

**As Reported by the House Civil and Commercial Law Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. H. B. No. 9**

**Representatives Oelslager, Flowers, Buehrer, White, Trakas**

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**A B I L L**

To amend sections 121.22, 149.011, 149.31, 149.38, 1  
149.39, 149.41, 149.42, 149.43, 3319.321, and 2  
4701.19 and to enact sections 109.43, 149.411, 3  
149.412, 2743.31, 2743.32, 2743.33, and 2743.34 of 4  
the Revised Code to revise the Public Records Law, 5  
to create the office of Public Access Counselor in 6  
the Court of Claims, to create a library records 7  
commission in each public library and a special 8  
taxing district records commission in each special 9  
taxing district, to revise the records commissions 10  
laws, and to eliminate the provision that certain 11  
records made by a public accountant incident to an 12  
audit of a public office or private entity are not 13  
public records. 14

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

**Section 1.** That sections 121.22, 149.011, 149.31, 149.38, 15  
149.39, 149.41, 149.42, 149.43, 3319.321, and 4701.19 be amended 16  
and sections 109.43, 149.411, 149.412, 2743.31, 2743.32, 2743.33, 17  
and 2743.34 of the Revised Code be enacted to read as follows: 18

**Sec. 109.43.** (A) As used in this section: 19

(1) "Designee" means a designee of the elected official in 20

the public office if that elected official is the only elected  
official in the public office involved or a designee of all of the  
elected officials in the public office if the public office  
involved includes more than one elected official.

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(2) "Elected official" means an official elected to a local  
or statewide office. "Elected official" does not include the chief  
justice or a justice of the supreme court, a judge of a court of  
appeals, court of common pleas, municipal court, or county court,  
or a clerk of any of those courts.

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(3) "Public office" has the same meaning as in section  
149.011 of the Revised Code.

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(4) "Public record" has the same meaning as in section 149.43  
of the Revised Code.

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(B) The attorney general shall develop, provide, and certify  
training programs and seminars for all elected officials or their  
appropriate designees in order to enhance the officials' knowledge  
of the duty to provide access to public records as required by  
section 149.43 of the Revised Code. The training shall be three  
hours for every term of office for which the elected official was  
appointed or elected to the public office involved. The training  
shall provide elected officials or their appropriate designees  
with guidance in developing and updating their offices' policies  
as required under section 149.43 of the Revised Code. The  
successful completion by an elected official or by an elected  
official's appropriate designee of the training requirements  
established by the attorney general under this section shall  
satisfy the education requirements imposed on elected officials or  
their appropriate designees under division (E) of section 149.43  
of the Revised Code. Prior to providing the training programs and  
seminars under this section to satisfy the education requirements  
imposed on elected officials or their appropriate designees under

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division (E) of section 149.43 of the Revised Code, the attorney 52  
general shall ensure that the training programs and seminars are 53  
accredited by the commission on continuing legal education 54  
established by the supreme court. 55

(C) The attorney general shall not charge any elected 56  
official or the appropriate designee of any elected official any 57  
fee for attending the training programs and seminars that the 58  
attorney general conducts under this section. The attorney general 59  
may allow the attendance of any other interested persons at any of 60  
the training programs or seminars that the attorney general 61  
conducts under this section and shall not charge the person any 62  
fee for attending the training program or seminar. 63

(D) In addition to developing, providing, and certifying 64  
training programs and seminars as required under division (B) of 65  
this section, the attorney general may contract with one or more 66  
other state agencies, political subdivisions, or other public or 67  
private entities to conduct the training programs and seminars for 68  
elected officials or their appropriate designees under this 69  
section. The contract may provide for the attendance of any other 70  
interested persons at any of the training programs or seminars 71  
conducted by the contracting state agency, political subdivision, 72  
or other public or private entity. The contracting state agency, 73  
political subdivision, or other public or private entity may 74  
charge an elected official, an elected official's appropriate 75  
designee, or an interested person a registration fee for attending 76  
the training program or seminar conducted by that contracting 77  
agency, political subdivision, or entity pursuant to a contract 78  
entered into under this division. The attorney general shall 79  
determine a reasonable amount for the registration fee based on 80  
the actual and necessary expenses associated with the training 81  
programs and seminars. 82

(E) The attorney general shall develop and provide to all 83

public offices a model public records policy for responding to 84  
public records requests in compliance with section 149.43 of the 85  
Revised Code in order to provide guidance to public offices in 86  
developing their own public record policies for responding to 87  
public records requests in compliance with that section. 88

(F) The attorney general may provide any other appropriate 89  
training or educational programs about Ohio's "Sunshine Laws," 90  
sections 121.22 and 149.43 of the Revised Code, as may be 91  
developed and offered by the attorney general or by the attorney 92  
general in collaboration with one or more other state agencies, 93  
political subdivisions, or other public or private entities. 94

(G) The auditor of state, in the course of an annual or 95  
biennial audit of a public office pursuant to Chapter 117. of the 96  
Revised Code, shall audit the public office for compliance with 97  
this section and division (E) of section 149.43 of the Revised 98  
Code. 99

**Sec. 121.22.** (A) This section shall be liberally construed to 100  
require public officials to take official action and to conduct 101  
all deliberations upon official business only in open meetings 102  
unless the subject matter is specifically excepted by law. 103

(B) As used in this section: 104

(1) "Public body" means any of the following: 105

(a) Any board, commission, committee, council, or similar 106  
decision-making body of a state agency, institution, or authority, 107  
and any legislative authority or board, commission, committee, 108  
council, agency, authority, or similar decision-making body of any 109  
county, township, municipal corporation, school district, or other 110  
political subdivision or local public institution; 111

(b) Any committee or subcommittee of a body described in 112  
division (B)(1)(a) of this section; 113

(c) A court of jurisdiction of a sanitary district organized 114  
wholly for the purpose of providing a water supply for domestic, 115  
municipal, and public use when meeting for the purpose of the 116  
appointment, removal, or reappointment of a member of the board of 117  
directors of such a district pursuant to section 6115.10 of the 118  
Revised Code, if applicable, or for any other matter related to 119  
such a district other than litigation involving the district. As 120  
used in division (B)(1)(c) of this section, "court of 121  
jurisdiction" has the same meaning as "court" in section 6115.01 122  
of the Revised Code. 123

(2) "Meeting" means any prearranged discussion of the public 124  
business of the public body by a majority of its members. 125

(3) "Regulated individual" means either of the following: 126

(a) A student in a state or local public educational 127  
institution; 128

(b) A person who is, voluntarily or involuntarily, an inmate, 129  
patient, or resident of a state or local institution because of 130  
criminal behavior, mental illness or retardation, disease, 131  
disability, age, or other condition requiring custodial care. 132

(4) "Public office" has the same meaning as in section 133  
149.011 of the Revised Code. 134

(C) All meetings of any public body are declared to be public 135  
meetings open to the public at all times. A member of a public 136  
body shall be present in person at a meeting open to the public to 137  
be considered present or to vote at the meeting and for purposes 138  
of determining whether a quorum is present at the meeting. 139

The minutes of a regular or special meeting of any public 140  
body shall be promptly prepared, filed, and maintained and shall 141  
be open to public inspection. The minutes need only reflect the 142  
general subject matter of discussions in executive sessions 143

authorized under division (G) or (J) of this section.	144
(D) This section does not apply to any of the following:	145
(1) A grand jury;	146
(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;	147 148 149
(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;	150 151 152
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	153 154
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	155 156 157
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	158 159 160
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;	161 162 163
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	164 165 166
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code.	167 168 169
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal	170 171 172

action be brought to enforce Chapter 3750. of the Revised Code.	173
(E) The controlling board, the development financing advisory	174
council, the industrial technology and enterprise advisory	175
council, the tax credit authority, or the minority development	176
financing advisory board, when meeting to consider granting	177
assistance pursuant to Chapter 122. or 166. of the Revised Code,	178
in order to protect the interest of the applicant or the possible	179
investment of public funds, by unanimous vote of all board,	180
council, or authority members present, may close the meeting	181
during consideration of the following information confidentially	182
received by the authority, council, or board from the applicant:	183
(1) Marketing plans;	184
(2) Specific business strategy;	185
(3) Production techniques and trade secrets;	186
(4) Financial projections;	187
(5) Personal financial statements of the applicant or members	188
of the applicant's immediate family, including, but not limited	189
to, tax records or other similar information not open to public	190
inspection.	191
The vote by the authority, council, or board to accept or	192
reject the application, as well as all proceedings of the	193
authority, council, or board not subject to this division, shall	194
be open to the public and governed by this section.	195
(F) Every public body, by rule, shall establish a reasonable	196
method whereby any person may determine the time and place of all	197
regularly scheduled meetings and the time, place, and purpose of	198
all special meetings. A public body shall not hold a special	199
meeting unless it gives at least twenty-four hours' advance notice	200
to the news media that have requested notification, except in the	201
event of an emergency requiring immediate official action. In the	202

event of an emergency, the member or members calling the meeting 203  
shall notify the news media that have requested notification 204  
immediately of the time, place, and purpose of the meeting. 205

The rule shall provide that any person, upon request and 206  
payment of a reasonable fee, may obtain reasonable advance 207  
notification of all meetings at which any specific type of public 208  
business is to be discussed. Provisions for advance notification 209  
may include, but are not limited to, mailing the agenda of 210  
meetings to all subscribers on a mailing list or mailing notices 211  
in self-addressed, stamped envelopes provided by the person. 212

(G) Except as provided in division (J) of this section, the 213  
members of a public body may hold an executive session only after 214  
a majority of a quorum of the public body determines, by a roll 215  
call vote, to hold an executive session and only at a regular or 216  
special meeting for the sole purpose of the consideration of any 217  
of the following matters: 218

(1) To consider the appointment, employment, dismissal, 219  
discipline, promotion, demotion, or compensation of a public 220  
employee or official, or the investigation of charges or 221  
complaints against a public employee, official, licensee, or 222  
regulated individual, unless the public employee, official, 223  
licensee, or regulated individual requests a public hearing. 224  
Except as otherwise provided by law, no public body shall hold an 225  
executive session for the discipline of an elected official for 226  
conduct related to the performance of the elected official's 227  
official duties or for the elected official's removal from office. 228  
If a public body holds an executive session pursuant to division 229  
(G)(1) of this section, the motion and vote to hold that executive 230  
session shall state which one or more of the approved purposes 231  
listed in division (G)(1) of this section are the purposes for 232  
which the executive session is to be held, but need not include 233  
the name of any person to be considered at the meeting. 234



(2) To consider the purchase of property for public purposes, 235  
or for the sale of property at competitive bidding, if premature 236  
disclosure of information would give an unfair competitive or 237  
bargaining advantage to a person whose personal, private interest 238  
is adverse to the general public interest. No member of a public 239  
body shall use division (G)(2) of this section as a subterfuge for 240  
providing covert information to prospective buyers or sellers. A 241  
purchase or sale of public property is void if the seller or buyer 242  
of the public property has received covert information from a 243  
member of a public body that has not been disclosed to the general 244  
public in sufficient time for other prospective buyers and sellers 245  
to prepare and submit offers. 246

If the minutes of the public body show that all meetings and 247  
deliberations of the public body have been conducted in compliance 248  
with this section, any instrument executed by the public body 249  
purporting to convey, lease, or otherwise dispose of any right, 250  
title, or interest in any public property shall be conclusively 251  
presumed to have been executed in compliance with this section 252  
insofar as title or other interest of any bona fide purchasers, 253  
lessees, or transferees of the property is concerned. 254

(3) Conferences with an attorney for the public body 255  
concerning disputes involving the public body that are the subject 256  
of pending or imminent court action; 257

(4) Preparing for, conducting, or reviewing negotiations or 258  
bargaining sessions with public employees concerning their 259  
compensation or other terms and conditions of their employment; 260

(5) Matters required to be kept confidential by federal law 261  
or regulations or state statutes; 262

(6) Details relative to the security arrangements and 263  
emergency response protocols for a public body or a public office, 264  
if disclosure of the matters discussed could reasonably be 265

expected to jeopardize the security of the public body or public office; 266  
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(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code. 268  
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If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session. 272  
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A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division. 277  
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(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section. 280  
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(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions. 290  
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(2)(a) If the court of common pleas issues an injunction 297  
pursuant to division (I)(1) of this section, the court shall order 298  
the public body that it enjoins to pay a civil forfeiture of five 299  
hundred dollars to the party that sought the injunction and, shall 300  
award to that party all court costs and, subject to reduction as 301  
described in division (I)(2) of this section, reasonable 302  
attorney's fees. The court, in its discretion, may reduce an award 303  
of attorney's fees to the party that sought the injunction or not 304  
award attorney's fees to that party if the court determines both 305  
of the following: 306

(i) That, based on the ordinary application of statutory law 307  
and case law as it existed at the time of violation or threatened 308  
violation that was the basis of the injunction, a well-informed 309  
public body reasonably would believe that the public body was not 310  
violating or threatening to violate this section; 311

(ii) That a well-informed public body reasonably would 312  
believe that the conduct or threatened conduct that was the basis 313  
of the injunction would serve the public policy that underlies the 314  
authority that is asserted as permitting that conduct or 315  
threatened conduct. 316

(b) If the court of common pleas does not issue an injunction 317  
pursuant to division (I)(1) of this section and the court 318  
determines at that time that the bringing of the action was 319  
frivolous conduct, as defined in division (A) of section 2323.51 320  
of the Revised Code, the court shall award to the public body all 321  
court costs and reasonable attorney's fees, as determined by the 322  
court. 323

(3) Irreparable harm and prejudice to the party that sought 324  
the injunction shall be conclusively and irrebuttably presumed 325  
upon proof of a violation or threatened violation of this section. 326

(4) A member of a public body who knowingly violates an 327

injunction issued pursuant to division (I)(1) of this section may 328  
be removed from office by an action brought in the court of common 329  
pleas for that purpose by the prosecuting attorney or the attorney 330  
general. 331

(J)(1) Pursuant to division (C) of section 5901.09 of the 332  
Revised Code, a veterans service commission shall hold an 333  
executive session for one or more of the following purposes unless 334  
an applicant requests a public hearing: 335

(a) Interviewing an applicant for financial assistance under 336  
sections 5901.01 to 5901.15 of the Revised Code; 337

(b) Discussing applications, statements, and other documents 338  
described in division (B) of section 5901.09 of the Revised Code; 339

(c) Reviewing matters relating to an applicant's request for 340  
financial assistance under sections 5901.01 to 5901.15 of the 341  
Revised Code. 342

(2) A veterans service commission shall not exclude an 343  
applicant for, recipient of, or former recipient of financial 344  
assistance under sections 5901.01 to 5901.15 of the Revised Code, 345  
and shall not exclude representatives selected by the applicant, 346  
recipient, or former recipient, from a meeting that the commission 347  
conducts as an executive session that pertains to the applicant's, 348  
recipient's, or former recipient's application for financial 349  
assistance. 350

(3) A veterans service commission shall vote on the grant or 351  
denial of financial assistance under sections 5901.01 to 5901.15 352  
of the Revised Code only in an open meeting of the commission. The 353  
minutes of the meeting shall indicate the name, address, and 354  
occupation of the applicant, whether the assistance was granted or 355  
denied, the amount of the assistance if assistance is granted, and 356  
the votes for and against the granting of assistance. 357

(K) Any person that is denied any of the person's rights 358  
under this section may file an informal complaint or a formal 359  
complaint with the public access counselor under section 2743.33 360  
of the Revised Code. 361

**Sec. 149.011.** As used in this chapter, except as otherwise 362  
provided: 363

(A) "Public office" includes any state agency, public 364  
institution, political subdivision, or other organized body, 365  
office, agency, institution, or entity established by the laws of 366  
this state for the exercise of any function of government. 367

(B) "State agency" includes every department, bureau, board, 368  
commission, office, or other organized body established by the 369  
constitution and laws of this state for the exercise of any 370  
function of state government, including any state-supported 371  
institution of higher education, the general assembly, any 372  
legislative agency, any court or judicial agency, or any political 373  
subdivision or agency of a political subdivision. 374

(C) "Public money" includes all money received or collected 375  
by or due a public official, whether in accordance with or under 376  
authority of any law, ordinance, resolution, or order, under color 377  
of office, or otherwise. It also includes any money collected by 378  
any individual on behalf of a public office or as a purported 379  
representative or agent of the public office. 380

(D) "Public official" includes all officers, employees, or 381  
duly authorized representatives or agents of a public office. 382

(E) "Color of office" includes any act purported or alleged 383  
to be done under any law, ordinance, resolution, order, or other 384  
pretension to official right, power, or authority. 385

(F) "Archive" includes any public record that is transferred 386  
to the state archives or other designated archival institutions 387

because of the historical information contained on it.

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(G) "Records" includes any document, device, or item,  
regardless of physical form or characteristic, ~~including an~~  
~~electronic record as defined in section 1306.01 of the Revised~~  
~~Code,~~ created or received by or coming under the jurisdiction of  
any public office of the state or its political subdivisions,  
which serves to document the organization, functions, policies,  
decisions, procedures, operations, or other activities of the  
office. "Records" also includes any document, device, or item,  
regardless of physical form or characteristic, created or received  
by or coming under the jurisdiction of any public office of the  
state or its political subdivisions that documents the depletion,  
expenditure, or depreciation of the resources of a public office  
even if unauthorized by that office.

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**Sec. 149.31.** (A) The Ohio historical society, in addition to  
its other functions, shall function as the state archives  
administration for the state and its political subdivisions.

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It shall be the function of the state archives administration  
to preserve government archives, documents, and records of  
historical value that may come into its possession from public or  
private sources.

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The archives administration shall evaluate, preserve,  
arrange, service repair, or make other disposition of, ~~such as~~  
including transfer to public libraries, county historical  
societies, state universities, or other public or quasi-public  
institutions, agencies, or corporations, ~~of~~ those public records  
of the state and its political subdivisions that may come into its  
possession under this section. ~~Such~~ Those public records shall be  
transferred by written agreement only, and only to public or  
quasi-public institutions, agencies, or corporations capable of  
meeting accepted archival standards for housing and use.

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The archives administration shall be headed by a trained 419  
archivist designated by the Ohio historical society, and shall 420  
make its services available to county, ~~city~~ municipal, township, 421  
~~and~~ school district, library, and special taxing district records 422  
commissions upon request. The archivist shall be designated as the 423  
"state archivist." 424

(B) The archives administration may purchase or procure for 425  
itself, or authorize the board of trustees of an archival 426  
institution to purchase or procure, from an insurance company 427  
licensed to do business in this state policies of insurance 428  
insuring the administration or the members of the board and their 429  
officers, employees, and agents against liability on account of 430  
damage or injury to persons and property resulting from any act or 431  
omission of the board members, officers, employees, and agents in 432  
their official capacity. 433

(C) Notwithstanding any other provision of the Revised Code 434  
to the contrary, the archives administration may establish a fee 435  
schedule, which may include the cost of labor, for researching, 436  
retrieving, copying, and mailing copies of public records in the 437  
state archives. Revisions to the fee schedule shall be subject to 438  
approval by the board of trustees of the Ohio historical society. 439

**Sec. 149.38.** (A) There is hereby created in each county a 440  
county records commission, composed of the president of the board 441  
of county commissioners as chairperson, the prosecuting attorney, 442  
the auditor, the recorder, and the clerk of the court of common 443  
pleas. The commission shall appoint a secretary, who may or may 444  
not be a member of the commission and who shall serve at the 445  
pleasure of the commission. The commission may employ an archivist 446  
or records manager to serve under its direction. The commission 447  
shall meet at least once every six months, and upon call of the 448  
chairperson. 449

(B) The functions of the county records commission shall be 450  
to provide rules for retention and disposal of records of the 451  
county and to review applications for one-time ~~records~~ disposal of of 452  
obsolete records and schedules of records retention and ~~disposal~~ 453  
disposition submitted by county offices. ~~Records may be disposed~~ 454  
~~of by the~~ The commission may dispose of records pursuant to the 455  
procedure outlined in this section. The commission, at any time, 456  
may review any schedule it has previously approved and, for good 457  
cause shown, may revise that schedule, subject to division (D) of 458  
this section. 459

(C) When the county records commission has approved any 460  
county ~~records~~ application for one-time disposal, ~~a copy of a list~~ 461  
~~of those obsolete records shall be sent or any schedule of records~~ 462  
retention and disposition, the commission shall send that 463  
application or schedule to the Ohio historical society for its 464  
review. The Ohio historical society shall review the application 465  
or schedule within a period of not more than sixty days after its 466  
receipt of it. Upon completion of its review, the Ohio historical 467  
society shall forward the application for one-time disposal of 468  
obsolete records or the schedule of records retention and 469  
disposition to the auditor of state. ~~If the auditor of state~~ 470  
~~disapproves the action by the commission in whole or in part, the~~ 471  
~~auditor of state shall so inform the commission for the auditor's~~ 472  
approval or disapproval. The auditor shall approve or disapprove 473  
the application or schedule within a period of not more than sixty 474  
days, ~~and those records shall not be destroyed after receipt of~~ 475  
it. Before public records are to be disposed of, the commission 476  
shall inform the Ohio historical society of the disposal through 477  
the submission of a certificate of records disposal and shall give 478  
the society the opportunity for a period of ~~sixty~~ fifteen business 479  
days to select for its custody ~~such~~ those records ~~as~~ that it 480  
considers to be of continuing historical value. ~~When the Ohio~~ 481



~~historical society is so informed that public records are to be~~ 482  
~~disposed of~~ Upon the expiration of the fifteen-business-day 483  
period, the county records commission also shall notify the public 484  
libraries, county historical society, state universities, and ~~any~~ 485  
other public or quasi-public institutions, agencies, or 486  
corporations in the county that have provided the commission with 487  
their name and address for these notification purposes, that the 488  
commission has informed the Ohio historical society ~~has been so~~ 489  
~~informed of the records disposal~~ and that the notified entities, 490  
upon written agreement with the Ohio historical society pursuant 491  
to section 149.31 of the Revised Code, may select records of 492  
continuing historical value, including records that may be 493  
distributed to any of the notified entities under section 149.31 494  
of the Revised Code. 495

(D) The rules of the county records commission shall include 496  
a rule that requires any receipts, checks, vouchers, or other 497  
similar records pertaining to expenditures from the delinquent tax 498  
and assessment collection fund created in section 321.261 of the 499  
Revised Code, from the real estate assessment fund created in 500  
section 325.31 of the Revised Code, or from amounts allocated for 501  
the furtherance of justice to the county sheriff under section 502  
325.071 of the Revised Code or to the prosecuting attorney under 503  
section 325.12 of the Revised Code to be retained for at least 504  
four years. 505

(E) No person shall knowingly violate the rule adopted under 506  
division (D) of this section. Whoever violates that rule is guilty 507  
of a misdemeanor of the first degree. 508

**Sec. 149.39.** There is hereby created in each municipal 509  
corporation a records commission composed of the chief executive 510  
or ~~his~~ the chief executive's appointed representative, as ~~chairman~~ 511  
chairperson, and the chief fiscal officer, the chief legal 512

officer, and a citizen appointed by the chief executive. The 513  
commission shall appoint a secretary, who may or may not be a 514  
member of the commission and who shall serve at the pleasure of 515  
the commission. The commission may employ an archivist or records 516  
manager to serve under its direction. The commission shall meet at 517  
least once every six months, and upon call of the ~~chairman~~ 518  
chairperson. 519

The functions of the commission shall be to provide rules for 520  
retention and disposal of records of the municipal corporation and 521  
to review applications for one-time disposal of obsolete records 522  
~~disposal~~ and schedules of records retention and disposition 523  
submitted by municipal offices. ~~Records may be disposed of by the~~ 524  
The commission may dispose of records pursuant to the procedure 525  
outlined in this section. The commission ~~may~~ at any time may 526  
review any schedule it has previously approved, and for good cause 527  
shown may revise that schedule. 528

When the municipal records ~~have been~~ commission has approved 529  
any application for one-time disposal, ~~a list of such obsolete~~ 530  
records ~~shall be sent~~ or any schedule of records retention and 531  
disposition, the commission shall send that application or 532  
schedule to the Ohio historical society for its review. The Ohio 533  
historical society shall review the application or schedule within 534  
a period of not more than sixty days after its receipt of it. Upon 535  
completion of its review, the Ohio historical society shall 536  
forward the application for one-time disposal of obsolete records 537  
or the schedule of records retention and disposition to the 538  
auditor of state. ~~If he disapproves of the action by the municipal~~ 539  
~~commission, in whole or in part, he shall so inform the commission~~ 540  
for the auditor's approval or disapproval. The auditor shall 541  
approve or disapprove the application or schedule within a period 542  
of not more than sixty days ~~and these records shall not be~~ 543  
~~destroyed~~ after receipt of it. Before public records are to be 544

disposed of, the commission shall inform the Ohio historical 545  
society ~~shall be informed and given~~ of the disposal through the 546  
submission of a certificate of records disposal and shall give the 547  
society the opportunity for a period of ~~sixty~~ fifteen business 548  
days to select for its custody ~~such~~ those public records ~~as~~ that 549  
it considers to be of continuing historical value. 550

**Sec. 149.41.** There is hereby created in each city and 551  
exempted village school district a school district records 552  
commission and in each educational service center an educational 553  
service center records commission. Each records commission shall 554  
be composed of the president, the treasurer of the board of 555  
education or governing board of the educational service center, 556  
and the superintendent of schools in each such district or 557  
educational service center. The commission shall meet at least 558  
once every twelve months. 559

The function of the commission shall be to review 560  
applications for one-time disposal of obsolete records ~~disposal~~ 561  
and schedules of records retention and disposition submitted by 562  
any employee of the school district or educational service center. 563  
~~Records may be disposed of by the~~ The commission may dispose of 564  
records pursuant to the procedure outlined in this section. The 565  
commission ~~may~~ at any time may review any schedule it has 566  
previously approved, and for good cause shown may revise that 567  
schedule. 568

When the school district records commission or the 569  
educational service center records ~~have been~~ commission has 570  
approved any application for one-time disposal, ~~a list of such~~ 571  
obsolete records shall be sent or any schedule of records 572  
retention and disposition, the appropriate commission shall send 573  
that application or schedule to the Ohio historical society for 574  
its review. The Ohio historical society shall review the 575

application or schedule within a period of not more than sixty 576  
days after its receipt of it. Upon completion of its review, the 577  
Ohio historical society shall forward the application for one-time 578  
disposal of obsolete records or the schedule of records retention 579  
and disposition to the auditor of state. If he disapproves the 580  
action by the commission, in whole or in part, he shall so inform 581  
the commission for the auditor's approval or disapproval. The 582  
auditor shall approve or disapprove the application or schedule 583  
within a period of not more than sixty days and these records 584  
shall not be destroyed after receipt of it. Before public records 585  
are to be disposed of, the appropriate commission shall inform the 586  
Ohio historical society shall be informed and given of the 587  
disposal through the submission of a certificate of records 588  
disposal and shall give the society the opportunity for a period 589  
of ~~sixty~~ fifteen business days to select for its custody such 590  
those public records as that it considers to be of continuing 591  
historical value. The society may not review or select for its 592  
custody either of the following: 593

(A) Records containing personally identifiable information 594  
concerning any pupil attending a public school other than 595  
directory information, as defined in section 3319.321 of the 596  
Revised Code, without the written consent of the parent, guardian, 597  
or custodian of each such pupil who is less than eighteen years of 598  
age, or without the written consent of each such pupil who is 599  
eighteen years of age or older; 600

(B) Records the release of which would, according to the 601  
"Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 602  
20 U.S.C.A. 1232g, disqualify a school or other educational 603  
institution from receiving federal funds. 604

**Sec. 149.411.** There is hereby created in each county free 605  
public library, municipal free public library, township free 606

public library, county library district, and regional library 607  
district a library records commission composed of the members and 608  
the clerk of the board of library trustees of the appropriate 609  
public library or library district. The commission shall meet at 610  
least once every twelve months. 611

The functions of the commission shall be to review 612  
applications for one-time disposal of obsolete records and 613  
schedules of records retention and disposition submitted by any 614  
employee of the library. The commission may dispose of records 615  
pursuant to the procedure outlined in this section. The commission 616  
at any time may review any schedule it has previously approved and 617  
for good cause shown may revise that schedule. 618

When the appropriate library records commission has approved 619  
any library application for one-time disposal of obsolete records 620  
or any schedule of records retention and disposition, the 621  
commission shall send that application or schedule to the Ohio 622  
historical society for its review. The Ohio historical society 623  
shall review the application or schedule within a period of not 624  
more than sixty days after its receipt of it. Upon completion of 625  
its review, the Ohio historical society shall forward the 626  
application for one-time disposal of obsolete records or the 627  
schedule of records retention and disposition to the auditor of 628  
state for the auditor's approval or disapproval. The auditor shall 629  
approve or disapprove the application or schedule within a period 630  
of not more than sixty days after receipt of it. Before public 631  
records are to be disposed of, the commission shall inform the 632  
Ohio historical society of the disposal through the submission of 633  
a certificate of records disposal and shall give the society the 634  
opportunity for a period of fifteen business days to select for 635  
its custody those public records that it considers to be of 636  
continuing historical value. The Ohio historical society may not 637

review or select for its custody any records pursuant to section  
149.432 of the Revised Code.

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Sec. 149.412. There is hereby created in each special taxing  
district that is a public office as defined in section 149.011 of  
the Revised Code and that is not specifically designated in  
section 149.38, 149.39, 149.41, 149.411, or 149.42 of the Revised  
Code a special taxing district records commission composed of, at  
a minimum, the chairperson, a fiscal representative, and a legal  
representative of the governing board of the special taxing  
district. The commission shall meet at least once every twelve  
months and upon the call of the chairperson.

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The functions of the commission shall be to review  
applications for one-time disposal of obsolete records and  
schedules of records retention and disposition submitted by any  
employee of the special taxing district. The commission may  
dispose of records pursuant to the procedure outlined in this  
section. The commission at any time may review any schedule it has  
previously approved and for good cause shown may revise that  
schedule.

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When the special taxing district records commission has  
approved any special taxing district application for one-time  
disposal of obsolete records or any schedule of records retention  
and disposition, the commission shall send that application or  
schedule to the Ohio historical society for its review. The Ohio  
historical society shall review the application or schedule within  
a period of not more than sixty days after its receipt of it. Upon  
completion of its review, the Ohio historical society shall  
forward the application for one-time disposal of obsolete records  
or the schedule of records retention and disposition to the  
auditor of state for the auditor's approval or disapproval. The  
auditor shall approve or disapprove the application or schedule

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within a period of not more than sixty days after receipt of it. 669  
Before public records are to be disposed of, the commission shall 670  
inform the Ohio historical society of the disposal through the 671  
submission of a certificate of records disposal and shall give the 672  
society the opportunity for a period of fifteen business days to 673  
select for its custody those public records that it considers to 674  
be of continuing historical value. 675

**Sec. 149.42.** There is hereby created in each township a 676  
township records commission, composed of the chairperson of the 677  
board of township trustees and the fiscal officer of the township. 678  
The commission shall meet at least once every twelve months, and 679  
upon call of the chairperson. 680

The function of the commission shall be to review 681  
applications for one-time disposal of obsolete records disposal 682  
and schedules of records retention and disposition submitted by 683  
township offices. ~~Records may be disposed of by the~~ The commission 684  
may dispose of records pursuant to the procedure outlined in this 685  
section. The commission ~~may~~ at any time may review any schedule it 686  
has previously approved, and for good cause shown may revise that 687  
schedule. 688

When ~~the~~ township records ~~have been~~ commission has approved 689  
any township application for one-time disposal, a list of the 690  
obsolete records shall be sent or any schedule of records 691  
retention and disposition, the commission shall send that 692  
application or schedule to the Ohio historical society for its 693  
review. The Ohio historical society shall review the application 694  
or schedule within a period of not more than sixty days after its 695  
receipt of it. Upon completion of its review, the Ohio historical 696  
society shall forward the application for one-time disposal of 697  
obsolete records or the schedule of records retention and 698  
disposition to the auditor of state. ~~If the auditor of state~~ 699

~~disapproves of the action by the commission, in whole or in part,~~ 700  
~~the auditor of state shall so inform the commission for the~~ 701  
~~auditor's approval or disapproval. The auditor shall approve or~~ 702  
~~disapprove the application or schedule within a period of not more~~ 703  
~~than sixty days, and these records shall not be destroyed after~~ 704  
~~receipt of it. Before public records are to be disposed of, the~~ 705  
~~commission shall inform the Ohio historical society shall be~~ 706  
~~informed and given of the disposal through the submission of a~~ 707  
~~certificate of records disposal and shall give the society the~~ 708  
opportunity for a period of ~~sixty~~ fifteen business days to select 709  
for its custody those public records that it considers to be of 710  
continuing historical value. 711

**Sec. 149.43.** (A) As used in this section: 712

(1) "Public record" means records kept by any public office, 713  
including, but not limited to, state, county, city, village, 714  
township, and school district units, ~~and~~ records pertaining to the 715  
delivery of educational services by an alternative school in ~~Ohio~~ 716  
this state kept by a the nonprofit or for profit entity operating 717  
~~such~~ the alternative school pursuant to section 3313.533 of the 718  
Revised Code, and records kept by any governmental or 719  
quasi-governmental entity that receives any governmental housing 720  
subsidy or assistance, including, but not limited to, the names 721  
and addresses of the owners of property involved in any housing 722  
program operated by the entity. "Public record" does not mean any 723  
of the following: 724

(a) Medical records; 725

(b) Records pertaining to probation and parole proceedings or 726  
to proceedings related to the imposition of community control 727  
sanctions and post-release control sanctions; 728

(c) Records pertaining to actions under section 2151.85 and 729  
division (C) of section 2919.121 of the Revised Code and to 730



appeals of actions arising under those sections;	731
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;	732 733 734
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	735 736 737 738 739 740
(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	741 742 743
(g) Trial preparation records;	744
(h) Confidential law enforcement investigatory records;	745
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	746 747
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	748 749
(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;	750 751 752 753
(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;	754 755 756 757
(m) Intellectual property records;	758
(n) Donor profile records;	759

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	760 761
(p) Peace officer, firefighter, or EMT residential and familial information;	762 763
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	764 765 766 767 768
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	769 770
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;	771 772 773 774 775
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	776 777 778 779
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;	780 781 782 783 784
(v) Records the release of which is prohibited by state or federal law;	785 786
(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;	787 788 789

(x) Information reported and evaluations conducted pursuant 790  
to section 3701.072 of the Revised Code; 791

(y) Financial statements and data any person submits for any 792  
purpose to the Ohio housing finance agency or the controlling 793  
board in connection with applying for, receiving, or accounting 794  
for financial assistance from the agency, and information that 795  
identifies any individual who benefits directly or indirectly from 796  
financial assistance from the agency. 797

(2) "Confidential law enforcement investigatory record" means 798  
any record that pertains to a law enforcement matter of a 799  
criminal, quasi-criminal, civil, or administrative nature, but 800  
only to the extent that the release of the record would create a 801  
high probability of disclosure of any of the following: 802

(a) The identity of a suspect who has not been charged with 803  
the offense to which the record pertains, or of an information 804  
source or witness to whom confidentiality has been reasonably 805  
promised; 806

(b) Information provided by an information source or witness 807  
to whom confidentiality has been reasonably promised, which 808  
information would reasonably tend to disclose the source's or 809  
witness's identity; 810

(c) Specific confidential investigatory techniques or 811  
procedures or specific investigatory work product; 812

(d) Information that would endanger the life or physical 813  
safety of law enforcement personnel, a crime victim, a witness, or 814  
a confidential information source. 815

(3) "Medical record" means any document or combination of 816  
documents, except births, deaths, and the fact of admission to or 817  
discharge from a hospital, that pertains to the medical history, 818  
diagnosis, prognosis, or medical condition of a patient and that 819

is generated and maintained in the process of medical treatment. 820

(4) "Trial preparation record" means any record that contains 821  
information that is specifically compiled in reasonable 822  
anticipation of, or in defense of, a civil or criminal action or 823  
proceeding, including the independent thought processes and 824  
personal trial preparation of an attorney. 825

(5) "Intellectual property record" means a record, other than 826  
a financial or administrative record, that is produced or 827  
collected by or for faculty or staff of a state institution of 828  
higher learning in the conduct of or as a result of study or 829  
research on an educational, commercial, scientific, artistic, 830  
technical, or scholarly issue, regardless of whether the study or 831  
research was sponsored by the institution alone or in conjunction 832  
with a governmental body or private concern, and that has not been 833  
publicly released, published, or patented. 834

(6) "Donor profile record" means all records about donors or 835  
potential donors to a public institution of higher education 836  
except the names and reported addresses of the actual donors and 837  
the date, amount, and conditions of the actual donation. 838

(7) "Peace officer, firefighter, or EMT residential and 839  
familial information" means either of the following: 840

(a) Any information maintained in a personnel record of a 841  
peace officer, firefighter, or EMT that discloses any of the 842  
following: 843

(i) The address of the actual personal residence of a peace 844  
officer, firefighter, or EMT, except for the state or political 845  
subdivision in which the peace officer, firefighter, or EMT 846  
resides; 847

(ii) Information compiled from referral to or participation 848  
in an employee assistance program; 849

(iii) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, firefighter, or EMT;

(iv) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, firefighter, or EMT by the peace officer's, firefighter's, or EMT's employer;

(v) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, firefighter's, or EMT's employer from the peace officer's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

(vi) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, firefighter, or EMT.

(b) Any record that identifies a person's occupation as a peace officer, firefighter, or EMT other than statements required to include the disclosure of that fact under the campaign finance law.

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section,

"firefighter" means any regular, paid or volunteer, member of a 881  
lawfully constituted fire department of a municipal corporation, 882  
township, fire district, or village. 883

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, 884  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 885  
emergency medical services for a public emergency medical service 886  
organization. "Emergency medical service organization," 887  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 888  
section 4765.01 of the Revised Code. 889

(8) "Information pertaining to the recreational activities of 890  
a person under the age of eighteen" means information that is kept 891  
in the ordinary course of business by a public office, that 892  
pertains to the recreational activities of a person under the age 893  
of eighteen years, and that discloses any of the following: 894

(a) The address or telephone number of a person under the age 895  
of eighteen or the address or telephone number of that person's 896  
parent, guardian, custodian, or emergency contact person; 897

(b) The social security number, birth date, or photographic 898  
image of a person under the age of eighteen; 899

(c) Any medical record, history, or information pertaining to 900  
a person under the age of eighteen; 901

(d) Any additional information sought or required about a 902  
person under the age of eighteen for the purpose of allowing that 903  
person to participate in any recreational activity conducted or 904  
sponsored by a public office or to use or obtain admission 905  
privileges to any recreational facility owned or operated by a 906  
public office. 907

(9) "Community control sanction" has the same meaning as in 908  
section 2929.01 of the Revised Code. 909

(10) "Post-release control sanction" has the same meaning as 910

in section 2967.01 of the Revised Code. 911

(11) "Redaction" means obscuring or deleting any information 912  
that is exempt from the duty to permit public inspection or 913  
copying from an item that otherwise meets the definition of a 914  
"record" in section 149.011 of the Revised Code. 915

(12) "Designee" and "elected official" have the same meanings 916  
as in section 109.43 of the Revised Code. 917

~~(B)(1) Subject~~ Upon request and subject to division (B)(4)(8) 918  
of this section, all public records responsive to the request 919  
shall be promptly prepared and made available for inspection to 920  
any person at all reasonable times during regular business hours. 921  
~~Subject to division (B)(4)(8) of this section, upon request and~~ 922  
~~payment in advance of the cost of making copies of the requested~~ 923  
~~public record under this section, a public office or person~~ 924  
responsible for public records shall make copies available at 925  
cost, within a reasonable period of time. ~~In order to facilitate~~ 926  
~~broader access to public records, public offices shall maintain~~ 927  
~~public records in a manner that they can be made available for~~ 928  
~~inspection in accordance with this division. If a public record~~ 929  
contains information that is exempt from the duty to permit public 930  
inspection or copying, the public office shall make available all 931  
of the information within the public record that is not exempt. 932  
When making that information available for public inspection or 933  
copying, the public office shall notify the requester of any 934  
redaction or make the redaction plainly visible. A redaction shall 935  
be deemed a denial of a request to inspect or copy the redacted 936  
information, except if federal or state law authorizes or requires 937  
a public office to make the redaction. 938

(2) To facilitate broader access to public records, a public 939  
office shall organize and maintain public records in a manner that 940  
they can be made available for inspection or copying in accordance 941

with division (B) of this section. A public office also shall have 942  
available a copy of its current records retention schedule at a 943  
location readily available to the public. If a requester makes an 944  
ambiguous request or has difficulty in making a request for copies 945  
or inspection of public records under this section such that the 946  
public office cannot reasonably identify what public records are 947  
being requested, the public office may deny the request but shall 948  
provide the requester with an opportunity to revise the request by 949  
informing the requester of the manner in which records are 950  
maintained by the public office and accessed in the ordinary 951  
course of the public office's duties. 952

(3)(a) If a request is ultimately denied, in part or in 953  
whole, the public office shall provide the requester with an 954  
explanation, including legal authority, setting forth why the 955  
request was denied. If the initial request was provided in 956  
writing, the explanation also shall be provided to the requester 957  
in writing. The explanation shall not preclude the public office 958  
from relying upon additional reasons or legal authority in 959  
defending an action commenced under division (C) of this section. 960

(b) If a request is ultimately denied, in part or in whole, 961  
the public office may provide the requester information on how to 962  
contact the office of the public access counselor established 963  
under section 2743.31 of the Revised Code and the procedures for 964  
filing an informal complaint or a formal complaint with the public 965  
access counselor under section 2743.33 of the Revised Code. 966

(4) Unless specifically required by state or federal law or 967  
in accordance with division (B) of this section, no public office 968  
may limit or condition the availability of public records by 969  
requiring disclosure of the requester's identity or the intended 970  
use of the requested public record. Any such requirement 971  
constitutes a denial of the request. 972



(5) A public office or person responsible for public records 973  
may ask a requester to make the request in writing, may ask for 974  
the requester's identity, and may inquire about the intended use 975  
of the information requested, but may do so only after disclosing 976  
to the requester that a written request is not mandatory and that 977  
the requester may decline to reveal the requester's identity or 978  
the intended use and when a written request or disclosure of the 979  
identity or intended use would benefit the requester by enhancing 980  
the ability of the public office or person responsible for public 981  
records to identify, locate, or deliver the public records sought 982  
by the requester. 983

~~(2)~~(6) If any person chooses to obtain a copy of a public 984  
record in accordance with division (B)~~(1)~~ of this section, the 985  
public office or person responsible for the public record may 986  
require that person to pay in advance the cost involved in 987  
providing the copy of the public record in accordance with the 988  
choice made by the person seeking the copy under this division. 989  
The public office or the person responsible for the public record 990  
shall permit that person to choose to have the public record 991  
duplicated upon paper, upon the same medium upon which the public 992  
office or person responsible for the public record keeps it, or 993  
upon any other medium upon which the public office or person 994  
responsible for the public record determines that it reasonably 995  
can be duplicated as an integral part of the normal operations of 996  
the public office or person responsible for the public record. 997  
When the person seeking the copy makes a choice under this 998  
division, the public office or person responsible for the public 999  
record shall provide a copy of it in accordance with the choice 1000  
made by the person seeking the copy. 1001

~~(3)~~(7) Upon a request made in accordance with division (B)~~(1)~~ 1002  
of this section and subject to division (B)(6) of this section, a 1003  
public office or person responsible for public records shall 1004

transmit a copy of a public record to any person by United States 1005  
mail or by any other means of delivery or transmission within a 1006  
reasonable period of time after receiving the request for the 1007  
copy. The public office or person responsible for the public 1008  
record may require the person making the request to pay in advance 1009  
the cost of postage, if the copy is transmitted by United States 1010  
mail, and other supplies used in the mailing, delivery, or 1011  
transmission. 1012

Any public office may adopt a policy and procedures that it 1013  
will follow in transmitting, within a reasonable period of time 1014  
after receiving a request, copies of public records by United 1015  
States mail or by any other means of delivery or transmission 1016  
pursuant to this division. A public office that adopts a policy 1017  
and procedures under this division shall comply with them in 1018  
performing its duties under this division. 1019

~~In any policy and procedures adopted under this division, a 1020  
public office may limit the number of records requested by a 1021  
person that the office will transmit by United States mail to ten 1022  
per month, unless the person certifies to the office in writing 1023  
that the person does not intend to use or forward the requested 1024  
records, or the information contained in them, for commercial 1025  
purposes. For purposes of this division, "commercial" shall be 1026  
narrowly construed and does not include reporting or gathering 1027  
news, reporting or gathering information to assist citizen 1028  
oversight or understanding of the operation or activities of 1029  
government, or nonprofit educational research. 1030~~

~~(4)(8)~~ A public office or person responsible for public 1031  
records is not required to permit a person who is incarcerated 1032  
pursuant to a criminal conviction or a juvenile adjudication to 1033  
inspect or to obtain a copy of any public record concerning a 1034  
criminal investigation or prosecution or concerning what would be 1035  
a criminal investigation or prosecution if the subject of the 1036

investigation or prosecution were an adult, unless the request to 1037  
inspect or to obtain a copy of the record is for the purpose of 1038  
acquiring information that is subject to release as a public 1039  
record under this section and the judge who imposed the sentence 1040  
or made the adjudication with respect to the person, or the 1041  
judge's successor in office, finds that the information sought in 1042  
the public record is necessary to support what appears to be a 1043  
justiciable claim of the person. 1044

~~(5)(9)~~ Upon written request made and signed by a journalist 1045  
on or after December 16, 1999, a public office, or person 1046  
responsible for public records, having custody of the records of 1047  
the agency employing a specified peace officer, firefighter, or 1048  
EMT shall disclose to the journalist the address of the actual 1049  
personal residence of the peace officer, firefighter, or EMT and, 1050  
if the peace officer's, firefighter's, or EMT's spouse, former 1051  
spouse, or child is employed by a public office, the name and 1052  
address of the employer of the peace officer's, firefighter's, or 1053  
EMT's spouse, former spouse, or child. The request shall include 1054  
the journalist's name and title and the name and address of the 1055  
journalist's employer and shall state that disclosure of the 1056  
information sought would be in the public interest. 1057

As used in this division ~~(B)(5) of this section~~, "journalist" 1058  
means a person engaged in, connected with, or employed by any news 1059  
medium, including a newspaper, magazine, press association, news 1060  
agency, or wire service, a radio or television station, or a 1061  
similar medium, for the purpose of gathering, processing, 1062  
transmitting, compiling, editing, or disseminating information for 1063  
the general public. 1064

(C)(1) If a person allegedly is aggrieved by the failure of a 1065  
public office to promptly prepare a public record and to make it 1066  
available to the person for inspection in accordance with division 1067  
(B) of this section, or ~~if a person who has requested a copy of a~~ 1068

~~public record allegedly is aggrieved by the any other failure of a~~ 1069  
~~public office or the person responsible for the public record to~~ 1070  
~~make a copy available to the person allegedly aggrieved to comply~~ 1071  
~~with an obligation~~ in accordance with division (B) of this 1072  
section, the person allegedly aggrieved may ~~commence~~ do either of 1073  
the following: 1074

(a) File either an informal complaint or a formal complaint 1075  
with the public access counselor pursuant to section 2743.33 of 1076  
the Revised Code; 1077

(b) Commence a mandamus action to obtain a judgment that 1078  
orders the public office or the person responsible for the public 1079  
record to comply with division (B) of this section ~~and,~~ that 1080  
awards court costs and reasonable attorney's fees to the person 1081  
that instituted the mandamus action, and, if applicable, that 1082  
includes an order fixing statutory damages under division (C)(2) 1083  
of this section. The mandamus action may be commenced in the court 1084  
of common pleas of the county in which division (B) of this 1085  
section allegedly was not complied with, in the supreme court 1086  
pursuant to its original jurisdiction under Section 2 of Article 1087  
IV, Ohio Constitution, or in the court of appeals for the 1088  
appellate district in which division (B) of this section allegedly 1089  
was not complied with pursuant to its original jurisdiction under 1090  
Section 3 of Article IV, Ohio Constitution. A person that 1091  
commences a mandamus action under division (C)(1) of this section 1092  
may not file with respect to the same public record request that 1093  
is the subject of the mandamus action an informal complaint or a 1094  
formal complaint with the public access counselor under section 1095  
2743.33 of the Revised Code. 1096

(2) If a person makes a written request to inspect or copy 1097  
any public record in a manner that fairly describes the public 1098  
record or class of public records requested, the person shall be 1099  
entitled to recover the amount of statutory damages set forth in 1100

this division if a court determines both of the following: 1101

(a) The person filed either an informal complaint or a formal 1102  
complaint with the public access counselor pursuant to section 1103  
2743.33 of the Revised Code, regardless of whether or not the 1104  
parties involved in the applicable complaint reached an agreement 1105  
under that section and regardless of whether or not the public 1106  
access counselor issued an advisory opinion under that section. 1107

(b) The public office or the person responsible for public 1108  
records failed to comply with a person's request under division 1109  
(B) of this section within ten business days after the person 1110  
transmitted the request by hand delivery or certified mail to the 1111  
public office or person responsible for the requested public 1112  
records or within any additional period of time for compliance by 1113  
the public office or person responsible for the public records 1114  
exercising due diligence if that public office or person asserts 1115  
in good faith a reasonable belief that the additional period for 1116  
compliance is necessary due to any of the following: 1117

(i) The age of the requested public records; 1118

(ii) The volume of the requested public records if those 1119  
records consist of more than one hundred pages; 1120

(iii) The need to examine the requested public records for 1121  
any privileged information or any information that is exempt from 1122  
inspection and copying under this section or any other section of 1123  
the Revised Code; 1124

(iv) The need to make any redaction of any information in the 1125  
requested public records; 1126

(v) The format of the requested public records being such 1127  
that the records are no longer easily accessible. 1128

The amount of statutory damages shall be fixed at one hundred 1129  
dollars for each business day during which the public office or 1130

person responsible for the requested public records failed to make 1131  
one or more requested public records available, beginning with the 1132  
day on which the requester files a mandamus action to recover 1133  
statutory damages, up to a maximum of one thousand dollars. The 1134  
statutory damages shall not be construed as penalties, but as 1135  
compensation for injury arising from lost use of the requested 1136  
information; the existence of this injury shall be conclusively 1137  
presumed. The award of statutory damages shall be in addition to 1138  
all other remedies authorized by this section. 1139

(3)(a) If the court renders a judgment that orders the public 1140  
office or the person responsible for the public record to comply 1141  
with division (B) of this section and determines that the 1142  
circumstances described in divisions (C)(2)(a) and (b) of this 1143  
section exist, the court shall determine and award to the relator 1144  
all court costs. 1145

(b) If the court renders a judgment that orders the public 1146  
office or the person responsible for the public record to comply 1147  
with division (B) of this section, the relator filed a formal 1148  
complaint with the public access counselor under section 2743.33 1149  
of the Revised Code prior to filing the mandamus action, and the 1150  
public access counselor issued an advisory opinion under that 1151  
section declaring that the relator has the right to inspect or 1152  
copy the public records that are the subject of the formal 1153  
complaint, subject to division (C)(3)(c) of this section, the 1154  
court shall determine and award to the relator reasonable 1155  
attorney's fees subject to reduction as described in division 1156  
(C)(3)(d) of this section. 1157

(c) If the court renders a judgment that orders the public 1158  
office or the person responsible for the public record to comply 1159  
with division (B) of this section, in addition to any other 1160  
provisions in this section regarding an award of attorney's fees 1161  
to the relator, the following apply: 1162

(i) The court shall determine and award to the relator reasonable attorney's fees, subject to reduction as described in division (C)(2)(d) of this section, if the public office or the person responsible for the public records did not respond affirmatively or negatively to the public records request within the applicable period of time described in division (C)(2)(a) of this section. 1163  
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(ii) The court shall determine and award to the relator reasonable attorney's fees, subject to reduction as described in division (C)(2)(d) of this section, if the public office or the person responsible for the public records promised to permit the relator to inspect or copy the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time. 1170  
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(d) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following: 1177  
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(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to 1185  
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comply with an obligation in accordance with division (B) of this section; 1195  
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(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(3)(d)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct. 1197  
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(e) If the person who commences the mandamus action under division (C)(1) of this section did not file an informal complaint or a formal complaint with the public access counselor pursuant to section 2743.33 of the Revised Code before filing the action, the court shall not award to the person any statutory damages but shall award to the person court costs and may award to the person reasonable attorney's fees, subject to reduction as described in division (C)(3)(d) of this section. 1204  
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(D) Chapter 1347. of the Revised Code does not limit the provisions of this section. 1212  
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(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not 1214  
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limit the number of public records that the public office will 1226  
make available to a single person, may not limit the number of 1227  
public records that it will make available during a fixed period 1228  
of time, and may not establish a fixed period of time before it 1229  
will respond to a request for inspection or copying of public 1230  
records, unless that period is less than eight hours. 1231

(2) The public office shall distribute the public records 1232  
policy adopted by the public office under division (E)(1) of this 1233  
section to the employee of the public office who is the records 1234  
custodian or records manager or otherwise has custody of the 1235  
records of that office. The public office shall require that 1236  
employee to acknowledge receipt of the copy of the public records 1237  
policy. The public office shall create a poster that describes its 1238  
public records policy and shall post the poster in a conspicuous 1239  
place in the public office and in all locations where the public 1240  
office has branch offices. The public office may post its public 1241  
records policy on the internet web site of the public office if 1242  
the public office maintains an internet web site. A public office 1243  
that has established a manual or handbook of its general policies 1244  
and procedures for all employees of the public office shall 1245  
include the public records policy of the public office in the 1246  
manual or handbook. 1247

~~(E)~~(F)(1) The bureau of motor vehicles may adopt rules 1248  
pursuant to Chapter 119. of the Revised Code to reasonably limit 1249  
the number of bulk commercial special extraction requests made by 1250  
a person for the same records or for updated records during a 1251  
calendar year. The rules may include provisions for charges to be 1252  
made for bulk commercial special extraction requests for the 1253  
actual cost of the bureau, plus special extraction costs, plus ten 1254  
per cent. The bureau may charge for expenses for redacting 1255  
information, the release of which is prohibited by law. 1256

(2) As used in ~~divisions (B)(3) and (E)~~ division (F)(1) of 1257

this section: 1258

(a) "Actual cost" means the cost of depleted supplies, 1259  
records storage media costs, actual mailing and alternative 1260  
delivery costs, or other transmitting costs, and any direct 1261  
equipment operating and maintenance costs, including actual costs 1262  
paid to private contractors for copying services. 1263

(b) "Bulk commercial special extraction request" means a 1264  
request for copies of a record for information in a format other 1265  
than the format already available, or information that cannot be 1266  
extracted without examination of all items in a records series, 1267  
class of records, or data base by a person who intends to use or 1268  
forward the copies for surveys, marketing, solicitation, or resale 1269  
for commercial purposes. "Bulk commercial special extraction 1270  
request" does not include a request by a person who gives 1271  
assurance to the bureau that the person making the request does 1272  
not intend to use or forward the requested copies for surveys, 1273  
marketing, solicitation, or resale for commercial purposes. 1274

(c) "Commercial" means profit-seeking production, buying, or 1275  
selling of any good, service, or other product. 1276

(d) "Special extraction costs" means the cost of the time 1277  
spent by the lowest paid employee competent to perform the task, 1278  
the actual amount paid to outside private contractors employed by 1279  
the bureau, or the actual cost incurred to create computer 1280  
programs to make the special extraction. "Special extraction 1281  
costs" include any charges paid to a public agency for computer or 1282  
records services. 1283

(3) For purposes of divisions ~~(E)~~(F)(1) and (2) of this 1284  
section, "~~commercial~~ surveys, marketing, solicitation, or resale 1285  
for commercial purposes" shall be narrowly construed and does not 1286  
include reporting or gathering news, reporting or gathering 1287  
information to assist citizen oversight or understanding of the 1288

operation or activities of government, or nonprofit educational 1289  
research. 1290

Sec. 2743.31. (A) As used in this section and sections 1291  
2743.32, 2743.33, and 2743.34 of the Revised Code: 1292

(1) "Counselor" means the public access counselor appointed 1293  
under this section. 1294

(2) "Meeting" and "public body" have the same meanings as in 1295  
section 121.22 of the Revised Code. 1296

(3) "Public access laws" means sections 121.22 and 149.43 of 1297  
the Revised Code. 1298

(4) "Public entity" means a public body for purposes of 1299  
matters concerning section 121.22 of the Revised Code or a public 1300  
office for purposes of matters concerning section 149.43 of the 1301  
Revised Code. 1302

(5) "Public office" has the same meaning as in section 1303  
149.011 of the Revised Code. 1304

(6) "Public meeting" means a meeting that is open to the 1305  
public under section 121.22 of the Revised Code. 1306

(7) "Public records" has the same meaning as in section 1307  
149.43 of the Revised Code. 1308

(B) There is hereby established in the court of claims an 1309  
office to be known as the office of the public access counselor. 1310  
The office of the public access counselor shall be under the 1311  
supervision of a public access counselor appointed by the chief 1312  
justice of the supreme court. The public office counselor shall 1313  
have been admitted to practice as an attorney at law in this state 1314  
and shall be engaged in the practice of law in this state. The 1315  
chief justice of the supreme court shall appoint the public access 1316  
counselor for a term of four years. The chief justice may remove 1317  
the public access counselor for cause. If a vacancy occurs in the 1318

office of public access counselor, the chief justice shall appoint 1319  
a successor to serve the remainder of the unexpired term of the 1320  
public access counselor. The successor appointed to fill a vacancy 1321  
in the office of public access counselor shall have been admitted 1322  
to practice as an attorney at law in this state and shall be 1323  
engaged in the practice of law in this state. 1324

(C) The public access counselor shall not engage in any 1325  
profession, occupation, practice, or business that may conflict 1326  
with the duties of the public access counselor under section 1327  
2743.32 or 2743.33 of the Revised Code. 1328

(D) The public access counselor may appoint any employees 1329  
necessary to carry out the duties and functions of the office of 1330  
the public access counselor. 1331

**Sec. 2743.32.** (A) The public access counselor appointed under 1332  
section 2743.31 of the Revised Code shall do all of the following: 1333  
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(1) Assist the attorney general in developing and providing 1335  
training programs and seminars under section 109.43 of the Revised 1336  
Code; 1337

(2) Receive any informal complaint filed by any person under 1338  
section 2743.33 of the Revised Code alleging a public entity's 1339  
denial of any of the person's rights under the public access laws 1340  
and engage in dispute resolution to encourage the parties to the 1341  
informal complaint to reach an agreement under that section; 1342

(3) Receive any formal complaint filed by any person under 1343  
section 2743.33 of the Revised Code alleging a public entity's 1344  
denial of any of the person's rights under the public access laws, 1345  
investigate the allegations in the complaint, and issue an 1346  
advisory opinion regarding any of the person's rights that are the 1347  
subject of the formal complaint; 1348

(4) Make recommendations to the general assembly and to the supreme court concerning ways to improve public access to public records and to ensure public attendance at public meetings. 1349  
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(B) The counselor shall submit an annual report to the general assembly and to the supreme court not later than the thirtieth day of June of each year concerning the activities of the counselor during the immediately preceding calendar year in regard to divisions (B)(1) to (5) of this section. The report shall include all of the following information: 1352  
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(1) The total number of informal complaints and the total number of formal complaints received by the office of the public access counselor; 1358  
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(2) The number of informal complaints and the number of formal complaints received from the media and received from the public in general; 1361  
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(3) The total number of informal complaints that resulted in an agreement reached by the parties to the informal complaint and the total number of formal complaints that resulted in an agreement reached by the parties to the formal complaint; 1364  
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(4) The number of informal complaints and the number of formal complaints received in regard to the performance of duties by the applicable public entity under section 121.22 or 149.43 of the Revised Code by each of the following: 1368  
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(a) Public entities, other than political subdivisions or agencies of political subdivisions; 1372  
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(b) Offices and agencies of counties; 1374

(c) Offices and agencies of municipal corporations; 1375

(d) Offices and agencies of townships; 1376

(e) Boards of education; 1377

<u>(f) Offices and agencies of other political subdivisions.</u>	1378
<u>(5) The total number of advisory opinions that were issued by the public access counselor.</u>	1379 1380
<u>Sec. 2743.33. (A) No person is required to file an informal complaint or a formal complaint with the public access counselor under this section before filing an action in court under the public access laws. The procedures set forth in this section do not constitute an alternative remedy in the ordinary course of the law for purposes of seeking any judicial remedy authorized by any provision in the Revised Code or by any rule of court.</u>	1381 1382 1383 1384 1385 1386 1387
<u>(B) A public entity shall cooperate with the counselor in any proceeding under this section.</u>	1388 1389
<u>(C)(1) Any of the following may file an informal complaint with the counselor pursuant to the procedures prescribed in division (F) of this section or may file a formal complaint with the counselor pursuant to the procedures prescribed in division (G) of this section:</u>	1390 1391 1392 1393 1394
<u>(a) Any person that alleges that the person's right to inspect or copy any public record under section 149.43 of the Revised Code has been denied in violation of that section;</u>	1395 1396 1397
<u>(b) Any person that alleges that any of the person's rights under section 121.22 of the Revised Code has been denied in violation of that section.</u>	1398 1399 1400
<u>(2)(a) No person described in division (C)(1)(a) of this section may file both an informal complaint and a formal complaint under this section alleging that the person's right to inspect or copy any public record under section 149.43 of the Revised Code has been denied in violation of that section if the allegations in the informal complaint and the allegations in the formal complaint are based on the same facts.</u>	1401 1402 1403 1404 1405 1406 1407

(b) No person described in division (C)(1)(b) of this section 1408  
may file both an informal complaint and a formal complaint under 1409  
this section alleging that any of the person's rights under 1410  
section 121.22 of the Revised Code has been denied in violation of 1411  
that section if the allegations in the informal complaint and the 1412  
allegations in the formal complaint are based on the same facts. 1413

(3) The counselor shall determine and prescribe the form of 1414  
an informal complaint and the form of a formal complaint filed 1415  
under this section. 1416

(D)(1) Any person described in division (C)(1)(a) of this 1417  
section that chooses to file an informal complaint or a formal 1418  
complaint with the counselor shall file the appropriate complaint 1419  
not later than thirty days after the date of the alleged denial of 1420  
the person's right to inspect or copy any public record under 1421  
section 149.43 of the Revised Code. Any person described in 1422  
division (C)(1)(b) of this section that chooses to file an 1423  
informal complaint or a formal complaint with the counselor shall 1424  
file the appropriate complaint not later than thirty days after 1425  
the date of the alleged denial of any of the person's rights under 1426  
section 121.22 of the Revised Code. 1427

(2) An informal complaint or a formal complaint is considered 1428  
filed on the date the appropriate complaint is received by the 1429  
counselor or on the date the appropriate mailed complaint is 1430  
postmarked if the counselor receives that mailed complaint more 1431  
than thirty days after the applicable date specified in division 1432  
(D)(1) of this section. 1433

(E) Upon receiving an informal complaint or a formal 1434  
complaint under division (D)(2) of this section, the counselor 1435  
immediately shall forward a copy of the appropriate complaint to 1436  
the public entity that is the subject of that complaint. 1437

(F)(1) Upon receiving an informal complaint under division 1438

(D)(2) of this section, the counselor shall engage in early intervention, mediation, conciliation, or any other form of dispute resolution or shall facilitate discussion between the parties involved in the informal complaint in order to encourage those parties to reach an agreement on the issues raised in the informal complaint as soon as practicable.

(2) If the parties involved in the informal complaint reach an agreement regarding the issues raised in that complaint, the counselor shall require that the agreement be in writing and signed by both parties within seven days after the parties reach the agreement. The agreement is enforceable in a court. A court that determines that a party has violated the agreement shall order that party to pay the reasonable attorney's fees of the other party. If the informal complaint is based on an alleged denial by a public office of the complainant's right to inspect or copy any public record under section 149.43 of the Revised Code, if an agreement is reached under this division between the complainant and the public office involved in that informal complaint, and, if a court determines that that public office violated the agreement, the court shall order the public office to pay statutory damages to the complainant in the amount specified in division (C)(2) of section 149.43 of the Revised Code. If the informal complaint is based on an alleged denial by a public body of any of the complainant's rights under section 121.22 of the Revised Code, if an agreement is reached under this division between the complainant and the public body involved in that informal complaint, and if a court determines that that public body violated the agreement, the court shall order the public body to pay the civil forfeiture to the complainant in the amount specified in division (I)(2)(a) of section 121.22 of the Revised Code.

(3) If any early intervention, mediation, conciliation, or



other form of dispute resolution in which the counselor engages 1471  
under division (F)(1) of this section or any discussion between 1472  
the parties does not result in any agreement between the parties 1473  
on the issues raised in the informal complaint within fourteen 1474  
days after the date of the filing of the informal complaint, the 1475  
complainant may bring an action in court pursuant to the 1476  
applicable public access law. 1477

(G)(1) Upon receiving a formal complaint under division 1478  
(D)(2) of this section, the counselor shall investigate the facts 1479  
alleged in the formal complaint. 1480

(2)(a) Except as provided in division (G)(2)(b) of this 1481  
section, if the parties involved in the formal complaint reach an 1482  
agreement regarding the issues raised in that complaint either 1483  
before or after an advisory opinion is issued under division 1484  
(G)(3) of this section, the counselor shall require that the 1485  
agreement be in writing and signed by both parties within seven 1486  
days after the parties reach the agreement. The agreement is 1487  
enforceable in a court. A court that determines that a party has 1488  
violated the agreement shall order that party to pay the 1489  
reasonable attorney's fees of the other party. If the formal 1490  
complaint is based on an alleged denial by a public office of the 1491  
complainant's right to inspect or copy any public record under 1492  
section 149.43 of the Revised Code, if an agreement is reached 1493  
under this division between the complainant and the public office 1494  
involved in that formal complaint, and if a court determines that 1495  
that public office violated the agreement, the court shall order 1496  
the public office to pay statutory damages to the complainant in 1497  
the amount specified in division (C)(2) of section 149.43 of the 1498  
Revised Code. If the formal complaint is based on an alleged 1499  
denial by a public body of any of the complainant's rights under 1500  
section 121.22 of the Revised Code, if an agreement is reached 1501  
under this division between the complainant and the public body 1502

involved in that formal complaint, and if a court determines that 1503  
that public body violated the agreement, the court shall order the 1504  
public body to pay the civil forfeiture to the complainant in the 1505  
amount specified in division (I)(2)(a) of section 121.22 of the 1506  
Revised Code. 1507

(b) Division (G)(2)(a) of this section does not apply if the 1508  
counselor participated in or facilitated any discussion between 1509  
the parties in reaching the agreement described in that division. 1510

(3)(a) Except as provided in division (G)(3)(b) of this 1511  
section, the counselor shall issue an advisory opinion on the 1512  
formal complaint not later than fourteen days after the complaint 1513  
is filed. 1514

(b) If the counselor determines that a formal complaint has 1515  
priority, the counselor shall issue an advisory opinion on the 1516  
complaint not later than seven days after the complaint is filed. 1517

(4) The counselor shall adopt any necessary rules 1518  
establishing criteria for formal complaints that have priority 1519  
under this section or any other rules necessary to implement the 1520  
provisions of this section. 1521

(5)(a) If the counselor issues an advisory opinion under 1522  
division (G)(3) of this section that declares that the complainant 1523  
has the right to inspect or copy the public records that are the 1524  
subject of the formal complaint, unless the parties involved in 1525  
the formal complaint reach an agreement under division (G)(2) of 1526  
this section, the complainant may present the advisory opinion to 1527  
the public office involved in the formal complaint and request the 1528  
public office to make those records available for inspection or 1529  
copying by the complainant pursuant to section 149.43 of the 1530  
Revised Code. If the public office denies that request or fails to 1531  
promptly comply with the request, the complainant may bring an 1532  
action in court pursuant to that section. 1533

(b) If the counselor issues an advisory opinion under 1534  
division (G)(3) of this section that declares that the complainant 1535  
has that right under section 121.22 of the Revised Code that is 1536  
the subject of the formal complaint, unless the parties involved 1537  
in the formal complaint reach an agreement under division (G)(2) 1538  
of this section, the complainant may present the advisory opinion 1539  
to the public body involved in the formal complaint and request 1540  
the public body to comply with section 121.22 of the Revised Code 1541  
with respect to the complainant's right that is the subject of the 1542  
formal complaint. If the public body does not comply with section 1543  
121.22 of the Revised Code with respect to that right of the 1544  
complainant, the complainant may bring an action in court pursuant 1545  
to that section. 1546

(6) All advisory opinions issued by the counselor under 1547  
division (G)(3) of this section shall state the date of issuance 1548  
of the opinion, name the parties to the formal complaint, 1549  
summarize the factual and legal issues involved, and set forth a 1550  
reasoned rationale for the counselor's conclusion, including 1551  
citation to legal authority supporting that conclusion. Advisory 1552  
opinions issued by the counselor are public records under section 1553  
149.43 of the Revised Code. 1554

(7) The office of the public access counselor may rely on 1555  
past advisory opinions issued by the counselor under division 1556  
(G)(3) of this section as precedent for that office. Advisory 1557  
opinions issued by the counselor under that division do not bind 1558  
any court in interpreting or applying section 121.22 or 149.43 of 1559  
the Revised Code, and no court may presume that the existence of 1560  
an advisory opinion issued by the counselor is evidence against or 1561  
in favor of a reduction or denial of an award of reasonable 1562  
attorney's fees to a litigant. 1563

**Sec. 2743.34.** (A) Any person who files an informal complaint 1564

or a formal complaint with the public access counselor under 1565  
section 2743.33 of the Revised Code may withdraw the complaint at 1566  
any time by notifying the counselor in writing of the withdrawal. 1567  
Upon withdrawing the complaint, that person may bring an action in 1568  
court as authorized by the applicable public access law based upon 1569  
the same facts that are the subject matter of the complaint that 1570  
was withdrawn. 1571

(B) Any informal complaint or any formal complaint filed with 1572  
the public access counselor under section 2743.33 of the Revised 1573  
Code does not toll the running of the period of limitations for 1574  
bringing an action under section 121.22 or 149.43 of the Revised 1575  
Code concerning the subject matter of the informal complaint or 1576  
the subject matter of the formal complaint. 1577

**Sec. 3319.321.** (A) No person shall release, or permit access 1578  
to, the ~~names or other personally identifiable~~ directory 1579  
information concerning any students attending a public school to 1580  
any person or group for use in a profit-making plan or activity. 1581  
Notwithstanding division (B)(4) of section 149.43 of the Revised 1582  
Code, a person may require disclosure of the requestor's identity 1583  
or the intended use of the directory information concerning any 1584  
students attending a public school to ascertain whether the 1585  
directory information is for use in a profit-making plan or 1586  
activity. 1587

(B) No person shall release, or permit access to, personally 1588  
identifiable information other than directory information 1589  
concerning any student attending a public school, for purposes 1590  
other than those identified in division (C), (E), (G), or (H) of 1591  
this section, without the written consent of the parent, guardian, 1592  
or custodian of each such student who is less than eighteen years 1593  
of age, or without the written consent of each such student who is 1594

eighteen years of age or older. 1595

(1) For purposes of this section, "directory information" 1596  
includes a student's name, address, telephone listing, date and 1597  
place of birth, major field of study, participation in officially 1598  
recognized activities and sports, weight and height of members of 1599  
athletic teams, dates of attendance, date of graduation, and 1600  
awards received. 1601

(2)(a) Except as provided in division (B)(2)(b) of this 1602  
section, no school district board of education shall impose any 1603  
restriction on the presentation of directory information that it 1604  
has designated as subject to release in accordance with the 1605  
"Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 1606  
20 U.S.C. 1232q, as amended, to representatives of the armed 1607  
forces, business, industry, charitable institutions, other 1608  
employers, and institutions of higher education unless such 1609  
restriction is uniformly imposed on each of these types of 1610  
representatives, except that if a student eighteen years of age or 1611  
older or a student's parent, guardian, or custodian has informed 1612  
the board that any or all such information should not be released 1613  
without such person's prior written consent, the board shall not 1614  
release that information without such person's prior written 1615  
consent. 1616

(b) The names and addresses of students in grades ten through 1617  
twelve shall be released to a recruiting officer for any branch of 1618  
the United States armed forces who requests such information, 1619  
except that such data shall not be released if the student or 1620  
student's parent, guardian, or custodian submits to the board a 1621  
written request not to release such data. Any data received by a 1622  
recruiting officer shall be used solely for the purpose of 1623  
providing information to students regarding military service and 1624  
shall not be released to any person other than individuals within 1625  
the recruiting services of the armed forces. 1626

(3) Except for directory information and except as provided 1627  
in division (E), (G), or (H) of this section, information covered 1628  
by this section that is released shall only be transferred to a 1629  
third or subsequent party on the condition that such party will 1630  
not permit any other party to have access to such information 1631  
without written consent of the parent, guardian, or custodian, or 1632  
of the student who is eighteen years of age or older. 1633

(4) Except as otherwise provided in this section, any parent 1634  
of a student may give the written parental consent required under 1635  
this section. Where parents are separated or divorced, the written 1636  
parental consent required under this section may be obtained from 1637  
either parent, subject to any agreement between such parents or 1638  
court order governing the rights of such parents. In the case of a 1639  
student whose legal guardian is in an institution, a person 1640  
independent of the institution who has no other conflicting 1641  
interests in the case shall be appointed by the board of education 1642  
of the school district in which the institution is located to give 1643  
the written parental consent required under this section. 1644

(5)(a) A parent of a student who is not the student's 1645  
residential parent, upon request, shall be permitted access to any 1646  
records or information concerning the student under the same terms 1647  
and conditions under which access to the records or information is 1648  
available to the residential parent of that student, provided that 1649  
the access of the parent who is not the residential parent is 1650  
subject to any agreement between the parents, to division (F) of 1651  
this section, and, to the extent described in division (B)(5)(b) 1652  
of this section, is subject to any court order issued pursuant to 1653  
section 3109.051 of the Revised Code and any other court order 1654  
governing the rights of the parents. 1655

(b) If the residential parent of a student has presented the 1656  
keeper of a record or information that is related to the student 1657  
with a copy of an order issued under division (H)(1) of section 1658

3109.051 of the Revised Code that limits the terms and conditions  
under which the parent who is not the residential parent of the  
student is to have access to records and information pertaining to  
the student or with a copy of any other court order governing the  
rights of the parents that so limits those terms and conditions,  
and if the order pertains to the record or information in  
question, the keeper of the record or information shall provide  
access to the parent who is not the residential parent only to the  
extent authorized in the order. If the residential parent has  
presented the keeper of the record or information with such an  
order, the keeper of the record shall permit the parent who is not  
the residential parent to have access to the record or information  
only in accordance with the most recent such order that has been  
presented to the keeper by the residential parent or the parent  
who is not the residential parent.

(C) Nothing in this section shall limit the administrative  
use of public school records by a person acting exclusively in the  
person's capacity as an employee of a board of education or of the  
state or any of its political subdivisions, any court, or the  
federal government, and nothing in this section shall prevent the  
transfer of a student's record to an educational institution for a  
legitimate educational purpose. However, except as provided in  
this section, public school records shall not be released or made  
available for any other purpose. Fingerprints, photographs, or  
records obtained pursuant to section 3313.96 or 3319.322 of the  
Revised Code, or pursuant to division (E) of this section, or any  
medical, psychological, guidance, counseling, or other information  
that is derived from the use of the fingerprints, photographs, or  
records, shall not be admissible as evidence against the minor who  
is the subject of the fingerprints, photographs, or records in any  
proceeding in any court. The provisions of this division regarding  
the administrative use of records by an employee of the state or

any of its political subdivisions or of a court or the federal 1691  
government shall be applicable only when the use of the 1692  
information is required by a state statute adopted before November 1693  
19, 1974, or by federal law. 1694

(D) A board of education may require, subject to division (E) 1695  
of this section, a person seeking to obtain copies of public 1696  
school records to pay the cost of reproduction and, in the case of 1697  
data released under division (B)(2)(b) of this section, to pay for 1698  
any mailing costs, which payment shall not exceed the actual cost 1699  
to the school. 1700

(E) A principal or chief administrative officer of a public 1701  
school, or any employee of a public school who is authorized to 1702  
handle school records, shall provide access to a student's records 1703  
to a law enforcement officer who indicates that the officer is 1704  
conducting an investigation and that the student is or may be a 1705  
missing child, as defined in section 2901.30 of the Revised Code. 1706  
Free copies of information in the student's record shall be 1707  
provided, upon request, to the law enforcement officer, if prior 1708  
approval is given by the student's parent, guardian, or legal 1709  
custodian. Information obtained by the officer shall be used 1710  
solely in the investigation of the case. The information may be 1711  
used by law enforcement agency personnel in any manner that is 1712  
appropriate in solving the case, including, but not limited to, 1713  
providing the information to other law enforcement officers and 1714  
agencies and to the bureau of criminal identification and 1715  
investigation for purposes of computer integration pursuant to 1716  
section 2901.30 of the Revised Code. 1717

(F) No person shall release to a parent of a student who is 1718  
not the student's residential parent or to any other person, or 1719  
permit a parent of a student who is not the student's residential 1720  
parent or permit any other person to have access to, any 1721  
information about the location of any elementary or secondary 1722



school to which a student has transferred or information that 1723  
would enable the parent who is not the student's residential 1724  
parent or the other person to determine the location of that 1725  
elementary or secondary school, if the elementary or secondary 1726  
school to which the student has transferred and that requested the 1727  
records of the student under section 3313.672 of the Revised Code 1728  
informs the elementary or secondary school from which the 1729  
student's records are obtained that the student is under the care 1730  
of a shelter for victims of domestic violence, as defined in 1731  
section 3113.33 of the Revised Code. 1732

(G) A principal or chief administrative officer of a public 1733  
school, or any employee of a public school who is authorized to 1734  
handle school records, shall comply with any order issued pursuant 1735  
to division (D)(1) of section 2151.14 of the Revised Code, any 1736  
request for records that is properly made pursuant to division 1737  
(D)(3)(a) of section 2151.14 or division (A) of section 2151.141 1738  
of the Revised Code, and any determination that is made by a court 1739  
pursuant to division (D)(3)(b) of section 2151.14 or division 1740  
(B)(1) of section 2151.141 of the Revised Code. 1741

(H) Notwithstanding any provision of this section, a 1742  
principal of a public school, to the extent permitted by the 1743  
"Family Educational Rights and Privacy Act of 1974," shall make 1744  
the report required in section 3319.45 of the Revised Code that a 1745  
pupil committed any violation listed in division (A) of section 1746  
3313.662 of the Revised Code on property owned or controlled by, 1747  
or at an activity held under the auspices of, the board of 1748  
education, regardless of whether the pupil was sixteen years of 1749  
age or older. The principal is not required to obtain the consent 1750  
of the pupil who is the subject of the report or the consent of 1751  
the pupil's parent, guardian, or custodian before making a report 1752  
pursuant to section 3319.45 of the Revised Code. 1753

**Sec. 4701.19.** ~~(A)~~ All statements, records, schedules, working papers, and memoranda made by a certified public accountant or public accountant incident to or in the course of professional service to clients by the accountant, except reports submitted by a certified public accountant or public accountant to a client, shall be and remain the property of the accountant in the absence of an express agreement between the accountant and the client to the contrary. No statement, record, schedule, working paper, or memorandum of that nature shall be sold, transferred, or bequeathed without the consent of the client or the client's personal representative or assignee to any person other than one or more surviving partners or new partners of the accountant.

~~(B) The statements, records, schedules, working papers, and memoranda made by a certified public accountant or public accountant incident to or in the course of performing an audit of a public office or private entity, except reports submitted by the accountant to the client, are not a public record. Statements, records, schedules, working papers, and memoranda that are so made in an audit by a certified public accountant or public accountant and that are in the possession of the auditor of state also are not a public record. As used in this division, "public record" has the same meaning as in section 149.43 of the Revised Code.~~

**Section 2.** That existing sections 121.22, 149.011, 149.31, 149.38, 149.39, 149.41, 149.42, 149.43, 3319.321, and 4701.19 of the Revised Code are hereby repealed.

**Section 3.** Section 4701.19 of the Revised Code, as amended by this act, applies to audits described in that section that are commenced on or after the effective date of this act.

**Section 4.** Section 149.43 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B.

303, Am. Sub. H.B. 431, and Sub. S.B. 222, all of the 125th	1784
General Assembly. The General Assembly, applying the principle	1785
stated in division (B) of section 1.52 of the Revised Code that	1786
amendments are to be harmonized if reasonably capable of	1787
simultaneous operation, finds that the composite is the resulting	1788
version of the section in effect prior to the effective date of	1789
this act.	1790