

**As Reported by the Senate Health, Human Services and Medicaid
Committee**

133rd General Assembly

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Sub. S. B. No. 208

Senator Johnson

**Cosponsors: Senators Obhof, McColley, Roegner, Brenner, Gavarone, Schaffer,
Eklund, Huffman, S., Lehner, Huffman, M., Wilson, Hottinger**

A BILL

To amend sections 149.43, 2919.13, 3701.79, 1
3701.99, and 4731.22 and to enact sections 2
3701.792 and 4731.92 of the Revised Code to 3
require reports to be made after a child is born 4
alive following an abortion or attempted 5
abortion and to establish certain civil or 6
criminal penalties for failing to preserve the 7
health or life of such a child. 8

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

Section 1. That sections 149.43, 2919.13, 3701.79, 9
3701.99, and 4731.22 be amended and sections 3701.792 and 10
4731.92 of the Revised Code be enacted to read as follows: 11

Sec. 149.43. (A) As used in this section: 12

(1) "Public record" means records kept by any public 13
office, including, but not limited to, state, county, city, 14
village, township, and school district units, and records 15
pertaining to the delivery of educational services by an 16

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 and parole proceedings, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to 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;

(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 job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

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

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential

under section 2710.03 or 4112.05 of the Revised Code;	45
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	46 47
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	48 49 50 51
(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;	52 53 54 55
(m) Intellectual property records;	56
(n) Donor profile records;	57
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	58 59
(p) Designated public service worker residential and familial information;	60 61
(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;	62 63 64 65 66
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	67 68
(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	69 70 71

director of health under section 3701.70 of the Revised Code, 72
records provided to the board or director, statements made by 73
board members during meetings of the board or by persons 74
participating in the director's review, and all work products of 75
the board or director, and in the case of a child fatality 76
review board, child fatality review data submitted by the board 77
to the department of health or a national child death review 78
database, other than the report prepared pursuant to division 79
(A) of section 307.626 of the Revised Code; 80

(t) Records provided to and statements made by the 81
executive director of a public children services agency or a 82
prosecuting attorney acting pursuant to section 5153.171 of the 83
Revised Code other than the information released under that 84
section; 85

(u) Test materials, examinations, or evaluation tools used 86
in an examination for licensure as a nursing home administrator 87
that the board of executives of long-term services and supports 88
administers under section 4751.15 of the Revised Code or 89
contracts under that section with a private or government entity 90
to administer; 91

(v) Records the release of which is prohibited by state or 92
federal law; 93

(w) Proprietary information of or relating to any person 94
that is submitted to or compiled by the Ohio venture capital 95
authority created under section 150.01 of the Revised Code; 96

(x) Financial statements and data any person submits for 97
any purpose to the Ohio housing finance agency or the 98
controlling board in connection with applying for, receiving, or 99
accounting for financial assistance from the agency, and 100

information that identifies any individual who benefits directly	101
or indirectly from financial assistance from the agency;	102
(y) Records listed in section 5101.29 of the Revised Code;	103
(z) Discharges recorded with a county recorder under	104
section 317.24 of the Revised Code, as specified in division (B)	105
(2) of that section;	106
(aa) Usage information including names and addresses of	107
specific residential and commercial customers of a municipally	108
owned or operated public utility;	109
(bb) Records described in division (C) of section 187.04	110
of the Revised Code that are not designated to be made available	111
to the public as provided in that division;	112
(cc) Information and records that are made confidential,	113
privileged, and not subject to disclosure under divisions (B)	114
and (C) of section 2949.221 of the Revised Code;	115
(dd) Personal information, as defined in section 149.45 of	116
the Revised Code;	117
(ee) The confidential name, address, and other personally	118
identifiable information of a program participant in the address	119
confidentiality program established under sections 111.41 to	120
111.47 of the Revised Code, including the contents of any	121
application for absent voter's ballots, absent voter's ballot	122
identification envelope statement of voter, or provisional	123
ballot affirmation completed by a program participant who has a	124
confidential voter registration record, and records or portions	125
of records pertaining to that program that identify the number	126
of program participants that reside within a precinct, ward,	127
township, municipal corporation, county, or any other geographic	128
area smaller than the state. As used in this division,	129

"confidential address" and "program participant" have the	130
meaning defined in section 111.41 of the Revised Code.	131
(ff) Orders for active military service of an individual	132
serving or with previous service in the armed forces of the	133
United States, including a reserve component, or the Ohio	134
organized militia, except that, such order becomes a public	135
record on the day that is fifteen years after the published date	136
or effective date of the call to order;	137
(gg) The name, address, contact information, or other	138
personal information of an individual who is less than eighteen	139
years of age that is included in any record related to a traffic	140
accident involving a school vehicle in which the individual was	141
an occupant at the time of the accident;	142
(hh) Protected health information, as defined in 45 C.F.R.	143
160.103, that is in a claim for payment for a health care	144
product, service, or procedure, as well as any other health	145
claims data in another document that reveals the identity of an	146
individual who is the subject of the data or could be used to	147
reveal that individual's identity;	148
(ii) Any depiction by photograph, film, videotape, or	149
printed or digital image under either of the following	150
circumstances:	151
(i) The depiction is that of a victim of an offense the	152
release of which would be, to a reasonable person of ordinary	153
sensibilities, an offensive and objectionable intrusion into the	154
victim's expectation of bodily privacy and integrity.	155
(ii) The depiction captures or depicts the victim of a	156
sexually oriented offense, as defined in section 2950.01 of the	157
Revised Code, at the actual occurrence of that offense.	158

(jj) Restricted portions of a body-worn camera or dashboard camera recording;	159 160
(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.	161 162 163 164 165 166 167 168 169
(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 3738.01 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 3738.08 of the Revised Code;	170 171 172 173 174 175 176
(mm) Telephone numbers for a victim, as defined in section 2930.01 of the Revised Code, a witness to a crime, or 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;	177 178 179 180 181
<u>(nn) A completed child survival form submitted to the department of health under section 3701.792 of the Revised Code.</u>	182 183
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, except for any	184 185 186 187

record protected by the attorney-client privilege, a trial 188
preparation record as defined in this section, a statement 189
prohibiting the release of identifying information signed under 190
section 3107.083 of the Revised Code, a denial of release form 191
filed pursuant to section 3107.46 of the Revised Code, or any 192
record that is exempt from release or disclosure under section 193
149.433 of the Revised Code. If the record is a birth 194
certificate and a biological parent's name redaction request 195
form has been accepted under section 3107.391 of the Revised 196
Code, the name of that parent shall be redacted from the birth 197
certificate before it is released under this paragraph. If any 198
other section of the Revised Code establishes a time period for 199
disclosure of a record that conflicts with the time period 200
specified in this section, the time period in the other section 201
prevails. 202

(2) "Confidential law enforcement investigatory record" 203
means any record that pertains to a law enforcement matter of a 204
criminal, quasi-criminal, civil, or administrative nature, but 205
only to the extent that the release of the record would create a 206
high probability of disclosure of any of the following: 207

(a) The identity of a suspect who has not been charged 208
with the offense to which the record pertains, or of an 209
information source or witness to whom confidentiality has been 210
reasonably promised; 211

(b) Information provided by an information source or 212
witness to whom confidentiality has been reasonably promised, 213
which information would reasonably tend to disclose the source's 214
or witness's identity; 215

(c) Specific confidential investigatory techniques or 216
procedures or specific investigatory work product; 217

(d) Information that would endanger the life or physical 218
safety of law enforcement personnel, a crime victim, a witness, 219
or a confidential information source. 220

(3) "Medical record" means any document or combination of 221
documents, except births, deaths, and the fact of admission to 222
or discharge from a hospital, that pertains to the medical 223
history, diagnosis, prognosis, or medical condition of a patient 224
and that is generated and maintained in the process of medical 225
treatment. 226

(4) "Trial preparation record" means any record that 227
contains information that is specifically compiled in reasonable 228
anticipation of, or in defense of, a civil or criminal action or 229
proceeding, including the independent thought processes and 230
personal trial preparation of an attorney. 231

(5) "Intellectual property record" means a record, other 232
than a financial or administrative record, that is produced or 233
collected by or for faculty or staff of a state institution of 234
higher learning in the conduct of or as a result of study or 235
research on an educational, commercial, scientific, artistic, 236
technical, or scholarly issue, regardless of whether the study 237
or research was sponsored by the institution alone or in 238
conjunction with a governmental body or private concern, and 239
that has not been publicly released, published, or patented. 240

(6) "Donor profile record" means all records about donors 241
or potential donors to a public institution of higher education 242
except the names and reported addresses of the actual donors and 243
the date, amount, and conditions of the actual donation. 244

(7) "Designated public service worker" means a peace 245
officer, parole officer, probation officer, bailiff, prosecuting 246

attorney, assistant prosecuting attorney, correctional employee, 247
county or multicounty corrections officer, community-based 248
correctional facility employee, youth services employee, 249
firefighter, EMT, medical director or member of a cooperating 250
physician advisory board of an emergency medical service 251
organization, state board of pharmacy employee, investigator of 252
the bureau of criminal identification and investigation, judge, 253
magistrate, or federal law enforcement officer. 254

(8) "Designated public service worker residential and 255
familial information" means any information that discloses any 256
of the following about a designated public service worker: 257

(a) The address of the actual personal residence of a 258
designated public service worker, except for the following 259
information: 260

(i) The address of the actual personal residence of a 261
prosecuting attorney or judge; and 262

(ii) The state or political subdivision in which a 263
designated public service worker resides. 264

(b) Information compiled from referral to or participation 265
in an employee assistance program; 266

(c) The social security number, the residential telephone 267
number, any bank account, debit card, charge card, or credit 268
card number, or the emergency telephone number of, or any 269
medical information pertaining to, a designated public service 270
worker; 271

(d) The name of any beneficiary of employment benefits, 272
including, but not limited to, life insurance benefits, provided 273
to a designated public service worker by the designated public 274
service worker's employer; 275

(e) The identity and amount of any charitable or 276
employment benefit deduction made by the designated public 277
service worker's employer from the designated public service 278
worker's compensation, unless the amount of the deduction is 279
required by state or federal law; 280

(f) The name, the residential address, the name of the 281
employer, the address of the employer, the social security 282
number, the residential telephone number, any bank account, 283
debit card, charge card, or credit card number, or the emergency 284
telephone number of the spouse, a former spouse, or any child of 285
a designated public service worker; 286

(g) A photograph of a peace officer who holds a position 287
or has an assignment that may include undercover or plain 288
clothes positions or assignments as determined by the peace 289
officer's appointing authority. 290

(9) As used in divisions (A) (7) and (15) to (17) of this 291
section: 292

"Peace officer" has the meaning defined in section 109.71 293
of the Revised Code and also includes the superintendent and 294
troopers of the state highway patrol; it does not include the 295
sheriff of a county or a supervisory employee who, in the 296
absence of the sheriff, is authorized to stand in for, exercise 297
the authority of, and perform the duties of the sheriff. 298

"Correctional employee" means any employee of the 299
department of rehabilitation and correction who in the course of 300
performing the employee's job duties has or has had contact with 301
inmates and persons under supervision. 302

"County or multicounty corrections officer" means any 303
corrections officer employed by any county or multicounty 304

correctional facility.	305
"Youth services employee" means any employee of the	306
department of youth services who in the course of performing the	307
employee's job duties has or has had contact with children	308
committed to the custody of the department of youth services.	309
"Firefighter" means any regular, paid or volunteer, member	310
of a lawfully constituted fire department of a municipal	311
corporation, township, fire district, or village.	312
"EMT" means EMTs-basic, EMTs-I, and paramedics that	313
provide emergency medical services for a public emergency	314
medical service organization. "Emergency medical service	315
organization," "EMT-basic," "EMT-I," and "paramedic" have the	316
meanings defined in section 4765.01 of the Revised Code.	317
"Investigator of the bureau of criminal identification and	318
investigation" has the meaning defined in section 2903.11 of the	319
Revised Code.	320
"Federal law enforcement officer" has the meaning defined	321
in section 9.88 of the Revised Code.	322
(10) "Information pertaining to the recreational	323
activities of a person under the age of eighteen" means	324
information that is kept in the ordinary course of business by a	325
public office, that pertains to the recreational activities of a	326
person under the age of eighteen years, and that discloses any	327
of the following:	328
(a) The address or telephone number of a person under the	329
age of eighteen or the address or telephone number of that	330
person's parent, guardian, custodian, or emergency contact	331
person;	332

(b) The social security number, birth date, or	333
photographic image of a person under the age of eighteen;	334
(c) Any medical record, history, or information pertaining	335
to a person under the age of eighteen;	336
(d) Any additional information sought or required about a	337
person under the age of eighteen for the purpose of allowing	338
that person to participate in any recreational activity	339
conducted or sponsored by a public office or to use or obtain	340
admission privileges to any recreational facility owned or	341
operated by a public office.	342
(11) "Community control sanction" has the meaning defined	343
in section 2929.01 of the Revised Code.	344
(12) "Post-release control sanction" has the meaning	345
defined in section 2967.01 of the Revised Code.	346
(13) "Redaction" means obscuring or deleting any	347
information that is exempt from the duty to permit public	348
inspection or copying from an item that otherwise meets the	349
definition of a "record" in section 149.011 of the Revised Code.	350
(14) "Designee," "elected official," and "future official"	351
have the meanings defined in section 109.43 of the Revised Code.	352
(15) "Body-worn camera" means a visual and audio recording	353
device worn on the person of a peace officer while the peace	354
officer is engaged in the performance of the peace officer's	355
duties.	356
(16) "Dashboard camera" means a visual and audio recording	357
device mounted on a peace officer's vehicle or vessel that is	358
used while the peace officer is engaged in the performance of	359
the peace officer's duties.	360

(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 law enforcement agency knows or has reason to know the person is a child based on the 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 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 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 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 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 peace officer, firefighter, paramedic, or other first responder, occurring while the injured

person was engaged in the performance of official duties, 390
unless, subject to division (H)(1) of this section, the consent 391
of the injured person or the injured person's guardian has been 392
obtained; 393

(g) An act of severe violence resulting in serious 394
physical harm against a peace officer, firefighter, paramedic, 395
or other first responder, occurring while the injured person was 396
engaged in the performance of official duties, unless, subject 397
to division (H)(1) of this section, the consent of the injured 398
person or the injured person's guardian has been obtained; 399

(h) A person's nude body, unless, subject to division (H) 400
(1) of this section, the person's consent has been obtained; 401

(i) Protected health information, the identity of a person 402
in a health care facility who is not the subject of a law 403
enforcement encounter, or any other information in a health care 404
facility that could identify a person who is not the subject of 405
a law enforcement encounter; 406

(j) Information that could identify the alleged victim of 407
a sex offense, menacing by stalking, or domestic violence; 408

(k) Information, that does not constitute a confidential 409
law enforcement investigatory record, that could identify a 410
person who provides sensitive or confidential information to a 411
law enforcement agency when the disclosure of the person's 412
identity or the information provided could reasonably be 413
expected to threaten or endanger the safety or property of the 414
person or another person; 415

(l) Personal information of a person who is not arrested, 416
cited, charged, or issued a written warning by a peace officer; 417

(m) Proprietary police contingency plans or tactics that 418

are intended to prevent crime and maintain public order and	419
safety;	420
(n) A personal conversation unrelated to work between	421
peace officers or between a peace officer and an employee of a	422
law enforcement agency;	423
(o) A conversation between a peace officer and a member of	424
the public that does not concern law enforcement activities;	425
(p) The interior of a residence, unless the interior of a	426
residence is the location of an adversarial encounter with, or a	427
use of force by, a peace officer;	428
(q) Any portion of the interior of a private business that	429
is not open to the public, unless an adversarial encounter with,	430
or a use of force by, a peace officer occurs in that location.	431
As used in division (A) (17) of this section:	432
"Grievous bodily harm" has the same meaning as in section	433
5924.120 of the Revised Code.	434
"Health care facility" has the same meaning as in section	435
1337.11 of the Revised Code.	436
"Protected health information" has the same meaning as in	437
45 C.F.R. 160.103.	438
"Law enforcement agency" has the same meaning as in	439
section 2925.61 of the Revised Code.	440
"Personal information" means any government-issued	441
identification number, date of birth, address, financial	442
information, or criminal justice information from the law	443
enforcement automated data system or similar databases.	444
"Sex offense" has the same meaning as in section 2907.10	445

of the Revised Code. 446

"Firefighter," "paramedic," and "first responder" have the 447
same meanings as in section 4765.01 of the Revised Code. 448

(B) (1) Upon request and subject to division (B) (8) of this 449
section, all public records responsive to the request shall be 450
promptly prepared and made available for inspection to any 451
person at all reasonable times during regular business hours. 452
Subject to division (B) (8) of this section, upon request by any 453
person, a public office or person responsible for public records 454
shall make copies of the requested public record available to 455
the requester at cost and within a reasonable period of time. If 456
a public record contains information that is exempt from the 457
duty to permit public inspection or to copy the public record, 458
the public office or the person responsible for the public 459
record shall make available all of the information within the 460
public record that is not exempt. When making that public record 461
available for public inspection or copying that public record, 462
the public office or the person responsible for the public 463
record shall notify the requester of any redaction or make the 464
redaction plainly visible. A redaction shall be deemed a denial 465
of a request to inspect or copy the redacted information, except 466
if federal or state law authorizes or requires a public office 467
to make the redaction. 468

(2) To facilitate broader access to public records, a 469
public office or the person responsible for public records shall 470
organize and maintain public records in a manner that they can 471
be made available for inspection or copying in accordance with 472
division (B) of this section. A public office also shall have 473
available a copy of its current records retention schedule at a 474
location readily available to the public. If a requester makes 475

an ambiguous or overly broad request or has difficulty in making 476
a request for copies or inspection of public records under this 477
section such that the public office or the person responsible 478
for the requested public record cannot reasonably identify what 479
public records are being requested, the public office or the 480
person responsible for the requested public record may deny the 481
request but shall provide the requester with an opportunity to 482
revise the request by informing the requester of the manner in 483
which records are maintained by the public office and accessed 484
in the ordinary course of the public office's or person's 485
duties. 486

(3) If a request is ultimately denied, in part or in 487
whole, the public office or the person responsible for the 488
requested public record shall provide the requester with an 489
explanation, including legal authority, setting forth why the 490
request was denied. If the initial request was provided in 491
writing, the explanation also shall be provided to the requester 492
in writing. The explanation shall not preclude the public office 493
or the person responsible for the requested public record from 494
relying upon additional reasons or legal authority in defending 495
an action commenced under division (C) of this section. 496

(4) Unless specifically required or authorized by state or 497
federal law or in accordance with division (B) of this section, 498
no public office or person responsible for public records may 499
limit or condition the availability of public records by 500
requiring disclosure of the requester's identity or the intended 501
use of the requested public record. Any requirement that the 502
requester disclose the requester's identity or the intended use 503
of the requested public record constitutes a denial of the 504
request. 505

(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 that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person requesting the copy under this division. The public office or the person responsible for the public record shall permit that person 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 person requesting the copy 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 that person. Nothing in this section requires a public office or person responsible for the public record to allow the person requesting a copy of the

public record to make the copies of the public record. 537

(7) (a) Upon a request made in accordance with division (B) 538
of this section and subject to division (B) (6) of this section, 539
a public office or person responsible for public records shall 540
transmit a copy of a public record to any person by United 541
States mail or by any other means of delivery or transmission 542
within a reasonable period of time after receiving the request 543
for the copy. The public office or person responsible for the 544
public record may require the person making the request to pay 545
in advance the cost of postage if the copy is transmitted by 546
United States mail or the cost of delivery if the copy is 547
transmitted other than by United States mail, and to pay in 548
advance the costs incurred for other supplies used in the 549
mailing, delivery, or transmission. 550

(b) Any public office may adopt a policy and procedures 551
that it will follow in transmitting, within a reasonable period 552
of time after receiving a request, copies of public records by 553
United States mail or by any other means of delivery or 554
transmission pursuant to division (B) (7) of this section. A 555
public office that adopts a policy and procedures under division 556
(B) (7) of this section shall comply with them in performing its 557
duties under that division. 558

(c) In any policy and procedures adopted under division 559
(B) (7) of this section: 560

(i) A public office may limit the number of records 561
requested by a person that the office will physically deliver by 562
United States mail or by another delivery service to ten per 563
month, unless the person certifies to the office in writing that 564
the person does not intend to use or forward the requested 565
records, or the information contained in them, for commercial 566

purposes; 567

(ii) A public office that chooses to provide some or all 568
of its public records on a web site that is fully accessible to 569
and searchable by members of the public at all times, other than 570
during acts of God outside the public office's control or 571
maintenance, and that charges no fee to search, access, 572
download, or otherwise receive records provided on the web site, 573
may limit to ten per month the number of records requested by a 574
person that the office will deliver in a digital format, unless 575
the requested records are not provided on the web site and 576
unless the person certifies to the office in writing that the 577
person does not intend to use or forward the requested records, 578
or the information contained in them, for commercial purposes. 579

(iii) For purposes of division (B) (7) of this section, 580
"commercial" shall be narrowly construed and does not include 581
reporting or gathering news, reporting or gathering information 582
to assist citizen oversight or understanding of the operation or 583
activities of government, or nonprofit educational research. 584

(8) A public office or person responsible for public 585
records is not required to permit a person who is incarcerated 586
pursuant to a criminal conviction or a juvenile adjudication to 587
inspect or to obtain a copy of any public record concerning a 588
criminal investigation or prosecution or concerning what would 589
be a criminal investigation or prosecution if the subject of the 590
investigation or prosecution were an adult, unless the request 591
to inspect or to obtain a copy of the record is for the purpose 592
of acquiring information that is subject to release as a public 593
record under this section and the judge who imposed the sentence 594
or made the adjudication with respect to the person, or the 595
judge's successor in office, finds that the information sought 596

in the public record is necessary to support what appears to be 597
a justiciable claim of the person. 598

(9) (a) Upon written request made and signed by a 599
journalist, a public office, or person responsible for public 600
records, having custody of the records of the agency employing a 601
specified designated public service worker shall disclose to the 602
journalist the address of the actual personal residence of the 603
designated public service worker and, if the designated public 604
service worker's spouse, former spouse, or child is employed by 605
a public office, the name and address of the employer of the 606
designated public service worker's spouse, former spouse, or 607
child. The request shall include the journalist's name and title 608
and the name and address of the journalist's employer and shall 609
state that disclosure of the information sought would be in the 610
public interest. 611

(b) Division (B) (9) (a) of this section also applies to 612
journalist requests for: 613

(i) Customer information maintained by a municipally owned 614
or operated public utility, other than social security numbers 615
and any private financial information such as credit reports, 616
payment methods, credit card numbers, and bank account 617
information; 618

(ii) Information about minors involved in a school vehicle 619
accident as provided in division (A) (1) (gg) of this section, 620
other than personal information as defined in section 149.45 of 621
the Revised Code. 622

(c) As used in division (B) (9) of this section, 623
"journalist" means a person engaged in, connected with, or 624
employed by any news medium, including a newspaper, magazine, 625

press association, news agency, or wire service, a radio or 626
television station, or a similar medium, for the purpose of 627
gathering, processing, transmitting, compiling, editing, or 628
disseminating information for the general public. 629

(10) Upon a request made by a victim, victim's attorney, 630
or victim's representative, as that term is used in section 631
2930.02 of the Revised Code, a public office or person 632
responsible for public records shall transmit a copy of a 633
depiction of the victim as described in division (A) (1) (gg) of 634
this section to the victim, victim's attorney, or victim's 635
representative. 636

(C) (1) If a person allegedly is aggrieved by the failure 637
of a public office or the person responsible for public records 638
to promptly prepare a public record and to make it available to 639
the person for inspection in accordance with division (B) of 640
this section or by any other failure of a public office or the 641
person responsible for public records to comply with an 642
obligation in accordance with division (B) of this section, the 643
person allegedly aggrieved may do only one of the following, and 644
not both: 645

(a) File a complaint with the clerk of the court of claims 646
or the clerk of the court of common pleas under section 2743.75 647
of the Revised Code; 648

(b) Commence a mandamus action to obtain a judgment that 649
orders the public office or the person responsible for the 650
public record to comply with division (B) of this section, that 651
awards court costs and reasonable attorney's fees to the person 652
that instituted the mandamus action, and, if applicable, that 653
includes an order fixing statutory damages under division (C) (2) 654
of this section. The mandamus action may be commenced in the 655

court of common pleas of the county in which division (B) of 656
this section allegedly was not complied with, in the supreme 657
court pursuant to its original jurisdiction under Section 2 of 658
Article IV, Ohio Constitution, or in the court of appeals for 659
the appellate district in which division (B) of this section 660
allegedly was not complied with pursuant to its original 661
jurisdiction under Section 3 of Article IV, Ohio Constitution. 662

(2) If a requester transmits a written request by hand 663
delivery, electronic submission, or certified mail to inspect or 664
receive copies of any public record in a manner that fairly 665
describes the public record or class of public records to the 666
public office or person responsible for the requested public 667
records, except as otherwise provided in this section, the 668
requester shall be entitled to recover the amount of statutory 669
damages set forth in this division if a court determines that 670
the public office or the person responsible for public records 671
failed to comply with an obligation in accordance with division 672
(B) of this section. 673

The amount of statutory damages shall be fixed at one 674
hundred dollars for each business day during which the public 675
office or person responsible for the requested public records 676
failed to comply with an obligation in accordance with division 677
(B) of this section, beginning with the day on which the 678
requester files a mandamus action to recover statutory damages, 679
up to a maximum of one thousand dollars. The award of statutory 680
damages shall not be construed as a penalty, but as compensation 681
for injury arising from lost use of the requested information. 682
The existence of this injury shall be conclusively presumed. The 683
award of statutory damages shall be in addition to all other 684
remedies authorized by this section. 685

The court may reduce an award of statutory damages or not 686
award statutory damages if the court determines both of the 687
following: 688

(a) That, based on the ordinary application of statutory 689
law and case law as it existed at the time of the conduct or 690
threatened conduct of the public office or person responsible 691
for the requested public records that allegedly constitutes a 692
failure to comply with an obligation in accordance with division 693
(B) of this section and that was the basis of the mandamus 694
action, a well-informed public office or person responsible for 695
the requested public records reasonably would believe that the 696
conduct or threatened conduct of the public office or person 697
responsible for the requested public records did not constitute 698
a failure to comply with an obligation in accordance with 699
division (B) of this section; 700

(b) That a well-informed public office or person 701
responsible for the requested public records reasonably would 702
believe that the conduct or threatened conduct of the public 703
office or person responsible for the requested public records 704
would serve the public policy that underlies the authority that 705
is asserted as permitting that conduct or threatened conduct. 706

(3) In a mandamus action filed under division (C)(1) of 707
this section, the following apply: 708

(a) (i) If the court orders the public office or the person 709
responsible for the public record to comply with division (B) of 710
this section, the court shall determine and award to the relator 711
all court costs, which shall be construed as remedial and not 712
punitive. 713

(ii) If the court makes a determination described in 714

division (C) (3) (b) (iii) of this section, the court shall 715
determine and award to the relator all court costs, which shall 716
be construed as remedial and not punitive. 717

(b) If the court renders a judgment that orders the public 718
office or the person responsible for the public record to comply 719
with division (B) of this section or if the court determines any 720
of the following, the court may award reasonable attorney's fees 721
to the relator, subject to division (C) (4) of this section: 722

(i) The public office or the person responsible for the 723
public records failed to respond affirmatively or negatively to 724
the public records request in accordance with the time allowed 725
under division (B) of this section. 726

(ii) The public office or the person responsible for the 727
public records promised to permit the relator to inspect or 728
receive copies of the public records requested within a 729
specified period of time but failed to fulfill that promise 730
within that specified period of time. 731

(iii) The public office or the person responsible for the 732
public records acted in bad faith when the office or person 733
voluntarily made the public records available to the relator for 734
the first time after the relator commenced the mandamus action, 735
but before the court issued any order concluding whether or not 736
the public office or person was required to comply with division 737
(B) of this section. No discovery may be conducted on the issue 738
of the alleged bad faith of the public office or person 739
responsible for the public records. This division shall not be 740
construed as creating a presumption that the public office or 741
the person responsible for the public records acted in bad faith 742
when the office or person voluntarily made the public records 743
available to the relator for the first time after the relator 744

commenced the mandamus action, but before the court issued any 745
order described in this division. 746

(c) The court shall not award attorney's fees to the 747
relator if the court determines both of the following: 748

(i) That, based on the ordinary application of statutory 749
law and case law as it existed at the time of the conduct or 750
threatened conduct of the public office or person responsible 751
for the requested public records that allegedly constitutes a 752
failure to comply with an obligation in accordance with division 753
(B) of this section and that was the basis of the mandamus 754
action, a well-informed public office or person responsible for 755
the requested public records reasonably would believe that the 756
conduct or threatened conduct of the public office or person 757
responsible for the requested public records did not constitute 758
a failure to comply with an obligation in accordance with 759
division (B) of this section; 760

(ii) That a well-informed public office or person 761
responsible for the requested public records reasonably would 762
believe that the conduct or threatened conduct of the public 763
office or person responsible for the requested public records 764
would serve the public policy that underlies the authority that 765
is asserted as permitting that conduct or threatened conduct. 766

(4) All of the following apply to any award of reasonable 767
attorney's fees awarded under division (C) (3) (b) of this 768
section: 769

(a) The fees shall be construed as remedial and not 770
punitive. 771

(b) The fees awarded shall not exceed the total of the 772
reasonable attorney's fees incurred before the public record was 773

made available to the relator and the fees described in division	774
(C) (4) (c) of this section.	775
(c) Reasonable attorney's fees shall include reasonable	776
fees incurred to produce proof of the reasonableness and amount	777
of the fees and to otherwise litigate entitlement to the fees.	778
(d) The court may reduce the amount of fees awarded if the	779
court determines that, given the factual circumstances involved	780
with the specific public records request, an alternative means	781
should have been pursued to more effectively and efficiently	782
resolve the dispute that was subject to the mandamus action	783
filed under division (C) (1) of this section.	784
(5) If the court does not issue a writ of mandamus under	785
division (C) of this section and the court determines at that	786
time that the bringing of the mandamus action was frivolous	787
conduct as defined in division (A) of section 2323.51 of the	788
Revised Code, the court may award to the public office all court	789
costs, expenses, and reasonable attorney's fees, as determined	790
by the court.	791
(D) Chapter 1347. of the Revised Code does not limit the	792
provisions of this section.	793
(E) (1) To ensure that all employees of public offices are	794
appropriately educated about a public office's obligations under	795
division (B) of this section, all elected officials or their	796
appropriate designees shall attend training approved by the	797
attorney general as provided in section 109.43 of the Revised	798
Code. A future official may satisfy the requirements of this	799
division by attending the training before taking office,	800
provided that the future official may not send a designee in the	801
future official's place.	802

(2) All public offices shall adopt a public records policy 803
in compliance with this section for responding to public records 804
requests. In adopting a public records policy under this 805
division, a public office may obtain guidance from the model 806
public records policy developed and provided to the public 807
office by the attorney general under section 109.43 of the 808
Revised Code. Except as otherwise provided in this section, the 809
policy may not limit the number of public records that the 810
public office will make available to a single person, may not 811
limit the number of public records that it will make available 812
during a fixed period of time, and may not establish a fixed 813
period of time before it will respond to a request for 814
inspection or copying of public records, unless that period is 815
less than eight hours. 816

The public office shall distribute the public records 817
policy adopted by the public office under this division to the 818
employee of the public office who is the records custodian or 819
records manager or otherwise has custody of the records of that 820
office. The public office shall require that employee to 821
acknowledge receipt of the copy of the public records policy. 822
The public office shall create a poster that describes its 823
public records policy and shall post the poster in a conspicuous 824
place in the public office and in all locations where the public 825
office has branch offices. The public office may post its public 826
records policy on the internet web site of the public office if 827
the public office maintains an internet web site. A public 828
office that has established a manual or handbook of its general 829
policies and procedures for all employees of the public office 830
shall include the public records policy of the public office in 831
the manual or handbook. 832

(F) (1) The bureau of motor vehicles may adopt rules 833

pursuant to Chapter 119. of the Revised Code to reasonably limit 834
the number of bulk commercial special extraction requests made 835
by a person for the same records or for updated records during a 836
calendar year. The rules may include provisions for charges to 837
be made for bulk commercial special extraction requests for the 838
actual cost of the bureau, plus special extraction costs, plus 839
ten per cent. The bureau may charge for expenses for redacting 840
information, the release of which is prohibited by law. 841

(2) As used in division (F)(1) of this section: 842

(a) "Actual cost" means the cost of depleted supplies, 843
records storage media costs, actual mailing and alternative 844
delivery costs, or other transmitting costs, and any direct 845
equipment operating and maintenance costs, including actual 846
costs paid to private contractors for copying services. 847

(b) "Bulk commercial special extraction request" means a 848
request for copies of a record for information in a format other 849
than the format already available, or information that cannot be 850
extracted without examination of all items in a records series, 851
class of records, or database by a person who intends to use or 852
forward the copies for surveys, marketing, solicitation, or 853
resale for commercial purposes. "Bulk commercial special 854
extraction request" does not include a request by a person who 855
gives assurance to the bureau that the person making the request 856
does not intend to use or forward the requested copies for 857
surveys, marketing, solicitation, or resale for commercial 858
purposes. 859

(c) "Commercial" means profit-seeking production, buying, 860
or selling of any good, service, or other product. 861

(d) "Special extraction costs" means the cost of the time 862

spent by the lowest paid employee competent to perform the task, 863
the actual amount paid to outside private contractors employed 864
by the bureau, or the actual cost incurred to create computer 865
programs to make the special extraction. "Special extraction 866
costs" include any charges paid to a public agency for computer 867
or records services. 868

(3) For purposes of divisions (F) (1) and (2) of this 869
section, "surveys, marketing, solicitation, or resale for 870
commercial purposes" shall be narrowly construed and does not 871
include reporting or gathering news, reporting or gathering 872
information to assist citizen oversight or understanding of the 873
operation or activities of government, or nonprofit educational 874
research. 875

(G) A request by a defendant, counsel of a defendant, or 876
any agent of a defendant in a criminal action that public 877
records related to that action be made available under this 878
section shall be considered a demand for discovery pursuant to 879
the Criminal Rules, except to the extent that the Criminal Rules 880
plainly indicate a contrary intent. The defendant, counsel of 881
the defendant, or agent of the defendant making a request under 882
this division shall serve a copy of the request on the 883
prosecuting attorney, director of law, or other chief legal 884
officer responsible for prosecuting the action. 885

(H) (1) Any portion of a body-worn camera or dashboard 886
camera recording described in divisions (A) (17) (b) to (h) of 887
this section may be released by consent of the subject of the 888
recording or a representative of that person, as specified in 889
those divisions, only if either of the following applies: 890

(a) The recording will not be used in connection with any 891
probable or pending criminal proceedings; 892

(b) The recording has been used in connection with a 893
criminal proceeding that was dismissed or for which a judgment 894
has been entered pursuant to Rule 32 of the Rules of Criminal 895
Procedure, and will not be used again in connection with any 896
probable or pending criminal proceedings. 897

(2) If a public office denies a request to release a 898
restricted portion of a body-worn camera or dashboard camera 899
recording, as defined in division (A)(17) of this section, any 900
person may file a mandamus action pursuant to this section or a 901
complaint with the clerk of the court of claims pursuant to 902
section 2743.75 of the Revised Code, requesting the court to 903
order the release of all or portions of the recording. If the 904
court considering the request determines that the filing 905
articulates by clear and convincing evidence that the public 906
interest in the recording substantially outweighs privacy 907
interests and other interests asserted to deny release, the 908
court shall order the public office to release the recording. 909

Sec. 2919.13. (A) No person shall purposely take the life 910
of a child born by attempted abortion who is alive when removed 911
from the uterus of the pregnant woman. 912

(B) No person who performs an abortion shall purposely 913
fail to take the measures required by the exercise of medical 914
judgment in light of the attending circumstances to preserve the 915
health or life of a child who is alive when removed from the 916
uterus of the pregnant woman. 917

(C) Whoever violates this section is guilty of abortion 918
manslaughter, a felony of the first degree. 919

(D)(1) A woman on whom an abortion is performed or 920
attempted may file a civil action for the wrongful death of the 921

<u>woman's child against a person who violates division (A) of this</u>	922
<u>section.</u>	923
<u>(2) A woman on whom an abortion is performed or attempted</u>	924
<u>may file a civil action for injury, death, or loss to person or</u>	925
<u>property against a person who violates division (B) of this</u>	926
<u>section.</u>	927
<u>(3) A woman who prevails in an action filed under division</u>	928
<u>(D) (1) or (2) of this section shall receive both of the</u>	929
<u>following from the person who committed the act:</u>	930
<u>(a) Compensatory and exemplary damages in an amount</u>	931
<u>determined by the trier of fact;</u>	932
<u>(b) Court costs and reasonable attorney's fees.</u>	933
Sec. 3701.79. <u>(A) As used in this section and in sections</u>	934
<u>3701.791 and 3701.792 of the Revised Code:</u>	935
(1) "Abortion" has the same meaning as in section 2919.11	936
of the Revised Code.	937
(2) "Abortion report" means a form completed pursuant to	938
division (C) of this section.	939
(3) "Ambulatory surgical facility" has the same meaning as	940
in section 3702.30 of the Revised Code.	941
(4) "Department" means the department of health.	942
(5) "Hospital" means any building, structure, institution,	943
or place devoted primarily to the maintenance and operation of	944
facilities for the diagnosis, treatment, and medical or surgical	945
care for three or more unrelated individuals suffering from	946
illness, disease, injury, or deformity, and regularly making	947
available at least clinical laboratory services, diagnostic x-	948

ray services, treatment facilities for surgery or obstetrical 949
care, or other definitive medical treatment. "Hospital" does not 950
include a "home" as defined in section 3721.01 of the Revised 951
Code. 952

(6) "Physician's office" means an office or portion of an 953
office that is used to provide medical or surgical services to 954
the physician's patients. "Physician's office" does not mean an 955
ambulatory surgical facility, a hospital, or a hospital 956
emergency department. 957

(7) "Postabortion care" means care given after the uterus 958
has been evacuated by abortion. 959

(B) The department shall be responsible for collecting and 960
collating abortion data reported to the department as required 961
by this section. 962

(C) The attending physician shall complete an individual 963
abortion report for each abortion the physician performs upon a 964
woman. The report shall be confidential and shall not contain 965
the woman's name. The report shall include, but is not limited 966
to, all of the following, insofar as the patient makes the data 967
available that is not within the physician's knowledge: 968

(1) Patient number; 969

(2) The name and address of the facility in which the 970
abortion was performed, and whether the facility is a hospital, 971
ambulatory surgical facility, physician's office, or other 972
facility; 973

(3) The date of the abortion; 974

(4) All of the following regarding the woman on whom the 975
abortion was performed: 976

(a) Zip code of residence;	977
(b) Age;	978
(c) Race;	979
(d) Marital status;	980
(e) Number of previous pregnancies;	981
(f) Years of education;	982
(g) Number of living children;	983
(h) Number of previously induced abortions;	984
(i) Date of last induced abortion;	985
(j) Date of last live birth;	986
(k) Method of contraception at the time of conception;	987
(l) Date of the first day of the last menstrual period;	988
(m) Medical condition at the time of the abortion;	989
(n) Rh-type;	990
(o) The number of weeks of gestation at the time of the abortion.	991 992
(5) The type of abortion procedure performed;	993
(6) Complications by type;	994
(7) Written acknowledgment by the attending physician that the pregnant woman is not seeking the abortion, in whole or in part, because of any of the following:	995 996 997
(a) A test result indicating Down syndrome in an unborn child;	998 999
(b) A prenatal diagnosis of Down syndrome in an unborn	1000

child;	1001
(c) Any other reason to believe that an unborn child has Down syndrome.	1002 1003
(8) Type of procedure performed after the abortion;	1004
(9) Type of family planning recommended;	1005
(10) Type of additional counseling given;	1006
(11) Signature of attending physician.	1007
(D) The physician who completed the abortion report under division (C) of this section shall submit the abortion report to the department within fifteen days after the woman is discharged.	1008 1009 1010 1011
(E) The appropriate vital records report or certificate shall be made out after the twentieth week of gestation.	1012 1013
(F) A copy of the abortion report shall be made part of the medical record of the patient of the facility in which the abortion was performed.	1014 1015 1016
(G) Each hospital shall file monthly and annual reports listing the total number of women who have undergone a post- twelve-week-gestation abortion and received postabortion care. The annual report shall be filed following the conclusion of the state's fiscal year. Each report shall be filed within thirty days after the end of the applicable reporting period.	1017 1018 1019 1020 1021 1022
(H) Each case in which a physician treats a post abortion complication shall be reported on a postabortion complication form. The report shall be made upon a form prescribed by the department, shall be signed by the attending physician, and shall be confidential.	1023 1024 1025 1026 1027

(I) (1) Not later than the first day of October of each year, the department shall issue an annual report of the abortion data reported to the department for the previous calendar year as required by this section. The annual report shall include at least the following information:

(a) The total number of induced abortions;

(b) The number of abortions performed on Ohio and out-of-state residents;

(c) The number of abortions performed, sorted by each of the following:

(i) The age of the woman on whom the abortion was performed, using the following categories: under fifteen years of age, fifteen to nineteen years of age, twenty to twenty-four years of age, twenty-five to twenty-nine years of age, thirty to thirty-four years of age, thirty-five to thirty-nine years of age, forty to forty-four years of age, forty-five years of age or older;

(ii) The race and Hispanic ethnicity of the woman on whom the abortion was performed;

(iii) The education level of the woman on whom the abortion was performed, using the following categories or their equivalents: less than ninth grade, ninth through twelfth grade, one or more years of college;

(iv) The marital status of the woman on whom the abortion was performed;

(v) The number of living children of the woman on whom the abortion was performed, using the following categories: none, one, or two or more;

(vi) The number of weeks of gestation of the woman at the 1056
time the abortion was performed, using the following categories: 1057
less than nine weeks, nine to twelve weeks, thirteen to nineteen 1058
weeks, or twenty weeks or more; 1059

(vii) The county in which the abortion was performed; 1060

(viii) The type of abortion procedure performed; 1061

(ix) The number of abortions previously performed on the 1062
woman on whom the abortion was performed; 1063

(x) The type of facility in which the abortion was 1064
performed; 1065

(xi) For Ohio residents, the county of residence of the 1066
woman on whom the abortion was performed. 1067

(2) The report also shall indicate the number and type of 1068
the abortion complications reported to the department either on 1069
the abortion report required under division (C) of this section 1070
or the postabortion complication report required under division 1071
(H) of this section. 1072

(3) In addition to the annual report required under 1073
division (I)(1) of this section, the department shall make 1074
available, on request, the number of abortions performed by zip 1075
code of residence. 1076

(J) The director of health shall implement this section 1077
and shall apply to the court of common pleas for temporary or 1078
permanent injunctions restraining a violation or threatened 1079
violation of its requirements. This action is an additional 1080
remedy not dependent on the adequacy of the remedy at law. 1081

Sec. 3701.792. (A) The director of health shall develop a 1082
child survival form to be submitted to the department of health 1083

in accordance with division (B) of this section each time a 1084
child is born alive after an abortion or attempted abortion. In 1085
developing the form, the director may consult with 1086
obstetricians, maternal-fetal specialists, or any other 1087
professionals the director considers appropriate. The form shall 1088
include areas for all of the following to be provided: 1089

(1) The patient number for the woman on whom the abortion 1090
was performed or attempted; 1091

(2) The name, primary business address, and signature of 1092
the attending physician described in section 3701.79 of the 1093
Revised Code who performed or attempted to perform the abortion; 1094

(3) The name and address of the facility in which the 1095
abortion was performed or attempted, and whether the facility is 1096
a hospital, ambulatory surgical facility, physician's office, or 1097
other facility; 1098

(4) The date the abortion was performed or attempted; 1099

(5) The type of abortion procedure that was performed or 1100
attempted; 1101

(6) The gestational age of the child who was born; 1102

(7) Complications, by type, for both the woman and child; 1103

(8) Any other information the director considers 1104
appropriate. 1105

(B) The attending physician who performed or attempted an 1106
abortion in which a child was born alive after that event shall 1107
complete a child survival form developed under division (A) of 1108
this section. The physician shall submit the completed form to 1109
the department of health not later than fifteen days after the 1110
woman is discharged from the facility. 1111

A completed child survival form is confidential and not a 1112
public record under section 149.43 of the Revised Code. 1113

(C) A copy of the child survival form completed under this 1114
section shall be made part of the medical record maintained for 1115
the woman by the facility in which the abortion was performed or 1116
attempted. 1117

(D) Each facility in which an abortion was performed or 1118
attempted and in which a child was born alive after that event 1119
shall submit monthly and annual reports to the department of 1120
health listing the total number of women on whom an abortion was 1121
performed or attempted at the facility and in which a child was 1122
born alive after that event, delineated by the type of abortion 1123
procedure that was performed or attempted. The annual report 1124
shall be submitted following the conclusion of the state's 1125
fiscal year. Each monthly or annual report shall be submitted 1126
not later than thirty days after the end of the applicable 1127
reporting period. 1128

(E) Not later than the first day of October of each year, 1129
the department shall issue an annual report of the data 1130
submitted to the department for the previous calendar year as 1131
required by this section. At a minimum, the annual report shall 1132
specify the number of women on whom an abortion was performed or 1133
attempted and in which a child was born alive after that event, 1134
delineated by the type of abortion procedure that was performed 1135
or attempted and the facility in which the abortion was 1136
performed or attempted. The report shall not contain any 1137
information that would permit the identity of a woman on whom an 1138
abortion was performed or attempted or any child to be 1139
ascertained. 1140

(F) No person shall purposely fail to comply with the 1141

child survival form submission requirement described in division 1142
(B) of this section or the copy maintenance requirement 1143
described in division (C) of this section. 1144

(G) No person shall purposely fail to comply with the 1145
monthly or annual report submission requirements described in 1146
division (D) of this section. 1147

(H) A woman on whom an abortion is performed or attempted 1148
may file a civil action against a person who violates division 1149
(F) or (G) or this section. A woman who prevails in an action 1150
filed under this division shall receive both of the following 1151
from the person who committed the violation: 1152

(1) Damages in the amount of ten thousand dollars; 1153

(2) Court costs and reasonable attorney's fees. 1154

Sec. 3701.99. (A) Whoever violates division (C) of section 1155
3701.23, division (C) of section 3701.232, division (C) of 1156
section 3701.24, division (D)(2) of section 3701.262, or 1157
sections 3701.46 to 3701.55 of the Revised Code is guilty of a 1158
minor misdemeanor on a first offense; on each subsequent 1159
offense, the person is guilty of a misdemeanor of the fourth 1160
degree. 1161

(B) Whoever violates section 3701.82 of the Revised Code 1162
is guilty of a misdemeanor of the first degree. 1163

(C) Whoever violates section 3701.352 or 3701.81 of the 1164
Revised Code is guilty of a misdemeanor of the second degree. 1165

(D) Whoever violates division (F) or (G) of section 1166
3701.792 of the Revised Code is guilty of a felony of the third 1167
degree. 1168

Sec. 4731.22. (A) The state medical board, by an 1169

affirmative vote of not fewer than six of its members, may 1170
limit, revoke, or suspend a license or certificate to practice 1171
or certificate to recommend, refuse to grant a license or 1172
certificate, refuse to renew a license or certificate, refuse to 1173
reinstate a license or certificate, or reprimand or place on 1174
probation the holder of a license or certificate if the 1175
individual applying for or holding the license or certificate is 1176
found by the board to have committed fraud during the 1177
administration of the examination for a license or certificate 1178
to practice or to have committed fraud, misrepresentation, or 1179
deception in applying for, renewing, or securing any license or 1180
certificate to practice or certificate to recommend issued by 1181
the board. 1182

(B) The board, by an affirmative vote of not fewer than 1183
six members, shall, to the extent permitted by law, limit, 1184
revoke, or suspend a license or certificate to practice or 1185
certificate to recommend, refuse to issue a license or 1186
certificate, refuse to renew a license or certificate, refuse to 1187
reinstate a license or certificate, or reprimand or place on 1188
probation the holder of a license or certificate for one or more 1189
of the following reasons: 1190

(1) Permitting one's name or one's license or certificate 1191
to practice to be used by a person, group, or corporation when 1192
the individual concerned is not actually directing the treatment 1193
given; 1194

(2) Failure to maintain minimal standards applicable to 1195
the selection or administration of drugs, or failure to employ 1196
acceptable scientific methods in the selection of drugs or other 1197
modalities for treatment of disease; 1198

(3) Except as provided in section 4731.97 of the Revised 1199

Code, selling, giving away, personally furnishing, prescribing, 1200
or administering drugs for other than legal and legitimate 1201
therapeutic purposes or a plea of guilty to, a judicial finding 1202
of guilt of, or a judicial finding of eligibility for 1203
intervention in lieu of conviction of, a violation of any 1204
federal or state law regulating the possession, distribution, or 1205
use of any drug; 1206

(4) Willfully betraying a professional confidence. 1207

For purposes of this division, "willfully betraying a 1208
professional confidence" does not include providing any 1209
information, documents, or reports under sections 307.621 to 1210
307.629 of the Revised Code to a child fatality review board; 1211
does not include providing any information, documents, or 1212
reports to the director of health pursuant to guidelines 1213
established under section 3701.70 of the Revised Code; does not 1214
include written notice to a mental health professional under 1215
section 4731.62 of the Revised Code; and does not include the 1216
making of a report of an employee's use of a drug of abuse, or a 1217
report of a condition of an employee other than one involving 1218
the use of a drug of abuse, to the employer of the employee as 1219
described in division (B) of section 2305.33 of the Revised 1220
Code. Nothing in this division affects the immunity from civil 1221
liability conferred by section 2305.33 or 4731.62 of the Revised 1222
Code upon a physician who makes a report in accordance with 1223
section 2305.33 or notifies a mental health professional in 1224
accordance with section 4731.62 of the Revised Code. As used in 1225
this division, "employee," "employer," and "physician" have the 1226
same meanings as in section 2305.33 of the Revised Code. 1227

(5) Making a false, fraudulent, deceptive, or misleading 1228
statement in the solicitation of or advertising for patients; in 1229

relation to the practice of medicine and surgery, osteopathic 1230
medicine and surgery, podiatric medicine and surgery, or a 1231
limited branch of medicine; or in securing or attempting to 1232
secure any license or certificate to practice issued by the 1233
board. 1234

As used in this division, "false, fraudulent, deceptive, 1235
or misleading statement" means a statement that includes a 1236
misrepresentation of fact, is likely to mislead or deceive 1237
because of a failure to disclose material facts, is intended or 1238
is likely to create false or unjustified expectations of 1239
favorable results, or includes representations or implications 1240
that in reasonable probability will cause an ordinarily prudent 1241
person to misunderstand or be deceived. 1242

(6) A departure from, or the failure to conform to, 1243
minimal standards of care of similar practitioners under the 1244
same or similar circumstances, whether or not actual injury to a 1245
patient is established; 1246

(7) Representing, with the purpose of obtaining 1247
compensation or other advantage as personal gain or for any 1248
other person, that an incurable disease or injury, or other 1249
incurable condition, can be permanently cured; 1250

(8) The obtaining of, or attempting to obtain, money or 1251
anything of value by fraudulent misrepresentations in the course 1252
of practice; 1253

(9) A plea of guilty to, a judicial finding of guilt of, 1254
or a judicial finding of eligibility for intervention in lieu of 1255
conviction for, a felony; 1256

(10) Commission of an act that constitutes a felony in 1257
this state, regardless of the jurisdiction in which the act was 1258

committed;	1259
(11) A plea of guilty to, a judicial finding of guilt of,	1260
or a judicial finding of eligibility for intervention in lieu of	1261
conviction for, a misdemeanor committed in the course of	1262
practice;	1263
(12) Commission of an act in the course of practice that	1264
constitutes a misdemeanor in this state, regardless of the	1265
jurisdiction in which the act was committed;	1266
(13) A plea of guilty to, a judicial finding of guilt of,	1267
or a judicial finding of eligibility for intervention in lieu of	1268
conviction for, a misdemeanor involving moral turpitude;	1269
(14) Commission of an act involving moral turpitude that	1270
constitutes a misdemeanor in this state, regardless of the	1271
jurisdiction in which the act was committed;	1272
(15) Violation of the conditions of limitation placed by	1273
the board upon a license or certificate to practice;	1274
(16) Failure to pay license renewal fees specified in this	1275
chapter;	1276
(17) Except as authorized in section 4731.31 of the	1277
Revised Code, engaging in the division of fees for referral of	1278
patients, or the receiving of a thing of value in return for a	1279
specific referral of a patient to utilize a particular service	1280
or business;	1281
(18) Subject to section 4731.226 of the Revised Code,	1282
violation of any provision of a code of ethics of the American	1283
medical association, the American osteopathic association, the	1284
American podiatric medical association, or any other national	1285
professional organizations that the board specifies by rule. The	1286

state medical board shall obtain and keep on file current copies 1287
of the codes of ethics of the various national professional 1288
organizations. The individual whose license or certificate is 1289
being suspended or revoked shall not be found to have violated 1290
any provision of a code of ethics of an organization not 1291
appropriate to the individual's profession. 1292

For purposes of this division, a "provision of a code of 1293
ethics of a national professional organization" does not include 1294
any provision that would preclude the making of a report by a 1295
physician of an employee's use of a drug of abuse, or of a 1296
condition of an employee other than one involving the use of a 1297
drug of abuse, to the employer of the employee as described in 1298
division (B) of section 2305.33 of the Revised Code. Nothing in 1299
this division affects the immunity from civil liability 1300
conferred by that section upon a physician who makes either type 1301
of report in accordance with division (B) of that section. As 1302
used in this division, "employee," "employer," and "physician" 1303
have the same meanings as in section 2305.33 of the Revised 1304
Code. 1305

(19) Inability to practice according to acceptable and 1306
prevailing standards of care by reason of mental illness or 1307
physical illness, including, but not limited to, physical 1308
deterioration that adversely affects cognitive, motor, or 1309
perceptive skills. 1310

In enforcing this division, the board, upon a showing of a 1311
possible violation, may compel any individual authorized to 1312
practice by this chapter or who has submitted an application 1313
pursuant to this chapter to submit to a mental examination, 1314
physical examination, including an HIV test, or both a mental 1315
and a physical examination. The expense of the examination is 1316

the responsibility of the individual compelled to be examined. 1317
Failure to submit to a mental or physical examination or consent 1318
to an HIV test ordered by the board constitutes an admission of 1319
the allegations against the individual unless the failure is due 1320
to circumstances beyond the individual's control, and a default 1321
and final order may be entered without the taking of testimony 1322
or presentation of evidence. If the board finds an individual 1323
unable to practice because of the reasons set forth in this 1324
division, the board shall require the individual to submit to 1325
care, counseling, or treatment by physicians approved or 1326
designated by the board, as a condition for initial, continued, 1327
reinstated, or renewed authority to practice. An individual 1328
affected under this division shall be afforded an opportunity to 1329
demonstrate to the board the ability to resume practice in 1330
compliance with acceptable and prevailing standards under the 1331
provisions of the individual's license or certificate. For the 1332
purpose of this division, any individual who applies for or 1333
receives a license or certificate to practice under this chapter 1334
accepts the privilege of practicing in this state and, by so 1335
doing, shall be deemed to have given consent to submit to a 1336
mental or physical examination when directed to do so in writing 1337
by the board, and to have waived all objections to the 1338
admissibility of testimony or examination reports that 1339
constitute a privileged communication. 1340

(20) Except as provided in division (F)(1)(b) of section 1341
4731.282 of the Revised Code or when civil penalties are imposed 1342
under section 4731.225 of the Revised Code, and subject to 1343
section 4731.226 of the Revised Code, violating or attempting to 1344
violate, directly or indirectly, or assisting in or abetting the 1345
violation of, or conspiring to violate, any provisions of this 1346
chapter or any rule promulgated by the board. 1347

This division does not apply to a violation or attempted 1348
violation of, assisting in or abetting the violation of, or a 1349
conspiracy to violate, any provision of this chapter or any rule 1350
adopted by the board that would preclude the making of a report 1351
by a physician of an employee's use of a drug of abuse, or of a 1352
condition of an employee other than one involving the use of a 1353
drug of abuse, to the employer of the employee as described in 1354
division (B) of section 2305.33 of the Revised Code. Nothing in 1355
this division affects the immunity from civil liability 1356
conferred by that section upon a physician who makes either type 1357
of report in accordance with division (B) of that section. As 1358
used in this division, "employee," "employer," and "physician" 1359
have the same meanings as in section 2305.33 of the Revised 1360
Code. 1361

(21) The violation of section 3701.79 of the Revised Code 1362
or of any abortion rule adopted by the director of health 1363
pursuant to section 3701.341 of the Revised Code; 1364

(22) Any of the following actions taken by an agency 1365
responsible for authorizing, certifying, or regulating an 1366
individual to practice a health care occupation or provide 1367
health care services in this state or another jurisdiction, for 1368
any reason other than the nonpayment of fees: the limitation, 1369
revocation, or suspension of an individual's license to 1370
practice; acceptance of an individual's license surrender; 1371
denial of a license; refusal to renew or reinstate a license; 1372
imposition of probation; or issuance of an order of censure or 1373
other reprimand; 1374

(23) The violation of section 2919.12 of the Revised Code 1375
or the performance or inducement of an abortion upon a pregnant 1376
woman with actual knowledge that the conditions specified in 1377

division (B) of section 2317.56 of the Revised Code have not 1378
been satisfied or with a heedless indifference as to whether 1379
those conditions have been satisfied, unless an affirmative 1380
defense as specified in division (H) (2) of that section would 1381
apply in a civil action authorized by division (H) (1) of that 1382
section; 1383

(24) The revocation, suspension, restriction, reduction, 1384
or termination of clinical privileges by the United States 1385
department of defense or department of veterans affairs or the 1386
termination or suspension of a certificate of registration to 1387
prescribe drugs by the drug enforcement administration of the 1388
United States department of justice; 1389

(25) Termination or suspension from participation in the 1390
medicare or medicaid programs by the department of health and 1391
human services or other responsible agency; 1392

(26) Impairment of ability to practice according to 1393
acceptable and prevailing standards of care because of habitual 1394
or excessive use or abuse of drugs, alcohol, or other substances 1395
that impair ability to practice. 1396

For the purposes of this division, any individual 1397
authorized to practice by this chapter accepts the privilege of 1398
practicing in this state subject to supervision by the board. By 1399
filing an application for or holding a license or certificate to 1400
practice under this chapter, an individual shall be deemed to 1401
have given consent to submit to a mental or physical examination 1402
when ordered to do so by the board in writing, and to have 1403
waived all objections to the admissibility of testimony or 1404
examination reports that constitute privileged communications. 1405

If it has reason to believe that any individual authorized 1406

to practice by this chapter or any applicant for licensure or 1407
certification to practice suffers such impairment, the board may 1408
compel the individual to submit to a mental or physical 1409
examination, or both. The expense of the examination is the 1410
responsibility of the individual compelled to be examined. Any 1411
mental or physical examination required under this division 1412
shall be undertaken by a treatment provider or physician who is 1413
qualified to conduct the examination and who is chosen by the 1414
board. 1415

Failure to submit to a mental or physical examination 1416
ordered by the board constitutes an admission of the allegations 1417
against the individual unless the failure is due to 1418
circumstances beyond the individual's control, and a default and 1419
final order may be entered without the taking of testimony or 1420
presentation of evidence. If the board determines that the 1421
individual's ability to practice is impaired, the board shall 1422
suspend the individual's license or certificate or deny the 1423
individual's application and shall require the individual, as a 1424
condition for initial, continued, reinstated, or renewed 1425
licensure or certification to practice, to submit to treatment. 1426

Before being eligible to apply for reinstatement of a 1427
license or certificate suspended under this division, the 1428
impaired practitioner shall demonstrate to the board the ability 1429
to resume practice in compliance with acceptable and prevailing 1430
standards of care under the provisions of the practitioner's 1431
license or certificate. The demonstration shall include, but 1432
shall not be limited to, the following: 1433

(a) Certification from a treatment provider approved under 1434
section 4731.25 of the Revised Code that the individual has 1435
successfully completed any required inpatient treatment; 1436

(b) Evidence of continuing full compliance with an	1437
aftercare contract or consent agreement;	1438
(c) Two written reports indicating that the individual's	1439
ability to practice has been assessed and that the individual	1440
has been found capable of practicing according to acceptable and	1441
prevailing standards of care. The reports shall be made by	1442
individuals or providers approved by the board for making the	1443
assessments and shall describe the basis for their	1444
determination.	1445
The board may reinstate a license or certificate suspended	1446
under this division after that demonstration and after the	1447
individual has entered into a written consent agreement.	1448
When the impaired practitioner resumes practice, the board	1449
shall require continued monitoring of the individual. The	1450
monitoring shall include, but not be limited to, compliance with	1451
the written consent agreement entered into before reinstatement	1452
or with conditions imposed by board order after a hearing, and,	1453
upon termination of the consent agreement, submission to the	1454
board for at least two years of annual written progress reports	1455
made under penalty of perjury stating whether the individual has	1456
maintained sobriety.	1457
(27) A second or subsequent violation of section 4731.66	1458
or 4731.69 of the Revised Code;	1459
(28) Except as provided in division (N) of this section:	1460
(a) Waiving the payment of all or any part of a deductible	1461
or copayment that a patient, pursuant to a health insurance or	1462
health care policy, contract, or plan that covers the	1463
individual's services, otherwise would be required to pay if the	1464
waiver is used as an enticement to a patient or group of	1465

patients to receive health care services from that individual;	1466
(b) Advertising that the individual will waive the payment	1467
of all or any part of a deductible or copayment that a patient,	1468
pursuant to a health insurance or health care policy, contract,	1469
or plan that covers the individual's services, otherwise would	1470
be required to pay.	1471
(29) Failure to use universal blood and body fluid	1472
precautions established by rules adopted under section 4731.051	1473
of the Revised Code;	1474
(30) Failure to provide notice to, and receive	1475
acknowledgment of the notice from, a patient when required by	1476
section 4731.143 of the Revised Code prior to providing	1477
nonemergency professional services, or failure to maintain that	1478
notice in the patient's medical record;	1479
(31) Failure of a physician supervising a physician	1480
assistant to maintain supervision in accordance with the	1481
requirements of Chapter 4730. of the Revised Code and the rules	1482
adopted under that chapter;	1483
(32) Failure of a physician or podiatrist to enter into a	1484
standard care arrangement with a clinical nurse specialist,	1485
certified nurse-midwife, or certified nurse practitioner with	1486
whom the physician or podiatrist is in collaboration pursuant to	1487
section 4731.27 of the Revised Code or failure to fulfill the	1488
responsibilities of collaboration after entering into a standard	1489
care arrangement;	1490
(33) Failure to comply with the terms of a consult	1491
agreement entered into with a pharmacist pursuant to section	1492
4729.39 of the Revised Code;	1493
(34) Failure to cooperate in an investigation conducted by	1494

the board under division (F) of this section, including failure 1495
to comply with a subpoena or order issued by the board or 1496
failure to answer truthfully a question presented by the board 1497
in an investigative interview, an investigative office 1498
conference, at a deposition, or in written interrogatories, 1499
except that failure to cooperate with an investigation shall not 1500
constitute grounds for discipline under this section if a court 1501
of competent jurisdiction has issued an order that either 1502
quashes a subpoena or permits the individual to withhold the 1503
testimony or evidence in issue; 1504

(35) Failure to supervise an oriental medicine 1505
practitioner or acupuncturist in accordance with Chapter 4762. 1506
of the Revised Code and the board's rules for providing that 1507
supervision; 1508

(36) Failure to supervise an anesthesiologist assistant in 1509
accordance with Chapter 4760. of the Revised Code and the 1510
board's rules for supervision of an anesthesiologist assistant; 1511

(37) Assisting suicide, as defined in section 3795.01 of 1512
the Revised Code; 1513

(38) Failure to comply with the requirements of section 1514
2317.561 of the Revised Code; 1515

(39) Failure to supervise a radiologist assistant in 1516
accordance with Chapter 4774. of the Revised Code and the 1517
board's rules for supervision of radiologist assistants; 1518

(40) Performing or inducing an abortion at an office or 1519
facility with knowledge that the office or facility fails to 1520
post the notice required under section 3701.791 of the Revised 1521
Code; 1522

(41) Failure to comply with the standards and procedures 1523

established in rules under section 4731.054 of the Revised Code 1524
for the operation of or the provision of care at a pain 1525
management clinic; 1526

(42) Failure to comply with the standards and procedures 1527
established in rules under section 4731.054 of the Revised Code 1528
for providing supervision, direction, and control of individuals 1529
at a pain management clinic; 1530

(43) Failure to comply with the requirements of section 1531
4729.79 or 4731.055 of the Revised Code, unless the state board 1532
of pharmacy no longer maintains a drug database pursuant to 1533
section 4729.75 of the Revised Code; 1534

(44) Failure to comply with the requirements of section 1535
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 1536
to submit to the department of health in accordance with a court 1537
order a complete report as described in section 2919.171 or 1538
2919.202 of the Revised Code; 1539

(45) Practicing at a facility that is subject to licensure 1540
as a category III terminal distributor of dangerous drugs with a 1541
pain management clinic classification unless the person 1542
operating the facility has obtained and maintains the license 1543
with the classification; 1544

(46) Owning a facility that is subject to licensure as a 1545
category III terminal distributor of dangerous drugs with a pain 1546
management clinic classification unless the facility is licensed 1547
with the classification; 1548

(47) Failure to comply with any of the requirements 1549
regarding making or maintaining medical records or documents 1550
described in division (A) of section 2919.192, division (C) of 1551
section 2919.193, division (B) of section 2919.195, or division 1552

(A) of section 2919.196 of the Revised Code;	1553
(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	1554 1555 1556 1557
(49) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section 4731.301 of the Revised Code when recommending treatment with medical marijuana;	1558 1559 1560 1561
(50) Practicing at a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless the person operating that place has obtained and maintains the license with the classification;	1562 1563 1564 1565 1566
(51) Owning a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless that place is licensed with the classification;	1567 1568 1569 1570 1571
(52) A pattern of continuous or repeated violations of division (E) (2) or (3) of section 3963.02 of the Revised Code;	1572 1573
<u>(53) Failure to take the steps specified in section 4731.92 of the Revised Code following an abortion or attempted abortion in an ambulatory surgical facility or other location that is not a hospital when a child is born alive.</u>	1574 1575 1576 1577
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a	1578 1579 1580 1581

consent agreement with an individual to resolve an allegation of 1582
a violation of this chapter or any rule adopted under it. A 1583
consent agreement, when ratified by an affirmative vote of not 1584
fewer than six members of the board, shall constitute the 1585
findings and order of the board with respect to the matter 1586
addressed in the agreement. If the board refuses to ratify a 1587
consent agreement, the admissions and findings contained in the 1588
consent agreement shall be of no force or effect. 1589

A telephone conference call may be utilized for 1590
ratification of a consent agreement that revokes or suspends an 1591
individual's license or certificate to practice or certificate 1592
to recommend. The telephone conference call shall be considered 1593
a special meeting under division (F) of section 121.22 of the 1594
Revised Code. 1595

If the board takes disciplinary action against an 1596
individual under division (B) of this section for a second or 1597
subsequent plea of guilty to, or judicial finding of guilt of, a 1598
violation of section 2919.123 of the Revised Code, the 1599
disciplinary action shall consist of a suspension of the 1600
individual's license or certificate to practice for a period of 1601
at least one year or, if determined appropriate by the board, a 1602
more serious sanction involving the individual's license or 1603
certificate to practice. Any consent agreement entered into 1604
under this division with an individual that pertains to a second 1605
or subsequent plea of guilty to, or judicial finding of guilt 1606
of, a violation of that section shall provide for a suspension 1607
of the individual's license or certificate to practice for a 1608
period of at least one year or, if determined appropriate by the 1609
board, a more serious sanction involving the individual's 1610
license or certificate to practice. 1611

(D) For purposes of divisions (B) (10), (12), and (14) of 1612
this section, the commission of the act may be established by a 1613
finding by the board, pursuant to an adjudication under Chapter 1614
119. of the Revised Code, that the individual committed the act. 1615
The board does not have jurisdiction under those divisions if 1616
the trial court renders a final judgment in the individual's 1617
favor and that judgment is based upon an adjudication on the 1618
merits. The board has jurisdiction under those divisions if the 1619
trial court issues an order of dismissal upon technical or 1620
procedural grounds. 1621

(E) The sealing of conviction records by any court shall 1622
have no effect upon a prior board order entered under this 1623
section or upon the board's jurisdiction to take action under 1624
this section if, based upon a plea of guilty, a judicial finding 1625
of guilt, or a judicial finding of eligibility for intervention 1626
in lieu of conviction, the board issued a notice of opportunity 1627
for a hearing prior to the court's order to seal the records. 1628
The board shall not be required to seal, destroy, redact, or 1629
otherwise modify its records to reflect the court's sealing of 1630
conviction records. 1631

(F) (1) The board shall investigate evidence that appears 1632
to show that a person has violated any provision of this chapter 1633
or any rule adopted under it. Any person may report to the board 1634
in a signed writing any information that the person may have 1635
that appears to show a violation of any provision of this 1636
chapter or any rule adopted under it. In the absence of bad 1637
faith, any person who reports information of that nature or who 1638
testifies before the board in any adjudication conducted under 1639
Chapter 119. of the Revised Code shall not be liable in damages 1640
in a civil action as a result of the report or testimony. Each 1641
complaint or allegation of a violation received by the board 1642

shall be assigned a case number and shall be recorded by the 1643
board. 1644

(2) Investigations of alleged violations of this chapter 1645
or any rule adopted under it shall be supervised by the 1646
supervising member elected by the board in accordance with 1647
section 4731.02 of the Revised Code and by the secretary as 1648
provided in section 4731.39 of the Revised Code. The president 1649
may designate another member of the board to supervise the 1650
investigation in place of the supervising member. No member of 1651
the board who supervises the investigation of a case shall 1652
participate in further adjudication of the case. 1653

(3) In investigating a possible violation of this chapter 1654
or any rule adopted under this chapter, or in conducting an 1655
inspection under division (E) of section 4731.054 of the Revised 1656
Code, the board may question witnesses, conduct interviews, 1657
administer oaths, order the taking of depositions, inspect and 1658
copy any books, accounts, papers, records, or documents, issue 1659
subpoenas, and compel the attendance of witnesses and production 1660
of books, accounts, papers, records, documents, and testimony, 1661
except that a subpoena for patient record information shall not 1662
be issued without consultation with the attorney general's 1663
office and approval of the secretary and supervising member of 1664
the board. 1665

(a) Before issuance of a subpoena for patient record 1666
information, the secretary and supervising member shall 1667
determine whether there is probable cause to believe that the 1668
complaint filed alleges a violation of this chapter or any rule 1669
adopted under it and that the records sought are relevant to the 1670
alleged violation and material to the investigation. The 1671
subpoena may apply only to records that cover a reasonable 1672

period of time surrounding the alleged violation. 1673

(b) On failure to comply with any subpoena issued by the 1674
board and after reasonable notice to the person being 1675
subpoenaed, the board may move for an order compelling the 1676
production of persons or records pursuant to the Rules of Civil 1677
Procedure. 1678

(c) A subpoena issued by the board may be served by a 1679
sheriff, the sheriff's deputy, or a board employee or agent 1680
designated by the board. Service of a subpoena issued by the 1681
board may be made by delivering a copy of the subpoena to the 1682
person named therein, reading it to the person, or leaving it at 1683
the person's usual place of residence, usual place of business, 1684
or address on file with the board. When serving a subpoena to an 1685
applicant for or the holder of a license or certificate issued 1686
under this chapter, service of the subpoena may be made by 1687
certified mail, return receipt requested, and the subpoena shall 1688
be deemed served on the date delivery is made or the date the 1689
person refuses to accept delivery. If the person being served 1690
refuses to accept the subpoena or is not located, service may be 1691
made to an attorney who notifies the board that the attorney is 1692
representing the person. 1693

(d) A sheriff's deputy who serves a subpoena shall receive 1694
the same fees as a sheriff. Each witness who appears before the 1695
board in obedience to a subpoena shall receive the fees and 1696
mileage provided for under section 119.094 of the Revised Code. 1697

(4) All hearings, investigations, and inspections of the 1698
board shall be considered civil actions for the purposes of 1699
section 2305.252 of the Revised Code. 1700

(5) A report required to be submitted to the board under 1701

this chapter, a complaint, or information received by the board 1702
pursuant to an investigation or pursuant to an inspection under 1703
division (E) of section 4731.054 of the Revised Code is 1704
confidential and not subject to discovery in any civil action. 1705

The board shall conduct all investigations or inspections 1706
and proceedings in a manner that protects the confidentiality of 1707
patients and persons who file complaints with the board. The 1708
board shall not make public the names or any other identifying 1709
information about patients or complainants unless proper consent 1710
is given or, in the case of a patient, a waiver of the patient 1711
privilege exists under division (B) of section 2317.02 of the 1712
Revised Code, except that consent or a waiver of that nature is 1713
not required if the board possesses reliable and substantial 1714
evidence that no bona fide physician-patient relationship 1715
exists. 1716

The board may share any information it receives pursuant 1717
to an investigation or inspection, including patient records and 1718
patient record information, with law enforcement agencies, other 1719
licensing boards, and other governmental agencies that are 1720
prosecuting, adjudicating, or investigating alleged violations 1721
of statutes or administrative rules. An agency or board that 1722
receives the information shall comply with the same requirements 1723
regarding confidentiality as those with which the state medical 1724
board must comply, notwithstanding any conflicting provision of 1725
the Revised Code or procedure of the agency or board that 1726
applies when it is dealing with other information in its 1727
possession. In a judicial proceeding, the information may be 1728
admitted into evidence only in accordance with the Rules of 1729
Evidence, but the court shall require that appropriate measures 1730
are taken to ensure that confidentiality is maintained with 1731
respect to any part of the information that contains names or 1732

other identifying information about patients or complainants 1733
whose confidentiality was protected by the state medical board 1734
when the information was in the board's possession. Measures to 1735
ensure confidentiality that may be taken by the court include 1736
sealing its records or deleting specific information from its 1737
records. 1738

(6) On a quarterly basis, the board shall prepare a report 1739
that documents the disposition of all cases during the preceding 1740
three months. The report shall contain the following information 1741
for each case with which the board has completed its activities: 1742

(a) The case number assigned to the complaint or alleged 1743
violation; 1744

(b) The type of license or certificate to practice, if 1745
any, held by the individual against whom the complaint is 1746
directed; 1747

(c) A description of the allegations contained in the 1748
complaint; 1749

(d) The disposition of the case. 1750

The report shall state how many cases are still pending 1751
and shall be prepared in a manner that protects the identity of 1752
each person involved in each case. The report shall be a public 1753
record under section 149.43 of the Revised Code. 1754

(G) If the secretary and supervising member determine both 1755
of the following, they may recommend that the board suspend an 1756
individual's license or certificate to practice or certificate 1757
to recommend without a prior hearing: 1758

(1) That there is clear and convincing evidence that an 1759
individual has violated division (B) of this section; 1760

(2) That the individual's continued practice presents a 1761
danger of immediate and serious harm to the public. 1762

Written allegations shall be prepared for consideration by 1763
the board. The board, upon review of those allegations and by an 1764
affirmative vote of not fewer than six of its members, excluding 1765
the secretary and supervising member, may suspend a license or 1766
certificate without a prior hearing. A telephone conference call 1767
may be utilized for reviewing the allegations and taking the 1768
vote on the summary suspension. 1769

The board shall issue a written order of suspension by 1770
certified mail or in person in accordance with section 119.07 of 1771
the Revised Code. The order shall not be subject to suspension 1772
by the court during pendency of any appeal filed under section 1773
119.12 of the Revised Code. If the individual subject to the 1774
summary suspension requests an adjudicatory hearing by the 1775
board, the date set for the hearing shall be within fifteen 1776
days, but not earlier than seven days, after the individual 1777
requests the hearing, unless otherwise agreed to by both the 1778
board and the individual. 1779

Any summary suspension imposed under this division shall 1780
remain in effect, unless reversed on appeal, until a final 1781
adjudicative order issued by the board pursuant to this section 1782
and Chapter 119. of the Revised Code becomes effective. The 1783
board shall issue its final adjudicative order within seventy- 1784
five days after completion of its hearing. A failure to issue 1785
the order within seventy-five days shall result in dissolution 1786
of the summary suspension order but shall not invalidate any 1787
subsequent, final adjudicative order. 1788

(H) If the board takes action under division (B) (9), (11), 1789
or (13) of this section and the judicial finding of guilt, 1790

guilty plea, or judicial finding of eligibility for intervention 1791
in lieu of conviction is overturned on appeal, upon exhaustion 1792
of the criminal appeal, a petition for reconsideration of the 1793
order may be filed with the board along with appropriate court 1794
documents. Upon receipt of a petition of that nature and 1795
supporting court documents, the board shall reinstate the 1796
individual's license or certificate to practice. The board may 1797
then hold an adjudication under Chapter 119. of the Revised Code 1798
to determine whether the individual committed the act in 1799
question. Notice of an opportunity for a hearing shall be given 1800
in accordance with Chapter 119. of the Revised Code. If the 1801
board finds, pursuant to an adjudication held under this 1802
division, that the individual committed the act or if no hearing 1803
is requested, the board may order any of the sanctions 1804
identified under division (B) of this section. 1805

(I) The license or certificate to practice issued to an 1806
individual under this chapter and the individual's practice in 1807
this state are automatically suspended as of the date of the 1808
individual's second or subsequent plea of guilty to, or judicial 1809
finding of guilt of, a violation of section 2919.123 of the 1810
Revised Code. In addition, the license or certificate to 1811
practice or certificate to recommend issued to an individual 1812
under this chapter and the individual's practice in this state 1813
are automatically suspended as of the date the individual pleads 1814
guilty to, is found by a judge or jury to be guilty of, or is 1815
subject to a judicial finding of eligibility for intervention in 1816
lieu of conviction in this state or treatment or intervention in 1817
lieu of conviction in another jurisdiction for any of the 1818
following criminal offenses in this state or a substantially 1819
equivalent criminal offense in another jurisdiction: aggravated 1820
murder, murder, voluntary manslaughter, felonious assault, 1821

kidnapping, rape, sexual battery, gross sexual imposition, 1822
aggravated arson, aggravated robbery, or aggravated burglary. 1823
Continued practice after suspension shall be considered 1824
practicing without a license or certificate. 1825

The board shall notify the individual subject to the 1826
suspension by certified mail or in person in accordance with 1827
section 119.07 of the Revised Code. If an individual whose 1828
license or certificate is automatically suspended under this 1829
division fails to make a timely request for an adjudication 1830
under Chapter 119. of the Revised Code, the board shall do 1831
whichever of the following is applicable: 1832

(1) If the automatic suspension under this division is for 1833
a second or subsequent plea of guilty to, or judicial finding of 1834
guilt of, a violation of section 2919.123 of the Revised Code, 1835
the board shall enter an order suspending the individual's 1836
license or certificate to practice for a period of at least one 1837
year or, if determined appropriate by the board, imposing a more 1838
serious sanction involving the individual's license or 1839
certificate to practice. 1840

(2) In all circumstances in which division (I)(1) of this 1841
section does not apply, enter a final order permanently revoking 1842
the individual's license or certificate to practice. 1843

(J) If the board is required by Chapter 119. of the 1844
Revised Code to give notice of an opportunity for a hearing and 1845
if the individual subject to the notice does not timely request 1846
a hearing in accordance with section 119.07 of the Revised Code, 1847
the board is not required to hold a hearing, but may adopt, by 1848
an affirmative vote of not fewer than six of its members, a 1849
final order that contains the board's findings. In that final 1850
order, the board may order any of the sanctions identified under 1851

division (A) or (B) of this section. 1852

(K) Any action taken by the board under division (B) of 1853
this section resulting in a suspension from practice shall be 1854
accompanied by a written statement of the conditions under which 1855
the individual's license or certificate to practice may be 1856
reinstated. The board shall adopt rules governing conditions to 1857
be imposed for reinstatement. Reinstatement of a license or 1858
certificate suspended pursuant to division (B) of this section 1859
requires an affirmative vote of not fewer than six members of 1860
the board. 1861

(L) When the board refuses to grant or issue a license or 1862
certificate to practice to an applicant, revokes an individual's 1863
license or certificate to practice, refuses to renew an 1864
individual's license or certificate to practice, or refuses to 1865
reinstatement an individual's license or certificate to practice, 1866
the board may specify that its action is permanent. An 1867
individual subject to a permanent action taken by the board is 1868
forever thereafter ineligible to hold a license or certificate 1869
to practice and the board shall not accept an application for 1870
reinstatement of the license or certificate or for issuance of a 1871
new license or certificate. 1872

(M) Notwithstanding any other provision of the Revised 1873
Code, all of the following apply: 1874

(1) The surrender of a license or certificate issued under 1875
this chapter shall not be effective unless or until accepted by 1876
the board. A telephone conference call may be utilized for 1877
acceptance of the surrender of an individual's license or 1878
certificate to practice. The telephone conference call shall be 1879
considered a special meeting under division (F) of section 1880
121.22 of the Revised Code. Reinstatement of a license or 1881

certificate surrendered to the board requires an affirmative 1882
vote of not fewer than six members of the board. 1883

(2) An application for a license or certificate made under 1884
the provisions of this chapter may not be withdrawn without 1885
approval of the board. 1886

(3) Failure by an individual to renew a license or 1887
certificate to practice in accordance with this chapter or a 1888
certificate to recommend in accordance with rules adopted under 1889
section 4731.301 of the Revised Code shall not remove or limit 1890
the board's jurisdiction to take any disciplinary action under 1891
this section against the individual. 1892

(4) At the request of the board, a license or certificate 1893
holder shall immediately surrender to the board a license or 1894
certificate that the board has suspended, revoked, or 1895
permanently revoked. 1896

(N) Sanctions shall not be imposed under division (B) (28) 1897
of this section against any person who waives deductibles and 1898
copayments as follows: 1899

(1) In compliance with the health benefit plan that 1900
expressly allows such a practice. Waiver of the deductibles or 1901
copayments shall be made only with the full knowledge and 1902
consent of the plan purchaser, payer, and third-party 1903
administrator. Documentation of the consent shall be made 1904
available to the board upon request. 1905

(2) For professional services rendered to any other person 1906
authorized to practice pursuant to this chapter, to the extent 1907
allowed by this chapter and rules adopted by the board. 1908

(O) Under the board's investigative duties described in 1909
this section and subject to division (F) of this section, the 1910

board shall develop and implement a quality intervention program 1911
designed to improve through remedial education the clinical and 1912
communication skills of individuals authorized under this 1913
chapter to practice medicine and surgery, osteopathic medicine 1914
and surgery, and podiatric medicine and surgery. In developing 1915
and implementing the quality intervention program, the board may 1916
do all of the following: 1917

(1) Offer in appropriate cases as determined by the board 1918
an educational and assessment program pursuant to an 1919
investigation the board conducts under this section; 1920

(2) Select providers of educational and assessment 1921
services, including a quality intervention program panel of case 1922
reviewers; 1923

(3) Make referrals to educational and assessment service 1924
providers and approve individual educational programs 1925
recommended by those providers. The board shall monitor the 1926
progress of each individual undertaking a recommended individual 1927
educational program. 1928

(4) Determine what constitutes successful completion of an 1929
individual educational program and require further monitoring of 1930
the individual who completed the program or other action that 1931
the board determines to be appropriate; 1932

(5) Adopt rules in accordance with Chapter 119. of the 1933
Revised Code to further implement the quality intervention 1934
program. 1935

An individual who participates in an individual 1936
educational program pursuant to this division shall pay the 1937
financial obligations arising from that educational program. 1938

Sec. 4731.92. (A) As used in this section: 1939

(1) "Ambulatory surgical facility" has the same meaning as 1940
in section 3702.30 of the Revised Code. 1941

(2) "Hospital" means a hospital registered with the 1942
department of health under section 3701.07 of the Revised Code. 1943

(B) A physician who performs or attempts an abortion in an 1944
ambulatory surgical facility or other location that is not a 1945
hospital and in which a child is born alive shall immediately 1946
take the following steps upon the child's birth: 1947

(1) Provide post-birth care to the newborn in accordance 1948
with prevailing and acceptable standards of care; 1949

(2) Call for assistance from an emergency medical services 1950
provider; 1951

(3) Arrange for the transfer of the newborn to a hospital. 1952

Section 2. That existing sections 149.43, 2919.13, 1953
3701.79, 3701.99, and 4731.22 of the Revised Code are hereby 1954
repealed. 1955