

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 658**

**Representative Ingram**

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**A BILL**

To amend section 2743.75 of the Revised Code to  
require the award of attorney's fees to an  
aggrieved person if a court of appeals  
determines in an appeal by a public office from  
a Court of Claims order that the public office  
denied the person access to public records in  
violation of the Public Records Law.

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

**Section 1.** That section 2743.75 of the Revised Code be  
amended to read as follows:

**Sec. 2743.75.** (A) In order to provide for an expeditious  
and economical procedure that attempts to resolve disputes  
alleging a denial of access to public records in violation of  
division (B) of section 149.43 of the Revised Code, except for a  
court that hears a mandamus action pursuant to that section, the  
court of claims shall be the sole and exclusive authority in  
this state that adjudicates or resolves complaints based on  
alleged violations of that section. The clerk of the court of  
claims shall designate one or more current employees or hire one  
or more individuals to serve as special masters to hear

complaints brought under this section. All special masters shall 20  
have been engaged in the practice of law in this state for at 21  
least four years and be in good standing with the supreme court 22  
at the time of designation or hiring. The clerk may assign 23  
administrative and clerical work associated with complaints 24  
brought under this section to current employees or may hire such 25  
additional employees as may be necessary to perform such work. 26

(B) The clerk of the court of common pleas in each county 27  
shall act as the clerk of the court of claims for purposes of 28  
accepting those complaints filed with the clerk under division 29  
(D) (1) of this section, accepting filing fees for those 30  
complaints, and serving those complaints. 31

(C) (1) Subject to division (C) (2) of this section, a 32  
person allegedly aggrieved by a denial of access to public 33  
records in violation of division (B) of section 149.43 of the 34  
Revised Code may seek relief under that section or under this 35  
section, provided, however, that if the allegedly aggrieved 36  
person files a complaint under either section, that person may 37  
not seek relief that pertains to the same request for records in 38  
a complaint filed under the other section. 39

(2) If the allegedly aggrieved person files a complaint 40  
under this section and the court of claims determines that the 41  
complaint constitutes a case of first impression that involves 42  
an issue of substantial public interest, the court shall dismiss 43  
the complaint without prejudice and direct the allegedly 44  
aggrieved person to commence a mandamus action in the court of 45  
appeals with appropriate jurisdiction as provided in division 46  
(C) (1) of section 149.43 of the Revised Code. 47

(D) (1) An allegedly aggrieved person who proceeds under 48  
this section shall file a complaint, on a form prescribed by the 49

clerk of the court of claims, with the clerk of the court of 50  
claims or with the clerk of the court of common pleas of the 51  
county in which the public office from which the records are 52  
requested is located. The person shall attach to the complaint 53  
copies of the original records request and any written responses 54  
or other communications relating to the request from the public 55  
office or person responsible for public records and shall pay a 56  
filing fee of twenty-five dollars made payable to the clerk of 57  
the court with whom the complaint is filed. The clerk shall 58  
serve a copy of the complaint on the public office or person 59  
responsible for public records for the particular public office 60  
in accordance with Civil Rule 4.1 and, if the complaint is filed 61  
with the clerk of the court of common pleas, shall forward the 62  
complaint to the clerk of the court of claims, and to no other 63  
court, within three business days after service is complete. 64

(2) Upon receipt of a complaint filed under division (D) 65  
(1) of this section, the clerk of the court of claims shall 66  
assign a case number for the action and a special master to 67  
examine the complaint. Notwithstanding any provision to the 68  
contrary in this section, upon the recommendation of the special 69  
master, the court of claims on its own motion may dismiss the 70  
complaint at any time. The allegedly aggrieved person may 71  
voluntarily dismiss the complaint filed by that person under 72  
division (D)(1) of this section. 73

(E)(1) Upon service of a complaint under division (D)(1) 74  
of this section, except as otherwise provided in this division, 75  
the special master assigned by the clerk under division (D)(2) 76  
of this section immediately shall refer the case to mediation 77  
services that the court of claims makes available to persons. 78  
If, in the interest of justice considering the circumstances of 79  
the case or the parties, the special master determines that the 80

case should not be referred to mediation, the special master 81  
shall notify the court that the case was not referred to 82  
mediation, and the case shall proceed in accordance with 83  
division (F) of this section. If the case is referred to 84  
mediation, any further proceedings under division (F) of this 85  
section shall be stayed until the conclusion of the mediation. 86  
Any mediation proceedings under this division may be conducted 87  
by teleconference, telephone, or other electronic means. If an 88  
agreement is reached during mediation, the court shall dismiss 89  
the complaint. If an agreement is not reached, the special 90  
master shall notify the court that the case was not resolved and 91  
that the mediation has been terminated. 92

(2) Within ten business days after the termination of the 93  
mediation or the notification to the court that the case was not 94  
referred to mediation under division (E) (1) of this section, the 95  
public office or person responsible for public records shall 96  
file a response, and if applicable, a motion to dismiss the 97  
complaint, with the clerk of the court of claims and transmit 98  
copies of the pleadings to the allegedly aggrieved party. No 99  
further motions or pleadings shall be accepted by the clerk of 100  
the court of claims or by the special master assigned by the 101  
clerk under division (D) (2) of this section unless the special 102  
master directs in writing that a further motion or pleading be 103  
filed. 104

(3) All of the following apply prior to the submission of 105  
the special master's report and recommendation to the court of 106  
claims under division (F) (1) of this section: 107

(a) The special master shall not permit any discovery. 108

(b) The parties may attach supporting affidavits to their 109  
respective pleadings. 110

(c) The special master may require either or both of the 111  
parties to submit additional information or documentation 112  
supported by affidavits. 113

(F) (1) Not later than seven business days after receiving 114  
the response, or motion to dismiss the complaint, if applicable, 115  
of the public office or person responsible for public records, 116  
the special master shall submit to the court of claims a report 117  
and recommendation based on the ordinary application of 118  
statutory law and case law as they existed at the time of the 119  
filing of the complaint. For good cause shown, the special 120  
master may extend the seven-day period for the submission of the 121  
report and recommendation to the court of claims under this 122  
division by an additional seven business days. 123

(2) Upon submission of the special master's report and 124  
recommendation to the court of claims under division (F) (1) of 125  
this section, the clerk shall send copies of the report and 126  
recommendation to each party by certified mail, return receipt 127  
requested, not later than three business days after the report 128  
and recommendation is filed. Either party may object to the 129  
report and recommendation within seven business days after 130  
receiving the report and recommendation by filing a written 131  
objection with the clerk and sending a copy to the other party 132  
by certified mail, return receipt requested. Any objection to 133  
the report and recommendation shall be specific and state with 134  
particularity all grounds for the objection. If neither party 135  
timely objects, the court of claims shall promptly issue a final 136  
order adopting the report and recommendation, unless it 137  
determines that there is an error of law or other defect evident 138  
on the face of the report and recommendation. If either party 139  
timely objects, the other party may file with the clerk a 140  
response within seven business days after receiving the 141

objection and send a copy of the response to the objecting party 142  
by certified mail, return receipt requested. The court, within 143  
seven business days after the response to the objection is 144  
filed, shall issue a final order that adopts, modifies, or 145  
rejects the report and recommendation. 146

(3) If the court of claims determines that the public 147  
office or person responsible for the public records denied the 148  
aggrieved person access to the public records in violation of 149  
division (B) of section 149.43 of the Revised Code and if no 150  
appeal from the court's final order is taken under division (G) 151  
of this section, both of the following apply: 152

(a) The public office or the person responsible for the 153  
public records shall permit the aggrieved person to inspect or 154  
receive copies of the public records that the court requires to 155  
be disclosed in its order. 156

(b) The aggrieved person shall be entitled to recover from 157  
the public office or person responsible for the public records 158  
the amount of the filing fee of twenty-five dollars and any 159  
other costs associated with the action that are incurred by the 160  
aggrieved person, but shall not be entitled to recover 161  
attorney's fees, except that division (G)(2) of this section 162  
applies if an appeal is taken under division (G)(1) of this 163  
section. 164

(G)(1) Any appeal from a final order of the court of 165  
claims under this section or from an order of the court of 166  
claims dismissing the complaint as provided in division (D)(2) 167  
of this section shall be taken to the court of appeals of the 168  
appellate district where the principal place of business of the 169  
public office from which the public record is requested is 170  
located. However, no appeal may be taken from a final order of 171

the court of claims that adopts the special master's report and 172  
recommendation unless a timely objection to that report and 173  
recommendation was filed under division (F) (2) of this section. 174  
If the court of claims materially modifies the special master's 175  
report and recommendation, either party may take an appeal to 176  
the court of appeals of the appellate district of the principal 177  
place of business where that public office is located but the 178  
appeal shall be limited to the issue in the report and 179  
recommendation that is materially modified by the court of 180  
claims. In order to facilitate the expeditious resolution of 181  
disputes over alleged denials of access to public records in 182  
violation of division (B) of section 149.43 of the Revised Code, 183  
the appeal shall be given such precedence over other pending 184  
matters as will ensure that the court will reach a decision 185  
promptly. 186

(2) If a court of appeals in any appeal taken under 187  
division (G) (1) of this section by the public office or person 188  
responsible for the public records determines that the public 189  
office or person denied the aggrieved person access to the 190  
public records in violation of division (B) of section 149.43 of 191  
the Revised Code ~~and obviously filed the appeal with the intent~~ 192  
~~to either delay compliance with the court of claims' order from~~ 193  
~~which the appeal is taken for no reasonable cause or unduly~~ 194  
~~harass the aggrieved person, the court of appeals may shall~~ 195  
award reasonable attorney's fees to the aggrieved person ~~in~~ 196  
~~accordance with division (C) of section 149.43 of the Revised~~ 197  
~~Code. No discovery may be conducted on the issue of the public~~ 198  
~~office or person responsible for the public records filing the~~ 199  
~~appeal with the alleged intent to either delay compliance with~~ 200  
~~the court of claims' order for no reasonable cause or unduly~~ 201  
~~harass the aggrieved person. This division shall not be~~ 202

~~construed as creating a presumption that the public office or  
the person responsible for the public records filed the appeal  
with the intent to either delay compliance with the court of  
claims' order for no reasonable cause or unduly harass the  
aggrieved person.~~

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

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

(2) All filing fees collected by the clerk of the court of  
claims under division (D) (1) of this section shall be deposited  
into the state treasury to the credit of the public records  
fund, which is hereby created. Money credited to the fund shall  
be used by the court of claims to assist in paying for its costs  
to implement this section. All investment earnings of the fund  
shall be credited to the fund. Not later than the first day of  
February of each year, the clerk of the court of claims shall  
prepare a report accessible to the public that details the fees  
collected during the preceding calendar year by the clerk of the  
court of claims and the clerks of the courts of common pleas  
under this section.

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



**Section 2.** That existing section 2743.75 of the Revised Code is hereby repealed. 233  
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