensatory damages for noneconomic loss that is greater than the applicable amount specified in division (A) (2) or (3) of this section shall not be reallocated to any other tortfeasor beyond the amount of compensatory damages that that tortfeasor would otherwise be responsible for under the laws of this state. 231
232
233
234
235
236

(F) (1) If pursuant to a contingency fee agreement between an attorney and a plaintiff in a civil action upon a medical claim, dental claim, optometric claim, or chiropractic claim, the amount of the attorney's fees exceed the applicable amount of the limits on compensatory damages for noneconomic loss as provided in division (A) (2) or (3) of this section, the attorney shall make an application in the probate court of the county in which the civil action was commenced or in which the settlement was entered. The application shall contain a statement of facts, including the amount to be allocated to the settlement of the claim, the amount of the settlement or judgment that represents the compensatory damages for economic loss and noneconomic loss, the relevant provision in the contingency fee agreement, and the 237
238
239
240
241
242
243
244
245
246
247
248
249

dollar amount of the attorney's fees under the contingency fee agreement. The application shall include the proposed distribution of the amount of the judgment or settlement.

(2) The attorney shall give written notice of the hearing and a copy of the application to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the probate court shall retain jurisdiction over the settlement, allocation, and distribution of the claim.

(3) The application shall state the arrangements, if any, that have been made with respect to the attorney's fees. The attorney's fees shall be subject to the approval of the probate court.

(G) This section does not apply to any of the following:

(1) Civil actions upon a medical, dental, optometric, or chiropractic claim that are brought against the state in the court of claims, including, but not limited to, those actions in which a state university or college is a defendant and to which division (B) (3) of section 3345.40 of the Revised Code applies;

(2) Civil actions upon a medical, dental, optometric, or chiropractic claim that are brought against political subdivisions of this state and that are commenced under or are subject to Chapter 2744. of the Revised Code. Division ~~(C)~~ (A) (3) of section 2744.05 of the Revised Code applies to recoverable damages in those actions;

(3) Wrongful death actions brought pursuant to Chapter 2125. of the Revised Code.

(H) As used in this section:

(1) "Economic loss" means any of the following types of pecuniary harm:	278 279
(a) All wages, salaries, or other compensation lost as a result of an injury, death, or loss to person or property that is a subject of a civil action upon a medical, dental, optometric, or chiropractic claim;	280 281 282 283
(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury, death, or loss to person or property that is a subject of a civil action upon a medical, dental, optometric, or chiropractic claim;	284 285 286 287 288
(c) Any other expenditures incurred as a result of an injury, death, or loss to person or property that is a subject of a civil action upon a medical, dental, optometric, or chiropractic claim, other than attorney's fees incurred in connection with that action.	289 290 291 292 293
(2) "Medical claim,dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.	294 295 296
(3) "Noneconomic loss" means nonpecuniary harm that results from an injury, death, or loss to person or property that is a subject of a civil action upon a medical, dental, optometric, or chiropractic claim, including, but not limited to, pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss.	297 298 299 300 301 302 303 304
(4) "Trier of fact" means the jury or, in a nonjury action, the court.	305 306

Sec. 2743.021. (A) A person has the right to lawfully 307
record any incident involving a law enforcement officer and to 308
maintain custody and control of that recording and the device 309
used to record the recording. A law enforcement officer shall 310
not seize a recording or recording device without consent, 311
without a search warrant or subpoena, or without a lawful 312
exception to the warrant or subpoena requirement. 313

(B) (1) If a law enforcement officer seeks to obtain from a 314
person a device used to record an incident involving a peace 315
officer in order to access the recording as possible evidence in 316
an investigation, the law enforcement officer shall do all of 317
the following: 318

(a) Advise the person of the law enforcement officer's 319
name, badge number or other identifying number, and the 320
officer's law enforcement agency; 321

(b) Identify the lawful reason for which the information 322
is requested; 323

(c) If practicable under the circumstances, inquire 324
whether the person will voluntarily provide the law enforcement 325
officer with a copy of the specific recording that is relevant 326
to the investigation either by voluntarily providing the device 327
to the law enforcement officer or immediately electronically 328
transferring the information to the law enforcement officer or 329
the law enforcement officer's law enforcement agency. If the 330
person immediately electronically transfers the information to 331
the law enforcement officer or the law enforcement officer's law 332
enforcement agency, the person shall retain possession of the 333
device, the recording, and all personal nonevidentiary private 334
information and recordings contained in the device. 335

(2) (a) If the person consents voluntarily to the transfer 336
of the device to the law enforcement officer, the law 337
enforcement officer and the officer's law enforcement agency 338
shall limit any search of the device to a search for the 339
recording that is relevant to the investigation. The law 340
enforcement officer or the officer's law enforcement agency 341
shall return the device to the person upon the person's request 342
with all convenient speed. 343

(b) If the person consents to the electronic transfer of 344
the recording, the electronic transfer shall take place as soon 345
as possible and without unnecessary delay. 346

(3) In circumstances in which the immediate electronic 347
transfer of the recording is not practicable, or when the person 348
voluntarily consents to the electronic transfer of the 349
evidentiary information or to the seizure of the device after 350
having withheld voluntary consent, the law enforcement officer 351
may arrange for the transfer or delivery of the information or 352
device to the law enforcement officer or the officer's law 353
enforcement agency by an alternative means consistent with any 354
policies and procedures of the law enforcement agency. 355

(C) Notwithstanding division (B) of this section, a law 356
enforcement officer has the authority to temporarily seize and 357
maintain control over a device that was used to record an 358
incident involving a law enforcement officer when exigent 359
circumstances exist that the law enforcement officer believes 360
that the seizure of the device is necessary to save a life or 361
when the law enforcement officer has a reasonable, articulable, 362
good-faith belief that the seizure of the device is necessary to 363
prevent the destruction of the evidentiary recording while a 364
search warrant or subpoena for the recording is obtained. The 365

law enforcement officer or the officer's law enforcement agency 366
shall not maintain control over the device to obtain a search 367
warrant or subpoena for the recording for longer than seventy- 368
two hours after the device is seized and shall return the device 369
to the person after obtaining the search warrant or subpoena or 370
not later than seventy-two hours after the device is seized. 371

(D) The state is liable under sections 2743.01 to 2743.20 372
of the Revised Code if a person lawfully records or attempts to 373
record an incident involving a law enforcement officer and the 374
officer or officer's law enforcement agency does any of the 375
following: 376

(1) Unlawfully destroys or damages the recording or the 377
recording device; 378

(2) Seizes the recording or recording device without 379
permission, without lawful order of the court, or without other 380
lawful grounds to seize the recording or recording device; 381

(3) Intentionally interferes with the person's lawful 382
attempt to record the incident; 383

(4) Retaliates against the person for recording or 384
attempting to record the incident; 385

(5) Refuses to return a recording device that contains a 386
recording of the incident within a reasonable time period and 387
without legal justification. 388

(E) If a person's electronic recording was lost, damaged, 389
or destroyed as a result of the violation, the person may claim 390
five hundred dollars as the value of the electronic recording in 391
a civil action brought in the court of claims. 392

(F) This section does not apply to devices seized incident 393

to a person's arrest. 394

(G) Nothing in this section shall be construed to allow a 395
person to interfere with a law enforcement officer engaged in 396
the lawful performance of the officer's duties. 397

(H) As used in this section: 398

(1) "Law enforcement officer" means an officer, agent, or 399
employee of the state or any department, division, commission, 400
board, bureau, or agency of the state upon whom, by statute, a 401
duty to conserve the peace or to enforce all or certain laws is 402
imposed and the authority to arrest violators is conferred. 403

(2) "Officer's law enforcement agency" means the state or 404
department, division, commission, board, bureau, or agency of 405
the state that employs the law enforcement officer. 406

(3) "Retaliate" means threatening or harassing a person 407
who recorded or attempted to record an incident involving a law 408
enforcement officer, or purposely harming or injuring the person 409
or the person's property, as retaliation or retribution against 410
the person. 411

Sec. 2744.02. (A) (1) For the purposes of this chapter, the 412
functions of political subdivisions are hereby classified as 413
governmental functions and proprietary functions. Except as 414
provided in division (B) of this section, a political 415
subdivision is not liable in damages in a civil action for 416
injury, death, or loss to person or property allegedly caused by 417
any act or omission of the political subdivision or an employee 418
of the political subdivision in connection with a governmental 419
or proprietary function. 420

(2) The defenses and immunities conferred under this 421
chapter apply in connection with all governmental and 422

proprietary functions performed by a political subdivision and 423
its employees, whether performed on behalf of that political 424
subdivision or on behalf of another political subdivision. 425

(3) Subject to statutory limitations upon their monetary 426
jurisdiction, the courts of common pleas, the municipal courts, 427
and the county courts have jurisdiction to hear and determine 428
civil actions governed by or brought pursuant to this chapter. 429

(B) Subject to sections 2744.03 and 2744.05 of the Revised 430
Code, a political subdivision is liable in damages in a civil 431
action for injury, death, or loss to person or property 432
allegedly caused by an act or omission of the political 433
subdivision or of any of its employees in connection with a 434
governmental or proprietary function, as follows: 435

(1) Except as otherwise provided in this division, 436
political subdivisions are liable for injury, death, or loss to 437
person or property caused by the negligent operation of any 438
motor vehicle by their employees when the employees are engaged 439
within the scope of their employment and authority. The 440
following are full defenses to that liability: 441

(a) A member of a municipal corporation police department 442
or any other police agency was operating a motor vehicle while 443
responding to an emergency call and the operation of the vehicle 444
did not constitute willful or wanton misconduct; 445

(b) A member of a municipal corporation fire department or 446
any other firefighting agency was operating a motor vehicle 447
while engaged in duty at a fire, proceeding toward a place where 448
a fire is in progress or is believed to be in progress, or 449
answering any other emergency alarm and the operation of the 450
vehicle did not constitute willful or wanton misconduct; 451

(c) A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver's license issued pursuant to Chapter 4506. or a driver's license issued pursuant to Chapter 4507. of the Revised Code, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions of section 4511.03 of the Revised Code.

(2) Except as otherwise provided in sections 3314.07 and 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions.

(3) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by their negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads, except that it is a full defense to that liability, when a bridge within a municipal corporation is involved, that the municipal corporation does not have the responsibility for maintaining or inspecting the bridge.

(4) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property that is caused by the negligence of their employees and that occurs within or on the grounds of, and is due to physical defects within or on the grounds of, buildings that are used in connection with the performance of a governmental function, including, but not

limited to, office buildings and courthouses, but not including 482
jails, places of juvenile detention, workhouses, or any other 483
detention facility, as defined in section 2921.01 of the Revised 484
Code. 485

(5) In addition to the circumstances described in 486
divisions (B) (1) to (4) of this section, a political subdivision 487
is liable for injury, death, or loss to person or property when 488
civil liability is expressly imposed upon the political 489
subdivision by a section of the Revised Code, including, but not 490
limited to, sections 2743.02, 2744.022, and 5591.37 of the 491
Revised Code. Civil liability shall not be construed to exist 492
under another section of the Revised Code merely because that 493
section imposes a responsibility or mandatory duty upon a 494
political subdivision, because that section provides for a 495
criminal penalty, because of a general authorization in that 496
section that a political subdivision may sue and be sued, or 497
because that section uses the term "shall" in a provision 498
pertaining to a political subdivision. 499

(C) An order that denies a political subdivision or an 500
employee of a political subdivision the benefit of an alleged 501
immunity from liability as provided in this chapter or any other 502
provision of the law is a final order. 503

Sec. 2744.021. (A) A person has the right to lawfully 504
record any incident involving a law enforcement officer and to 505
maintain custody and control of that recording and the device 506
used to record the recording. A law enforcement officer shall 507
not seize a recording or recording device without consent, 508
without a search warrant or subpoena, or without a lawful 509
exception to the warrant or subpoena requirement. 510

(B) (1) If a law enforcement officer seeks to obtain from a 511

person a device used to record an incident involving a peace 512
officer in order to access the recording as possible evidence in 513
an investigation, the law enforcement officer shall do all of 514
the following: 515

(a) Advise the person of the law enforcement officer's 516
name, badge number or other identifying number, and the 517
officer's employing law enforcement agency; 518

(b) Identify the lawful reason for which the information 519
is requested; 520

(c) If practicable under the circumstances, inquire 521
whether the person will voluntarily provide the law enforcement 522
officer with a copy of the specific recording that is relevant 523
to the investigation either by voluntarily providing the device 524
to the law enforcement officer or immediately electronically 525
transferring the information to the law enforcement officer or 526
the officer's employing law enforcement agency. If the person 527
immediately electronically transfers the information to the law 528
enforcement officer or the officer's employing law enforcement 529
agency, the person shall retain possession of the device, the 530
recording, and all personal nonevidentiary private information 531
and recordings contained in the device. 532

(2) (a) If the person consents voluntarily to the transfer 533
of the device to the law enforcement officer, the law 534
enforcement officer and the officer's employing law enforcement 535
agency shall limit any search of the device to a search for the 536
recording that is relevant to the investigation. The law 537
enforcement officer or the officer's employing law enforcement 538
agency shall return the device to the person upon the person's 539
request with all convenient speed. 540

(b) If the person consents to an electronic transfer of 541
the recording, the electronic transfer shall take place as soon 542
as possible and without unnecessary delay. 543

(3) In circumstances when the immediate electronic 544
transfer of the recording is not practicable, or when the person 545
voluntarily consents to the electronic transfer of the 546
evidentiary information or to the seizure of the device after 547
having withheld voluntary consent, the law enforcement officer 548
may arrange for the transfer or delivery of the information or 549
device to the law enforcement officer or the officer's employing 550
law enforcement agency by an alternative means consistent with 551
any policies and procedures of the law enforcement agency. 552

(C) Notwithstanding division (B) of this section, a law 553
enforcement officer has the authority to temporarily seize and 554
maintain control over a device that was used to record an 555
incident involving a law enforcement officer when exigent 556
circumstances exist that the law enforcement officer believes 557
that the seizure of the device is necessary to save a life or 558
when the law enforcement officer has a reasonable, articulable, 559
good-faith belief that the seizure of the device is necessary to 560
prevent the destruction of the evidentiary recording while a 561
search warrant or subpoena for the recording is obtained. The 562
law enforcement officer or the officer's employing law 563
enforcement agency shall not maintain control over the device to 564
obtain a search warrant or subpoena for the recording for longer 565
than seventy-two hours after the device is seized. 566

(D) A person has a right of recovery against a law 567
enforcement officer's employing law enforcement agency under 568
section 2744.022 of the Revised Code if a law enforcement 569
officer violates any provision of this section. 570

(E) This section does not apply to devices seized incident 571
to a person's arrest. 572

(F) Nothing in this section shall be construed to allow a 573
person to interfere with a law enforcement officer engaged in 574
the lawful performance of the officer's duties. 575

(G) As used in the section, "law enforcement officer" 576
means a sheriff, deputy sheriff, constable, police officer of a 577
township or joint police district, marshal, deputy marshal, or 578
municipal police officer. 579

Sec. 2744.022. (A) Notwithstanding any other remedies, a 580
person has a right of recovery against a law enforcement 581
officer's employing law enforcement agency if a person lawfully 582
records or attempts to record an incident involving a law 583
enforcement officer and the officer does any of the following: 584

(1) Unlawfully destroys or damages the recording or the 585
recording device; 586

(2) Seizes the recording or recording device without 587
permission, without lawful order of the court, or without other 588
lawful grounds to seize the recording or recording device; 589

(3) Intentionally interferes with the person's lawful 590
attempt to record the incident; 591

(4) Retaliates against the person for recording or 592
attempting to record the incident; 593

(5) Refuses to return a recording device that contains a 594
recording of the incident within a reasonable time period and 595
without legal justification. 596

(B) If a law enforcement officer engages in any of the 597
conduct described in division (A) of this section, the aggrieved 598

person may submit a written request to the officer's employing 599
law enforcement agency asking the law enforcement agency to pay 600
for the damage to the person's property with an affidavit 601
setting forth the facts of the incident, the damage done to the 602
person's property, and a verifiable estimate of the replacement 603
cost for any damaged or destroyed recording device. If a 604
recording was damaged or destroyed, the person may claim five 605
hundred dollars as the value of the recording. Upon its receipt 606
of the request and affidavit, the law enforcement agency shall 607
have thirty days to either pay the person the amount requested 608
in the affidavit or issue a denial of the request in writing. 609

(C) (1) If the law enforcement agency denies a person's 610
request for damages under division (B) of this section and the 611
person disagrees with the law enforcement agency's denial of the 612
request, the person may bring a civil action against the law 613
enforcement officer's employing law enforcement agency for 614
actual damages, including the replacement value of the device, 615
the amount of five hundred dollars for any damaged or destroyed 616
recording, and any costs and fees associated with the filing of 617
the civil action. The court may order punitive damages of up to 618
fifteen thousand dollars and award attorney fees to the claimant 619
if the court finds that the law enforcement agency's denial of 620
the claimant's request for damages under division (B) of this 621
section was made in bad faith. 622

(2) If the court finds that a civil action brought under 623
division (C) (1) of this section is frivolous and without merit, 624
the court may award the law enforcement agency its reasonable 625
costs and attorney fees. 626

(D) Nothing in this section shall prevent a prosecutor 627
from investigating and prosecuting criminal activity committed 628

by a law enforcement officer that is related to the incident, 629
including, but not limited to, a violation of section 2921.12 of 630
the Revised Code. 631

(E) As used in this section: 632

(1) "Retaliate" means threatening or harassing a person 633
who recorded or attempted to record an incident involving a law 634
enforcement officer, or purposely harming or injuring the person 635
or the person's property, as retaliation or retribution against 636
the person. 637

(2) "Prosecutor" has the same meaning as in section 638
2935.01 of the Revised Code. 639

Sec. 2744.03. (A) In a civil action brought against a 640
political subdivision or an employee of a political subdivision 641
to recover damages for injury, death, or loss to person or 642
property allegedly caused by any act or omission in connection 643
with a governmental or proprietary function, the following 644
defenses or immunities may be asserted to establish 645
nonliability: 646

(1) The political subdivision is immune from liability if 647
the employee involved was engaged in the performance of a 648
judicial, quasi-judicial, prosecutorial, legislative, or quasi- 649
legislative function. 650

(2) The political subdivision is immune from liability if 651
the conduct of the employee involved, other than negligent 652
conduct, that gave rise to the claim of liability was required 653
by law or authorized by law, or if the conduct of the employee 654
involved that gave rise to the claim of liability was necessary 655
or essential to the exercise of powers of the political 656
subdivision or employee. 657

(3) The political subdivision is immune from liability if 658
the action or failure to act by the employee involved that gave 659
rise to the claim of liability was within the discretion of the 660
employee with respect to policy-making, planning, or enforcement 661
powers by virtue of the duties and responsibilities of the 662
office or position of the employee. 663

(4) The political subdivision is immune from liability if 664
the action or failure to act by the political subdivision or 665
employee involved that gave rise to the claim of liability 666
resulted in injury or death to a person who had been convicted 667
of or pleaded guilty to a criminal offense and who, at the time 668
of the injury or death, was serving any portion of the person's 669
sentence by performing community service work for or in the 670
political subdivision whether pursuant to section 2951.02 of the 671
Revised Code or otherwise, or resulted in injury or death to a 672
child who was found to be a delinquent child and who, at the 673
time of the injury or death, was performing community service or 674
community work for or in a political subdivision in accordance 675
with the order of a juvenile court entered pursuant to section 676
2152.19 or 2152.20 of the Revised Code, and if, at the time of 677
the person's or child's injury or death, the person or child was 678
covered for purposes of Chapter 4123. of the Revised Code in 679
connection with the community service or community work for or 680
in the political subdivision. 681

(5) The political subdivision is immune from liability if 682
the injury, death, or loss to person or property resulted from 683
the exercise of judgment or discretion in determining whether to 684
acquire, or how to use, equipment, supplies, materials, 685
personnel, facilities, and other resources unless the judgment 686
or discretion was exercised with malicious purpose, in bad 687
faith, or in a wanton or reckless manner. 688

(6) In addition to any immunity or defense referred to in 689
division (A) (7) of this section and in circumstances not covered 690
by that division or sections 3314.07 and 3746.24 of the Revised 691
Code, the employee is immune from liability unless one of the 692
following applies: 693

(a) The employee's acts or omissions were manifestly 694
outside the scope of the employee's employment or official 695
responsibilities; 696

(b) The employee's acts or omissions were with malicious 697
purpose, in bad faith, or in a wanton or reckless manner; 698

(c) Civil liability is expressly imposed upon the employee 699
by a section of the Revised Code. Civil liability shall not be 700
construed to exist under another section of the Revised Code 701
merely because that section imposes a responsibility or 702
mandatory duty upon an employee, because that section provides 703
for a criminal penalty, because of a general authorization in 704
that section that an employee may sue and be sued, or because 705
the section uses the term "shall" in a provision pertaining to 706
an employee. 707

(7) The political subdivision, and an employee who is a 708
county prosecuting attorney, city director of law, village 709
solicitor, or similar chief legal officer of a political 710
subdivision, an assistant of any such person, or a judge of a 711
court of this state is entitled to any defense or immunity 712
available at common law or established by the Revised Code. 713

(B) Any immunity or defense conferred upon, or referred to 714
in connection with, an employee by division (A) (6) or (7) of 715
this section does not affect or limit any liability of a 716
political subdivision for an act or omission of the employee as 717

provided in section 2744.02 of the Revised Code. 718

(C) Any immunity conferred upon a political subdivision by 719
division (A) (2) or (3) of this section does not affect or limit 720
the liability of a political subdivision under section 2744.022 721
of the Revised Code. 722

Sec. 2744.04. (A) An action against a political 723
subdivision to recover damages for injury, death, or loss to 724
person or property allegedly caused by any act or omission in 725
connection with a governmental or proprietary function, whether 726
brought as an original action, cross-claim, counterclaim, third- 727
party claim, or claim for subrogation, shall be brought within 728
two years after the cause of action accrues, or within any 729
applicable shorter period of time for bringing the action 730
provided by the Revised Code. The period of limitation contained 731
in this division shall be tolled pursuant to section 2305.16 of 732
the Revised Code. This division applies to actions brought 733
against political subdivisions by all persons, governmental 734
entities, and the state. 735

(B) ~~In~~ Except as provided in division (C) of this section, 736
in the complaint filed in a civil action against a political 737
subdivision or an employee of a political subdivision to recover 738
damages for injury, death, or loss to person or property 739
allegedly caused by an act or omission in connection with a 740
governmental or proprietary function, whether filed in an 741
original action, cross-claim, counterclaim, third-party claim, 742
or claim for subrogation, the complainant shall include a demand 743
for a judgment for the damages that the judge in a nonjury trial 744
or the jury in a jury trial finds that the complainant is 745
entitled to be awarded, but shall not specify in that demand any 746
monetary amount for damages sought. 747

(C) In the complaint filed in a civil action brought under 748
section 2744.022 of the Revised Code, the complainant's demand 749
for a judgment for damages may include a statement of the 750
replacement value of the recording device and may specify a 751
demand for judgment in the amount of five hundred dollars for 752
any damaged or destroyed recording. 753

Sec. 2744.05. ~~Notwithstanding~~ (A) Except as provided by 754
division (B) of this section, notwithstanding any other 755
provisions of the Revised Code or rules of a court to the 756
contrary, in an action against a political subdivision to 757
recover damages for injury, death, or loss to person or property 758
caused by an act or omission in connection with a governmental 759
or proprietary function: 760

~~(A) (1)~~ (1) Punitive or exemplary damages shall not be 761
awarded. 762

~~(B) (1)~~ (2) (a) If a claimant receives or is entitled to 763
receive benefits for injuries or loss allegedly incurred from a 764
policy or policies of insurance or any other source, the 765
benefits shall be disclosed to the court, and the amount of the 766
benefits shall be deducted from any award against a political 767
subdivision recovered by that claimant. No insurer or other 768
person is entitled to bring an action under a subrogation 769
provision in an insurance or other contract against a political 770
subdivision with respect to those benefits. 771

The amount of the benefits shall be deducted from an award 772
against a political subdivision under division ~~(B) (1)~~ (A) (2) (a) 773
of this section regardless of whether the claimant may be under 774
an obligation to pay back the benefits upon recovery, in whole 775
or in part, for the claim. A claimant whose benefits have been 776
deducted from an award under division ~~(B) (1)~~ (A) (2) (a) of this 777

section is not considered fully compensated and shall not be 778
required to reimburse a subrogated claim for benefits deducted 779
from an award pursuant to division ~~(B) (1)~~ (A) (2) (a) of this 780
section. 781

~~(2)~~ (b) Nothing in division ~~(B) (1)~~ (A) (2) (a) of this 782
section shall be construed to do either of the following: 783

~~(a)~~ (i) Limit the rights of a beneficiary under a life 784
insurance policy or the rights of sureties under fidelity or 785
surety bonds; 786

~~(b)~~ (ii) Prohibit the department of medicaid from 787
recovering from the political subdivision, pursuant to section 788
5160.37 of the Revised Code, the cost of medical assistance 789
provided under a medical assistance program. 790

~~(C) (1)~~ (3) (a) There shall not be any limitation on 791
compensatory damages that represent the actual loss of the 792
person who is awarded the damages. However, except in wrongful 793
death actions brought pursuant to Chapter 2125. of the Revised 794
Code, damages that arise from the same cause of action, 795
transaction or occurrence, or series of transactions or 796
occurrences and that do not represent the actual loss of the 797
person who is awarded the damages shall not exceed two hundred 798
fifty thousand dollars in favor of any one person. The 799
limitation on damages that do not represent the actual loss of 800
the person who is awarded the damages provided in this division 801
does not apply to court costs that are awarded to a plaintiff, 802
or to interest on a judgment rendered in favor of a plaintiff, 803
in an action against a political subdivision. 804

~~(2)~~ (b) As used in this ~~division~~ section, "the actual loss 805
of the person who is awarded the damages" includes all of the 806

following: 807

~~(a)~~ (i) All wages, salaries, or other compensation lost by 808
the person injured as a result of the injury, including wages, 809
salaries, or other compensation lost as of the date of a 810
judgment and future expected lost earnings of the person 811
injured; 812

~~(b)~~ (ii) All expenditures of the person injured or another 813
person on behalf of the person injured for medical care or 814
treatment, for rehabilitation services, or for other care, 815
treatment, services, products, or accommodations that were 816
necessary because of the injury; 817

~~(c)~~ (iii) All expenditures to be incurred in the future, 818
as determined by the court, by the person injured or another 819
person on behalf of the person injured for medical care or 820
treatment, for rehabilitation services, or for other care, 821
treatment, services, products, or accommodations that will be 822
necessary because of the injury; 823

~~(d)~~ (iv) All expenditures of a person whose property was 824
injured or destroyed or of another person on behalf of the 825
person whose property was injured or destroyed in order to 826
repair or replace the property that was injured or destroyed; 827

~~(e)~~ (v) All expenditures of the person injured or of the 828
person whose property was injured or destroyed or of another 829
person on behalf of the person injured or of the person whose 830
property was injured or destroyed in relation to the actual 831
preparation or presentation of the claim involved; 832

~~(f)~~ (vi) Any other expenditures of the person injured or 833
of the person whose property was injured or destroyed or of 834
another person on behalf of the person injured or of the person 835

whose property was injured or destroyed that the court 836
determines represent an actual loss experienced because of the 837
personal or property injury or property loss. 838

"The actual loss of the person who is awarded the damages" 839
does not include any fees paid or owed to an attorney for any 840
services rendered in relation to a personal or property injury 841
or property loss, and does not include any damages awarded for 842
pain and suffering, for the loss of society, consortium, 843
companionship, care, assistance, attention, protection, advice, 844
guidance, counsel, instruction, training, or education of the 845
person injured, for mental anguish, or for any other intangible 846
loss. 847

(B) Division (A) of this section does not apply to an 848
action for damages brought under division (C) of section 849
2744.022 of the Revised Code. 850

Section 2. That existing sections 2315.18, 2323.43, 851
2744.02, 2744.03, 2744.04, and 2744.05 of the Revised Code are 852
hereby repealed. 853