

**As Reported by the House Government Accountability and Oversight  
Committee**

**131st General Assembly**

**Regular Session  
2015-2016**

**Sub. S. B. No. 321**

**Senator Faber**

**Cosponsors: Senators Burke, Eklund, Jordan, LaRose, Peterson, Seitz, Obhof,  
Skindell, Bacon, Balderson, Beagle, Brown, Coley, Gardner, Hackett, Hite,  
Hottinger, Hughes, Jones, Lehner, Manning, Oelslager, Patton, Sawyer, Schiavoni,  
Thomas, Uecker, Yuko Representatives Buchy, Curtin, Smith, R.**

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**A BILL**

To amend sections 149.43, 149.433, 2323.52, 1  
2743.03, 2746.04, and 3333.0412 and to enact 2  
section 2743.75 of the Revised Code to create a 3  
procedure within the Court of Claims to hear 4  
complaints alleging a denial of access to public 5  
records, to modify the circumstances under which 6  
a person who files a mandamus action seeking the 7  
release of public records may be awarded court 8  
costs and attorney's fees, to expand the 9  
infrastructure record exemption under Public 10  
Records Law, and to generally protect a private, 11  
nonprofit institution of higher education from 12  
liability for a breach of confidentiality or 13  
other claim that arises from the institution's 14  
disclosure of public records. 15

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

**Section 1.** That sections 149.43, 149.433, 2323.52, 16

2743.03, 2746.04, and 3333.0412 be amended and section 2743.75 17  
of the Revised Code be enacted to read as follows: 18

**Sec. 149.43.** (A) As used in this section: 19

(1) "Public record" means records kept by any public 20  
office, including, but not limited to, state, county, city, 21  
village, township, and school district units, and records 22  
pertaining to the delivery of educational services by an 23  
alternative school in this state kept by the nonprofit or for- 24  
profit entity operating the alternative school pursuant to 25  
section 3313.533 of the Revised Code. "Public record" does not 26  
mean any of the following: 27

(a) Medical records; 28

(b) Records pertaining to probation and parole proceedings 29  
or to proceedings related to the imposition of community control 30  
sanctions and post-release control sanctions; 31

(c) Records pertaining to actions under section 2151.85 32  
and division (C) of section 2919.121 of the Revised Code and to 33  
appeals of actions arising under those sections; 34

(d) Records pertaining to adoption proceedings, including 35  
the contents of an adoption file maintained by the department of 36  
health under sections 3705.12 to 3705.124 of the Revised Code; 37

(e) Information in a record contained in the putative 38  
father registry established by section 3107.062 of the Revised 39  
Code, regardless of whether the information is held by the 40  
department of job and family services or, pursuant to section 41  
3111.69 of the Revised Code, the office of child support in the 42  
department or a child support enforcement agency; 43

(f) Records specified in division (A) of section 3107.52 44

of the Revised Code;	45
(g) Trial preparation records;	46
(h) Confidential law enforcement investigatory records;	47
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	48 49
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	50 51
(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;	52 53 54 55
(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;	56 57 58 59
(m) Intellectual property records;	60
(n) Donor profile records;	61
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	62 63
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	64 65 66 67 68 69
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital	70 71

operated pursuant to Chapter 749. of the Revised Code, 72  
information that constitutes a trade secret, as defined in 73  
section 1333.61 of the Revised Code; 74

(r) Information pertaining to the recreational activities 75  
of a person under the age of eighteen; 76

(s) In the case of a child fatality review board acting 77  
under sections 307.621 to 307.629 of the Revised Code or a 78  
review conducted pursuant to guidelines established by the 79  
director of health under section 3701.70 of the Revised Code, 80  
records provided to the board or director, statements made by 81  
board members during meetings of the board or by persons 82  
participating in the director's review, and all work products of 83  
the board or director, and in the case of a child fatality 84  
review board, child fatality review data submitted by the board 85  
to the department of health or a national child death review 86  
database, other than the report prepared pursuant to division 87  
(A) of section 307.626 of the Revised Code; 88

(t) Records provided to and statements made by the 89  
executive director of a public children services agency or a 90  
prosecuting attorney acting pursuant to section 5153.171 of the 91  
Revised Code other than the information released under that 92  
section; 93

(u) Test materials, examinations, or evaluation tools used 94  
in an examination for licensure as a nursing home administrator 95  
that the board of executives of long-term services and supports 96  
administers under section 4751.04 of the Revised Code or 97  
contracts under that section with a private or government entity 98  
to administer; 99

(v) Records the release of which is prohibited by state or 100

federal law;	101
(w) Proprietary information of or relating to any person	102
that is submitted to or compiled by the Ohio venture capital	103
authority created under section 150.01 of the Revised Code;	104
(x) Financial statements and data any person submits for	105
any purpose to the Ohio housing finance agency or the	106
controlling board in connection with applying for, receiving, or	107
accounting for financial assistance from the agency, and	108
information that identifies any individual who benefits directly	109
or indirectly from financial assistance from the agency;	110
(y) Records listed in section 5101.29 of the Revised Code;	111
(z) Discharges recorded with a county recorder under	112
section 317.24 of the Revised Code, as specified in division (B)	113
(2) of that section;	114
(aa) Usage information including names and addresses of	115
specific residential and commercial customers of a municipally	116
owned or operated public utility;	117
(bb) Records described in division (C) of section 187.04	118
of the Revised Code that are not designated to be made available	119
to the public as provided in that division;	120
(cc) Information and records that are made confidential,	121
privileged, and not subject to disclosure under divisions (B)	122
and (C) of section 2949.221 of the Revised Code.	123
(2) "Confidential law enforcement investigatory record"	124
means any record that pertains to a law enforcement matter of a	125
criminal, quasi-criminal, civil, or administrative nature, but	126
only to the extent that the release of the record would create a	127
high probability of disclosure of any of the following:	128

(a) The identity of a suspect who has not been charged	129
with the offense to which the record pertains, or of an	130
information source or witness to whom confidentiality has been	131
reasonably promised;	132
(b) Information provided by an information source or	133
witness to whom confidentiality has been reasonably promised,	134
which information would reasonably tend to disclose the source's	135
or witness's identity;	136
(c) Specific confidential investigatory techniques or	137
procedures or specific investigatory work product;	138
(d) Information that would endanger the life or physical	139
safety of law enforcement personnel, a crime victim, a witness,	140
or a confidential information source.	141
(3) "Medical record" means any document or combination of	142
documents, except births, deaths, and the fact of admission to	143
or discharge from a hospital, that pertains to the medical	144
history, diagnosis, prognosis, or medical condition of a patient	145
and that is generated and maintained in the process of medical	146
treatment.	147
(4) "Trial preparation record" means any record that	148
contains information that is specifically compiled in reasonable	149
anticipation of, or in defense of, a civil or criminal action or	150
proceeding, including the independent thought processes and	151
personal trial preparation of an attorney.	152
(5) "Intellectual property record" means a record, other	153
than a financial or administrative record, that is produced or	154
collected by or for faculty or staff of a state institution of	155
higher learning in the conduct of or as a result of study or	156
research on an educational, commercial, scientific, artistic,	157

technical, or scholarly issue, regardless of whether the study 158  
or research was sponsored by the institution alone or in 159  
conjunction with a governmental body or private concern, and 160  
that has not been publicly released, published, or patented. 161

(6) "Donor profile record" means all records about donors 162  
or potential donors to a public institution of higher education 163  
except the names and reported addresses of the actual donors and 164  
the date, amount, and conditions of the actual donation. 165

(7) "Peace officer, parole officer, probation officer, 166  
bailiff, prosecuting attorney, assistant prosecuting attorney, 167  
correctional employee, community-based correctional facility 168  
employee, youth services employee, firefighter, EMT, or 169  
investigator of the bureau of criminal identification and 170  
investigation residential and familial information" means any 171  
information that discloses any of the following about a peace 172  
officer, parole officer, probation officer, bailiff, prosecuting 173  
attorney, assistant prosecuting attorney, correctional employee, 174  
community-based correctional facility employee, youth services 175  
employee, firefighter, EMT, or investigator of the bureau of 176  
criminal identification and investigation: 177

(a) The address of the actual personal residence of a 178  
peace officer, parole officer, probation officer, bailiff, 179  
assistant prosecuting attorney, correctional employee, 180  
community-based correctional facility employee, youth services 181  
employee, firefighter, EMT, or an investigator of the bureau of 182  
criminal identification and investigation, except for the state 183  
or political subdivision in which the peace officer, parole 184  
officer, probation officer, bailiff, assistant prosecuting 185  
attorney, correctional employee, community-based correctional 186  
facility employee, youth services employee, firefighter, EMT, or 187

investigator of the bureau of criminal identification and	188
investigation resides;	189
(b) Information compiled from referral to or participation	190
in an employee assistance program;	191
(c) The social security number, the residential telephone	192
number, any bank account, debit card, charge card, or credit	193
card number, or the emergency telephone number of, or any	194
medical information pertaining to, a peace officer, parole	195
officer, probation officer, bailiff, prosecuting attorney,	196
assistant prosecuting attorney, correctional employee,	197
community-based correctional facility employee, youth services	198
employee, firefighter, EMT, or investigator of the bureau of	199
criminal identification and investigation;	200
(d) The name of any beneficiary of employment benefits,	201
including, but not limited to, life insurance benefits, provided	202
to a peace officer, parole officer, probation officer, bailiff,	203
prosecuting attorney, assistant prosecuting attorney,	204
correctional employee, community-based correctional facility	205
employee, youth services employee, firefighter, EMT, or	206
investigator of the bureau of criminal identification and	207
investigation by the peace officer's, parole officer's,	208
probation officer's, bailiff's, prosecuting attorney's,	209
assistant prosecuting attorney's, correctional employee's,	210
community-based correctional facility employee's, youth services	211
employee's, firefighter's, EMT's, or investigator of the bureau	212
of criminal identification and investigation's employer;	213
(e) The identity and amount of any charitable or	214
employment benefit deduction made by the peace officer's, parole	215
officer's, probation officer's, bailiff's, prosecuting	216
attorney's, assistant prosecuting attorney's, correctional	217



employee's, community-based correctional facility employee's, 218  
youth services employee's, firefighter's, EMT's, or investigator 219  
of the bureau of criminal identification and investigation's 220  
employer from the peace officer's, parole officer's, probation 221  
officer's, bailiff's, prosecuting attorney's, assistant 222  
prosecuting attorney's, correctional employee's, community-based 223  
correctional facility employee's, youth services employee's, 224  
firefighter's, EMT's, or investigator of the bureau of criminal 225  
identification and investigation's compensation unless the 226  
amount of the deduction is required by state or federal law; 227

(f) The name, the residential address, the name of the 228  
employer, the address of the employer, the social security 229  
number, the residential telephone number, any bank account, 230  
debit card, charge card, or credit card number, or the emergency 231  
telephone number of the spouse, a former spouse, or any child of 232  
a peace officer, parole officer, probation officer, bailiff, 233  
prosecuting attorney, assistant prosecuting attorney, 234  
correctional employee, community-based correctional facility 235  
employee, youth services employee, firefighter, EMT, or 236  
investigator of the bureau of criminal identification and 237  
investigation; 238

(g) A photograph of a peace officer who holds a position 239  
or has an assignment that may include undercover or plain 240  
clothes positions or assignments as determined by the peace 241  
officer's appointing authority. 242

As used in divisions (A) (7) and (B) (9) of this section, 243  
"peace officer" has the same meaning as in section 109.71 of the 244  
Revised Code and also includes the superintendent and troopers 245  
of the state highway patrol; it does not include the sheriff of 246  
a county or a supervisory employee who, in the absence of the 247

sheriff, is authorized to stand in for, exercise the authority 248  
of, and perform the duties of the sheriff. 249

As used in divisions (A) (7) and (B) (9) of this section, 250  
"correctional employee" means any employee of the department of 251  
rehabilitation and correction who in the course of performing 252  
the employee's job duties has or has had contact with inmates 253  
and persons under supervision. 254

As used in divisions (A) (7) and (B) (9) of this section, 255  
"youth services employee" means any employee of the department 256  
of youth services who in the course of performing the employee's 257  
job duties has or has had contact with children committed to the 258  
custody of the department of youth services. 259

As used in divisions (A) (7) and (B) (9) of this section, 260  
"firefighter" means any regular, paid or volunteer, member of a 261  
lawfully constituted fire department of a municipal corporation, 262  
township, fire district, or village. 263

As used in divisions (A) (7) and (B) (9) of this section, 264  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 265  
emergency medical services for a public emergency medical 266  
service organization. "Emergency medical service organization," 267  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 268  
in section 4765.01 of the Revised Code. 269

As used in divisions (A) (7) and (B) (9) of this section, 270  
"investigator of the bureau of criminal identification and 271  
investigation" has the meaning defined in section 2903.11 of the 272  
Revised Code. 273

(8) "Information pertaining to the recreational activities 274  
of a person under the age of eighteen" means information that is 275  
kept in the ordinary course of business by a public office, that 276

pertains to the recreational activities of a person under the	277
age of eighteen years, and that discloses any of the following:	278
(a) The address or telephone number of a person under the	279
age of eighteen or the address or telephone number of that	280
person's parent, guardian, custodian, or emergency contact	281
person;	282
(b) The social security number, birth date, or	283
photographic image of a person under the age of eighteen;	284
(c) Any medical record, history, or information pertaining	285
to a person under the age of eighteen;	286
(d) Any additional information sought or required about a	287
person under the age of eighteen for the purpose of allowing	288
that person to participate in any recreational activity	289
conducted or sponsored by a public office or to use or obtain	290
admission privileges to any recreational facility owned or	291
operated by a public office.	292
(9) "Community control sanction" has the same meaning as	293
in section 2929.01 of the Revised Code.	294
(10) "Post-release control sanction" has the same meaning	295
as in section 2967.01 of the Revised Code.	296
(11) "Redaction" means obscuring or deleting any	297
information that is exempt from the duty to permit public	298
inspection or copying from an item that otherwise meets the	299
definition of a "record" in section 149.011 of the Revised Code.	300
(12) "Designee" and "elected official" have the same	301
meanings as in section 109.43 of the Revised Code.	302
(B) (1) Upon request and subject to division (B) (8) of this	303
section, all public records responsive to the request shall be	304

promptly prepared and made available for inspection to any 305  
person at all reasonable times during regular business hours. 306  
Subject to division (B) (8) of this section, upon request, a 307  
public office or person responsible for public records shall 308  
make copies of the requested public record available at cost and 309  
within a reasonable period of time. If a public record contains 310  
information that is exempt from the duty to permit public 311  
inspection or to copy the public record, the public office or 312  
the person responsible for the public record shall make 313  
available all of the information within the public record that 314  
is not exempt. When making that public record available for 315  
public inspection or copying that public record, the public 316  
office or the person responsible for the public record shall 317  
notify the requester of any redaction or make the redaction 318  
plainly visible. A redaction shall be deemed a denial of a 319  
request to inspect or copy the redacted information, except if 320  
federal or state law authorizes or requires a public office to 321  
make the redaction. 322

(2) To facilitate broader access to public records, a 323  
public office or the person responsible for public records shall 324  
organize and maintain public records in a manner that they can 325  
be made available for inspection or copying in accordance with 326  
division (B) of this section. A public office also shall have 327  
available a copy of its current records retention schedule at a 328  
location readily available to the public. If a requester makes 329  
an ambiguous or overly broad request or has difficulty in making 330  
a request for copies or inspection of public records under this 331  
section such that the public office or the person responsible 332  
for the requested public record cannot reasonably identify what 333  
public records are being requested, the public office or the 334  
person responsible for the requested public record may deny the 335

request but shall provide the requester with an opportunity to 336  
revise the request by informing the requester of the manner in 337  
which records are maintained by the public office and accessed 338  
in the ordinary course of the public office's or person's 339  
duties. 340

(3) If a request is ultimately denied, in part or in 341  
whole, the public office or the person responsible for the 342  
requested public record shall provide the requester with an 343  
explanation, including legal authority, setting forth why the 344  
request was denied. If the initial request was provided in 345  
writing, the explanation also shall be provided to the requester 346  
in writing. The explanation shall not preclude the public office 347  
or the person responsible for the requested public record from 348  
relying upon additional reasons or legal authority in defending 349  
an action commenced under division (C) of this section. 350

(4) Unless specifically required or authorized by state or 351  
federal law or in accordance with division (B) of this section, 352  
no public office or person responsible for public records may 353  
limit or condition the availability of public records by 354  
requiring disclosure of the requester's identity or the intended 355  
use of the requested public record. Any requirement that the 356  
requester disclose the ~~requester's~~requester's identity or the 357  
intended use of the requested public record constitutes a denial 358  
of the request. 359

(5) A public office or person responsible for public 360  
records may ask a requester to make the request in writing, may 361  
ask for the requester's identity, and may inquire about the 362  
intended use of the information requested, but may do so only 363  
after disclosing to the requester that a written request is not 364  
mandatory and that the requester may decline to reveal the 365

requester's identity or the intended use and when a written 366  
request or disclosure of the identity or intended use would 367  
benefit the requester by enhancing the ability of the public 368  
office or person responsible for public records to identify, 369  
locate, or deliver the public records sought by the requester. 370

(6) If any person chooses to obtain a copy of a public 371  
record in accordance with division (B) of this section, the 372  
public office or person responsible for the public record may 373  
require that person to pay in advance the cost involved in 374  
providing the copy of the public record in accordance with the 375  
choice made by the person seeking the copy under this division. 376  
The public office or the person responsible for the public 377  
record shall permit that person to choose to have the public 378  
record duplicated upon paper, upon the same medium upon which 379  
the public office or person responsible for the public record 380  
keeps it, or upon any other medium upon which the public office 381  
or person responsible for the public record determines that it 382  
reasonably can be duplicated as an integral part of the normal 383  
operations of the public office or person responsible for the 384  
public record. When the person seeking the copy makes a choice 385  
under this division, the public office or person responsible for 386  
the public record shall provide a copy of it in accordance with 387  
the choice made by the person seeking the copy. Nothing in this 388  
section requires a public office or person responsible for the 389  
public record to allow the person seeking a copy of the public 390  
record to make the copies of the public record. 391

(7) (a) Upon a request made in accordance with division (B) 392  
of this section and subject to division (B) (6) of this section, 393  
a public office or person responsible for public records shall 394  
transmit a copy of a public record to any person by United 395  
States mail or by any other means of delivery or transmission 396

within a reasonable period of time after receiving the request 397  
for the copy. The public office or person responsible for the 398  
public record may require the person making the request to pay 399  
in advance the cost of postage if the copy is transmitted by 400  
United States mail or the cost of delivery if the copy is 401  
transmitted other than by United States mail, and to pay in 402  
advance the costs incurred for other supplies used in the 403  
mailing, delivery, or transmission. 404

(b) Any public office may adopt a policy and procedures 405  
that it will follow in transmitting, within a reasonable period 406  
of time after receiving a request, copies of public records by 407  
United States mail or by any other means of delivery or 408  
transmission pursuant to ~~this~~ division (B) (7) of this section. A 409  
public office that adopts a policy and procedures under ~~this~~ 410  
division (B) (7) of this section shall comply with them in 411  
performing its duties under ~~this~~ that division. 412

(c) In any policy and procedures adopted under ~~this~~ 413  
division, ~~a~~ (B) (7) of this section: 414

(i) A public office may limit the number of records 415  
requested by a person that the office will ~~transmit physically~~ 416  
deliver by United States mail or by another delivery service to 417  
ten per month, unless the person certifies to the office in 418  
writing that the person does not intend to use or forward the 419  
requested records, or the information contained in them, for 420  
commercial purposes. ~~For~~; 421

(ii) A public office that chooses to provide some or all 422  
of its public records on a web site that is fully accessible to 423  
and searchable by members of the public at all times, other than 424  
during acts of God outside the public office's control or 425  
maintenance, and that charges no fee to search, access, 426

download, or otherwise receive records provided on the web site, 427  
may limit to ten per month the number of records requested by a 428  
person that the office will deliver in a digital format, unless 429  
the requested records are not provided on the web site and 430  
unless the person certifies to the office in writing that the 431  
person does not intend to use or forward the requested records, 432  
or the information contained in them, for commercial purposes. 433

(iii) For purposes of ~~this~~ division (B) (7) of this 434  
section, "commercial" shall be narrowly construed and does not 435  
include reporting or gathering news, reporting or gathering 436  
information to assist citizen oversight or understanding of the 437  
operation or activities of government, or nonprofit educational 438  
research. 439

(8) A public office or person responsible for public 440  
records is not required to permit a person who is incarcerated 441  
pursuant to a criminal conviction or a juvenile adjudication to 442  
inspect or to obtain a copy of any public record concerning a 443  
criminal investigation or prosecution or concerning what would 444  
be a criminal investigation or prosecution if the subject of the 445  
investigation or prosecution were an adult, unless the request 446  
to inspect or to obtain a copy of the record is for the purpose 447  
of acquiring information that is subject to release as a public 448  
record under this section and the judge who imposed the sentence 449  
or made the adjudication with respect to the person, or the 450  
judge's successor in office, finds that the information sought 451  
in the public record is necessary to support what appears to be 452  
a justiciable claim of the person. 453

(9) (a) Upon written request made and signed by a 454  
journalist on or after December 16, 1999, a public office, or 455  
person responsible for public records, having custody of the 456



records of the agency employing a specified peace officer, 457  
parole officer, probation officer, bailiff, prosecuting 458  
attorney, assistant prosecuting attorney, correctional employee, 459  
community-based correctional facility employee, youth services 460  
employee, firefighter, EMT, or investigator of the bureau of 461  
criminal identification and investigation shall disclose to the 462  
journalist the address of the actual personal residence of the 463  
peace officer, parole officer, probation officer, bailiff, 464  
prosecuting attorney, assistant prosecuting attorney, 465  
correctional employee, community-based correctional facility 466  
employee, youth services employee, firefighter, EMT, or 467  
investigator of the bureau of criminal identification and 468  
investigation and, if the peace officer's, parole officer's, 469  
probation officer's, bailiff's, prosecuting attorney's, 470  
assistant prosecuting attorney's, correctional employee's, 471  
community-based correctional facility employee's, youth services 472  
employee's, firefighter's, EMT's, or investigator of the bureau 473  
of criminal identification and investigation's spouse, former 474  
spouse, or child is employed by a public office, the name and 475  
address of the employer of the peace officer's, parole 476  
officer's, probation officer's, bailiff's, prosecuting 477  
attorney's, assistant prosecuting attorney's, correctional 478  
employee's, community-based correctional facility employee's, 479  
youth services employee's, firefighter's, EMT's, or investigator 480  
of the bureau of criminal identification and investigation's 481  
spouse, former spouse, or child. The request shall include the 482  
journalist's name and title and the name and address of the 483  
journalist's employer and shall state that disclosure of the 484  
information sought would be in the public interest. 485

(b) Division (B) (9) (a) of this section also applies to 486  
journalist requests for customer information maintained by a 487

municipally owned or operated public utility, other than social 488  
security numbers and any private financial information such as 489  
credit reports, payment methods, credit card numbers, and bank 490  
account information. 491

(c) As used in division (B)(9) of this section, 492  
"journalist" means a person engaged in, connected with, or 493  
employed by any news medium, including a newspaper, magazine, 494  
press association, news agency, or wire service, a radio or 495  
television station, or a similar medium, for the purpose of 496  
gathering, processing, transmitting, compiling, editing, or 497  
disseminating information for the general public. 498

(C)(1) If a person allegedly is aggrieved by the failure 499  
of a public office or the person responsible for public records 500  
to promptly prepare a public record and to make it available to 501  
the person for inspection in accordance with division (B) of 502  
this section or by any other failure of a public office or the 503  
person responsible for public records to comply with an 504  
obligation in accordance with division (B) of this section, the 505  
person allegedly aggrieved may ~~commence~~ do only one of the 506  
following, and not both: 507

(a) File a complaint with the clerk of the court of claims 508  
or the clerk of the court of common pleas under section 2743.75 509  
of the Revised Code; 510

(b) Commence a mandamus action to obtain a judgment that 511  
orders the public office or the person responsible for the 512  
public record to comply with division (B) of this section, that 513  
awards court costs and reasonable attorney's fees to the person 514  
that instituted the mandamus action, and, if applicable, that 515  
includes an order fixing statutory damages under division (C) ~~(1)~~ 516  
(2) of this section. The mandamus action may be commenced in the 517

court of common pleas of the county in which division (B) of 518  
this section allegedly was not complied with, in the supreme 519  
court pursuant to its original jurisdiction under Section 2 of 520  
Article IV, Ohio Constitution, or in the court of appeals for 521  
the appellate district in which division (B) of this section 522  
allegedly was not complied with pursuant to its original 523  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 524

(2) If a ~~requestor~~ requester transmits a written request 525  
by hand delivery or certified mail to inspect or receive copies 526  
of any public record in a manner that fairly describes the 527  
public record or class of public records to the public office or 528  
person responsible for the requested public records, except as 529  
otherwise provided in this section, the ~~requestor~~ requester 530  
shall be entitled to recover the amount of statutory damages set 531  
forth in this division if a court determines that the public 532  
office or the person responsible for public records failed to 533  
comply with an obligation in accordance with division (B) of 534  
this section. 535

The amount of statutory damages shall be fixed at one 536  
hundred dollars for each business day during which the public 537  
office or person responsible for the requested public records 538  
failed to comply with an obligation in accordance with division 539  
(B) of this section, beginning with the day on which the 540  
requester files a mandamus action to recover statutory damages, 541  
up to a maximum of one thousand dollars. The award of statutory 542  
damages shall not be construed as a penalty, but as compensation 543  
for injury arising from lost use of the requested information. 544  
The existence of this injury shall be conclusively presumed. The 545  
award of statutory damages shall be in addition to all other 546  
remedies authorized by this section. 547

The court may reduce an award of statutory damages or not 548  
award statutory damages if the court determines both of the 549  
following: 550

(a) That, based on the ordinary application of statutory 551  
law and case law as it existed at the time of the conduct or 552  
threatened conduct of the public office or person responsible 553  
for the requested public records that allegedly constitutes a 554  
failure to comply with an obligation in accordance with division 555  
(B) of this section and that was the basis of the mandamus 556  
action, a well-informed public office or person responsible for 557  
the requested public records reasonably would believe that the 558  
conduct or threatened conduct of the public office or person 559  
responsible for the requested public records did not constitute 560  
a failure to comply with an obligation in accordance with 561  
division (B) of this section; 562

(b) That a well-informed public office or person 563  
responsible for the requested public records reasonably would 564  
believe that the conduct or threatened conduct of the public 565  
office or person responsible for the requested public records 566  
would serve the public policy that underlies the authority that 567  
is asserted as permitting that conduct or threatened conduct. 568

~~(2) (a) If the court issues a writ of (3) In a mandamus~~ 569  
~~that orders the public office or the person responsible for the~~ 570  
~~public record to comply with division (B) of this section and~~ 571  
~~determines that the circumstances described in division (C) (1)~~ 572  
~~of this section exist, action filed under division (C) (1) of this~~ 573  
section, the following apply: 574

(a) (i) If the court orders the public office or the person 575  
responsible for the public record to comply with division (B) of 576  
this section, the court shall determine and award to the relator 577

all court costs, which shall be construed as remedial and not 578  
punitive. 579

(ii) If the court makes a determination described in 580  
division (C) (3) (b) (iii) of this section, the court shall 581  
determine and award to the relator all court costs, which shall 582  
be construed as remedial and not punitive. 583

(b) If the court renders a judgment that orders the public 584  
office or the person responsible for the public record to comply 585  
with division (B) of this section or if the court determines any 586  
of the following, the court may award reasonable attorney's fees 587  
to the relator, subject to ~~reduction as described in the~~ 588  
provisions of division (C) (2) (e) (4) of this section. ~~The court~~ 589  
~~shall award reasonable attorney's fees, subject to reduction as~~ 590  
~~described in division (C) (2) (e) of this section when either of~~ 591  
~~the following applies:~~ 592

(i) The public office or the person responsible for the 593  
public records failed to respond affirmatively or negatively to 594  
the public records request in accordance with the time allowed 595  
under division (B) of this section. 596

(ii) The public office or the person responsible for the 597  
public records promised to permit the relator to inspect or 598  
receive copies of the public records requested within a 599  
specified period of time but failed to fulfill that promise 600  
within that specified period of time. 601

(iii) The public office or the person responsible for the 602  
public records acted in bad faith when the office or person 603  
voluntarily made the public records available to the relator for 604  
the first time after the relator commenced the mandamus action, 605  
but before the court issued any order concluding whether or not 606

the public office or person was required to comply with division 607  
(B) of this section. No discovery may be conducted on the issue 608  
of the alleged bad faith of the public office or person 609  
responsible for the public records. This division shall not be 610  
construed as creating a presumption that the public office or 611  
the person responsible for the public records acted in bad faith 612  
when the office or person voluntarily made the public records 613  
available to the relator for the first time after the relator 614  
commenced the mandamus action, but before the court issued any 615  
order described in this division. 616

~~(c) Court costs and reasonable attorney's fees awarded~~ 617  
~~under this section shall be construed as remedial and not~~ 618  
~~punitive. Reasonable attorney's fees shall include reasonable~~ 619  
~~fees incurred to produce proof of the reasonableness and amount~~ 620  
~~of the fees and to otherwise litigate entitlement to the fees.~~ 621  
The court may reduce an award of attorney's fees to the relator 622  
~~or shall not~~ award attorney's fees to the relator if the court 623  
determines both of the following: 624

(i) That, based on the ordinary application of statutory 625  
law and case law as it existed at the time of the conduct or 626  
threatened conduct of the public office or person responsible 627  
for the requested public records that allegedly constitutes a 628  
failure to comply with an obligation in accordance with division 629  
(B) of this section and that was the basis of the mandamus 630  
action, a well-informed public office or person responsible for 631  
the requested public records reasonably would believe that the 632  
conduct or threatened conduct of the public office or person 633  
responsible for the requested public records did not constitute 634  
a failure to comply with an obligation in accordance with 635  
division (B) of this section; 636

(ii) That a well-informed public office or person 637  
responsible for the requested public records reasonably would 638  
believe that the conduct or threatened conduct of the public 639  
office or person responsible for the requested public records ~~as-~~ 640  
~~described in division (C) (2) (c) (i) of this section~~ would serve 641  
the public policy that underlies the authority that is asserted 642  
as permitting that conduct or threatened conduct. 643

(4) All of the following apply to any award of reasonable 644  
attorney's fees awarded under division (C) (3) (b) of this 645  
section: 646

(a) The fees shall be construed as remedial and not 647  
punitive. 648

(b) The fees awarded shall not exceed the total of the 649  
reasonable attorney's fees incurred before the public record was 650  
made available to the relator and the fees described in division 651  
(C) (4) (c) of this section. 652

(c) Reasonable attorney's fees shall include reasonable 653  
fees incurred to produce proof of the reasonableness and amount 654  
of the fees and to otherwise litigate entitlement to the fees. 655

(d) The court may reduce the amount of fees awarded if the 656  
court determines that, given the factual circumstances involved 657  
with the specific public records request, an alternative means 658  
should have been pursued to more effectively and efficiently 659  
resolve the dispute that was subject to the mandamus action 660  
filed under division (C) (1) of this section. 661

(5) If the court does not issue a writ of mandamus under 662  
division (C) of this section and the court determines at that 663  
time that the bringing of the mandamus action was frivolous 664  
conduct as defined in division (A) of section 2323.51 of the 665

Revised Code, the court may award to the public office all court 666  
costs, expenses, and reasonable attorney's fees, as determined 667  
by the court. 668

(D) Chapter 1347. of the Revised Code does not limit the 669  
provisions of this section. 670

(E) (1) To ensure that all employees of public offices are 671  
appropriately educated about a public office's obligations under 672  
division (B) of this section, all elected officials or their 673  
appropriate designees shall attend training approved by the 674  
attorney general as provided in section 109.43 of the Revised 675  
Code. In addition, all public offices shall adopt a public 676  
records policy in compliance with this section for responding to 677  
public records requests. In adopting a public records policy 678  
under this division, a public office may obtain guidance from 679  
the model public records policy developed and provided to the 680  
public office by the attorney general under section 109.43 of 681  
the Revised Code. Except as otherwise provided in this section, 682  
the policy may not limit the number of public records that the 683  
public office will make available to a single person, may not 684  
limit the number of public records that it will make available 685  
during a fixed period of time, and may not establish a fixed 686  
period of time before it will respond to a request for 687  
inspection or copying of public records, unless that period is 688  
less than eight hours. 689

(2) The public office shall distribute the public records 690  
policy adopted by the public office under division (E) (1) of 691  
this section to the employee of the public office who is the 692  
records custodian or records manager or otherwise has custody of 693  
the records of that office. The public office shall require that 694  
employee to acknowledge receipt of the copy of the public 695



records policy. The public office shall create a poster that 696  
describes its public records policy and shall post the poster in 697  
a conspicuous place in the public office and in all locations 698  
where the public office has branch offices. The public office 699  
may post its public records policy on the internet web site of 700  
the public office if the public office maintains an internet web 701  
site. A public office that has established a manual or handbook 702  
of its general policies and procedures for all employees of the 703  
public office shall include the public records policy of the 704  
public office in the manual or handbook. 705

(F) (1) The bureau of motor vehicles may adopt rules 706  
pursuant to Chapter 119. of the Revised Code to reasonably limit 707  
the number of bulk commercial special extraction requests made 708  
by a person for the same records or for updated records during a 709  
calendar year. The rules may include provisions for charges to 710  
be made for bulk commercial special extraction requests for the 711  
actual cost of the bureau, plus special extraction costs, plus 712  
ten per cent. The bureau may charge for expenses for redacting 713  
information, the release of which is prohibited by law. 714

(2) As used in division (F) (1) of this section: 715

(a) "Actual cost" means the cost of depleted supplies, 716  
records storage media costs, actual mailing and alternative 717  
delivery costs, or other transmitting costs, and any direct 718  
equipment operating and maintenance costs, including actual 719  
costs paid to private contractors for copying services. 720

(b) "Bulk commercial special extraction request" means a 721  
request for copies of a record for information in a format other 722  
than the format already available, or information that cannot be 723  
extracted without examination of all items in a records series, 724  
class of records, or database by a person who intends to use or 725

forward the copies for surveys, marketing, solicitation, or 726  
resale for commercial purposes. "Bulk commercial special 727  
extraction request" does not include a request by a person who 728  
gives assurance to the bureau that the person making the request 729  
does not intend to use or forward the requested copies for 730  
surveys, marketing, solicitation, or resale for commercial 731  
purposes. 732

(c) "Commercial" means profit-seeking production, buying, 733  
or selling of any good, service, or other product. 734

(d) "Special extraction costs" means the cost of the time 735  
spent by the lowest paid employee competent to perform the task, 736  
the actual amount paid to outside private contractors employed 737  
by the bureau, or the actual cost incurred to create computer 738  
programs to make the special extraction. "Special extraction 739  
costs" include any charges paid to a public agency for computer 740  
or records services. 741

(3) For purposes of divisions (F) (1) and (2) of this 742  
section, "surveys, marketing, solicitation, or resale for 743  
commercial purposes" shall be narrowly construed and does not 744  
include reporting or gathering news, reporting or gathering 745  
information to assist citizen oversight or understanding of the 746  
operation or activities of government, or nonprofit educational 747  
research. 748

(G) A request by a defendant, counsel of a defendant, or 749  
any agent of a defendant in a criminal action that public 750  
records related to that action be made available under this 751  
section shall be considered a demand for discovery pursuant to 752  
the Criminal Rules, except to the extent that the Criminal Rules 753  
plainly indicate a contrary intent. The defendant, counsel of 754  
the defendant, or agent of the defendant making a request under 755

this division shall serve a copy of the request on the 756  
prosecuting attorney, director of law, or other chief legal 757  
officer responsible for prosecuting the action. 758

**Sec. 149.433.** (A) As used in this section: 759

~~(1)~~ "Act of terrorism" has the same meaning as in section 760  
2909.21 of the Revised Code. 761

~~(2)~~ "Express statement" means a written statement 762  
substantially similar to the following: "This information is 763  
voluntarily submitted to a public office in expectation of 764  
protection from disclosure as provided by section 149.433 of the 765  
Revised Code." 766

"Infrastructure record" means any record that discloses 767  
the configuration of ~~a public office's or chartered nonpublic~~ 768  
~~school's~~ critical systems including, but not limited to, 769  
communication, computer, electrical, mechanical, ventilation, 770  
water, and plumbing systems, security codes, or the 771  
infrastructure or structural configuration of ~~the a building in~~ 772  
~~which a public office or chartered nonpublic school is located.~~ 773  
~~"Infrastructure"~~ 774

"Infrastructure record" includes a risk assessment of 775  
infrastructure performed by a state or local law enforcement 776  
agency at the request of a property owner or manager. 777

"Infrastructure record" does not mean a simple floor plan 778  
that discloses only the spatial relationship of components of ~~a~~ 779  
~~public office or chartered nonpublic school or the building in~~ 780  
~~which a public office or chartered nonpublic school is located.~~ 781

~~(3)~~ "Security record" means any of the following: 782

~~(a)~~ (1) Any record that contains information directly used 783

for protecting or maintaining the security of a public office	784
against attack, interference, or sabotage;	785
<del>(b)</del> <u>(2)</u> Any record assembled, prepared, or maintained by a	786
public office or public body to prevent, mitigate, or respond to	787
acts of terrorism, including any of the following:	788
<del>(i)</del> <u>(a)</u> Those portions of records containing specific and	789
unique vulnerability assessments or specific and unique response	790
plans either of which is intended to prevent or mitigate acts of	791
terrorism, and communication codes or deployment plans of law	792
enforcement or emergency response personnel;	793
<del>(ii)</del> <u>(b)</u> Specific intelligence information and specific	794
investigative records shared by federal and international law	795
enforcement agencies with state and local law enforcement and	796
public safety agencies;	797
<del>(iii)</del> <u>(c)</u> National security records classified under	798
federal executive order and not subject to public disclosure	799
under federal law that are shared by federal agencies, and other	800
records related to national security briefings to assist state	801
and local government with domestic preparedness for acts of	802
terrorism.	803
<del>(e)</del> <u>(3)</u> An emergency management plan adopted pursuant to	804
section 3313.536 of the Revised Code.	805
(B) <u>(1)</u> A record kept by a public office that is a security	806
record <del>or an infrastructure record</del> is not a public record under	807
section 149.43 of the Revised Code and is not subject to	808
mandatory release or disclosure under that section.	809
<u>(2) A record kept by a public office that is an</u>	810
<u>infrastructure record of a public office or a chartered</u>	811
<u>nonpublic school is not a public record under section 149.43 of</u>	812

the Revised Code and is not subject to mandatory release or 813  
disclosure under that section. 814

(3) A record kept by a public office that is an 815  
infrastructure record of a private entity may be exempted from 816  
release or disclosure under division (C) of this section. 817

(C) A record prepared by, submitted to, or kept by a 818  
public office that is an infrastructure record of a private 819  
entity, which is submitted to the public office for use by the 820  
public office, when accompanied by an express statement, is 821  
exempt from release or disclosure under section 149.43 of the 822  
Revised Code for a period of twenty-five years after its 823  
creation if it is retained by the public office for that length 824  
of time. 825

(D) Notwithstanding any other section of the Revised Code, 826  
disclosure by a public office, public employee, chartered 827  
nonpublic school, or chartered nonpublic school employee of a 828  
security record or infrastructure record that is necessary for 829  
construction, renovation, or remodeling work on any public 830  
building or project or chartered nonpublic school does not 831  
constitute public disclosure for purposes of waiving division 832  
(B) of this section and does not result in that record becoming 833  
a public record for purposes of section 149.43 of the Revised 834  
Code. 835

**Sec. 2323.52.** (A) As used in this section: 836

(1) "Conduct" has the same meaning as in section 2323.51 837  
of the Revised Code. 838

(2) "Vexatious conduct" means conduct of a party in a 839  
civil action that satisfies any of the following: 840

(a) The conduct obviously serves merely to harass or 841

maliciously injure another party to the civil action. 842

(b) The conduct is not warranted under existing law and 843  
cannot be supported by a good faith argument for an extension, 844  
modification, or reversal of existing law. 845

(c) The conduct is imposed solely for delay. 846

(3) "Vexatious litigator" means any person who has 847  
habitually, persistently, and without reasonable grounds engaged 848  
in vexatious conduct in a civil action or actions, whether in 849  
the court of claims or in a court of appeals, court of common 850  
pleas, municipal court, or county court, whether the person or 851  
another person instituted the civil action or actions, and 852  
whether the vexatious conduct was against the same party or 853  
against different parties in the civil action or actions. 854  
"Vexatious litigator" does not include a person who is 855  
authorized to practice law in the courts of this state under the 856  
Ohio Supreme Court Rules for the Government of the Bar of Ohio 857  
unless that person is representing or has represented self pro 858  
se in the civil action or actions. For the purposes of division 859  
(A) (3) of this section, "civil action" includes a proceeding  
under section 2743.75 of the Revised Code. 860  
861

(B) A person, the office of the attorney general, or a 862  
prosecuting attorney, city director of law, village solicitor, 863  
or similar chief legal officer of a municipal corporation who 864  
has defended against habitual and persistent vexatious conduct 865  
in the court of claims or in a court of appeals, court of common 866  
pleas, municipal court, or county court may commence a civil 867  
action in a court of common pleas with jurisdiction over the 868  
person who allegedly engaged in the habitual and persistent 869  
vexatious conduct to have that person declared a vexatious 870  
litigator. The person, office of the attorney general, 871

prosecuting attorney, city director of law, village solicitor, 872  
or similar chief legal officer of a municipal corporation may 873  
commence this civil action while the civil action or actions in 874  
which the habitual and persistent vexatious conduct occurred are 875  
still pending or within one year after the termination of the 876  
civil action or actions in which the habitual and persistent 877  
vexatious conduct occurred. 878

(C) A civil action to have a person declared a vexatious 879  
litigator shall proceed as any other civil action, and the Ohio 880  
Rules of Civil Procedure apply to the action. 881

(D) (1) If the person alleged to be a vexatious litigator 882  
is found to be a vexatious litigator, subject to division (D) (2) 883  
of this section, the court of common pleas may enter an order 884  
prohibiting the vexatious litigator from doing one or more of 885  
the following without first obtaining the leave of that court to 886  
proceed: 887

(a) Instituting legal proceedings in the court of claims 888  
or in a court of common pleas, municipal court, or county court; 889

(b) Continuing any legal proceedings that the vexatious 890  
litigator had instituted in any of the courts specified in 891  
division (D) (1) (a) of this section prior to the entry of the 892  
order; 893

(c) Making any application, other than an application for 894  
leave to proceed under division (F) (1) of this section, in any 895  
legal proceedings instituted by the vexatious litigator or 896  
another person in any of the courts specified in division (D) (1) 897  
(a) of this section. 898

(2) If the court of common pleas finds a person who is 899  
authorized to practice law in the courts of this state under the 900

Ohio Supreme Court Rules for the Government of the Bar of Ohio 901  
to be a vexatious litigator and enters an order described in 902  
division (D) (1) of this section in connection with that finding, 903  
the order shall apply to the person only insofar as the person 904  
would seek to institute proceedings described in division (D) (1) 905  
(a) of this section on a pro se basis, continue proceedings 906  
described in division (D) (1) (b) of this section on a pro se 907  
basis, or make an application described in division (D) (1) (c) of 908  
this section on a pro se basis. The order shall not apply to the 909  
person insofar as the person represents one or more other 910  
persons in the person's capacity as a licensed and registered 911  
attorney in a civil or criminal action or proceeding or other 912  
matter in a court of common pleas, municipal court, or county 913  
court or in the court of claims. Division (D) (2) of this section 914  
does not affect any remedy that is available to a court or an 915  
adversely affected party under section 2323.51 or another 916  
section of the Revised Code, under Civil Rule 11 or another 917  
provision of the Ohio Rules of Civil Procedure, or under the 918  
common law of this state as a result of frivolous conduct or 919  
other inappropriate conduct by an attorney who represents one or 920  
more clients in connection with a civil or criminal action or 921  
proceeding or other matter in a court of common pleas, municipal 922  
court, or county court or in the court of claims. 923

(3) A person who is subject to an order entered pursuant 924  
to division (D) (1) of this section may not institute legal 925  
proceedings in a court of appeals, continue any legal 926  
proceedings that the vexatious litigator had instituted in a 927  
court of appeals prior to entry of the order, or make any 928  
application, other than the application for leave to proceed 929  
allowed by division (F) (2) of this section, in any legal 930  
proceedings instituted by the vexatious litigator or another 931



person in a court of appeals without first obtaining leave of 932  
the court of appeals to proceed pursuant to division (F) (2) of 933  
this section. 934

(E) An order that is entered under division (D) (1) of this 935  
section shall remain in force indefinitely unless the order 936  
provides for its expiration after a specified period of time. 937

(F) (1) A court of common pleas that entered an order under 938  
division (D) (1) of this section shall not grant a person found 939  
to be a vexatious litigator leave for the institution or 940  
continuance of, or the making of an application in, legal 941  
proceedings in the court of claims or in a court of common 942  
pleas, municipal court, or county court unless the court of 943  
common pleas that entered that order is satisfied that the 944  
proceedings or application are not an abuse of process of the 945  
court in question and that there are reasonable grounds for the 946  
proceedings or application. If a person who has been found to be 947  
a vexatious litigator under this section requests the court of 948  
common pleas that entered an order under division (D) (1) of this 949  
section to grant the person leave to proceed as described in 950  
division (F) (1) of this section, the period of time commencing 951  
with the filing with that court of an application for the 952  
issuance of an order granting leave to proceed and ending with 953  
the issuance of an order of that nature shall not be computed as 954  
a part of an applicable period of limitations within which the 955  
legal proceedings or application involved generally must be 956  
instituted or made. 957

(2) A person who is subject to an order entered pursuant 958  
to division (D) (1) of this section and who seeks to institute or 959  
continue any legal proceedings in a court of appeals or to make 960  
an application, other than an application for leave to proceed 961

under division (F) (2) of this section, in any legal proceedings 962  
in a court of appeals shall file an application for leave to 963  
proceed in the court of appeals in which the legal proceedings 964  
would be instituted or are pending. The court of appeals shall 965  
not grant a person found to be a vexatious litigator leave for 966  
the institution or continuance of, or the making of an 967  
application in, legal proceedings in the court of appeals unless 968  
the court of appeals is satisfied that the proceedings or 969  
application are not an abuse of process of the court and that 970  
there are reasonable grounds for the proceedings or application. 971  
If a person who has been found to be a vexatious litigator under 972  
this section requests the court of appeals to grant the person 973  
leave to proceed as described in division (F) (2) of this 974  
section, the period of time commencing with the filing with the 975  
court of an application for the issuance of an order granting 976  
leave to proceed and ending with the issuance of an order of 977  
that nature shall not be computed as a part of an applicable 978  
period of limitations within which the legal proceedings or 979  
application involved generally must be instituted or made. 980

(G) During the period of time that the order entered under 981  
division (D) (1) of this section is in force, no appeal by the 982  
person who is the subject of that order shall lie from a 983  
decision of the court of common pleas or court of appeals under 984  
division (F) of this section that denies that person leave for 985  
the institution or continuance of, or the making of an 986  
application in, legal proceedings in the court of claims or in a 987  
court of appeals, court of common pleas, municipal court, or 988  
county court. 989

(H) The clerk of the court of common pleas that enters an 990  
order under division (D) (1) of this section shall send a 991  
certified copy of the order to the supreme court for publication 992

in a manner that the supreme court determines is appropriate and 993  
that will facilitate the clerk of the court of claims and a 994  
clerk of a court of appeals, court of common pleas, municipal 995  
court, or county court in refusing to accept pleadings or other 996  
papers submitted for filing by persons who have been found to be 997  
a vexatious litigator under this section and who have failed to 998  
obtain leave to proceed under this section. 999

(I) Whenever it appears by suggestion of the parties or 1000  
otherwise that a person found to be a vexatious litigator under 1001  
this section has instituted, continued, or made an application 1002  
in legal proceedings without obtaining leave to proceed from the 1003  
appropriate court of common pleas or court of appeals to do so 1004  
under division (F) of this section, the court in which the legal 1005  
proceedings are pending shall dismiss the proceedings or 1006  
application of the vexatious litigator. 1007

**Sec. 2743.03.** (A) (1) There is hereby created a court of 1008  
claims. The court of claims is a court of record and has 1009  
exclusive, original jurisdiction of all civil actions against 1010  
the state permitted by the waiver of immunity contained in 1011  
section 2743.02 of the Revised Code and exclusive jurisdiction 1012  
of the causes of action of all parties in civil actions that are 1013  
removed to the court of claims. The court shall have full equity 1014  
powers in all actions within its jurisdiction and may entertain 1015  
and determine all counterclaims, cross-claims, and third-party 1016  
claims. 1017

(2) If the claimant in a civil action as described in 1018  
division (A) (1) of this section also files a claim for a 1019  
declaratory judgment, injunctive relief, or other equitable 1020  
relief against the state that arises out of the same 1021  
circumstances that gave rise to the civil action described in 1022

division (A) (1) of this section, the court of claims has 1023  
exclusive, original jurisdiction to hear and determine that 1024  
claim in that civil action. This division does not affect, and 1025  
shall not be construed as affecting, the original jurisdiction 1026  
of another court of this state to hear and determine a civil 1027  
action in which the sole relief that the claimant seeks against 1028  
the state is a declaratory judgment, injunctive relief, or other 1029  
equitable relief. 1030

(3) In addition to its exclusive, original jurisdiction as 1031  
conferred by ~~division~~ divisions (A) (1) and (2) of this section, 1032  
the court of claims has exclusive, original jurisdiction as 1033  
follows: 1034

(a) As described in division (F) of section 2743.02, 1035  
division (B) of section 3335.03, and division (C) of section 1036  
5903.02 of the Revised Code; 1037

(b) Under section 2743.75 of the Revised Code to hear 1038  
complaints alleging a denial of access to public records in 1039  
violation of division (B) of section 149.43 of the Revised Code, 1040  
regardless of whether the public office or person responsible 1041  
for public records is an office or employee of the state or of a 1042  
political subdivision. 1043

(B) The court of claims shall sit in Franklin county, its 1044  
hearings shall be public, and it shall consist of incumbent 1045  
justices or judges of the supreme court, courts of appeals, or 1046  
courts of common pleas, or retired justices or judges eligible 1047  
for active duty pursuant to division (C) of Section 6 of Article 1048  
IV, Ohio Constitution, sitting by temporary assignment of the 1049  
chief justice of the supreme court. The chief justice may direct 1050  
the court to sit in any county for cases on removal upon a 1051  
showing of substantial hardship and whenever justice dictates. 1052

(C) (1) A civil action against the state shall be heard and 1053  
determined by a single judge. Upon application by the claimant 1054  
or the state, the chief justice of the supreme court may assign 1055  
a panel of three judges to hear and determine a civil action 1056  
presenting novel or complex issues of law or fact. Concurrence 1057  
of two members of the panel is necessary for any judgment or 1058  
order. 1059

(2) Whenever the chief justice of the supreme court 1060  
believes an equitable resolution of a case will be expedited, 1061  
the chief justice may appoint magistrates in accordance with 1062  
Civil Rule 53 to hear the case. 1063

(3) When any dispute under division (B) of section 153.12 1064  
of the Revised Code is brought to the court of claims, upon 1065  
request of either party to the dispute, the chief justice of the 1066  
supreme court shall appoint a single referee or a panel of three 1067  
referees. The referees need not be attorneys, but shall be 1068  
persons knowledgeable about construction contract law, a member 1069  
of the construction industry panel of the American arbitration 1070  
association, or an individual or individuals deemed qualified by 1071  
the chief justice to serve. No person shall serve as a referee 1072  
if that person has been employed by an affected state agency or 1073  
a contractor or subcontractor involved in the dispute at any 1074  
time in the preceding five years. Proceedings governing referees 1075  
shall be in accordance with Civil Rule 53, except as modified by 1076  
this division. The referee or panel of referees shall submit its 1077  
report, which shall include a recommendation and finding of 1078  
fact, to the judge assigned to the case by the chief justice, 1079  
within thirty days of the conclusion of the hearings. Referees 1080  
appointed pursuant to this division shall be compensated on a 1081  
per diem basis at the same rate as is paid to judges of the 1082  
court and also shall be paid their expenses. If a single referee 1083

is appointed or a panel of three referees is appointed, then, 1084  
with respect to one referee of the panel, the compensation and 1085  
expenses of the referee shall not be taxed as part of the costs 1086  
in the case but shall be included in the budget of the court. If 1087  
a panel of three referees is appointed, the compensation and 1088  
expenses of the two remaining referees shall be taxed as costs 1089  
of the case. 1090

All costs of a case shall be apportioned among the 1091  
parties. The court may not require that any party deposit with 1092  
the court cash, bonds, or other security in excess of two 1093  
hundred dollars to guarantee payment of costs without the prior 1094  
approval in each case of the chief justice. 1095

(4) An appeal from a decision of the attorney general 1096  
pursuant to sections 2743.51 to 2743.72 of the Revised Code 1097  
shall be heard and determined by the court of claims. 1098

(D) The Rules of Civil Procedure shall govern practice and 1099  
procedure in all actions in the court of claims, except insofar 1100  
as inconsistent with this chapter. The supreme court may 1101  
promulgate rules governing practice and procedure in actions in 1102  
the court as provided in Section 5 of Article IV, Ohio 1103  
Constitution. 1104

(E) (1) A party who files a counterclaim against the state 1105  
or makes the state a third-party defendant in an action 1106  
commenced in any court, other than the court of claims, shall 1107  
file a petition for removal in the court of claims. The petition 1108  
shall state the basis for removal, be accompanied by a copy of 1109  
all process, pleadings, and other papers served upon the 1110  
petitioner, and shall be signed in accordance with Civil Rule 1111  
11. A petition for removal based on a counterclaim shall be 1112  
filed within twenty-eight days after service of the counterclaim 1113

of the petitioner. A petition for removal based on third-party 1114  
practice shall be filed within twenty-eight days after the 1115  
filing of the third-party complaint of the petitioner. 1116

(2) Within seven days after filing a petition for removal, 1117  
the petitioner shall give written notice to the parties, and 1118  
shall file a copy of the petition with the clerk of the court in 1119  
which the action was brought originally. The filing effects the 1120  
removal of the action to the court of claims, and the clerk of 1121  
the court where the action was brought shall forward all papers 1122  
in the case to the court of claims. The court of claims shall 1123  
adjudicate all civil actions removed. The court may remand a 1124  
civil action to the court in which it originated upon a finding 1125  
that the removal petition does not justify removal, or upon a 1126  
finding that the state is no longer a party. 1127

(3) Bonds, undertakings, or security and injunctions, 1128  
attachments, sequestrations, or other orders issued prior to 1129  
removal remain in effect until dissolved or modified by the 1130  
court of claims. 1131

Sec. 2743.75. (A) In order to provide for an expeditious 1132  
and economical procedure that attempts to resolve disputes 1133  
alleging a denial of access to public records in violation of 1134  
division (B) of section 149.43 of the Revised Code, except for a 1135  
court that hears a mandamus action pursuant to that section, the 1136  
court of claims shall be the sole and exclusive authority in 1137  
this state that adjudicates or resolves complaints based on 1138  
alleged violations of that section. The clerk of the court of 1139  
claims shall designate one or more current employees or hire one 1140  
or more individuals to serve as special masters to hear 1141  
complaints brought under this section. All special masters shall 1142  
have been engaged in the practice of law in this state for at 1143

least four years and be in good standing with the supreme court 1144  
at the time of designation or hiring. The clerk may assign 1145  
administrative and clerical work associated with complaints 1146  
brought under this section to current employees or may hire such 1147  
additional employees as may be necessary to perform such work. 1148

(B) The clerk of the court of common pleas in each county 1149  
shall act as the clerk of the court of claims for purposes of 1150  
accepting those complaints filed with the clerk under division 1151  
(D) (1) of this section, accepting filing fees for those 1152  
complaints, and serving those complaints. 1153

(C) (1) Subject to division (C) (2) of this section, a 1154  
person allegedly aggrieved by a denial of access to public 1155  
records in violation of division (B) of section 149.43 of the 1156  
Revised Code may seek relief under that section or under this 1157  
section, provided, however, that if the allegedly aggrieved 1158  
person files a complaint under either section, that person may 1159  
not seek relief that pertains to the same request for records in 1160  
a complaint filed under the other section. 1161

(2) If the allegedly aggrieved person files a complaint 1162  
under this section and the court of claims determines that the 1163  
complaint constitutes a case of first impression that involves 1164  
an issue of substantial public interest, the court shall dismiss 1165  
the complaint without prejudice and direct the allegedly 1166  
aggrieved person to commence a mandamus action in the court of 1167  
appeals with appropriate jurisdiction as provided in division 1168  
(C) (1) of section 149.43 of the Revised Code. 1169

(D) (1) An allegedly aggrieved person who proceeds under 1170  
this section shall file a complaint, on a form prescribed by the 1171  
clerk of the court of claims, with the clerk of the court of 1172  
claims or with the clerk of the court of common pleas of the 1173



county in which the public office from which the records are 1174  
requested is located. The person shall attach to the complaint 1175  
copies of the original records request and any written responses 1176  
or other communications relating to the request from the public 1177  
office or person responsible for public records and shall pay a 1178  
filing fee of twenty-five dollars made payable to the clerk of 1179  
the court with whom the complaint is filed. The clerk shall 1180  
serve a copy of the complaint on the public office or person 1181  
responsible for public records for the particular public office 1182  
in accordance with Civil Rule 4.1 and, if the complaint is filed 1183  
with the clerk of the court of common pleas, shall forward the 1184  
complaint to the clerk of the court of claims, and to no other 1185  
court, within three business days after service is complete. 1186

(2) Upon receipt of a complaint filed under division (D) 1187  
(1) of this section, the clerk of the court of claims shall 1188  
assign a case number for the action and a special master to 1189  
examine the complaint. Notwithstanding any provision to the 1190  
contrary in this section, upon the recommendation of the special 1191  
master, the court of claims on its own motion may dismiss the 1192  
complaint at any time. The allegedly aggrieved person may 1193  
voluntarily dismiss the complaint filed by that person under 1194  
division (D) (1) of this section. 1195

(E) (1) Upon service of a complaint under division (D) (1) 1196  
of this section, except as otherwise provided in this division, 1197  
the special master assigned by the clerk under division (D) (2) 1198  
of this section immediately shall refer the case to mediation 1199  
services that the court of claims makes available to persons. 1200  
If, in the interest of justice considering the circumstances of 1201  
the case or the parties, the special master determines that the 1202  
case should not be referred to mediation, the special master 1203  
shall notify the court that the case was not referred to 1204

mediation, and the case shall proceed in accordance with 1205  
division (F) of this section. If the case is referred to 1206  
mediation, any further proceedings under division (F) of this 1207  
section shall be stayed until the conclusion of the mediation. 1208  
Any mediation proceedings under this division may be conducted 1209  
by teleconference, telephone, or other electronic means. If an 1210  
agreement is reached during mediation, the court shall dismiss 1211  
the complaint. If an agreement is not reached, the special 1212  
master shall notify the court that the case was not resolved and 1213  
that the mediation has been terminated. 1214

(2) Within ten business days after the termination of the 1215  
mediation or the notification to the court that the case was not 1216  
referred to mediation under division (E)(1) of this section, the 1217  
public office or person responsible for public records shall 1218  
file a response, and if applicable, a motion to dismiss the 1219  
complaint, with the clerk of the court of claims and transmit 1220  
copies of the pleadings to the allegedly aggrieved party. No 1221  
further motions or pleadings shall be accepted by the clerk of 1222  
the court of claims or by the special master assigned by the 1223  
clerk under division (D)(2) of this section unless the special 1224  
master directs in writing that a further motion or pleading be 1225  
filed. 1226

(3) All of the following apply prior to the submission of 1227  
the special master's report and recommendation to the court of 1228  
claims under division (F)(1) of this section: 1229

(a) The special master shall not permit any discovery. 1230

(b) The parties may attach supporting affidavits to their 1231  
respective pleadings. 1232

(c) The special master may require either or both of the 1233

parties to submit additional information or documentation 1234  
supported by affidavits. 1235

(F) (1) Not later than seven business days after receiving 1236  
the response, or motion to dismiss the complaint, if applicable, 1237  
of the public office or person responsible for public records, 1238  
the special master shall submit to the court of claims a report 1239  
and recommendation based on the ordinary application of 1240  
statutory law and case law as they existed at the time of the 1241  
filing of the complaint. For good cause shown, the special 1242  
master may extend the seven-day period for the submission of the 1243  
report and recommendation to the court of claims under this 1244  
division by an additional seven business days. 1245

(2) Upon submission of the special master's report and 1246  
recommendation to the court of claims under division (F) (1) of 1247  
this section, the clerk shall send copies of the report and 1248  
recommendation to each party by certified mail, return receipt 1249  
requested, not later than three business days after the report 1250  
and recommendation is filed. Either party may object to the 1251  
report and recommendation within seven business days after 1252  
receiving the report and recommendation by filing a written 1253  
objection with the clerk and sending a copy to the other party 1254  
by certified mail, return receipt requested. Any objection to 1255  
the report and recommendation shall be specific and state with 1256  
particularity all grounds for the objection. If neither party 1257  
timely objects, the court of claims shall promptly issue a final 1258  
order adopting the report and recommendation, unless it 1259  
determines that there is an error of law or other defect evident 1260  
on the face of the report and recommendation. If either party 1261  
timely objects, the other party may file with the clerk a 1262  
response within seven business days after receiving the 1263  
objection and send a copy of the response to the objecting party 1264

by certified mail, return receipt requested. The court, within 1265  
seven business days after the response to the objection is 1266  
filed, shall issue a final order that adopts, modifies, or 1267  
rejects the report and recommendation. 1268

(3) If the court of claims determines that the public 1269  
office or person responsible for the public records denied the 1270  
aggrieved person access to the public records in violation of 1271  
division (B) of section 149.43 of the Revised Code and if no 1272  
appeal from the court's final order is taken under division (G) 1273  
of this section, both of the following apply: 1274

(a) The public office or the person responsible for the 1275  
public records shall permit the aggrieved person to inspect or 1276  
receive copies of the public records that the court requires to 1277  
be disclosed in its order. 1278

(b) The aggrieved person shall be entitled to recover from 1279  
the public office or person responsible for the public records 1280  
the amount of the filing fee of twenty-five dollars and any 1281  
other costs associated with the action that are incurred by the 1282  
aggrieved person, but shall not be entitled to recover 1283  
attorney's fees, except that division (G) (2) of this section 1284  
applies if an appeal is taken under division (G) (1) of this 1285  
section. 1286

(G) (1) Any appeal from a final order of the court of 1287  
claims under this section or from an order of the court of 1288  
claims dismissing the complaint as provided in division (D) (2) 1289  
of this section shall be taken to the court of appeals of the 1290  
appellate district where the principal place of business of the 1291  
public office from which the public record is requested is 1292  
located. However, no appeal may be taken from a final order of 1293  
the court of claims that adopts the special master's report and 1294

recommendation unless a timely objection to that report and 1295  
recommendation was filed under division (F) (2) of this section. 1296  
If the court of claims materially modifies the special master's 1297  
report and recommendation, either party may take an appeal to 1298  
the court of appeals of the appellate district of the principal 1299  
place of business where that public office is located but the 1300  
appeal shall be limited to the issue in the report and 1301  
recommendation that is materially modified by the court of 1302  
claims. In order to facilitate the expeditious resolution of 1303  
disputes over alleged denials of access to public records in 1304  
violation of division (B) of section 149.43 of the Revised Code, 1305  
the appeal shall be given such precedence over other pending 1306  
matters as will ensure that the court will reach a decision 1307  
promptly. 1308

(2) If a court of appeals in any appeal taken under 1309  
division (G) (1) of this section by the public office or person 1310  
responsible for the public records determines that the public 1311  
office or person denied the aggrieved person access to the 1312  
public records in violation of division (B) of section 149.43 of 1313  
the Revised Code and obviously filed the appeal with the intent 1314  
to either delay compliance with the court of claims' order from 1315  
which the appeal is taken for no reasonable cause or unduly 1316  
harass the aggrieved person, the court of appeals may award 1317  
reasonable attorney's fees to the aggrieved person in accordance 1318  
with division (C) of section 149.43 of the Revised Code. No 1319  
discovery may be conducted on the issue of the public office or 1320  
person responsible for the public records filing the appeal with 1321  
the alleged intent to either delay compliance with the court of 1322  
claims' order for no reasonable cause or unduly harass the 1323  
aggrieved person. This division shall not be construed as 1324  
creating a presumption that the public office or the person 1325

responsible for the public records filed the appeal with the 1326  
intent to either delay compliance with the court of claims' 1327  
order for no reasonable cause or unduly harass the aggrieved 1328  
person. 1329

(H) The powers of the court of claims prescribed in 1330  
section 2743.05 of the Revised Code apply to the proceedings in 1331  
that court under this section. 1332

(I) (1) All filing fees collected by a clerk of the court 1333  
of common pleas under division (D) (1) of this section shall be 1334  
paid to the county treasurer for deposit into the county general 1335  
revenue fund. All such money collected during a month shall be 1336  
transmitted on or before the twentieth day of the following 1337  
month by the clerk of the court of common pleas to the county 1338  
treasurer. 1339

(2) All filing fees collected by the clerk of the court of 1340  
claims under division (D) (1) of this section shall be kept by 1341  
the court of claims to assist in paying for its costs to 1342  
implement this section. Not later than the first day of February 1343  
of each year, the clerk of the court of claims shall prepare a 1344  
report accessible to the public that details the fees collected 1345  
during the preceding calendar year by the clerk of the court of 1346  
claims and the clerks of the courts of common pleas under this 1347  
section. 1348

(J) Nothing in this section shall be construed to limit 1349  
the authority of the auditor of state under division (G) of 1350  
section 109.43 of the Revised Code. 1351

**Sec. 2746.04.** In addition to any applicable fees or costs 1352  
set forth in sections 2746.01 and 2746.02 of the Revised Code or 1353  
any other applicable provision of law, a court of common pleas 1354

shall tax as costs or otherwise require the payment of fees for 1355  
the following services rendered or as compensation for the 1356  
following persons or any other of the following fees that are 1357  
applicable in a particular case: 1358

(A) The fees provided for in section 2303.20 of the 1359  
Revised Code; 1360

(B) Additional fees to computerize the court, make 1361  
available computerized legal research services, computerize the 1362  
office of the clerk of the court, provide financial assistance 1363  
to legal aid societies, support the office of the state public 1364  
defender, fund shelters for victims of domestic violence, and 1365  
special projects of the court, as provided in section 2303.201 1366  
and, for a court that has a domestic relations division, section 1367  
2301.031 of the Revised Code; 1368

(C) Filing for a divorce decree under section 3105.10 or a 1369  
decree of dissolution under section 3105.65 of the Revised Code, 1370  
as provided in section 3109.14 of the Revised Code; 1371

(D) Filing of a foreign judgment pursuant to section 1372  
2329.022 of the Revised Code, as provided in section 2329.025 of 1373  
the Revised Code; 1374

(E) Interpreters, as provided in section 2301.14 of the 1375  
Revised Code; 1376

(F) Jurors in civil actions, as provided in section 1377  
2335.28 of the Revised Code; 1378

(G) Reporters, as provided in sections 2301.21 and 2301.24 1379  
of the Revised Code; 1380

(H) In a case involving the operation by a nonresident of 1381  
a vessel upon the waters in this state, or the operation on the 1382

waters in this state of a vessel owned by a nonresident if 1383  
operated with ~~his~~ the nonresident's consent, actual traveling 1384  
expenses of the defendant, as provided in section 1547.36 of the 1385  
Revised Code; 1386

(I) In a civil case, the expenses of taking a deposition 1387  
of a person who is imprisoned in a workhouse, juvenile detention 1388  
facility, jail, or state correctional institution within this 1389  
state, or who is in the custody of the department of youth 1390  
services, as provided in section 2317.06 of the Revised Code; 1391

(J) In proceedings relating to the examination of a 1392  
judgment debtor under sections 2333.09 to 2333.27 of the Revised 1393  
Code, compensation for clerks, sheriffs, referees, receivers, 1394  
and witnesses, as provided in section 2333.27 of the Revised 1395  
Code; 1396

(K) In an appeal from an order of an agency issued 1397  
pursuant to an adjudication under section 119.12 of the Revised 1398  
Code, the expense of preparing and transcribing the record; 1399

(L) In a case in which the court issues a protection order 1400  
upon a petition alleging that the respondent engaged in domestic 1401  
violence against a family or household member, the cost of 1402  
supervision of the respondent's exercise of parenting time, 1403  
visitation, or companionship rights, as provided in section 1404  
3113.31 of the Revised Code; 1405

(M) Upon a petition to have a person involuntarily 1406  
institutionalized, the costs of appointed counsel for the 1407  
respondent at a full hearing, as provided in section 5123.76 of 1408  
the Revised Code; 1409

(N) In a case before the domestic relations division of 1410  
the Hamilton county court of common pleas, the expense of 1411



1412 serving a summons, warrant, citation, subpoena, or other writ  
1413 issued to an officer other than a bailiff, constable, or staff  
1414 investigator of the division, as provided in section 2301.03 of  
1415 the Revised Code;

1416 (O) The filing fee specified in section 2743.75 of the  
1417 Revised Code in a case filed with the court of claims that  
1418 alleges a denial of access to public records in violation of  
1419 division (B) of section 149.43 of the Revised Code.

1420 **Sec. 3333.0412.** (A) No nonprofit institution that holds a  
1421 certificate of authorization issued under Chapter 1713. of the  
1422 Revised Code shall be liable for a breach of confidentiality  
1423 arising from the institution's submission of student data or  
1424 records to the chancellor of higher education or any other state  
1425 agency in compliance with any law, rule, or regulation, provided  
1426 that the breach occurs as a result of one of the following:

1427 ~~(A)~~ (1) An action by a third party during and after the  
1428 transmission of the data or records by the institution but prior  
1429 to receipt of the data or records by the chancellor of higher  
1430 education or other state agency;

1431 ~~(B)~~ (2) An action by the chancellor of higher education or  
1432 the state agency.

1433 (B) No nonprofit institution that holds a certificate of  
1434 authorization issued under Chapter 1713. of the Revised Code  
1435 shall be liable for a breach of confidentiality or any other  
1436 claim that arises from the institution's disclosure of the  
1437 public records pursuant to a request for public records made  
1438 under section 149.43 of the Revised Code, except for claims  
1439 based on the institution's failure to disclose public records as  
1440 required by law.

This provision shall apply to the submission of any 1441  
student data or records that are subject to any laws of this 1442  
state or, to the extent permitted, any federal law, including 1443  
the "Family Educational Rights and Privacy Act of 1974," 88 1444  
Stat. 571, 20 U.S.C. 1232g. 1445

**Section 2.** That existing sections 149.43, 149.433, 1446  
2323.52, 2743.03, 2746.04, and 3333.0412 of the Revised Code are 1447  
hereby repealed. 1448