

AN ACT

To amend sections 149.43, 3901.62, and 3901.64 and to enact sections 3902.36 and 5167.47 of the Revised Code to amend the law related to insurers receiving credit for reinsurance, mental health and substance use disorder benefit parity, and the release of the telephone number of a person involved in a motor vehicle accident.

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

SECTION 1. That sections 149.43, 3901.62, and 3901.64 be amended and sections 3902.36 and 5167.47 of the Revised Code be enacted to read as follows:

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

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

- (a) Medical records;
- (b) Records pertaining to probation 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;
- (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;
- (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;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

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

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

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

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

(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

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

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

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

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

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

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

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

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

(bb) Records described in division (C) of section 187.04 of the Revised Code that are not

designated to be made available to the public as provided in that division;

(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;

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

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

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

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

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

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

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

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

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

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

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 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;

(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, other than when requested by an insurer or insurance agent investigating an insurance claim resulting from a motor vehicle accident.

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

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

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

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

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

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

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

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

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic,

technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Correctional employee" means any employee of the department of rehabilitation and

correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

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

"Youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

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

"EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the meanings defined in section 4765.01 of the Revised Code.

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

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

(10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

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

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

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

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

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

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

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

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

(15) "Body-worn camera" means a visual and audio recording device worn on the person of a peace officer while the peace officer is engaged in the performance of the peace officer's duties.

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

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

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the 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, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

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

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

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

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

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

(l) Personal information of a person who is not arrested, cited, charged, or issued a written

warning by a peace officer;

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

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

(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;

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

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

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

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

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

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

"Law enforcement agency" has the same meaning as in section 2925.61 of the Revised Code.

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

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

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

(18) "Insurer" and "insurance agent" have the same meanings as in section 3905.01 of the Revised Code.

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

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

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

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

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

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

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require 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.

(7)(a) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public

office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

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

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

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

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

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

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

(9)(a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the designated public service worker's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state

that disclosure of the information sought would be in the public interest.

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

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

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

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

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

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

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

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

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

The amount of statutory damages shall be fixed at one hundred dollars for each business day

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

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

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

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

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

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

(ii) If the court makes a determination described in division (C)(3)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

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

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

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

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with division (B) of this section.

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

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

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

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

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

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

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C)(4)(c) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

services.

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

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

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

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

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

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

Sec. 3901.62. (A) Except as provided in sections 3901.63 and 3901.64 of the Revised Code, a domestic ceding insurer that is authorized to do any insurance business in this state may take credit for any reinsurance ceded as either an asset or a reduction of liability only if one of the following applies:

(1) The reinsurance is ceded to an assuming insurer that is authorized to do any insurance or reinsurance business in this state.

(2) The reinsurance is ceded to an assuming insurer that is accredited by the superintendent of insurance as a reinsurer in this state in accordance with division (B) of this section.

(3) The reinsurance is ceded to an assuming insurer that is not authorized to do any insurance or reinsurance business in this state, provided the reinsurance is ceded to a reinsurance pool or other risk-sharing entity in which participation is required by law, rule, or regulation of the jurisdiction in which the pool or entity is located.

(4) The reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified

United States financial institution, as defined in section 3901.63 of the Revised Code, for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest in accordance with division (C) of this section.

(5) The reinsurance is ceded to an assuming insurer that has been certified by the superintendent as a reinsurer in this state and that secures its obligations in accordance with division (D) of this section.

(6) The reinsurance is ceded to an assuming insurer that meets all of the conditions set forth in division (E) of this section.

(B)(1) In order to be eligible for accreditation under division (A)(2) of this section, the assuming insurer shall do all of the following:

- (a) File with the superintendent evidence of its submission to this state's jurisdiction;
- (b) Submit to this state's authority to examine its books and records;
- (c) Maintain a license to transact insurance or reinsurance in at least one state or, in the case of a United States branch of a foreign or alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;
- (d) File annually with the superintendent a copy of its annual statement filed with the insurance department of its state of domicile, and a copy of its most recent audited financial statement;
- (e) Demonstrate to the satisfaction of the superintendent that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(2) An assuming insurer is considered to meet the requirement of division (B)(1)(e) of this section as of the time of its application to the superintendent for accreditation if it maintains a surplus with regard to policyholders in an amount not less than twenty million dollars, and the superintendent has not denied its accreditation within ninety days after submission of its application.

(C)(1) A trust maintained by an assuming insurer under division (A)(4) of this section shall meet the following requirements:

(a) In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business underwritten in the United States. A trustee surplus of not less than twenty million dollars shall be maintained by the assuming insurer, except that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the superintendent with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of ceding insurers within the United States, policyholders, and claimants in light of reasonably foreseeable adverse loss development.

The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.

The minimum required trustee surplus shall not be reduced to an amount less than thirty per cent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers within

the United States covered by the trust.

(b) In the case of a group of assuming insurers, including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States. A trustee surplus shall be maintained by the group, of which surplus one hundred million dollars shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The following requirements apply to the group of assuming insurers:

(i) The incorporated members of the group shall not engage in any business other than underwriting as a member of the group, and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members.

(ii) The group shall make available to the superintendent of insurance an annual certification of the solvency of each underwriter in the group. The certification shall be provided by the group's domiciliary regulator and its independent public accountants.

(c) In the case of a group of incorporated insurers under common administration with aggregate policyholders' surplus of ten billion dollars that has continuously transacted an insurance business outside the United States for at least three years immediately prior to assuming reinsurance, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. A joint trustee surplus shall be maintained by the group, of which surplus one hundred million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities. The following requirements apply to the group of incorporated insurers:

(i) The group shall comply with all filing requirements contained in this section.

(ii) The books and records of the group shall be subject to examination by the superintendent in the same manner as the books and records of insurers are subject to examination by the superintendent in accordance with section 3901.07 of the Revised Code. The group shall bear the expenses of these examinations in the manner provided by that section.

(iii) Each member of the group shall make available to the superintendent an annual certification of the member's solvency by the member's domiciliary regulator and an independent public accountant.

(2) A trust maintained by an assuming insurer under division (A)(4) of this section shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. The trust shall be in a form approved by the superintendent and shall include the following:

(a) The trust instrument shall provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States.

(b) The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, and their assigns and successors in interest.

(c) The trust, and the assuming insurer maintaining the trust, shall allow the superintendent to conduct examinations in the same manner as the superintendent conducts examinations of insurers under section 3901.07 of the Revised Code.

(3) No later than the last day of February of each year, the trustees of a trust maintained by an

assuming insurer under division (A)(4) of this section shall provide the superintendent with a written report setting forth the balance of the trust and listing the trust's investments as of the preceding thirty-first day of December. The trustees shall certify the date of the termination of the trust, if termination of the trust is planned, or shall certify that the trust does not expire prior to the following thirty-first day of December.

(4) To enable the superintendent to determine the sufficiency of a trust maintained by an assuming insurer under division (A)(4) of this section, the assuming insurer shall annually report information on the trust to the superintendent that is substantially the same as that information licensed insurers are required to report under sections 3907.19, 3909.06, and 3929.30 of the Revised Code on forms adopted under section 3901.77 of the Revised Code.

(D)(1) In order to be eligible for certification under division (A)(5) of this section, the assuming insurer shall do all of the following:

(a) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction as determined by the superintendent pursuant to division (D)(3) of this section;

(b) Maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the superintendent in rule or regulation;

(c) Maintain financial strength ratings from two or more rating agencies that meet criteria the superintendent sets forth in rule or regulation;

(d) Agree to submit to the jurisdiction of this state, appoint the superintendent as its agent for service of process in this state, and agree to provide security for one hundred per cent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers in the United States if it resists enforcement of a final judgment from the United States;

(e) Agree to meet applicable information filing requirements as determined by the superintendent with respect to an initial application for certification and on an ongoing basis;

(f) Satisfy any other requirements for certification considered relevant by the superintendent.

(2) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, an association, in addition to satisfying the requirements of division (D)(1) of this section, shall also meet the following requirements:

(a) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities), or the net liabilities, of the association and its members which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the superintendent in order to provide adequate protection.

(b) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association, and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as the unincorporated members.

(c) The association shall provide the superintendent an annual certification by the association's domiciliary regulator of the solvency of each underwriter member within ninety days after its financial statements are due to be filed with the association's domiciliary regulator. If a certification is unavailable, the association shall provide the superintendent with financial statements prepared by independent public accountants of each underwriter member of the association.

(3) The superintendent shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered by the superintendent for certification as a certified reinsurer.

(a) The superintendent shall consider the list of qualified jurisdictions published through the national association of insurance commissioner's committee process in determining qualified jurisdictions. If the superintendent approves a jurisdiction as qualified that does not appear on the list, the superintendent shall provide justification in accordance with criteria to be developed by the superintendent under rule or regulation.

(b) Jurisdictions within the United States that meet the requirement for accreditation under the national association of insurance commissioner's financial standards and accreditation program shall be recognized as qualified.

(c) To determine if a domiciliary jurisdiction not located within the United States is eligible to be recognized as a qualified jurisdiction, the superintendent shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the United States.

(d) A qualified jurisdiction shall agree to share information and cooperate with the superintendent with respect to all certified reinsurers domiciled within that jurisdiction.

(e) A jurisdiction shall not be recognized as a qualified jurisdiction if the superintendent has determined that the jurisdiction does not adequately and promptly enforce final judgments and arbitration awards from the United States.

(f) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the superintendent may revoke the reinsurer's certification or suspend the reinsurer's certification indefinitely.

(g) The superintendent may consider additional factors as the superintendent considers appropriate.

(4) The superintendent shall assign a rating to each certified reinsurer giving due consideration to the financial strength ratings assigned by rating agencies pursuant to division (D)(1)(c) of this section. The superintendent shall publish a list of all certified reinsurers and their ratings.

(5) A certified reinsurer shall secure obligations assumed from a ceding insurer within the United States at a level consistent with its rating as specified by the superintendent in rule or regulation.

(a) Except as otherwise provided in division (D)(5) of this section, a certified reinsurer shall maintain security in a form acceptable to the superintendent and consistent with section 3901.63 of the Revised Code, or in a multibeneficiary trust on behalf of the ceding insurer in accordance with division (A)(4) of this section, in order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer.

(b) If a certified reinsurer chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust for the benefit of the ceding insurer, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this division or comparable laws of other jurisdictions within the United States, and for its obligations subject to division (A)(4)

of this section.

(c) Upon termination of any such trust account described in division (A)(4) of this section, a certified reinsurer shall be bound by the language of the trust and agreement with the superintendent that has principal regulatory oversight of each trust account to fund any deficiency of any other trust account out of the remaining surplus of such trust as a condition to certification under division (D)(1) of this section.

(d) The minimum trusted surplus requirements provided in division (C) of this section are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under division (A)(5) of this section, except that such trust shall maintain a minimum trusted surplus of ten million dollars.

(e) With respect to obligations incurred by a certified reinsurer under division (A)(5) of this section, if the security is insufficient, the superintendent shall reduce the allowable credit by an amount proportionate to the deficiency, and the superintendent may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(f) Except as otherwise provided in division (D)(5) of this section, a reinsurer whose certification has been terminated for any reason shall be treated under this section as a certified reinsurer required to secure one hundred per cent of its obligations. The superintendent may continue to assign a higher rating to the reinsurer if the reinsurer is in inactive status or the reinsurer's certification has been suspended. As used in division (D)(5)(f) of this section, "terminated" means revocation, suspension, voluntary surrender, or inactive status.

(6) If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the superintendent may defer to that jurisdiction's certification and rating assignment, and the assuming insurer shall be considered to be a certified reinsurer in this state.

(7) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of division (A)(5) of this section, and the superintendent shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(E)(1)(a) The assuming insurer shall have its head office, or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction.

(b)(i) The assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule adopted by the superintendent.

(ii) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts determined by the superintendent in rule or regulation.

(c)(i) The assuming insurer shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, that will be set forth in rule adopted by the superintendent.

(ii) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(d) The assuming insurer shall agree and provide adequate assurance to the superintendent, in a form specified in rule adopted by the superintendent, as follows:

(i) The assuming insurer shall provide prompt written notice and explanation to the superintendent if it falls below the minimum requirements set forth in division (E)(1)(b) or (c) of this section, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(ii) The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the superintendent as agent for service of process. The superintendent may require that consent for service of process be provided to the superintendent and included in each reinsurance agreement. Nothing in this provision shall be construed as limiting, or in any way altering, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

(iii) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained.

(iv) Each reinsurance agreement shall include a provision requiring the assuming insurer to provide security in an amount equal to one hundred per cent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate.

(v) The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement that involves this state's ceding insurers, and agree to notify the ceding insurer and the superintendent and to provide security in an amount equal to one hundred per cent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of division (A)(5) of this section and section 3901.63 of the Revised Code and as specified by the superintendent in rule or regulation.

(e) The assuming insurer or its legal successor shall provide, if requested by the superintendent, on behalf of itself and any legal predecessors, certain documentation to the superintendent, as specified in rule adopted by the superintendent.

(f) The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule adopted by the superintendent.

(g) The assuming insurer's supervisory authority shall confirm to the superintendent on an annual basis, as of the preceding thirty-first day of December, or on the annual date that the assuming insurer is statutorily required to report to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in divisions (E)(1)(b) and (c) of this section.

(h) Nothing in division (E) of this section precludes an assuming insurer from providing the

superintendent with information on a voluntary basis.

(2) The superintendent shall timely create and publish a list of reciprocal jurisdictions.

(a) The superintendent's list shall include any reciprocal jurisdiction as defined under divisions (E)(8)(b)(i) and (ii) of this section, and shall consider any other reciprocal jurisdiction included on the list compiled by the national association of insurance commissioners. The superintendent may approve a jurisdiction that does not appear on the national association of insurance commissioners' list of reciprocal jurisdictions in accordance with criteria established rules or regulations issued by the superintendent.

(b)(i) The superintendent may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rules or regulations issued by the superintendent, except that the superintendent shall not remove from the list a reciprocal jurisdiction as defined under division (E)(8)(b)(i) or (ii) of this section.

(ii) Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer that has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to sections 3901.61 to 3901.65 of the Revised Code.

(3)(a) The superintendent shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in division (E)(1) of this section and to which cessions shall be granted credit in accordance with this section.

(b) The superintendent may add an assuming insurer to such list if a jurisdiction accredited by the national association of insurance commissioners has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the superintendent as required under division (E)(1)(d) of this section and complies with any additional requirements that the superintendent may impose by rule or regulation, except to the extent that they conflict with an applicable covered agreement.

(4)(a) If the superintendent determines that an assuming insurer no longer meets one or more of the requirements prescribed in division (E)(1) of this section, the superintendent may revoke or suspend the eligibility of the assuming insurer for recognition under this section in accordance with rules adopted by the superintendent.

(b) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with section 3901.63 of the Revised Code.

(c) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the superintendent and consistent with the provisions of section 3901.63 of the Revised Code.

(5) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post

security for all outstanding ceded liabilities.

(6) Nothing in division (E) of this section shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by sections 3901.61 to 3901.65 of the Revised Code or other applicable law, rule, or regulation.

(7)(a) Credit may be taken under division (E) of this section only for reinsurance agreements entered into, amended, or renewed on or after the effective date of this amendment, and only with respect to losses incurred and reserves reported on or after the later of the following:

(i) The date on which the assuming insurer has met all eligibility requirements pursuant to division (E)(1) of this section;

(ii) The effective date of the new reinsurance agreement, amendment, or renewal.

(b) Division (E)(7)(a) of this section does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under division (E) of this section, as long as the reinsurance qualifies for credit under any other applicable provision of sections 3901.61 to 3901.65 of the Revised Code.

(c) Nothing in division (E)(7) of this section shall be construed as authorizing an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement, except as permitted by the terms of the agreement.

(d) Nothing in division (E)(7) of this section shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(8) As used in division (E) of this section:

(a) "Covered agreement" means an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(b) "Reciprocal jurisdiction" means a jurisdiction that meets one of the following:

(i) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union;

(ii) A United States jurisdiction that meets the requirements for accreditation under the national association of insurance commissioners' financial standards and accreditation program;

(iii) A qualified jurisdiction, as determined by the superintendent pursuant to division (D)(3) of this section, that is not otherwise described in division (E)(8)(b)(i) or (ii) of this section, and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified in rule adopted by the superintendent.

(F) An assuming insurer shall file a written instrument appointing an attorney as its agent in this state upon whom all service of process may be served. Service of process upon this agent shall bring the assuming insurer within the jurisdiction of the courts of this state as if served upon an agent pursuant to section 3927.03 of the Revised Code.

~~(F)~~-(G) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions in the agreement establishing security requirements that exceed the minimum

security requirements established for certified reinsurers under this section.

~~(G)(1)~~ (H)(1) In order to facilitate the prompt payment of claims, the superintendent may permit a certified reinsurer to defer the posting of security for catastrophe recoverables for a period of up to one year from the date of the first instance of a liability reserve entry by the ceding insurer as a result of a loss from a catastrophic occurrence.

(2) Upon notice by the ceding insurer to the superintendent that the certified reinsurer has failed to pay claims owed under a reinsurance agreement in a timely manner, the superintendent shall notify the certified reinsurer that it is no longer permitted to defer the posting of security for catastrophe recoverables.

(3) Reinsurance recoverables for only the following lines of business, as reported on the national association of insurance commissioners' annual financial statement related specifically to the catastrophic occurrence, shall be included in the deferral:

- (a) Fire;
- (b) Allied lines;
- (c) Farmowner's multiple peril;
- (d) Homeowners multiple peril;
- (e) Commercial multiple peril;
- (f) Inland marine;
- (g) Earthquake;
- (h) Auto physical damage.

(4) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish the process for a certified reinsurer to seek a deferral of posting of security for catastrophe recoverables.

Sec. 3901.64. (A) A domestic ceding insurer may take credit for any reinsurance ceded as provided in sections 3901.61 to 3901.63 of the Revised Code only if the reinsurance agreement contained in the reinsurance contract, and any agreement that provides security for the payment of the obligations under the reinsurance agreement, including any trust agreement, provide, in substance, for the following:

(1) In the event of the insolvency of the ceding insurer, the reinsurance, whether paid directly or from trust assets securing the reinsurance agreement, shall be payable by the assuming insurer on the basis of the liability of the ceding insurer under the policy or contract reinsured, without any diminution because the ceding insurer is insolvent or because the liquidator or statutory receiver has failed to pay all or any portion of any claims;

(2) The reinsurance payments, whether paid directly or from trust assets securing the reinsurance agreement, shall be made by the assuming insurer directly to the ceding insurer, or in the event of its insolvency or liquidation, to its liquidator or statutory receiver except where the reinsurance contract or other written agreement specifically provides for direct payment of the reinsurance to the insured or beneficiary of the insurance policy in the event of the insolvency of the ceding insurer.

(B)(1) The reinsurance agreement may provide that the domiciliary liquidator or statutory receiver shall give written notice to the assuming insurer that a claim is pending against the ceding insurer on the policy or contract reinsured. The notice shall be given within a reasonable amount of

time after the claim is filed with the liquidator or statutory receiver. During the pendency of the claim, any assuming insurer may investigate the claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated any defenses which it deems to be available to the ceding insurer or its liquidator.

(2) The expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit that may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

(C) If the assuming insurer is not licensed, or accredited or certified to transact insurance or reinsurance in this state, the credit permitted by division (A)(4) of section 3901.62 of the Revised Code shall not be allowed unless the assuming insurer agrees to do both of the following in the reinsurance agreements:

(1)(a) If the assuming insurer fails to perform its obligations under the terms of the reinsurance agreement, at the request of the ceding insurer, the assuming insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state within the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal.

(b) The assuming insurer shall designate the superintendent or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(2) This division is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(D) If the assuming insurer does not meet the requirements of division (A)(1), (2), ~~or (3)~~, or (6) of section 3901.62 of the Revised Code, the credit permitted by divisions (A)(4) and (5) of that section shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by division (C)(1) of section 3901.62 of the Revised Code, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the superintendent with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the superintendent with regulatory oversight all of the assets of the trust fund.

(2) The assets shall be distributed by, and claims shall be filed with and valued by, the superintendent with regulatory oversight in accordance with the laws of the state, in which the trust is domiciled, that are applicable to the liquidation of domestic insurance companies.

(3) If the superintendent with regulatory oversight determines that the assets of the trust fund, or any part thereof, are not necessary to satisfy the claims of the ceding insurers within the United States or the grantor of the trust, the superintendent with regulatory oversight shall return the assets or part thereof to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available to it under the laws of the United States that are inconsistent with this division.

Sec. 3902.36. (A) As used in this section:

(1) "Health benefit plan" and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code.

(2) "Mental Health Parity and Addiction Equity Act" means the federal "Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008," Pub. L. No. 110-343, as amended, and any federal regulations implementing that act.

(B) Each health plan issuer and health benefit plan subject to the Mental Health Parity and Addiction Equity Act shall comply with all applicable requirements of that act. The requirements of this section do not apply to a health plan issuer or a health benefit plan that is exempt from the requirements of that act by operation of law or other federal guidance.

(C) The superintendent of insurance shall implement and enforce all applicable provisions of the Mental Health Parity and Addiction Equity Act and shall do all of the following:

(1) Proactively ensure compliance by health plan issuers;

(2) Evaluate all consumer and provider complaints regarding mental health and substance use disorder benefits for possible parity violations;

(3) Adopt rules in accordance with Chapter 119. of the Revised Code as necessary to do both of the following:

(a) Effectuate any provisions of the Mental Health Parity and Addiction Equity Act that relate to the business of insurance;

(b) Enforce, monitor compliance with, and ensure continued compliance with this section.

(D) Nothing in this section is subject to the requirements of section 3901.71 of the Revised Code.

Sec. 5167.47. (A) When contracting with a medicaid managed care organization, the department of medicaid shall require the medicaid managed care organization to provide to medicaid enrollees the same benefits and rights as required under division (B) of section 3902.36 of the Revised Code.

(B) The medicaid director shall do both of the following:

(1) Implement and enforce division (B) of section 3902.36 of the Revised Code with respect to medicaid managed care organizations;

(2) Enforce, monitor compliance with, and ensure continued compliance with this section.

(C) The director may adopt rules under section 5167.02 of the Revised Code as necessary to carry out the provisions of this section.

SECTION 2. That existing sections 149.43, 3901.62, and 3901.64 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 284

133rd G.A.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____