

**As Reported by the House Infrastructure, Homeland Security and  
Veterans Affairs Committee**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. S. B. No. 248**

**Senator Austria**

**Cosponsors: Senators Bocchieri, Buehrer, Carey, Cates, Coughlin, Faber,  
Gardner, Harris, Jacobson, Mason, Mumper, Padgett, Schaffer, Schuring,  
Spada, Smith, Grendell, Fedor, Roberts, Amstutz, Kearney, Sawyer, Schuler,  
Stivers, Wagoner, Wilson**

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**A B I L L**

To amend sections 149.43, 317.24, 317.27, 2313.16, 1  
2741.02, 2921.22, 3345.01, and 5903.02 and to 2  
enact sections 2741.99, 3333.42, and 5913.11 of 3  
the Revised Code to exempt certain armed forces 4  
discharges from inspection or copying as a public 5  
record, to prohibit failing to report the 6  
unauthorized use of certain electronic property to 7  
law enforcement authorities, to excuse certain 8  
military persons from jury duty, to establish a 9  
criminal penalty for unlawfully using a deceased 10  
military person's persona, to establish tuition 11  
benefits for certain military persons, to create 12  
the Ohio Military Medal of Distinction, to clarify 13  
available remedies for actions under the Uniformed 14  
Services Employment and Reemployment Rights Act of 15  
1994, and to require a report regarding the 16  
feasibility of a National Guard Youth Challenge 17  
Program. 18

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

**Section 1.** That sections 149.43, 317.24, 317.27, 2313.16, 19  
2741.02, 2921.22, 3345.01, and 5903.02 be amended and sections 20  
2741.99, 3333.42, and 5913.11 of the Revised Code be enacted to 21  
read as follows: 22

**Sec. 149.43.** (A) As used in this section: 23

(1) "Public record" means records kept by any public office, 24  
including, but not limited to, state, county, city, village, 25  
township, and school district units, and records pertaining to the 26  
delivery of educational services by an alternative school in this 27  
state kept by the nonprofit or for-profit entity operating the 28  
alternative school pursuant to section 3313.533 of the Revised 29  
Code. "Public record" does not mean any of the following: 30

(a) Medical records; 31

(b) Records pertaining to probation and parole proceedings or 32  
to proceedings related to the imposition of community control 33  
sanctions and post-release control sanctions; 34

(c) Records pertaining to actions under section 2151.85 and 35  
division (C) of section 2919.121 of the Revised Code and to 36  
appeals of actions arising under those sections; 37

(d) Records pertaining to adoption proceedings, including the 38  
contents of an adoption file maintained by the department of 39  
health under section 3705.12 of the Revised Code; 40

(e) Information in a record contained in the putative father 41  
registry established by section 3107.062 of the Revised Code, 42  
regardless of whether the information is held by the department of 43  
job and family services or, pursuant to section 3111.69 of the 44  
Revised Code, the office of child support in the department or a 45

child support enforcement agency;	46
(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;	47 48 49
(g) Trial preparation records;	50
(h) Confidential law enforcement investigatory records;	51
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	52 53
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	54 55
(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;	56 57 58 59
(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;	60 61 62 63
(m) Intellectual property records;	64
(n) Donor profile records;	65
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	66 67
(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information;	68 69 70 71
(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	72 73 74

constitutes a trade secret, as defined in section 1333.61 of the	75
Revised Code;	76
(r) Information pertaining to the recreational activities of	77
a person under the age of eighteen;	78
(s) Records provided to, statements made by review board	79
members during meetings of, and all work products of a child	80
fatality review board acting under sections 307.621 to 307.629 of	81
the Revised Code, other than the report prepared pursuant to	82
section 307.626 of the Revised Code;	83
(t) Records provided to and statements made by the executive	84
director of a public children services agency or a prosecuting	85
attorney acting pursuant to section 5153.171 of the Revised Code	86
other than the information released under that section;	87
(u) Test materials, examinations, or evaluation tools used in	88
an examination for licensure as a nursing home administrator that	89
the board of examiners of nursing home administrators administers	90
under section 4751.04 of the Revised Code or contracts under that	91
section with a private or government entity to administer;	92
(v) Records the release of which is prohibited by state or	93
federal law;	94
(w) Proprietary information of or relating to any person that	95
is submitted to or compiled by the Ohio venture capital authority	96
created under section 150.01 of the Revised Code;	97
(x) Information reported and evaluations conducted pursuant	98
to section 3701.072 of the Revised Code;	99
(y) Financial statements and data any person submits for any	100
purpose to the Ohio housing finance agency or the controlling	101
board in connection with applying for, receiving, or accounting	102
for financial assistance from the agency, and information that	103
identifies any individual who benefits directly or indirectly from	104

financial assistance from the agency;	105
<u>(z) Discharges recorded with a county recorder under section</u>	106
<u>317.24 of the Revised Code, as specified in division (B)(2) of</u>	107
<u>that section.</u>	108
(2) "Confidential law enforcement investigatory record" means	109
any record that pertains to a law enforcement matter of a	110
criminal, quasi-criminal, civil, or administrative nature, but	111
only to the extent that the release of the record would create a	112
high probability of disclosure of any of the following:	113
(a) The identity of a suspect who has not been charged with	114
the offense to which the record pertains, or of an information	115
source or witness to whom confidentiality has been reasonably	116
promised;	117
(b) Information provided by an information source or witness	118
to whom confidentiality has been reasonably promised, which	119
information would reasonably tend to disclose the source's or	120
witness's identity;	121
(c) Specific confidential investigatory techniques or	122
procedures or specific investigatory work product;	123
(d) Information that would endanger the life or physical	124
safety of law enforcement personnel, a crime victim, a witness, or	125
a confidential information source.	126
(3) "Medical record" means any document or combination of	127
documents, except births, deaths, and the fact of admission to or	128
discharge from a hospital, that pertains to the medical history,	129
diagnosis, prognosis, or medical condition of a patient and that	130
is generated and maintained in the process of medical treatment.	131
(4) "Trial preparation record" means any record that contains	132
information that is specifically compiled in reasonable	133
anticipation of, or in defense of, a civil or criminal action or	134

proceeding, including the independent thought processes and 135  
personal trial preparation of an attorney. 136

(5) "Intellectual property record" means a record, other than 137  
a financial or administrative record, that is produced or 138  
collected by or for faculty or staff of a state institution of 139  
higher learning in the conduct of or as a result of study or 140  
research on an educational, commercial, scientific, artistic, 141  
technical, or scholarly issue, regardless of whether the study or 142  
research was sponsored by the institution alone or in conjunction 143  
with a governmental body or private concern, and that has not been 144  
publicly released, published, or patented. 145

(6) "Donor profile record" means all records about donors or 146  
potential donors to a public institution of higher education 147  
except the names and reported addresses of the actual donors and 148  
the date, amount, and conditions of the actual donation. 149

(7) "Peace officer, parole officer, prosecuting attorney, 150  
assistant prosecuting attorney, correctional employee, youth 151  
services employee, firefighter, or EMT residential and familial 152  
information" means any information that discloses any of the 153  
following about a peace officer, parole officer, prosecuting 154  
attorney, assistant prosecuting attorney, correctional employee, 155  
youth services employee, firefighter, or EMT: 156

(a) The address of the actual personal residence of a peace 157  
officer, parole officer, assistant prosecuting attorney, 158  
correctional employee, youth services employee, firefighter, or 159  
EMT, except for the state or political subdivision in which the 160  
peace officer, parole officer, assistant prosecuting attorney, 161  
correctional employee, youth services employee, firefighter, or 162  
EMT resides; 163

(b) Information compiled from referral to or participation in 164  
an employee assistance program; 165

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT; 166-171

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer; 172-179

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law; 180-188

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT; 189-196

(g) A photograph of a peace officer who holds a position or 197

has an assignment that may include undercover or plain clothes 198  
positions or assignments as determined by the peace officer's 199  
appointing authority. 200

As used in divisions (A)(7) and (B)(9) of this section, 201  
"peace officer" has the same meaning as in section 109.71 of the 202  
Revised Code and also includes the superintendent and troopers of 203  
the state highway patrol; it does not include the sheriff of a 204  
county or a supervisory employee who, in the absence of the 205  
sheriff, is authorized to stand in for, exercise the authority of, 206  
and perform the duties of the sheriff. 207

As used in divisions (A)(7) and (B)(5) of this section, 208  
"correctional employee" means any employee of the department of 209  
rehabilitation and correction who in the course of performing the 210  
employee's job duties has or has had contact with inmates and 211  
persons under supervision. 212

As used in divisions (A)(7) and (B)(5) of this section, 213  
"youth services employee" means any employee of the department of 214  
youth services who in the course of performing the employee's job 215  
duties has or has had contact with children committed to the 216  
custody of the department of youth services. 217

As used in divisions (A)(7) and (B)(9) of this section, 218  
"firefighter" means any regular, paid or volunteer, member of a 219  
lawfully constituted fire department of a municipal corporation, 220  
township, fire district, or village. 221

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 222  
means EMTs-basic, EMTs-I, and paramedics that provide emergency 223  
medical services for a public emergency medical service 224  
organization. "Emergency medical service organization," 225  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 226  
section 4765.01 of the Revised Code. 227

(8) "Information pertaining to the recreational activities of 228



a person under the age of eighteen" means information that is kept 229  
in the ordinary course of business by a public office, that 230  
pertains to the recreational activities of a person under the age 231  
of eighteen years, and that discloses any of the following: 232

(a) The address or telephone number of a person under the age 233  
of eighteen or the address or telephone number of that person's 234  
parent, guardian, custodian, or emergency contact person; 235

(b) The social security number, birth date, or photographic 236  
image of a person under the age of eighteen; 237

(c) Any medical record, history, or information pertaining to 238  
a person under the age of eighteen; 239

(d) Any additional information sought or required about a 240  
person under the age of eighteen for the purpose of allowing that 241  
person to participate in any recreational activity conducted or 242  
sponsored by a public office or to use or obtain admission 243  
privileges to any recreational facility owned or operated by a 244  
public office. 245

(9) "Community control sanction" has the same meaning as in 246  
section 2929.01 of the Revised Code. 247

(10) "Post-release control sanction" has the same meaning as 248  
in section 2967.01 of the Revised Code. 249

(11) "Redaction" means obscuring or deleting any information 250  
that is exempt from the duty to permit public inspection or 251  
copying from an item that otherwise meets the definition of a 252  
"record" in section 149.011 of the Revised Code. 253

(12) "Designee" and "elected official" have the same meanings 254  
as in section 109.43 of the Revised Code. 255

(B)(1) Upon request and subject to division (B)(8) of this 256  
section, all public records responsive to the request shall be 257  
promptly prepared and made available for inspection to any person 258

at all reasonable times during regular business hours. Subject to 259  
division (B)(8) of this section, upon request, a public office or 260  
person responsible for public records shall make copies of the 261  
requested public record available at cost and within a reasonable 262  
period of time. If a public record contains information that is 263  
exempt from the duty to permit public inspection or to copy the 264  
public record, the public office or the person responsible for the 265  
public record shall make available all of the information within 266  
the public record that is not exempt. When making that public 267  
record available for public inspection or copying that public 268  
record, the public office or the person responsible for the public 269  
record shall notify the requester of any redaction or make the 270  
redaction plainly visible. A redaction shall be deemed a denial of 271  
a request to inspect or copy the redacted information, except if 272  
federal or state law authorizes or requires a public office to 273  
make the redaction. 274

(2) To facilitate broader access to public records, a public 275  
office or the person responsible for public records shall organize 276  
and maintain public records in a manner that they can be made 277  
available for inspection or copying in accordance with division 278  
(B) of this section. A public office also shall have available a 279  
copy of its current records retention schedule at a location 280  
readily available to the public. If a requester makes an ambiguous 281  
or overly broad request or has difficulty in making a request for 282  
copies or inspection of public records under this section such 283  
that the public office or the person responsible for the requested 284  
public record cannot reasonably identify what public records are 285  
being requested, the public office or the person responsible for 286  
the requested public record may deny the request but shall provide 287  
the requester with an opportunity to revise the request by 288  
informing the requester of the manner in which records are 289  
maintained by the public office and accessed in the ordinary 290  
course of the public office's or person's duties. 291

(3) If a request is ultimately denied, in part or in whole, 292  
the public office or the person responsible for the requested 293  
public record shall provide the requester with an explanation, 294  
including legal authority, setting forth why the request was 295  
denied. If the initial request was provided in writing, the 296  
explanation also shall be provided to the requester in writing. 297  
The explanation shall not preclude the public office or the person 298  
responsible for the requested public record from relying upon 299  
additional reasons or legal authority in defending an action 300  
commenced under division (C) of this section. 301

(4) Unless specifically required or authorized by state or 302  
federal law or in accordance with division (B) of this section, no 303  
public office or person responsible for public records may limit 304  
or condition the availability of public records by requiring 305  
disclosure of the requester's identity or the intended use of the 306  
requested public record. Any requirement that the requester 307  
disclose the requestor's identity or the intended use of the 308  
requested public record constitutes a denial of the request. 309

(5) A public office or person responsible for public records 310  
may ask a requester to make the request in writing, may ask for 311  
the requester's identity, and may inquire about the intended use 312  
of the information requested, but may do so only after disclosing 313  
to the requester that a written request is not mandatory and that 314  
the requester may decline to reveal the requester's identity or 315  
the intended use and when a written request or disclosure of the 316  
identity or intended use would benefit the requester by enhancing 317  
the ability of the public office or person responsible for public 318  
records to identify, locate, or deliver the public records sought 319  
by the requester. 320

(6) If any person chooses to obtain a copy of a public record 321  
in accordance with division (B) of this section, the public office 322  
or person responsible for the public record may require that 323

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person to pay in advance the cost involved in providing the copy 324  
of the public record in accordance with the choice made by the 325  
person seeking the copy under this division. The public office or 326  
the person responsible for the public record shall permit that 327  
person to choose to have the public record duplicated upon paper, 328  
upon the same medium upon which the public office or person 329  
responsible for the public record keeps it, or upon any other 330  
medium upon which the public office or person responsible for the 331  
public record determines that it reasonably can be duplicated as 332  
an integral part of the normal operations of the public office or 333  
person responsible for the public record. When the person seeking 334  
the copy makes a choice under this division, the public office or 335  
person responsible for the public record shall provide a copy of 336  
it in accordance with the choice made by the person seeking the 337  
copy. Nothing in this section requires a public office or person 338  
responsible for the public record to allow the person seeking a 339  
copy of the public record to make the copies of the public record. 340

(7) Upon a request made in accordance with division (B) of 341  
this section and subject to division (B)(6) of this section, a 342  
public office or person responsible for public records shall 343  
transmit a copy of a public record to any person by United States 344  
mail or by any other means of delivery or transmission within a 345  
reasonable period of time after receiving the request for the 346  
copy. The public office or person responsible for the public 347  
record may require the person making the request to pay in advance 348  
the cost of postage if the copy is transmitted by United States 349  
mail or the cost of delivery if the copy is transmitted other than 350  
by United States mail, and to pay in advance the costs incurred 351  
for other supplies used in the mailing, delivery, or transmission. 352

Any public office may adopt a policy and procedures that it 353  
will follow in transmitting, within a reasonable period of time 354  
after receiving a request, copies of public records by United 355

States mail or by any other means of delivery or transmission 356  
pursuant to this division. A public office that adopts a policy 357  
and procedures under this division shall comply with them in 358  
performing its duties under this division. 359

In any policy and procedures adopted under this division, a 360  
public office may limit the number of records requested by a 361  
person that the office will transmit by United States mail to ten 362  
per month, unless the person certifies to the office in writing 363  
that the person does not intend to use or forward the requested 364  
records, or the information contained in them, for commercial 365  
purposes. For purposes of this division, "commercial" shall be 366  
narrowly construed and does not include reporting or gathering 367  
news, reporting or gathering information to assist citizen 368  
oversight or understanding of the operation or activities of 369  
government, or nonprofit educational research. 370

(8) A public office or person responsible for public records 371  
is not required to permit a person who is incarcerated pursuant to 372  
a criminal conviction or a juvenile adjudication to inspect or to 373  
obtain a copy of any public record concerning a criminal 374  
investigation or prosecution or concerning what would be a 375  
criminal investigation or prosecution if the subject of the 376  
investigation or prosecution were an adult, unless the request to 377  
inspect or to obtain a copy of the record is for the purpose of 378  
acquiring information that is subject to release as a public 379  
record under this section and the judge who imposed the sentence 380  
or made the adjudication with respect to the person, or the 381  
judge's successor in office, finds that the information sought in 382  
the public record is necessary to support what appears to be a 383  
justiciable claim of the person. 384

(9) Upon written request made and signed by a journalist on 385  
or after December 16, 1999, a public office, or person responsible 386  
for public records, having custody of the records of the agency 387

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employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

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

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that

orders the public office or the person responsible for the public 420  
record to comply with division (B) of this section, that awards 421  
court costs and reasonable attorney's fees to the person that 422  
instituted the mandamus action, and, if applicable, that includes 423  
an order fixing statutory damages under division (C)(1) of this 424  
section. The mandamus action may be commenced in the court of 425  
common pleas of the county in which division (B) of this section 426  
allegedly was not complied with, in the supreme court pursuant to 427  
its original jurisdiction under Section 2 of Article IV, Ohio 428  
Constitution, or in the court of appeals for the appellate 429  
district in which division (B) of this section allegedly was not 430  
complied with pursuant to its original jurisdiction under Section 431  
3 of Article IV, Ohio Constitution. 432

If a requestor transmits a written request by hand delivery 433  
or certified mail to inspect or receive copies of any public 434  
record in a manner that fairly describes the public record or 435  
class of public records to the public office or person responsible 436  
for the requested public records, except as otherwise provided in 437  
this section, the requestor shall be entitled to recover the 438  
amount of statutory damages set forth in this division if a court 439  
determines that the public office or the person responsible for 440  
public records failed to comply with an obligation in accordance 441  
with division (B) of this section. 442

The amount of statutory damages shall be fixed at one hundred 443  
dollars for each business day during which the public office or 444  
person responsible for the requested public records failed to 445  
comply with an obligation in accordance with division (B) of this 446  
section, beginning with the day on which the requester files a 447  
mandamus action to recover statutory damages, up to a maximum of 448  
one thousand dollars. The award of statutory damages shall not be 449  
construed as a penalty, but as compensation for injury arising 450  
from lost use of the requested information. The existence of this 451

injury shall be conclusively presumed. The award of statutory 452  
damages shall be in addition to all other remedies authorized by 453  
this section. 454

The court may reduce an award of statutory damages or not 455  
award statutory damages if the court determines both of the 456  
following: 457

(a) That, based on the ordinary application of statutory law 458  
and case law as it existed at the time of the conduct or 459  
threatened conduct of the public office or person responsible for 460  
the requested public records that allegedly constitutes a failure 461  
to comply with an obligation in accordance with division (B) of 462  
this section and that was the basis of the mandamus action, a 463  
well-informed public office or person responsible for the 464  
requested public records reasonably would believe that the conduct 465  
or threatened conduct of the public office or person responsible 466  
for the requested public records did not constitute a failure to 467  
comply with an obligation in accordance with division (B) of this 468  
section; 469

(b) That a well-informed public office or person responsible 470  
for the requested public records reasonably would believe that the 471  
conduct or threatened conduct of the public office or person 472  
responsible for the requested public records would serve the 473  
public policy that underlies the authority that is asserted as 474  
permitting that conduct or threatened conduct. 475

(2)(a) If the court issues a writ of mandamus that orders the 476  
public office or the person responsible for the public record to 477  
comply with division (B) of this section and determines that the 478  
circumstances described in division (C)(1) of this section exist, 479  
the court shall determine and award to the relator all court 480  
costs. 481

(b) If the court renders a judgment that orders the public 482



office or the person responsible for the public record to comply 483  
with division (B) of this section, the court may award reasonable 484  
attorney's fees subject to reduction as described in division 485  
(C)(2)(c) of this section. The court shall award reasonable 486  
attorney's fees, subject to reduction as described in division 487  
(C)(2)(c) of this section when either of the following applies: 488

(i) The public office or the person responsible for the 489  
public records failed to respond affirmatively or negatively to 490  
the public records request in accordance with the time allowed 491  
under division (B) of this section. 492

(ii) The public office or the person responsible for the 493  
public records promised to permit the relator to inspect or 494  
receive copies of the public records requested within a specified 495  
period of time but failed to fulfill that promise within that 496  
specified period of time. 497

(c) Court costs and reasonable attorney's fees awarded under 498  
this section shall be construed as remedial and not punitive. 499  
Reasonable attorney's fees shall include reasonable fees incurred 500  
to produce proof of the reasonableness and amount of the fees and 501  
to otherwise litigate entitlement to the fees. The court may 502  
reduce an award of attorney's fees to the relator or not award 503  
attorney's fees to the relator if the court determines both of the 504  
following: 505

(i) That, based on the ordinary application of statutory law 506  
and case law as it existed at the time of the conduct or 507  
threatened conduct of the public office or person responsible for 508  
the requested public records that allegedly constitutes a failure 509  
to comply with an obligation in accordance with division (B) of 510  
this section and that was the basis of the mandamus action, a 511  
well-informed public office or person responsible for the 512  
requested public records reasonably would believe that the conduct 513  
or threatened conduct of the public office or person responsible 514

for the requested public records did not constitute a failure to 515  
comply with an obligation in accordance with division (B) of this 516  
section; 517

(ii) That a well-informed public office or person responsible 518  
for the requested public records reasonably would believe that the 519  
conduct or threatened conduct of the public office or person 520  
responsible for the requested public records as described in 521  
division (C)(2)(c)(i) of this section would serve the public 522  
policy that underlies the authority that is asserted as permitting 523  
that conduct or threatened conduct. 524

(D) Chapter 1347. of the Revised Code does not limit the 525  
provisions of this section. 526

(E)(1) To ensure that all employees of public offices are 527  
appropriately educated about a public office's obligations under 528  
division (B) of this section, all elected officials or their 529  
appropriate designees shall attend training approved by the 530  
attorney general as provided in section 109.43 of the Revised 531  
Code. In addition, all public offices shall adopt a public records 532  
policy in compliance with this section for responding to public 533  
records requests. In adopting a public records policy under this 534  
division, a public office may obtain guidance from the model 535  
public records policy developed and provided to the public office 536  
by the attorney general under section 109.43 of the Revised Code. 537  
Except as otherwise provided in this section, the policy may not 538  
limit the number of public records that the public office will 539  
make available to a single person, may not limit the number of 540  
public records that it will make available during a fixed period 541  
of time, and may not establish a fixed period of time before it 542  
will respond to a request for inspection or copying of public 543  
records, unless that period is less than eight hours. 544

(2) The public office shall distribute the public records 545  
policy adopted by the public office under division (E)(1) of this 546

**As Reported by the House Infrastructure, Homeland Security and Veterans Affairs Committee**

section to the employee of the public office who is the records 547  
custodian or records manager or otherwise has custody of the 548  
records of that office. The public office shall require that 549  
employee to acknowledge receipt of the copy of the public records 550  
policy. The public office shall create a poster that describes its 551  
public records policy and shall post the poster in a conspicuous 552  
place in the public office and in all locations where the public 553  
office has branch offices. The public office may post its public 554  
records policy on the internet web site of the public office if 555  
the public office maintains an internet web site. A public office 556  
that has established a manual or handbook of its general policies 557  
and procedures for all employees of the public office shall 558  
include the public records policy of the public office in the 559  
manual or handbook. 560

(F)(1) The bureau of motor vehicles may adopt rules pursuant 561  
to Chapter 119. of the Revised Code to reasonably limit the number 562  
of bulk commercial special extraction requests made by a person 563  
for the same records or for updated records during a calendar 564  
year. The rules may include provisions for charges to be made for 565  
bulk commercial special extraction requests for the actual cost of 566  
the bureau, plus special extraction costs, plus ten per cent. The 567  
bureau may charge for expenses for redacting information, the 568  
release of which is prohibited by law. 569

(2) As used in division (F)(1) of this section: 570

(a) "Actual cost" means the cost of depleted supplies, 571  
records storage media costs, actual mailing and alternative 572  
delivery costs, or other transmitting costs, and any direct 573  
equipment operating and maintenance costs, including actual costs 574  
paid to private contractors for copying services. 575

(b) "Bulk commercial special extraction request" means a 576  
request for copies of a record for information in a format other 577  
than the format already available, or information that cannot be 578

extracted without examination of all items in a records series, 579  
class of records, or data base by a person who intends to use or 580  
forward the copies for surveys, marketing, solicitation, or resale 581  
for commercial purposes. "Bulk commercial special extraction 582  
request" does not include a request by a person who gives 583  
assurance to the bureau that the person making the request does 584  
not intend to use or forward the requested copies for surveys, 585  
marketing, solicitation, or resale for commercial purposes. 586

(c) "Commercial" means profit-seeking production, buying, or 587  
selling of any good, service, or other product. 588

(d) "Special extraction costs" means the cost of the time 589  
spent by the lowest paid employee competent to perform the task, 590  
the actual amount paid to outside private contractors employed by 591  
the bureau, or the actual cost incurred to create computer 592  
programs to make the special extraction. "Special extraction 593  
costs" include any charges paid to a public agency for computer or 594  
records services. 595

(3) For purposes of divisions (F)(1) and (2) of this section, 596  
"surveys, marketing, solicitation, or resale for commercial 597  
purposes" shall be narrowly construed and does not include 598  
reporting or gathering news, reporting or gathering information to 599  
assist citizen oversight or understanding of the operation or 600  
activities of government, or nonprofit educational research. 601

**Sec. 317.24.** (A) As used in this section: 602

(1) "Authorized party" means any of the following: 603

(a) The person who is the subject of the record of discharge; 604

(b) A county veterans service officer, or an 605  
attorney-in-fact, agent, or other representative of the person who 606  
is the subject of the record of discharge, if authorized to 607  
inspect or copy the record of discharge by that person in a power 608

of attorney or other document; 609

(c) A person authorized, for good cause shown, by a court of record to inspect or copy the record of discharge; 610  
611

(d) If the person who is the subject of the record of discharge is deceased, the executor or administrator, or an heir, legatee, or devisee, of the person's estate or a funeral director who is to perform the funeral for the deceased person. 612  
613  
614  
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(2) "Separation code" or "separation program number" means the coded number or numbers used to specify the reasons for a person's separation from active duty, as contained in one of the following: 616  
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618  
619

(a) Regarding a separation code, as contained in line 23 or 26 of a veteran's discharge paper, United States department of defense form DD-214; 620  
621  
622

(b) Regarding a separation program number, as contained in line 9(c) or line 11(c) of a veteran's discharge paper, under prior versions of United States department of defense form DD-214. 623  
624  
625

(3) "Service-related document" means any United States department of defense form DD-215 or DD-220, or any National Guard Bureau form NGB-22 or NGB-22A. 626  
627  
628

(B)(1) Upon request of any discharged member of the armed forces of the United States and presentation of the member's discharge, the county recorder shall record the discharge in a book to be furnished by the board of county commissioners for that purpose. There shall be no fee for the recording. The record of discharge, or a certified copy of the record, shall be received in evidence in all cases where the original discharge would be received. 629  
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(2)(a) A discharge recorded under division (B)(1) or (D) of this section is not a public record under section 149.43 of the 637  
638

Revised Code for a period of seventy-five years after the date of 639  
the recording. During that period, the county recorder's office 640  
shall make the record of discharge available only to an authorized 641  
party or to a person other than an authorized party as provided by 642  
division (B)(2)(b) of this section. Except as provided in section 643  
317.27 of the Revised Code, the authorized party shall pay the 644  
reasonable costs of copying the record of discharge. 645

(b) A person other than an authorized party may request to 646  
view or receive a copy of a discharge record recorded under 647  
division (B)(1) or (D) of this section. Upon such a person's 648  
request, the county recorder's office shall provide a copy of the 649  
discharged record to the person that shall be redacted to contain 650  
only the name, rank, date of birth, date of discharge, and type of 651  
discharge of the person who is the subject of the discharge 652  
record. Except as provided in section 317.27 of the Revised Code, 653  
a person other than an authorized party shall pay the reasonable 654  
costs of copying the record of discharge. 655

~~(B)~~(C) Upon application by a person whose discharge has been 656  
recorded pursuant to this section, the county recorder shall, 657  
without fee, expunge the person's record of discharge, expunge the 658  
person's separation program number or separation code from the 659  
person's record of discharge and from any of the person's other 660  
service-related documents that have been recorded, or expunge the 661  
person's social security number from the person's record of 662  
discharge and from any of the person's other service-related 663  
documents that have been recorded. The application shall be in the 664  
following form: 665

"APPLICATION FOR EXPUNGEMENT 666  
OF DISCHARGE RECORD OR OTHER INFORMATION 667

I, ..... (Name of Applicant), the undersigned, 668  
hereby request the County Recorder of the County of ..... 669  
(Name of County), state of Ohio, to expunge my ..... (Insert 670

Record of Discharge, Separation Program Number or Separation Code 671  
from my Record of Discharge and other service-related documents, 672  
or Social Security Number from my Record of Discharge and other 673  
service-related documents). 674

Dated this ..... day of ....., ..... 675

.....  
(Signature of Applicant)

Sworn to and subscribed before me by ..... (Name of 676  
Applicant) on ....., ..... 677

.....  
Notary Public 678

My commission expires ....., ..... " 679

~~(C) "As used in this section:" 680~~

~~(1) "Separation code" or "separation program number" means 681  
the coded number or numbers used to specify the reasons for a 682  
person's separation from active duty, as contained in one of the 683  
following: 684~~

~~(a) Regarding a separation code, as contained in line 23 or 685  
26 of a veteran's discharge paper, United States department of 686  
defense form DD 214; 687~~

~~(b) Regarding a separation program number, as contained in 688  
line 9 (c) or line 11 (c) of a veteran's discharge paper, under 689  
prior versions of United States department of defense form DD 214. 690~~

~~(2) "Service related document" means any United States 691  
department of defense form DD 215 or DD 220, or any National Guard 692  
Bureau form NGB 22 or NGB 22A. 693~~

(D) Upon the request of any person who served during World 694  
War I or World War II as a member of any armed force of the 695  
government of Poland or Czechoslovakia and participated while so 696  
serving in armed conflict with an enemy of the United States and 697

who has been a citizen of the United States for at least ten 698  
years, and the presentation of the person's discharge, the county 699  
recorder shall record the person's discharge in a book to be 700  
furnished by the board of county commissioners for that purpose. 701  
No fee shall be charged for the recording. The record, or a 702  
certified copy of it, shall be received in evidence in all cases 703  
where the original would be received. 704

**Sec. 317.27.** On demand and tender of the proper fees, the 705  
county recorder shall furnish to any person an accurate, certified 706  
copy of any record in ~~his~~ the recorder's office other than a 707  
record of discharge under section 317.24 of the Revised Code, and 708  
affix ~~his~~ the recorder's official seal thereto. The recorder shall 709  
issue, without charge, upon the request of ~~any discharged member~~ 710  
~~of the armed forces~~ an authorized party, as defined in section 711  
317.24 of the Revised Code or a person other than an authorized 712  
party as defined in that section, one certified copy or one 713  
certified photostatic copy of the recorded record of discharge 714  
under that section, with the official seal of the county recorder 715  
affixed thereto. 716

Any certified copy of any record, document, or map and any 717  
transcription of records, required or permitted to be made by the 718  
recorder, may be made by any method provided for the making of 719  
records. 720

**Sec. 2313.16.** (A) Except as provided by section 2313.13 of 721  
the Revised Code, the court of common pleas shall not excuse a 722  
person who is liable to serve as a juror and who is drawn and 723  
notified, unless it is shown to the satisfaction of the judge by 724  
either the juror or another person acquainted with the facts that 725  
one or more of the following applies: 726

(1) The interests of the public will be materially injured by 727



the juror's attendance.	728
(2) The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill.	729 730
(3) The juror is a cloistered member of a religious organization.	731 732
(4) The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service. The prospective juror, or the prospective juror's personal representative, must provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the prospective juror unfit for jury service for a period of up to twenty-four months.	733 734 735 736 737 738 739
(5) Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror. A judge of the court for which the prospective juror was called to jury service shall make undue or extreme physical or financial hardship determinations. The judge may delegate the authority to make these determinations to an appropriate court employee appointed by the court.	740 741 742 743 744 745 746 747
(6) The juror is over seventy-five years of age, and the juror requests to be excused.	748 749
(7) The prospective juror is an active member of a recognized amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial matter.	750 751 752 753
<u>(8) The prospective juror is on active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.</u>	754 755 756 757

(B)(1) A prospective juror who requests to be excused from jury service under this section shall take all actions necessary to obtain a ruling on that request by not later than the date on which the prospective juror is scheduled to appear for jury duty.

(2) A prospective juror who requests to be excused as provided in division (A)(6) of this section shall inform the appropriate court employee appointed by the court of the prospective juror's request to be so excused by not later than the date on which the prospective juror is scheduled to appear for jury duty. The prospective juror shall inform that court employee of the request to be so excused by appearing in person before the employee or contacting the employee by telephone, in writing, or by electronic mail.

(C)(1) For purposes of this section, undue or extreme physical or financial hardship is limited to circumstances in which any of the following apply:

(a) The prospective juror would be required to abandon a person under the prospective juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury.

(b) The prospective juror would incur costs that would have a substantial adverse impact on the payment of the prospective juror's necessary daily living expenses or on those for whom the prospective juror provides the principal means of support.

(c) The prospective juror would suffer physical hardship that would result in illness or disease.

(2) Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from the prospective juror's place of employment.

(D) A prospective juror who asks a judge to grant an excuse 789  
based on undue or extreme physical or financial hardship shall 790  
provide the judge with documentation that the judge finds to 791  
clearly support the request to be excused. If a prospective juror 792  
fails to provide satisfactory documentation, the court may deny 793  
the request to be excused. 794

(E) When a prospective juror who is liable to serve is 795  
excused in a case specified in this section, the prospective juror 796  
can be excused only by the judge presiding in the case or a 797  
representative of the judge. An excuse, including whether or not 798  
it is a permanent excuse, approved pursuant to this section shall 799  
not extend beyond that term. Every approved excuse shall be 800  
recorded and filed with the commissioners of jurors. After 801  
twenty-four months, a person excused from jury service shall 802  
become eligible once again for qualification as a juror unless the 803  
person was excused from service permanently. A person is excused 804  
from jury service permanently only when the deciding judge 805  
determines that the underlying grounds for being excused are of a 806  
permanent nature. 807

**Sec. 2741.02.** (A) Except as otherwise provided in this 808  
section, a person shall not use any aspect of an individual's 809  
persona for a commercial purpose ~~during~~: 810

(1) During the individual's lifetime ~~or for~~; 811

(2) For a period of sixty years after the date of the 812  
individual's death; or 813

(3) For a period of ten years after the date of death of a 814  
deceased member of the Ohio national guard or the armed forces of 815  
the United States. 816

(B) A person may use an individual's persona for a commercial 817  
purpose during the individual's lifetime if the person first 818

obtains the written consent to use the individual's persona from a 819  
person specified in section 2741.05 of the Revised Code. If an 820  
individual whose persona is at issue has died, a person may use 821  
the individual's persona for a commercial purpose if either of the 822  
following applies: 823

(1) The person first obtains the written consent to use the 824  
individual's persona from a person specified in section 2741.05 of 825  
the Revised Code who owns the individual's right of publicity. 826

(2) The name of the individual whose persona is used was the 827  
name of a business entity or a trade name at the time of the 828  
individual's death. 829

(C) Subject to the terms of any agreement between a person 830  
specified in section 2741.05 of the Revised Code and a person to 831  
whom that person grants consent to use an individual's right of 832  
publicity, a consent obtained before the death of an individual 833  
whose persona is at issue remains valid after the individual's 834  
death. 835

(D) For purposes of this section: 836

(1) A use of an aspect of an individual's persona in 837  
connection with any news, public affairs, sports broadcast, or 838  
account does not constitute a use for which consent is required 839  
under division (A) of this section. 840

(2) A use of an aspect of an individual's persona in 841  
connection with any political campaign and in compliance with 842  
Title XXXV of the Revised Code does not constitute a use for which 843  
consent is required under division (A) of this section. 844

(E) The owners or employees of any medium used for 845  
advertising, including but not limited to, a newspaper, magazine, 846  
radio or television network or station, cable television system, 847  
billboard, transit ad, and global communications network, by whom 848  
any advertisement or solicitation in violation of this section is 849

published or disseminated are not liable under this section or 850  
section 2741.07 of the Revised Code unless it is established that 851  
those owners or employees had knowledge of the unauthorized use of 852  
the persona as prohibited by this section. 853

Sec. 2741.99. Whoever violates division (A)(3) of section 854  
2741.02 of the Revised Code is guilty of a misdemeanor of the 855  
first degree. A criminal penalty imposed under this section is 856  
cumulative to a civil remedy under Chapter 2741. of the Revised 857  
Code. 858

Sec. 2921.22. (A) ~~No~~ (1) Except as provided in division 859  
(A)(2) of this section, no person, knowing that a felony has been 860  
or is being committed, shall knowingly fail to report such 861  
information to law enforcement authorities. 862

(2) No person, knowing that a violation of division (B) of 863  
section 2913.04 of the Revised Code has been, or is being 864  
committed or that the person has received information derived from 865  
such a violation, shall knowingly fail to report the violation to 866  
law enforcement authorities. 867

(B) Except for conditions that are within the scope of 868  
division (E) of this section, no physician, limited practitioner, 869  
nurse, or other person giving aid to a sick or injured person 870  
shall negligently fail to report to law enforcement authorities 871  
any gunshot or stab wound treated or observed by the physician, 872  
limited practitioner, nurse, or person, or any serious physical 873  
harm to persons that the physician, limited practitioner, nurse, 874  
or person knows or has reasonable cause to believe resulted from 875  
an offense of violence. 876

(C) No person who discovers the body or acquires the first 877  
knowledge of the death of a person shall fail to report the death 878  
immediately to a physician whom the person knows to be treating 879

the deceased for a condition from which death at such time would 880  
not be unexpected, or to a law enforcement officer, an ambulance 881  
service, an emergency squad, or the coroner in a political 882  
subdivision in which the body is discovered, the death is believed 883  
to have occurred, or knowledge concerning the death is obtained. 884

(D) No person shall fail to provide upon request of the 885  
person to whom a report required by division (C) of this section 886  
was made, or to any law enforcement officer who has reasonable 887  
cause to assert the authority to investigate the circumstances 888  
surrounding the death, any facts within the person's knowledge 889  
that may have a bearing on the investigation of the death. 890

(E)(1) As used in this division, "burn injury" means any of 891  
the following: 892

(a) Second or third degree burns; 893

(b) Any burns to the upper respiratory tract or laryngeal 894  
edema due to the inhalation of superheated air; 895

(c) Any burn injury or wound that may result in death; 896

(d) Any physical harm to persons caused by or as the result 897  
of the use of fireworks, novelties and trick noisemakers, and wire 898  
sparklers, as each is defined by section 3743.01 of the Revised 899  
Code. 900

(2) No physician, nurse, or limited practitioner who, outside 901  
a hospital, sanitarium, or other medical facility, attends or 902  
treats a person who has sustained a burn injury that is inflicted 903  
by an explosion or other incendiary device or that shows evidence 904  
of having been inflicted in a violent, malicious, or criminal 905  
manner shall fail to report the burn injury immediately to the 906  
local arson, or fire and explosion investigation, bureau, if there 907  
is a bureau of this type in the jurisdiction in which the person 908  
is attended or treated, or otherwise to local law enforcement 909  
authorities. 910

(3) No manager, superintendent, or other person in charge of 911  
a hospital, sanitarium, or other medical facility in which a 912  
person is attended or treated for any burn injury that is 913  
inflicted by an explosion or other incendiary device or that shows 914  
evidence of having been inflicted in a violent, malicious, or 915  
criminal manner shall fail to report the burn injury immediately 916  
to the local arson, or fire and explosion investigation, bureau, 917  
if there is a bureau of this type in the jurisdiction in which the 918  
person is attended or treated, or otherwise to local law 919  
enforcement authorities. 920

(4) No person who is required to report any burn injury under 921  
division (E)(2) or (3) of this section shall fail to file, within 922  
three working days after attending or treating the victim, a 923  
written report of the burn injury with the office of the state 924  
fire marshal. The report shall comply with the uniform standard 925  
developed by the state fire marshal pursuant to division (A)(15) 926  
of section 3737.22 of the Revised Code. 927

(5) Anyone participating in the making of reports under 928  
division (E) of this section or anyone participating in a judicial 929  
proceeding resulting from the reports is immune from any civil or 930  
criminal liability that otherwise might be incurred or imposed as 931  
a result of such actions. Notwithstanding section 4731.22 of the 932  
Revised Code, the physician-patient relationship is not a ground 933  
for excluding evidence regarding a person's burn injury or the 934  
cause of the burn injury in any judicial proceeding resulting from 935  
a report submitted under division (E) of this section. 936

(F)(1) Any doctor of medicine or osteopathic medicine, 937  
hospital intern or resident, registered or licensed practical 938  
nurse, psychologist, social worker, independent social worker, 939  
social work assistant, professional clinical counselor, or 940  
professional counselor who knows or has reasonable cause to 941  
believe that a patient or client has been the victim of domestic 942

violence, as defined in section 3113.31 of the Revised Code, shall 943  
note that knowledge or belief and the basis for it in the 944  
patient's or client's records. 945

(2) Notwithstanding section 4731.22 of the Revised Code, the 946  
doctor-patient privilege shall not be a ground for excluding any 947  
information regarding the report containing the knowledge or 948  
belief noted under division (F)(1) of this section, and the 949  
information may be admitted as evidence in accordance with the 950  
Rules of Evidence. 951

(G) Divisions (A) and (D) of this section do not require 952  
disclosure of information, when any of the following applies: 953

(1) The information is privileged by reason of the 954  
relationship between attorney and client; doctor and patient; 955  
licensed psychologist or licensed school psychologist and client; 956  
member of the clergy, rabbi, minister, or priest and any person 957  
communicating information confidentially to the member of the 958  
clergy, rabbi, minister, or priest for a religious counseling 959  
purpose of a professional character; husband and wife; or a 960  
communications assistant and those who are a party to a 961  
telecommunications relay service call. 962

(2) The information would tend to incriminate a member of the 963  
actor's immediate family. 964

(3) Disclosure of the information would amount to revealing a 965  
news source, privileged under section 2739.04 or 2739.12 of the 966  
Revised Code. 967

(4) Disclosure of the information would amount to disclosure 968  
by a member of the ordained clergy of an organized religious body 969  
of a confidential communication made to that member of the clergy 970  
in that member's capacity as a member of the clergy by a person 971  
seeking the aid or counsel of that member of the clergy. 972

(5) Disclosure would amount to revealing information acquired 973



by the actor in the course of the actor's duties in connection 974  
with a bona fide program of treatment or services for drug 975  
dependent persons or persons in danger of drug dependence, which 976  
program is maintained or conducted by a hospital, clinic, person, 977  
agency, or organization certified pursuant to section 3793.06 of 978  
the Revised Code. 979

(6) Disclosure would amount to revealing information acquired 980  
by the actor in the course of the actor's duties in connection 981  
with a bona fide program for providing counseling services to 982  
victims of crimes that are violations of section 2907.02 or 983  
2907.05 of the Revised Code or to victims of felonious sexual 984  
penetration in violation of former section 2907.12 of the Revised 985  
Code. As used in this division, "counseling services" include 986  
services provided in an informal setting by a person who, by 987  
education or experience, is competent to provide those services. 988

(H) No disclosure of information pursuant to this section 989  
gives rise to any liability or recrimination for a breach of 990  
privilege or confidence. 991

(I) Whoever violates division (A) or (B) of this section is 992  
guilty of failure to report a crime. Violation of division (A)(1) 993  
of this section is a misdemeanor of the fourth degree. Violation 994  
of division (A)(2) or (B) of this section is a misdemeanor of the 995  
second degree. 996

(J) Whoever violates division (C) or (D) of this section is 997  
guilty of failure to report knowledge of a death, a misdemeanor of 998  
the fourth degree. 999

(K)(1) Whoever negligently violates division (E) of this 1000  
section is guilty of a minor misdemeanor. 1001

(2) Whoever knowingly violates division (E) of this section 1002  
is guilty of a misdemeanor of the second degree. 1003

Sec. 3333.42. No state institution of higher education, as 1004  
defined in section 3345.011 of the Revised Code, shall charge a 1005  
nonresident student who is a member of the armed forces of the 1006  
United States and who is stationed in this state pursuant to 1007  
military orders, or who is the spouse or dependent child of such a 1008  
student, rates for tuition and fees that are higher than the rates 1009  
charged to an Ohio resident. 1010

Sec. 3345.01. Except as provided in sections 3333.17 and, 1011  
3333.32, and 3333.42 of the Revised Code, the board of trustees of 1012  
a state university or college, as defined in section 3345.12 of 1013  
the Revised Code, may charge reasonable tuition for the attendance 1014  
of pupils who are nonresidents of Ohio. 1015

Sec. 5903.02. (A) As used in this section, "uniformed 1016  
services" and "service in the uniformed services" have the same 1017  
meanings as in the "Uniformed Services Employment and Reemployment 1018  
Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 1019

(B) Any person whose absence from a position of employment is 1021  
necessitated by reason of service in the uniformed services or in 1022  
the Ohio organized militia has the same reinstatement and 1023  
reemployment rights in this state that a person has under the 1024  
"Uniformed Services Employment and Reemployment Rights Act of 1025  
1994." A person who is denied a reinstatement or reemployment 1026  
right pursuant to this section has a cause of action for the same 1027  
remedies as a person has under the "Uniformed Services Employment 1028  
and Reemployment Rights Act of 1994." The court of common pleas, 1029  
notwithstanding any sum limitation established by decision of a 1030  
board of county commissioners pursuant to section 2305.01 of the 1031  
Revised Code, shall have exclusive original jurisdiction for such 1032  
actions, unless the defendant is the state, in which case the 1033

court of claims shall have exclusive original jurisdiction 1034  
pursuant to division (C) of this section. 1035

(C) A person who seeks reinstatement or reemployment rights 1036  
with the state, pursuant to this section, may bring an action in 1037  
the court of claims pursuant to this section or section 4323 of 1038  
the "Uniformed Services Employment and Reemployment Rights Act of 1039  
1994." 1040

(D) In any action or proceeding to enforce a provision of 1041  
this section, the court shall require the defendant to pay the 1042  
court costs if the plaintiff is the prevailing party in the action 1043  
or proceeding. If the plaintiff is not the prevailing party, the 1044  
court may use its discretion in allocating court costs among the 1045  
parties to the action. 1046

(E) In any action or proceeding to enforce a provision of 1047  
this section the court may award to a plaintiff who prevails in 1048  
such action or proceeding reasonable attorney's fees, expert 1049  
witness fees, and other litigation expenses. If the plaintiff does 1050  
not receive a favorable judgment from the court in that action, 1051  
the court shall not require the plaintiff to reimburse the state 1052  
or the defendant for attorney's fees. 1053

(F) The director of administrative services shall adopt rules 1054  
in accordance with Chapter 119. of the Revised Code for the 1055  
implementation of this chapter with respect to persons in public 1056  
service. 1057

(G) A person is not entitled to a remedy in a state action 1058  
under division (B) or (C) of this section if the person has 1059  
received a remedy based on the same facts under the "Uniformed 1060  
Services Employment and Reemployment Rights Act of 1994." If a 1061  
person has received a remedy in a state action under division (B) 1062  
or (C) of this section and then receives a remedy based on the 1063  
same facts under the "Uniformed Services Employment and 1064

Reemployment Rights Act of 1994," the person shall reimburse the 1065  
judgment debtor the value of the federal remedy or the state 1066  
remedy whichever is less. 1067

Sec. 5913.11. (A) There is hereby created the Ohio military 1068  
medal of distinction. The adjutant general shall design the medal 1069  
and coordinate an eligibility establishment program. An individual 1070  
is eligible for the medal if the individual was killed in the line 1071  
of duty while doing one of the following: 1072

(1) Engaging in an action against an enemy of the United 1073  
States; 1074

(2) Engaging in military operations involving conflict with 1075  
an opposing foreign force; 1076

(3) Serving with friendly foreign forces engaged in an armed 1077  
conflict against an opposing armed force in which the United 1078  
States is not a belligerent party; or 1079

(4) Serving in a combat zone designated by presidential 1080  
order. 1081

(B) To receive the Ohio military medal of distinction, an 1082  
individual shall be at least one of the following: 1083

(1) At the time the member was killed in the line of duty: 1084

(a) An Ohio national guard member who is a resident of this 1085  
state; 1086

(b) A United States military reserves member who is a 1087  
resident of this state; 1088

(c) A United States armed forces member who is either a 1089  
resident of this state or stationed in this state by a United 1090  
States department of defense order. 1091

(2) An Ohio national guard, United States military reserves, 1092  
or United States armed forces member who attended a public or 1093

private educational institution in this state at any time and was 1094  
killed in the line of duty. 1095

(C) At least once per year, both houses of the general 1096  
assembly shall obtain a list of eligible medal recipients from the 1097  
adjutant general and meet in joint convention to recognize the 1098  
medal recipients for the prior year. 1099

**Section 2.** That existing sections 149.43, 317.24, 317.27, 1100  
2313.16, 2741.02, 2921.22, 3345.01, and 5903.02 of the Revised 1101  
Code are hereby repealed. 1102

**Section 3.** The Adjutant General shall examine and make 1103  
recommendations on the feasibility of establishing an Ohio 1104  
National Guard Youth Challenge Program. The Adjutant General shall 1105  
issue a report of the Adjutant General's findings and 1106  
recommendations to the President of the Senate, the Speaker of the 1107  
House of Representatives, and the Governor not later than January 1108  
31, 2009. 1109

**Section 4.** Section 149.43 of the Revised Code is presented in 1110  
this act as a composite of the section as amended by both Sub. 1111  
H.B. 9 and Sub. H.B. 141 of the 126th General Assembly. The 1112  
General Assembly, applying the principle stated in division (B) of 1113  
section 1.52 of the Revised Code that amendments are to be 1114  
harmonized if reasonably capable of simultaneous operation, finds 1115  
that the composite is the resulting version of the section in 1116  
effect prior to the effective date of the section as presented in 1117  
this act. 1118