

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 91

Senator Schaffer

Cosponsors: Senators Cirino, Romanchuk

A BILL

To amend sections 117.103, 124.341, 126.47, 1
1347.15, and 4113.52 of the Revised Code 2
regarding fraud, waste, and abuse of public 3
funds. 4

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

Section 1. That sections 117.103, 124.341, 126.47, 5
1347.15, and 4113.52 of the Revised Code be amended to read as 6
follows: 7

Sec. 117.103. (A) (1) The auditor of state shall establish 8
and maintain a system for the reporting of fraud, including 9
misuse and misappropriation of public money, by any public 10
office or public official. The system shall allow Ohio residents 11
and the employees of any public office to make anonymous 12
complaints through a toll-free telephone number, the auditor of 13
state's web site, or the United States mail to the auditor of 14
state's office. The auditor of state shall review all complaints 15
in a timely manner. 16

(2) (a) Subject to division (A) (2) (b) of this section, the 17
auditor of state shall keep a log of all complaints filed under 18

this section, which is a public record under section 149.43 of 19
the Revised Code. The log shall include the date the complaint 20
was received, a general description of the nature of the 21
complaint, the name of the public office or agency with regard 22
to which the complaint is directed, and a general description of 23
the status of the review by the auditor of state. If section 24
149.43 of the Revised Code or another statute provides for an 25
applicable exemption from the definition of public record for 26
the information recorded on the log, that information may be 27
redacted. 28

(b) The auditor shall not log a complaint regarding an 29
ongoing criminal investigation, but shall log the complaint not 30
later than thirty days after the investigation is complete. 31

~~(B) (1) A public office~~ (B) The auditor of state shall 32
create training material detailing Ohio's fraud-reporting system 33
and the means of reporting fraud, waste, and abuse. The 34
department of administrative services shall provide information 35
about the Ohio fraud-reporting system and the means of reporting 36
fraud administer the auditor's training material to each new 37
employee or elected official upon taking office or beginning 38
employment with the a public office, in a manner prescribed by 39
the auditor of state. Such materials shall be as concise as 40
practicable. Each new employee or elected official shall confirm 41
receipt of this information-material within thirty days after 42
taking office or beginning employment. The training shall be 43
required every four years for each employee or elected official. 44
The auditor of state shall provide a model form on the auditor 45
of state's web site to be printed and used by ~~new~~ public 46
employees and elected officials to sign and verify their receipt 47
of ~~information-material~~ as required by this section. The auditor 48
of state shall confirm, when conducting an audit under section 49

117.11 of the Revised Code, that ~~new public employees and~~ 50
elected officials have been provided ~~information material as~~ 51
required by this division. 52

~~(2) On May 4, 2012, each public office shall make all its~~ 53
~~employees aware of the fraud reporting system required by this~~ 54
~~section.~~ 55

~~(3) Divisions (B) (1) and (2) of this section are satisfied~~ 56
~~if a public office provides information about the fraud~~ 57
~~reporting system and the means of reporting fraud in the~~ 58
~~employee handbook or manual for the public office. An employee~~ 59
~~shall sign and verify the employee's receipt of such a handbook~~ 60
~~or manual.~~ 61

Sec. 124.341. (A) ~~If an employee in the classified or~~ 62
~~unclassified civil service~~A person is required to make a report 63
under division (B) of this section if the person meets any of 64
the following: 65

(1) The person is elected to a public office. 66

(2) The person is appointed to or within a public office. 67

(3) The person has a fiduciary duty to a public office. 68

(4) The person holds a supervisory position within a 69
public office. 70

(5) The person is employed in the department or office 71
responsible for processing any expenses of the public office. 72

(B) If a person identified in division (A) of this section 73
becomes aware during the person's term of office or in the 74
course of the person's employment of a violation of state or 75
federal statutes, rules, or regulations ~~or, the~~ misuse of 76
public resources, ~~and or~~ of a cybersecurity event, the 77

~~employee's person immediately shall notify the auditor of state,~~ 78
~~via the auditor of state's fraud-reporting system under section~~ 79
~~117.103 of the Revised Code or via other means.~~ 80

(C) If a classified or unclassified employee in the civil 81
service becomes aware in the course of the employee's employment 82
of a violation of state or federal statutes, rules, or 83
regulations, or misuse of public resources, regardless of 84
whether the employee is required to make a report under division 85
(A) of this section, the employee may also file a written report 86
of the violation, or misuse, to the employee's supervisor or 87
appointing authority, if that supervisor or appointing authority 88
has authority to correct the violation or misuse, ~~the employee~~ 89
~~may file a written report identifying the violation or misuse~~ 90
~~with the supervisor or appointing authority.~~ In addition to ~~or~~ 91
~~instead of filing a written report with the supervisor or~~ 92
~~appointing authority~~the above, the employee may file a written 93
report with the office of internal audit created under section 94
126.45 of the Revised Code or file a complaint with the auditor 95
of ~~state's fraud-reporting system under section 117.103 of the~~ 96
~~Revised Code~~state. 97

If the employee reasonably believes that a violation or 98
misuse of public resources is a criminal offense, the employee, 99
in addition to ~~or instead of~~ filing a written report or 100
complaint with the supervisor, appointing authority, the office 101
of internal audit, or the auditor of ~~state's fraud-reporting~~ 102
~~system~~state, may report it to a prosecuting attorney, director 103
of law, village solicitor, or similar chief legal officer of a 104
township, municipal corporation, or other public office, to a 105
peace officer, as defined in section 2935.01 of the Revised 106
Code, or, if the violation or misuse of public resources is 107
within the jurisdiction of the inspector general, to the 108

inspector general in accordance with section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the employee may report it to the appropriate ethics commission.

~~(B)-(D)~~ Except as otherwise provided in division ~~(C)-(E)~~ of this section, no ~~officer or employee in the classified or unclassified civil service public office~~ shall take any disciplinary action against ~~an employee in the classified or unclassified civil service~~ a person for making any report or filing a complaint as ~~authorized~~ required by division ~~(A)-(B)~~ or permitted by division (C) of this section, including, without limitation, doing any of the following:

(1) Removing or suspending the ~~employee-person~~ from employment;

(2) Withholding from the ~~employee-person~~ salary increases or ~~employee~~ benefits to which the ~~employee-person~~ is otherwise entitled;

(3) Transferring or reassigning the ~~employee-person~~;

(4) Denying the ~~employee-person~~ a promotion that otherwise would have been received;

(5) Reducing the ~~employee-person~~ in pay or position.

~~(C)~~ ~~An employee in the classified or unclassified civil service~~ (E) A person shall make a reasonable effort to determine the accuracy of any information reported under division ~~(A)-(B)~~ or (C) of this section. ~~The employee~~ A person is subject to disciplinary action, including suspension or removal, as determined by the ~~employee's-person's~~ appointing authority, for

purposely, knowingly, or recklessly reporting false information 138
under division ~~(A)~~ (B) or (C) of this section. 139

~~(D)~~ (E) If an appointing authority takes any disciplinary 140
or retaliatory action against a ~~classified or unclassified~~ 141
~~employee person~~ as a result of the ~~employee's having filed~~ 142
person filing a report or complaint under division ~~(A)~~ (B) or 143
(C) of this section, the ~~employee's~~ person's sole and exclusive 144
remedy, notwithstanding any other provision of law, is to file 145
an appeal with the state personnel board of review within ~~thirty~~ 146
one hundred eighty days after receiving actual notice of the 147
appointing authority's action. If the ~~employee person~~ files such 148
an appeal, the board shall immediately notify the ~~employee's~~ 149
person's appointing authority and shall hear the appeal. The 150
board may affirm or disaffirm the action of the appointing 151
authority or may issue any other order as is appropriate. The 152
order of the board is appealable in accordance with Chapter 119. 153
of the Revised Code. 154

~~(E)~~ (G) In addition to any appropriate findings for 155
recovery, a person who recklessly fails to notify or report in 156
accordance with this section may be found in violation of 157
section 2921.44 of the Revised Code for dereliction of duty. 158

(H) As used in this section: 159

(1) "Purposely," "knowingly," and "recklessly" have the 160
same meanings as in section 2901.22 of the Revised Code. 161

(2) "Appropriate ethics commission" has the same meaning 162
as in section 102.01 of the Revised Code. 163

(3) "Inspector general" means the inspector general 164
appointed under section 121.48 of the Revised Code. 165

(4) "Public office" has the same meaning as in section 166

<u>117.01 of the Revised Code.</u>	167
<u>(5) "Cybersecurity event" has the same meaning as in</u>	168
<u>section 3965.01 of the Revised Code.</u>	169
Sec. 126.47. (A) The state audit committee created by	170
section 126.46 of the Revised Code shall ensure that the office	171
of internal audit in the office of budget and management has an	172
annual internal audit plan that identifies the internal audits	173
of state agencies or divisions of state agencies scheduled for	174
the next fiscal year. The chief internal auditor of the office	175
of internal audit shall submit the plan to the state audit	176
committee for review and comment before the beginning of each	177
fiscal year. The chief internal auditor may submit a revised	178
internal audit plan for review and comment at any time the	179
director of budget and management believes there is reason to	180
modify the previously submitted plan for a fiscal year.	181
(B) To determine the state agencies or divisions of state	182
agencies that are to be internally audited, the office of	183
internal audit, in the formulation of an annual or revised	184
internal audit plan, and the state audit committee, in reviewing	185
a submitted annual or revised internal audit plan, shall	186
consider the following factors:	187
(1) The risk for fraud, waste, or abuse of public money	188
within an agency or division;	189
(2) The length of time since an agency or division was	190
last subject to an internal audit;	191
(3) The size of an agency or division, and the amount of	192
time and resources necessary to audit it;	193
(4) Any other factor the state audit committee determines	194
to be relevant.	195

(C) All internal audits shall be directed by employees of 196
the office of internal audit. 197

(D) After the conclusion of an internal audit, the chief 198
internal auditor shall submit a preliminary report of the 199
internal audit's findings and recommendations to the state audit 200
committee and to the director of the state agency involved. The 201
state agency or division of the state agency covered by the 202
preliminary report shall be provided an opportunity to respond 203
within thirty days after receipt of the preliminary report. The 204
response shall include a corrective action plan for any 205
recommendations in the preliminary report that are not disputed 206
by the agency or division. Any response received by the office 207
of internal audit within that thirty-day period shall be 208
included in the office's final report of the internal audit's 209
findings and recommendations. The final report shall be issued 210
by the office of internal audit within thirty days after the 211
termination of the thirty-day response period. Copies of the 212
final report shall be submitted to the state audit committee, 213
the governor, and the director of the state agency involved. The 214
state audit committee shall determine an appropriate method for 215
making the preliminary and final reports available for public 216
inspection in a timely manner. 217

Any suspected fraud or other illegal activity discovered 218
by the office of internal audit during an internal audit shall 219
be reported immediately to the state audit committee, the 220
director of the state agency in which the fraud or illegal 221
activity is suspected to have occurred, and the auditor of 222
state. 223

(E) The office of internal audit immediately shall forward 224
to the auditor of state any written report the office receives 225

<u>under section 124.341 of the Revised Code.</u>	226
(F) The chief internal auditor shall prepare an annual report and submit the report to the governor, the president of the senate, the speaker of the house of representatives, and the auditor of state. The office of budget and management shall make the report available to the public by posting it on the office's web site before the first of August of each year.	227 228 229 230 231 232
Sec. 1347.15. (A) As used in this section:	233
(1) "Confidential personal information" means personal information that is not a public record for purposes of section 149.43 of the Revised Code.	234 235 236
(2) "State agency" does not include the courts or any judicial agency, any state-assisted institution of higher education, or any local agency.	237 238 239
(B) Each state agency shall adopt rules under Chapter 119. of the Revised Code regulating access to the confidential personal information the agency keeps, whether electronically or on paper. The rules shall include all the following:	240 241 242 243
(1) Criteria for determining which employees of the state agency may access, and which supervisory employees of the state agency may authorize those employees to access, confidential personal information;	244 245 246 247
(2) A list of the valid reasons, directly related to the state agency's exercise of its powers or duties, for which only employees of the state agency may access confidential personal information;	248 249 250 251
(3) References to the applicable federal or state statutes or administrative rules that make the confidential personal	252 253

information confidential;	254
(4) A procedure that requires the state agency to do all of the following:	255 256
(a) Provide that any upgrades to an existing computer system, or the acquisition of any new computer system, that stores, manages, or contains confidential personal information include a mechanism for recording specific access by employees of the state agency to confidential personal information;	257 258 259 260 261
(b) Until an upgrade or new acquisition of the type described in division (B) (4) (a) of this section occurs, except as otherwise provided in division (C) (1) of this section, keep a log that records specific access by employees of the state agency to confidential personal information;	262 263 264 265 266
(5) A procedure that requires the state agency to comply with a written request from an individual for a list of confidential personal information about the individual that the state agency keeps, unless the confidential personal information relates to an investigation about the individual based upon specific statutory authority by the state agency;	267 268 269 270 271 272
(6) A procedure that requires the state agency to notify each person whose confidential personal information has been accessed for an invalid reason by employees of the state agency of that specific access;	273 274 275 276
(7) A requirement that the director of the state agency designate an employee of the state agency to serve as the data privacy point of contact within the state agency to work with the chief privacy officer within the office of information technology to ensure that confidential personal information is properly protected and that the state agency complies with this	277 278 279 280 281 282

section and rules adopted thereunder;	283
(8) A requirement that the data privacy point of contact	284
for the state agency complete a privacy impact assessment form;	285
and	286
(9) A requirement that a password or other authentication	287
measure be used to access confidential personal information that	288
is kept electronically.	289
(C) (1) A procedure adopted pursuant to division (B) (4) of	290
this section shall not require a state agency to record in the	291
log it keeps under division (B) (4) (b) of this section any	292
specific access by any employee of the agency to confidential	293
personal information in any of the following circumstances:	294
(a) The access occurs as a result of research performed	295
for official agency purposes, routine office procedures, or	296
incidental contact with the information, unless the conduct	297
resulting in the access is specifically directed toward a	298
specifically named individual or a group of specifically	299
<u>specifically</u> named individuals.	300
(b) The access is to confidential personal information	301
about an individual, and the access occurs as a result of a	302
request by that individual for confidential personal information	303
about that individual.	304
(2) Each state agency shall establish a training program	305
for all employees of the state agency described in division (B)	306
(1) of this section so that these employees are made aware of	307
all applicable statutes, rules, and policies governing their	308
access to confidential personal information.	309
The office of information technology shall develop the	310
privacy impact assessment form and post the form on its internet	311

web site by the first day of December each year. The form shall 312
assist each state agency in complying with the rules it adopted 313
under this section, in assessing the risks and effects of 314
collecting, maintaining, and disseminating confidential personal 315
information, and in adopting privacy protection processes 316
designed to mitigate potential risks to privacy. 317

(D) Each state agency shall distribute the policies 318
included in the rules adopted under division (B) of this section 319
to each employee of the agency described in division (B)(1) of 320
this section and shall require that the employee acknowledge 321
receipt of the copy of the policies. The state agency shall 322
create a poster that describes these policies and post it in a 323
conspicuous place in the main office of the state agency and in 324
all locations where the state agency has branch offices. The 325
state agency shall post the policies on the internet web site of 326
the agency if it maintains such an internet web site. A state 327
agency that has established a manual or handbook of its general 328
policies and procedures shall include these policies in the 329
manual or handbook. 330

(E) No collective bargaining agreement entered into under 331
Chapter 4117. of the Revised Code on or after ~~the effective date~~ 332
~~of this section~~ April 7, 2009, shall prohibit disciplinary 333
action against or termination of an employee of a state agency 334
who is found to have accessed, disclosed, or used personal 335
confidential information in violation of a rule adopted under 336
division (B) of this section or as otherwise prohibited by law. 337

(F) The auditor of state shall obtain evidence that state 338
agencies adopted the required procedures and policies in a rule 339
under division (B) of this section, shall obtain evidence 340
supporting whether the state agency is complying with those 341

policies and procedures, and may include citations or 342
recommendations relating to this section in any audit report 343
issued under section 117.11 of the Revised Code. 344

(G) A person who is harmed by a violation of a rule of a 345
state agency described in division (B) of this section may bring 346
an action in the court of claims, as described in division (F) 347
of section 2743.02 of the Revised Code, against any person who 348
directly and proximately caused the harm. 349

(H) (1) No person shall knowingly access confidential 350
personal information in violation of a rule of a state agency 351
described in division (B) of this section. 352

(2) No person shall knowingly use or disclose confidential 353
personal information in a manner prohibited by law. 354

(3) No state agency shall employ a person who has been 355
convicted of or pleaded guilty to a violation of division (H) (1) 356
or (2) of this section. 357

(4) A violation of division (H) (1) or (2) of this section 358
is a violation of a state statute for purposes of ~~division (A)~~ 359
~~of~~ section 124.341 of the Revised Code. 360

Sec. 4113.52. (A) (1) (a) If an employee becomes aware in 361
the course of the employee's employment of a violation of any 362
state or federal statute or any ordinance or regulation of a 363
political subdivision that the employee's employer has authority 364
to correct, and the employee reasonably believes that the 365
violation is a criminal offense that is likely to cause an 366
imminent risk of physical harm to persons or a hazard to public 367
health or safety, a felony, or an improper solicitation for a 368
contribution, the employee orally shall notify the employee's 369
supervisor or other responsible officer of the employee's 370

employer of the violation and subsequently shall file with that 371
supervisor or officer a written report that provides sufficient 372
detail to identify and describe the violation. If the employer 373
does not correct the violation or make a reasonable and good 374
faith effort to correct the violation within twenty-four hours 375
after the oral notification or the receipt of the report, 376
whichever is earlier, the employee may file a written report 377
that provides sufficient detail to identify and describe the 378
violation with the prosecuting authority of the county or 379
municipal corporation where the violation occurred, with a peace 380
officer, with the inspector general if the violation is within 381
the inspector general's jurisdiction, with the auditor of 382
state's fraud-reporting system under section 117.103 of the 383
Revised Code if applicable, or with any other appropriate public 384
official or agency that has regulatory authority over the 385
employer and the industry, trade, or business in which the 386
employer is engaged. 387

(b) If an employee makes a report under division (A) (1) (a) 388
of this section, the employer, within twenty-four hours after 389
the oral notification was made or the report was received or by 390
the close of business on the next regular business day following 391
the day on which the oral notification was made or the report 392
was received, whichever is later, shall notify the employee, in 393
writing, of any effort of the employer to correct the alleged 394
violation or hazard or of the absence of the alleged violation 395
or hazard. 396

(2) If an employee becomes aware in the course of the 397
employee's employment of a violation of chapter 3704., 3734., 398
6109., or 6111. of the Revised Code that is a criminal offense, 399
the employee directly may notify, either orally or in writing, 400
any appropriate public official or agency that has regulatory 401

authority over the employer and the industry, trade, or business 402
in which the employer is engaged. 403

(3) If an employee becomes aware in the course of the 404
employee's employment of a violation by a fellow employee of any 405
state or federal statute, any ordinance or regulation of a 406
political subdivision, or any work rule or company policy of the 407
employee's employer and the employee reasonably believes that 408
the violation is a criminal offense that is likely to cause an 409
imminent risk of physical harm to persons or a hazard to public 410
health or safety, a felony, or an improper solicitation for a 411
contribution, the employee orally shall notify the employee's 412
supervisor or other responsible officer of the employee's 413
employer of the violation and subsequently shall file with that 414
supervisor or officer a written report that provides sufficient 415
detail to identify and describe the violation. 416

(B) Except as otherwise provided in division (C) of this 417
section, no employer shall take any disciplinary or retaliatory 418
action against an employee for making any report authorized by 419
division (A)(1) or (2) of this section, or as a result of the 420
employee's having made any inquiry or taken any other action to 421
ensure the accuracy of any information reported under either 422
such division. No employer shall take any disciplinary or 423
retaliatory action against an employee for making any report 424
authorized by division (A)(3) of this section if the employee 425
made a reasonable and good faith effort to determine the 426
accuracy of any information so reported, or as a result of the 427
employee's having made any inquiry or taken any other action to 428
ensure the accuracy of any information reported under that 429
division. For purposes of this division, disciplinary or 430
retaliatory action by the employer includes, without limitation, 431
doing any of the following: 432

(1) Removing or suspending the employee from employment;	433
(2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;	434 435
(3) Transferring or reassigning the employee;	436
(4) Denying the employee a promotion that otherwise would have been received;	437 438
(5) Reducing the employee in pay or position.	439
(C) An employee shall make a reasonable and good faith effort to determine the accuracy of any information reported under division (A) (1) or (2) of this section. If the employee who makes a report under either division fails to make such an effort, the employee may be subject to disciplinary action by the employee's employer, including suspension or removal, for reporting information without a reasonable basis to do so under division (A) (1) or (2) of this section.	440 441 442 443 444 445 446 447
(D) If an employer takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under division (A) of this section, the employee may bring a civil action for appropriate injunctive relief or for the remedies set forth in division (E) of this section, or both, within one hundred eighty days after the date the disciplinary or retaliatory action was taken, in a court of common pleas in accordance with the Rules of Civil Procedure. A civil action under this division is not available to an employee as a remedy for any disciplinary or retaliatory action taken by an appointing authority against the employee as a result of the employee's having filed a report under division (A) of section 124.341 of the Revised Code.	448 449 450 451 452 453 454 455 456 457 458 459 460
(E) The court, in rendering a judgment for the employee in	461

an action brought pursuant to division (D) of this section, may 462
order, as it determines appropriate, reinstatement of the 463
employee to the same position that the employee held at the time 464
of the disciplinary or retaliatory action and at the same site 465
of employment or to a comparable position at that site, the 466
payment of back wages, full reinstatement of fringe benefits and 467
seniority rights, or any combination of these remedies. The 468
court also may award the prevailing party all or a portion of 469
the costs of litigation and, if the employee who brought the 470
action prevails in the action, may award the prevailing employee 471
reasonable attorney's fees, witness fees, and fees for experts 472
who testify at trial, in an amount the court determines 473
appropriate. If the court determines that an employer 474
deliberately has violated division (B) of this section, the 475
court, in making an award of back pay, may include interest at 476
the rate specified in section 1343.03 of the Revised Code. 477

(F) Any report filed with the inspector general under this 478
section shall be filed as a complaint in accordance with section 479
121.46 of the Revised Code. 480

(G) As used in this section: 481

(1) "Contribution" has the same meaning as in section 482
3517.01 of the Revised Code. 483

(2) "Improper solicitation for a contribution" means a 484
solicitation for a contribution that satisfies all of the 485
following: 486

(a) The solicitation violates division (B), (C), or (D) of 487
section 3517.092 of the Revised Code; 488

(b) The solicitation is made in person by a public 489
official or by an employee who has a supervisory role within the 490

public office; 491

(c) The public official or employee knowingly made the 492
solicitation, and the solicitation violates division (B), (C), 493
or (D) of section 3517.092 of the Revised Code; 494

(d) The employee reporting the solicitation is an employee 495
of the same public office as the public official or the employee 496
with the supervisory role who is making the solicitation. 497

Section 2. That existing sections 117.103, 124.341, 498
126.47, 1347.15, and 4113.52 of the Revised Code are hereby 499
repealed. 500