

As Introduced

**128th General Assembly
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H. B. No. 429

Representatives Harris, Lehner

**Cosponsors: Representatives Hagan, Domenick, Lundy, Stewart, Dyer,
Brown, Foley, Luckie, Yuko, Garland, Pillich**

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A B I L L

To amend sections 121.22, 149.43, 2919.25, 2919.27, 1
2923.13, 2935.03, 2935.032, and 4731.22 and to 2
enact sections 109.44, 307.6210, 307.6211, 3
307.6212, 307.6213, 307.6214, 307.6215, 307.6216, 4
307.6217, 307.6218, and 3701.048 of the Revised 5
Code to increase the penalties for domestic 6
violence, to authorize a court to issue a 7
protection order against a person convicted of 8
domestic violence and to prohibit violation of 9
such a protection order, to require a peace 10
officer who has reasonable grounds to believe that 11
a violation of a protection order has been 12
committed to arrest any person who the peace 13
officer has reasonable cause to believe is guilty 14
of the violation, to require an offender who 15
commits domestic violence to meet periodically 16
with the sentencing judge and attend a batterer 17
intervention program, to authorize a board of 18
county commissioners to create a domestic violence 19
fatality review board, and to require the Attorney 20
General to track the issuance and violation of 21
protection orders. 22

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

Section 1. That sections 121.22, 149.43, 2919.25, 2919.27, 23
2923.13, 2935.03, 2935.032, and 4731.22 be amended and sections 24
109.44, 307.6210, 307.6211, 307.6212, 307.6213, 307.6214, 25
307.6215, 307.6216, 307.6217, 307.6218, and 3701.048 of the 26
Revised Code be enacted to read as follows: 27

Sec. 109.44. The attorney general shall collect data on the 28
number of civil and criminal protection orders issued in each 29
county for the protection of victims of domestic violence and the 30
number of violations in each county of civil and criminal 31
protection orders issued for the protection of victims of domestic 32
violence and annually shall report the data to the supreme court, 33
to the prosecuting attorney of each county, and to each domestic 34
violence fatality review board established or recognized under 35
section 307.6211 of the Revised Code. The report shall include 36
information on which law enforcement agencies are complying with 37
the reporting requirements contained in section 3113.32 of the 38
Revised Code. 39

Sec. 121.22. (A) This section shall be liberally construed to 40
require public officials to take official action and to conduct 41
all deliberations upon official business only in open meetings 42
unless the subject matter is specifically excepted by law. 43

(B) As used in this section: 44

(1) "Public body" means any of the following: 45

(a) Any board, commission, committee, council, or similar 46
decision-making body of a state agency, institution, or authority, 47
and any legislative authority or board, commission, committee, 48
council, agency, authority, or similar decision-making body of any 49

county, township, municipal corporation, school district, or other 50
political subdivision or local public institution; 51

(b) Any committee or subcommittee of a body described in 52
division (B)(1)(a) of this section; 53

(c) A court of jurisdiction of a sanitary district organized 54
wholly for the purpose of providing a water supply for domestic, 55
municipal, and public use when meeting for the purpose of the 56
appointment, removal, or reappointment of a member of the board of 57
directors of such a district pursuant to section 6115.10 of the 58
Revised Code, if applicable, or for any other matter related to 59
such a district other than litigation involving the district. As 60
used in division (B)(1)(c) of this section, "court of 61
jurisdiction" has the same meaning as "court" in section 6115.01 62
of the Revised Code. 63

(2) "Meeting" means any prearranged discussion of the public 64
business of the public body by a majority of its members. 65

(3) "Regulated individual" means either of the following: 66

(a) A student in a state or local public educational 67
institution; 68

(b) A person who is, voluntarily or involuntarily, an inmate, 69
patient, or resident of a state or local institution because of 70
criminal behavior, mental illness or retardation, disease, 71
disability, age, or other condition requiring custodial care. 72

(4) "Public office" has the same meaning as in section 73
149.011 of the Revised Code. 74

(C) All meetings of any public body are declared to be public 75
meetings open to the public at all times. A member of a public 76
body shall be present in person at a meeting open to the public to 77
be considered present or to vote at the meeting and for purposes 78
of determining whether a quorum is present at the meeting. 79

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(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;

(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;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code, meetings of a domestic violence fatality review board established or recognized under section 307.6211 of the Revised Code, and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(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;

(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;

(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;

(9) The state chiropractic board when determining whether to

suspend a license without a hearing pursuant to section 4734.37 of 110
the Revised Code. 111

(10) The executive committee of the emergency response 112
commission when determining whether to issue an enforcement order 113
or request that a civil action, civil penalty action, or criminal 114
action be brought to enforce Chapter 3750. of the Revised Code. 115

(E) The controlling board, the development financing advisory 116
council, the industrial technology and enterprise advisory 117
council, the tax credit authority, or the minority development 118
financing advisory board, when meeting to consider granting 119
assistance pursuant to Chapter 122. or 166. of the Revised Code, 120
in order to protect the interest of the applicant or the possible 121
investment of public funds, by unanimous vote of all board, 122
council, or authority members present, may close the meeting 123
during consideration of the following information confidentially 124
received by the authority, council, or board from the applicant: 125

(1) Marketing plans; 126

(2) Specific business strategy; 127

(3) Production techniques and trade secrets; 128

(4) Financial projections; 129

(5) Personal financial statements of the applicant or members 130
of the applicant's immediate family, including, but not limited 131
to, tax records or other similar information not open to public 132
inspection. 133

The vote by the authority, council, or board to accept or 134
reject the application, as well as all proceedings of the 135
authority, council, or board not subject to this division, shall 136
be open to the public and governed by this section. 137

(F) Every public body, by rule, shall establish a reasonable 138
method whereby any person may determine the time and place of all 139

regularly scheduled meetings and the time, place, and purpose of 140
all special meetings. A public body shall not hold a special 141
meeting unless it gives at least twenty-four hours' advance notice 142
to the news media that have requested notification, except in the 143
event of an emergency requiring immediate official action. In the 144
event of an emergency, the member or members calling the meeting 145
shall notify the news media that have requested notification 146
immediately of the time, place, and purpose of the meeting. 147

The rule shall provide that any person, upon request and 148
payment of a reasonable fee, may obtain reasonable advance 149
notification of all meetings at which any specific type of public 150
business is to be discussed. Provisions for advance notification 151
may include, but are not limited to, mailing the agenda of 152
meetings to all subscribers on a mailing list or mailing notices 153
in self-addressed, stamped envelopes provided by the person. 154

(G) Except as provided in division (J) of this section, the 155
members of a public body may hold an executive session only after 156
a majority of a quorum of the public body determines, by a roll 157
call vote, to hold an executive session and only at a regular or 158
special meeting for the sole purpose of the consideration of any 159
of the following matters: 160

(1) To consider the appointment, employment, dismissal, 161
discipline, promotion, demotion, or compensation of a public 162
employee or official, or the investigation of charges or 163
complaints against a public employee, official, licensee, or 164
regulated individual, unless the public employee, official, 165
licensee, or regulated individual requests a public hearing. 166
Except as otherwise provided by law, no public body shall hold an 167
executive session for the discipline of an elected official for 168
conduct related to the performance of the elected official's 169
official duties or for the elected official's removal from office. 170
If a public body holds an executive session pursuant to division 171

(G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

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

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

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

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

(5) Matters required to be kept confidential by federal law	203
or regulations or state statutes;	204
(6) Details relative to the security arrangements and	205
emergency response protocols for a public body or a public office,	206
if disclosure of the matters discussed could reasonably be	207
expected to jeopardize the security of the public body or public	208
office;	209
(7) In the case of a county hospital operated pursuant to	210
Chapter 339. of the Revised Code, a joint township hospital	211
operated pursuant to Chapter 513. of the Revised Code, or a	212
municipal hospital operated pursuant to Chapter 749. of the	213
Revised Code, to consider trade secrets, as defined in section	214
1333.61 of the Revised Code.	215
If a public body holds an executive session to consider any	216
of the matters listed in divisions (G)(2) to (7) of this section,	217
the motion and vote to hold that executive session shall state	218
which one or more of the approved matters listed in those	219
divisions are to be considered at the executive session.	220
A public body specified in division (B)(1)(c) of this section	221
shall not hold an executive session when meeting for the purposes	222
specified in that division.	223
(H) A resolution, rule, or formal action of any kind is	224
invalid unless adopted in an open meeting of the public body. A	225
resolution, rule, or formal action adopted in an open meeting that	226
results from deliberations in a meeting not open to the public is	227
invalid unless the deliberations were for a purpose specifically	228
authorized in division (G) or (J) of this section and conducted at	229
an executive session held in compliance with this section. A	230
resolution, rule, or formal action adopted in an open meeting is	231
invalid if the public body that adopted the resolution, rule, or	232
formal action violated division (F) of this section.	233

(I)(1) Any person may bring an action to enforce this 234
section. An action under division (I)(1) of this section shall be 235
brought within two years after the date of the alleged violation 236
or threatened violation. Upon proof of a violation or threatened 237
violation of this section in an action brought by any person, the 238
court of common pleas shall issue an injunction to compel the 239
members of the public body to comply with its provisions. 240

(2)(a) If the court of common pleas issues an injunction 241
pursuant to division (I)(1) of this section, the court shall order 242
the public body that it enjoins to pay a civil forfeiture of five 243
hundred dollars to the party that sought the injunction and shall 244
award to that party all court costs and, subject to reduction as 245
described in division (I)(2) of this section, reasonable 246
attorney's fees. The court, in its discretion, may reduce an award 247
of attorney's fees to the party that sought the injunction or not 248
award attorney's fees to that party if the court determines both 249
of the following: 250

(i) That, based on the ordinary application of statutory law 251
and case law as it existed at the time of violation or threatened 252
violation that was the basis of the injunction, a well-informed 253
public body reasonably would believe that the public body was not 254
violating or threatening to violate this section; 255

(ii) That a well-informed public body reasonably would 256
believe that the conduct or threatened conduct that was the basis 257
of the injunction would serve the public policy that underlies the 258
authority that is asserted as permitting that conduct or 259
threatened conduct. 260

(b) If the court of common pleas does not issue an injunction 261
pursuant to division (I)(1) of this section and the court 262
determines at that time that the bringing of the action was 263
frivolous conduct, as defined in division (A) of section 2323.51 264
of the Revised Code, the court shall award to the public body all 265

court costs and reasonable attorney's fees, as determined by the court. 266
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(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section. 268
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(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general. 271
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(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing: 276
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(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code; 280
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(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code; 282
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(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code. 284
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(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance. 287
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(3) A veterans service commission shall vote on the grant or 295

denial of financial assistance under sections 5901.01 to 5901.15 296
of the Revised Code only in an open meeting of the commission. The 297
minutes of the meeting shall indicate the name, address, and 298
occupation of the applicant, whether the assistance was granted or 299
denied, the amount of the assistance if assistance is granted, and 300
the votes for and against the granting of assistance. 301

Sec. 149.43. (A) As used in this section: 302

(1) "Public record" means records kept by any public office, 303
including, but not limited to, state, county, city, village, 304
township, and school district units, and records pertaining to the 305
delivery of educational services by an alternative school in this 306
state kept by the nonprofit or for-profit entity operating the 307
alternative school pursuant to section 3313.533 of the Revised 308
Code. "Public record" does not mean any of the following: 309

(a) Medical records; 310

(b) Records pertaining to probation and parole proceedings or 311
to proceedings related to the imposition of community control 312
sanctions and post-release control sanctions; 313

(c) Records pertaining to actions under section 2151.85 and 314
division (C) of section 2919.121 of the Revised Code and to 315
appeals of actions arising under those sections; 316

(d) Records pertaining to adoption proceedings, including the 317
contents of an adoption file maintained by the department of 318
health under section 3705.12 of the Revised Code; 319

(e) Information in a record contained in the putative father 320
registry established by section 3107.062 of the Revised Code, 321
regardless of whether the information is held by the department of 322
job and family services or, pursuant to section 3111.69 of the 323
Revised Code, the office of child support in the department or a 324
child support enforcement agency; 325

(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;	326 327 328
(g) Trial preparation records;	329
(h) Confidential law enforcement investigatory records;	330
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	331 332
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	333 334
(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;	335 336 337 338
(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;	339 340 341 342
(m) Intellectual property records;	343
(n) Donor profile records;	344
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	345 346
(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	347 348 349 350 351
(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	352 353 354 355

Revised Code;	356
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	357 358
(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, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	359 360 361 362 363 364 365 366
(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;	367 368 369 370
(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;	371 372 373 374 375
(v) Records the release of which is prohibited by state or federal law;	376 377
(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;	378 379 380
(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;	381 382
(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting	383 384 385

for financial assistance from the agency, and information that 386
identifies any individual who benefits directly or indirectly from 387
financial assistance from the agency; 388

(z) Records listed in section 5101.29 of the Revised Code; i 389

(aa) Discharges recorded with a county recorder under section 390
317.24 of the Revised Code, as specified in division (B)(2) of 391
that section; i 392

(bb) Records provided to, statements made by review board 393
members during meetings of, and all work products of a domestic 394
violence fatality review board acting under sections 307.6210 to 395
307.6218 of the Revised Code and domestic violence fatality review 396
board data submitted by a domestic violence fatality review board 397
to the department of health or a national child death review 398
database, other than the report prepared pursuant to section 399
307.6217 of the Revised Code. 400

(2) "Confidential law enforcement investigatory record" means 401
any record that pertains to a law enforcement matter of a 402
criminal, quasi-criminal, civil, or administrative nature, but 403
only to the extent that the release of the record would create a 404
high probability of disclosure of any of the following: 405

(a) The identity of a suspect who has not been charged with 406
the offense to which the record pertains, or of an information 407
source or witness to whom confidentiality has been reasonably 408
promised; 409

(b) Information provided by an information source or witness 410
to whom confidentiality has been reasonably promised, which 411
information would reasonably tend to disclose the source's or 412
witness's identity; 413

(c) Specific confidential investigatory techniques or 414
procedures or specific investigatory work product; 415

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

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

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

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

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

(7) "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of

the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

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

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

(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, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of

criminal identification and investigation's employer; 479

(e) The identity and amount of any charitable or employment 480
benefit deduction made by the peace officer's, parole officer's, 481
prosecuting attorney's, assistant prosecuting attorney's, 482
correctional employee's, youth services employee's, firefighter's, 483
EMT's, or investigator of the bureau of criminal identification 484
and investigation's employer from the peace officer's, parole 485
officer's, prosecuting attorney's, assistant prosecuting 486
attorney's, correctional employee's, youth services employee's, 487
firefighter's, EMT's, or investigator of the bureau of criminal 488
identification and investigation's compensation unless the amount 489
of the deduction is required by state or federal law; 490

(f) The name, the residential address, the name of the 491
employer, the address of the employer, the social security number, 492
the residential telephone number, any bank account, debit card, 493
charge card, or credit card number, or the emergency telephone 494
number of the spouse, a former spouse, or any child of a peace 495
officer, parole officer, prosecuting attorney, assistant 496
prosecuting attorney, correctional employee, youth services 497
employee, firefighter, EMT, or investigator of the bureau of 498
criminal identification and investigation; 499

(g) A photograph of a peace officer who holds a position or 500
has an assignment that may include undercover or plain clothes 501
positions or assignments as determined by the peace officer's 502
appointing authority. 503

As used in divisions (A)(7) and (B)(9) of this section, 504
"peace officer" has the same meaning as in section 109.71 of the 505
Revised Code and also includes the superintendent and troopers of 506
the state highway patrol; it does not include the sheriff of a 507
county or a supervisory employee who, in the absence of the 508
sheriff, is authorized to stand in for, exercise the authority of, 509
and perform the duties of the sheriff. 510

As used in divisions (A)(7) and (B)(5) of this section, 511
"correctional employee" means any employee of the department of 512
rehabilitation and correction who in the course of performing the 513
employee's job duties has or has had contact with inmates and 514
persons under supervision. 515

As used in divisions (A)(7) and (B)(5) of this section, 516
"youth services employee" means any employee of the department of 517
youth services who in the course of performing the employee's job 518
duties has or has had contact with children committed to the 519
custody of the department of youth services. 520

As used in divisions (A)(7) and (B)(9) of this section, 521
"firefighter" means any regular, paid or volunteer, member of a 522
lawfully constituted fire department of a municipal corporation, 523
township, fire district, or village. 524

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 525
means EMTs-basic, EMTs-I, and paramedics that provide emergency 526
medical services for a public emergency medical service 527
organization. "Emergency medical service organization," 528
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 529
section 4765.01 of the Revised Code. 530

As used in divisions (A)(7) and (B)(9) of this section, 531
"investigator of the bureau of criminal identification and 532
investigation" has the meaning defined in section 2903.11 of the 533
Revised Code. 534

(8) "Information pertaining to the recreational activities of 535
a person under the age of eighteen" means information that is kept 536
in the ordinary course of business by a public office, that 537
pertains to the recreational activities of a person under the age 538
of eighteen years, and that discloses any of the following: 539

(a) The address or telephone number of a person under the age 540
of eighteen or the address or telephone number of that person's 541

parent, guardian, custodian, or emergency contact person; 542

(b) The social security number, birth date, or photographic 543
image of a person under the age of eighteen; 544

(c) Any medical record, history, or information pertaining to 545
a person under the age of eighteen; 546

(d) Any additional information sought or required about a 547
person under the age of eighteen for the purpose of allowing that 548
person to participate in any recreational activity conducted or 549
sponsored by a public office or to use or obtain admission 550
privileges to any recreational facility owned or operated by a 551
public office. 552

(9) "Community control sanction" has the same meaning as in 553
section 2929.01 of the Revised Code. 554

(10) "Post-release control sanction" has the same meaning as 555
in section 2967.01 of the Revised Code. 556

(11) "Redaction" means obscuring or deleting any information 557
that is exempt from the duty to permit public inspection or 558
copying from an item that otherwise meets the definition of a 559
"record" in section 149.011 of the Revised Code. 560

(12) "Designee" and "elected official" have the same meanings 561
as in section 109.43 of the Revised Code. 562

(B)(1) Upon request and subject to division (B)(8) of this 563
section, all public records responsive to the request shall be 564
promptly prepared and made available for inspection to any person 565
at all reasonable times during regular business hours. Subject to 566
division (B)(8) of this section, upon request, a public office or 567
person responsible for public records shall make copies of the 568
requested public record available at cost and within a reasonable 569
period of time. If a public record contains information that is 570
exempt from the duty to permit public inspection or to copy the 571

public record, the public office or the person responsible for the 572
public record shall make available all of the information within 573
the public record that is not exempt. When making that public 574
record available for public inspection or copying that public 575
record, the public office or the person responsible for the public 576
record shall notify the requester of any redaction or make the 577
redaction plainly visible. A redaction shall be deemed a denial of 578
a request to inspect or copy the redacted information, except if 579
federal or state law authorizes or requires a public office to 580
make the redaction. 581

(2) To facilitate broader access to public records, a public 582
office or the person responsible for public records shall organize 583
and maintain public records in a manner that they can be made 584
available for inspection or copying in accordance with division 585
(B) of this section. A public office also shall have available a 586
copy of its current records retention schedule at a location 587
readily available to the public. If a requester makes an ambiguous 588
or overly broad request or has difficulty in making a request for 589
copies or inspection of public records under this section such 590
that the public office or the person responsible for the requested 591
public record cannot reasonably identify what public records are 592
being requested, the public office or the person responsible for 593
the requested public record may deny the request but shall provide 594
the requester with an opportunity to revise the request by 595
informing the requester of the manner in which records are 596
maintained by the public office and accessed in the ordinary 597
course of the public office's or person's duties. 598

(3) If a request is ultimately denied, in part or in whole, 599
the public office or the person responsible for the requested 600
public record shall provide the requester with an explanation, 601
including legal authority, setting forth why the request was 602
denied. If the initial request was provided in writing, the 603

explanation also shall be provided to the requester in writing. 604
The explanation shall not preclude the public office or the person 605
responsible for the requested public record from relying upon 606
additional reasons or legal authority in defending an action 607
commenced under division (C) of this section. 608

(4) Unless specifically required or authorized by state or 609
federal law or in accordance with division (B) of this section, no 610
public office or person responsible for public records may limit 611
or condition the availability of public records by requiring 612
disclosure of the requester's identity or the intended use of the 613
requested public record. Any requirement that the requester 614
disclose the requestor's identity or the intended use of the 615
requested public record constitutes a denial of the request. 616

(5) A public office or person responsible for public records 617
may ask a requester to make the request in writing, may ask for 618
the requester's identity, and may inquire about the intended use 619
of the information requested, but may do so only after disclosing 620
to the requester that a written request is not mandatory and that 621
the requester may decline to reveal the requester's identity or 622
the intended use and when a written request or disclosure of the 623
identity or intended use would benefit the requester by enhancing 624
the ability of the public office or person responsible for public 625
records to identify, locate, or deliver the public records sought 626
by the requester. 627

(6) If any person chooses to obtain a copy of a public record 628
in accordance with division (B) of this section, the public office 629
or person responsible for the public record may require that 630
person to pay in advance the cost involved in providing the copy 631
of the public record in accordance with the choice made by the 632
person seeking the copy under this division. The public office or 633
the person responsible for the public record shall permit that 634
person to choose to have the public record duplicated upon paper, 635

upon the same medium upon which the public office or person 636
responsible for the public record keeps it, or upon any other 637
medium upon which the public office or person responsible for the 638
public record determines that it reasonably can be duplicated as 639
an integral part of the normal operations of the public office or 640
person responsible for the public record. When the person seeking 641
the copy makes a choice under this division, the public office or 642
person responsible for the public record shall provide a copy of 643
it in accordance with the choice made by the person seeking the 644
copy. Nothing in this section requires a public office or person 645
responsible for the public record to allow the person seeking a 646
copy of the public record to make the copies of the public record. 647

(7) Upon a request made in accordance with division (B) of 648
this section and subject to division (B)(6) of this section, a 649
public office or person responsible for public records shall 650
transmit a copy of a public record to any person by United States 651
mail or by any other means of delivery or transmission within a 652
reasonable period of time after receiving the request for the 653
copy. The public office or person responsible for the public 654
record may require the person making the request to pay in advance 655
the cost of postage if the copy is transmitted by United States 656
mail or the cost of delivery if the copy is transmitted other than 657
by United States mail, and to pay in advance the costs incurred 658
for other supplies used in the mailing, delivery, or transmission. 659

Any public office may adopt a policy and procedures that it 660
will follow in transmitting, within a reasonable period of time 661
after receiving a request, copies of public records by United 662
States mail or by any other means of delivery or transmission 663
pursuant to this division. A public office that adopts a policy 664
and procedures under this division shall comply with them in 665
performing its duties under this division. 666

In any policy and procedures adopted under this division, a 667

public office may limit the number of records requested by a 668
person that the office will transmit by United States mail to ten 669
per month, unless the person certifies to the office in writing 670
that the person does not intend to use or forward the requested 671
records, or the information contained in them, for commercial 672
purposes. For purposes of this division, "commercial" shall be 673
narrowly construed and does not include reporting or gathering 674
news, reporting or gathering information to assist citizen 675
oversight or understanding of the operation or activities of 676
government, or nonprofit educational research. 677

(8) A public office or person responsible for public records 678
is not required to permit a person who is incarcerated pursuant to 679
a criminal conviction or a juvenile adjudication to inspect or to 680
obtain a copy of any public record concerning a criminal 681
investigation or prosecution or concerning what would be a 682
criminal investigation or prosecution if the subject of the 683
investigation or prosecution were an adult, unless the request to 684
inspect or to obtain a copy of the record is for the purpose of 685
acquiring information that is subject to release as a public 686
record under this section and the judge who imposed the sentence 687
or made the adjudication with respect to the person, or the 688
judge's successor in office, finds that the information sought in 689
the public record is necessary to support what appears to be a 690
justiciable claim of the person. 691

(9) Upon written request made and signed by a journalist on 692
or after December 16, 1999, a public office, or person responsible 693
for public records, having custody of the records of the agency 694
employing a specified peace officer, parole officer, prosecuting 695
attorney, assistant prosecuting attorney, correctional employee, 696
youth services employee, firefighter, EMT, or investigator of the 697
bureau of criminal identification and investigation shall disclose 698
to the journalist the address of the actual personal residence of 699

the peace officer, parole officer, prosecuting attorney, assistant 700
prosecuting attorney, correctional employee, youth services 701
employee, firefighter, EMT, or investigator of the bureau of 702
criminal identification and investigation and, if the peace 703
officer's, parole officer's, prosecuting attorney's, assistant 704
prosecuting attorney's, correctional employee's, youth services 705
employee's, firefighter's, EMT's, or investigator of the bureau of 706
criminal identification and investigation's spouse, former spouse, 707
or child is employed by a public office, the name and address of 708
the employer of the peace officer's, parole officer's, prosecuting 709
attorney's, assistant prosecuting attorney's, correctional 710
employee's, youth services employee's, firefighter's, EMT's, or 711
investigator of the bureau of criminal identification and 712
investigation's spouse, former spouse, or child. The request shall 713
include the journalist's name and title and the name and address 714
of the journalist's employer and shall state that disclosure of 715
the information sought would be in the public interest. 716

As used in this division, "journalist" means a person engaged 717
in, connected with, or employed by any news medium, including a 718
newspaper, magazine, press association, news agency, or wire 719
service, a radio or television station, or a similar medium, for 720
the purpose of gathering, processing, transmitting, compiling, 721
editing, or disseminating information for the general public. 722

(C)(1) If a person allegedly is aggrieved by the failure of a 723
public office or the person responsible for public records to 724
promptly prepare a public record and to make it available to the 725
person for inspection in accordance with division (B) of this 726
section or by any other failure of a public office or the person 727
responsible for public records to comply with an obligation in 728
accordance with division (B) of this section, the person allegedly 729
aggrieved may commence a mandamus action to obtain a judgment that 730
orders the public office or the person responsible for the public 731

record to comply with division (B) of this section, that awards 732
court costs and reasonable attorney's fees to the person that 733
instituted the mandamus action, and, if applicable, that includes 734
an order fixing statutory damages under division (C)(1) of this 735
section. The mandamus action may be commenced in the court of 736
common pleas of the county in which division (B) of this section 737
allegedly was not complied with, in the supreme court pursuant to 738
its original jurisdiction under Section 2 of Article IV, Ohio 739
Constitution, or in the court of appeals for the appellate 740
district in which division (B) of this section allegedly was not 741
complied with pursuant to its original jurisdiction under Section 742
3 of Article IV, Ohio Constitution. 743

If a requestor transmits a written request by hand delivery 744
or certified mail to inspect or receive copies of any public 745
record in a manner that fairly describes the public record or 746
class of public records to the public office or person responsible 747
for the requested public records, except as otherwise provided in 748
this section, the requestor shall be entitled to recover the 749
amount of statutory damages set forth in this division if a court 750
determines that the public office or the person responsible for 751
public records failed to comply with an obligation in accordance 752
with division (B) of this section. 753

The amount of statutory damages shall be fixed at one hundred 754
dollars for each business day during which the public office or 755
person responsible for the requested public records failed to 756
comply with an obligation in accordance with division (B) of this 757
section, beginning with the day on which the requester files a 758
mandamus action to recover statutory damages, up to a maximum of 759
one thousand dollars. The award of statutory damages shall not be 760
construed as a penalty, but as compensation for injury arising 761
from lost use of the requested information. The existence of this 762
injury shall be conclusively presumed. The award of statutory 763

damages shall be in addition to all other remedies authorized by 764
this section. 765

The court may reduce an award of statutory damages or not 766
award statutory damages if the court determines both of the 767
following: 768

(a) That, based on the ordinary application of statutory law 769
and case law as it existed at the time of the conduct or 770
threatened conduct of the public office or person responsible for 771
the requested public records that allegedly constitutes a failure 772
to comply with an obligation in accordance with division (B) of 773
this section and that was the basis of the mandamus action, a 774
well-informed public office or person responsible for the 775
requested public records reasonably would believe that the conduct 776
or threatened conduct of the public office or person responsible 777
for the requested public records did not constitute a failure to 778
comply with an obligation in accordance with division (B) of this 779
section; 780

(b) That a well-informed public office or person responsible 781
for the requested public records reasonably would believe that the 782
conduct or threatened conduct of the public office or person 783
responsible for the requested public records would serve the 784
public policy that underlies the authority that is asserted as 785
permitting that conduct or threatened conduct. 786

(2)(a) If the court issues a writ of mandamus that orders the 787
public office or the person responsible for the public record to 788
comply with division (B) of this section and determines that the 789
circumstances described in division (C)(1) of this section exist, 790
the court shall determine and award to the relator all court 791
costs. 792

(b) If the court renders a judgment that orders the public 793
office or the person responsible for the public record to comply 794

with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies:

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

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

(c) 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:

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

comply with an obligation in accordance with division (B) of this section; 827
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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)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct. 829
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(D) Chapter 1347. of the Revised Code does not limit the provisions of this section. 836
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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 limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours. 838
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(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records 856
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custodian or records manager or otherwise has custody of the 859
records of that office. The public office shall require that 860
employee to acknowledge receipt of the copy of the public records 861
policy. The public office shall create a poster that describes its 862
public records policy and shall post the poster in a conspicuous 863
place in the public office and in all locations where the public 864
office has branch offices. The public office may post its public 865
records policy on the internet web site of the public office if 866
the public office maintains an internet web site. A public office 867
that has established a manual or handbook of its general policies 868
and procedures for all employees of the public office shall 869
include the public records policy of the public office in the 870
manual or handbook. 871

(F)(1) The bureau of motor vehicles may adopt rules pursuant 872
to Chapter 119. of the Revised Code to reasonably limit the number 873
of bulk commercial special extraction requests made by a person 874
for the same records or for updated records during a calendar 875
year. The rules may include provisions for charges to be made for 876
bulk commercial special extraction requests for the actual cost of 877
the bureau, plus special extraction costs, plus ten per cent. The 878
bureau may charge for expenses for redacting information, the 879
release of which is prohibited by law. 880

(2) As used in division (F)(1) of this section: 881

(a) "Actual cost" means the cost of depleted supplies, 882
records storage media costs, actual mailing and alternative 883
delivery costs, or other transmitting costs, and any direct 884
equipment operating and maintenance costs, including actual costs 885
paid to private contractors for copying services. 886

(b) "Bulk commercial special extraction request" means a 887
request for copies of a record for information in a format other 888
than the format already available, or information that cannot be 889
extracted without examination of all items in a records series, 890

class of records, or data base by a person who intends to use or 891
forward the copies for surveys, marketing, solicitation, or resale 892
for commercial purposes. "Bulk commercial special extraction 893
request" does not include a request by a person who gives 894
assurance to the bureau that the person making the request does 895
not intend to use or forward the requested copies for surveys, 896
marketing, solicitation, or resale for commercial purposes. 897

(c) "Commercial" means profit-seeking production, buying, or 898
selling of any good, service, or other product. 899

(d) "Special extraction costs" means the cost of the time 900
spent by the lowest paid employee competent to perform the task, 901
the actual amount paid to outside private contractors employed by 902
the bureau, or the actual cost incurred to create computer 903
programs to make the special extraction. "Special extraction 904
costs" include any charges paid to a public agency for computer or 905
records services. 906

(3) For purposes of divisions (F)(1) and (2) of this section, 907
"surveys, marketing, solicitation, or resale for commercial 908
purposes" shall be narrowly construed and does not include 909
reporting or gathering news, reporting or gathering information to 910
assist citizen oversight or understanding of the operation or 911
activities of government, or nonprofit educational research. 912

Sec. 307.6210. As used in sections 307.6210 to 307.6218 of 913
the Revised Code: 914

(A) "Domestic violence" means the occurrence of one or more 915
of the following acts against a family or household member: 916

(1) Attempting to cause or recklessly causing bodily injury; 917

(2) Placing another person by the threat of force in fear of 918
imminent serious physical harm or committing a violation of 919
section 2903.211 or 2911.211 of the Revised Code. 920

(B) "Family or household member" has the same meaning as in 921
section 3113.31 of the Revised Code. 922

(C) "Fatal domestic violence incident" means an incident of 923
domestic violence against a person eighteen years of age or older 924
that results in the death of the victim. 925

Sec. 307.6211. (A) A board of county commissioners may create 926
a county domestic violence fatality review board, or two or more 927
counties may create by a resolution adopted by the board of county 928
commissioners of each participating county a regional domestic 929
violence fatality review board, to review fatal incidents of 930
domestic violence in the county or region represented by the 931
review board. Upon the creation of a county or regional domestic 932
violence fatality review board, the board of county commissioners 933
of each county that created or participated in the creation of the 934
board shall certify to the state department of health that the 935
board has been created in accordance with this section. 936

(B) In any county in which there exists on the effective date 937
of this section an agency or organization for the purpose of 938
conducting in-depth reviews of the facts and circumstances of 939
deaths of persons eighteen years of age or older that occur in the 940
county as a result of domestic violence, the board of county 941
commissioners, with the consent of that agency or organization, 942
may recognize that agency or organization as the county domestic 943
violence fatality review board. Within ninety days after 944
recognizing the agency or organization as the county domestic 945
violence fatality review board, the board of county commissioners 946
shall appoint any additional members to that board as may be 947
necessary to comply with section 307.6212 of the Revised Code. An 948
agency or organization recognized as a county domestic violence 949
fatality review board pursuant to this division shall have the 950
same powers, duties, and immunities as a county or multicounty 951

regional domestic violence fatality review board created under 952
division (A) of this section. 953

Sec. 307.6212. A county or regional domestic violence 954
fatality review board shall consist of seven or more members, 955
including all of the following or their designees: 956

(A) A health care professional with training or experience in 957
responding to domestic violence; 958

(B) A coroner; 959

(C) A county prosecuting attorney; 960

(D) A representative from a domestic violence program that 961
serves the county or region served by the review board; 962

(E) The county sheriff or the chief of police of the most 963
populous municipal corporation in the county if the review board 964
is a county review board or the chief of police of the most 965
populous municipal corporation in the region if the review board 966
is a regional review board; 967

(F) A public health official; 968

(G) A children service agency representative. 969

Sec. 307.6213. (A) The board of county commissioners of a 970
county that creates, or the boards of county commissioners that 971
participate in the creation of, a county or regional domestic 972
violence fatality review board shall develop a protocol for the 973
operation of the review board, including, but not limited to, all 974
of the following: 975

(1) The terms of review board members; 976

(2) The frequency of review board meetings; 977

(3) The selection and term of a chairperson of the review 978
board; 979

<u>(4) The number of review board members, if any, beyond those</u>	980
<u>required by this section and the constituencies those members will</u>	981
<u>represent;</u>	982
<u>(5) Identification of cases.</u>	983
<u>(B) The protocol developed pursuant to division (A) of this</u>	984
<u>section shall include specific procedures for conducting reviews</u>	985
<u>of fatal domestic violence incidents. The protocol shall do at</u>	986
<u>least all of the following:</u>	987
<u>(1) Ensure the security and confidentiality of the</u>	988
<u>information obtained during the course of conducting reviews;</u>	989
<u>(2) Ensure that only authorized personnel have access to</u>	990
<u>confidential records;</u>	991
<u>(3) Implement security measures to prevent inadvertent or</u>	992
<u>unauthorized access to any records containing sufficient</u>	993
<u>information that could reasonably lead to the identity of the</u>	994
<u>adult whose death is being reviewed;</u>	995
<u>(4) Provide for the storage, processing, indexing, retrieval,</u>	996
<u>and destruction of information obtained in the course of</u>	997
<u>conducting reviews;</u>	998
<u>(5) Establish procedures to request and obtain records and</u>	999
<u>reports pertaining to domestic violence victims, domestic violence</u>	1000
<u>perpetrators, and other family or household members of domestic</u>	1001
<u>violence victims or perpetrators, including, but not limited to,</u>	1002
<u>all of the following:</u>	1003
<u>(a) Medical examiner's reports;</u>	1004
<u>(b) Hospital records;</u>	1005
<u>(c) School records;</u>	1006
<u>(d) Court records;</u>	1007
<u>(e) Prosecutorial records;</u>	1008

<u>(f) Local, state, and federal law enforcement records;</u>	1009
<u>(g) Fire department records;</u>	1010
<u>(h) Medical and dental records;</u>	1011
<u>(i) Emergency medical service records;</u>	1012
<u>(j) Employment records;</u>	1013
<u>(k) Counseling and treatment records;</u>	1014
<u>(l) Shelter records;</u>	1015
<u>(m) Victim assistance records;</u>	1016
<u>(n) Children services agency records.</u>	1017

Sec. 307.6214. (A) A domestic violence fatality review board 1018
shall conduct an in-depth review of the facts and circumstances of 1019
each death of a person eighteen years of age or older that occurs 1020
in the county or region as a result of domestic violence. The 1021
review board shall begin its review of an incident only after all 1022
civil and criminal legal action arising from the incident has been 1023
concluded or is precluded by the applicable statute of 1024
limitations. The review may include a review of the events leading 1025
up to the domestic violence incident, community resources 1026
available to victims of domestic violence, current laws and 1027
policies relating to domestic violence, actions taken by agencies 1028
and individuals in relation to the incident, and any other 1029
information considered relevant by the review board, including 1030
psychiatric, medical, and psychological records. 1031

(B) A domestic violence fatality review board shall collect, 1032
interpret, and analyze data on domestic violence deaths that occur 1033
in the county or region represented by the review board, 1034
including, but not limited to, data on the events leading up to 1035
the deaths, community resources available to victims of domestic 1036
violence, current laws and policies relating to domestic violence, 1037

actions taken by agencies and individuals in relation to incidents 1038
of domestic violence, and any other information considered 1039
relevant by the review board. The data may include any data that, 1040
under the "Health Insurance Portability and Accountability Act of 1041
1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, is 1042
protected health information relating to the past physical or 1043
mental health or condition of an individual or the past provision 1044
of health care to an individual. The review board may develop a 1045
database on domestic violence deaths in the county or region and 1046
maintain statistical information related to domestic violence 1047
deaths. The board shall collect the data in the manner prescribed 1048
by rules adopted by the Ohio department of health. 1049

(C) The activities of a domestic violence fatality review 1050
board are research activities for the purposes of the "Health 1051
Insurance Portability and Accountability Act of 1996," 110 Stat. 1052
1955, 42 U.S.C. 1320d, et seq., as amended. The review board may 1053
review any protected health information relating to the past 1054
physical or mental health or condition of an individual or the 1055
past provision of health care to an individual that the review 1056
board considers relevant to the proper review of an incident. 1057

(D) A domestic violence fatality review board shall determine 1058
the number and types of incidents it will review and shall make 1059
policy recommendations for the improvement of system response to 1060
and the prevention of domestic violence incidents. 1061

(E) A domestic violence fatality review board may exercise 1062
all incidental powers necessary and proper for the execution of 1063
its duties under this section, including, but not limited to, 1064
accessing confidential records and issuing subpoenas. 1065

(F) A review board may review fatal incidents related to but 1066
not resulting directly from domestic violence. A review board that 1067
elects to review incidents related to but not resulting directly 1068
from domestic violence shall define in their protocol the related 1069

fatal incidents that it will review. 1070

Sec. 307.6215. (A) Documents collected or created by a 1071
domestic violence fatality review board regarding facts and 1072
circumstances of a death or injury are confidential, are not 1073
public records under section 149.43 of the Revised Code, and are 1074
not subject to discovery in any civil or criminal proceeding. 1075
Documents collected or created by a domestic violence fatality 1076
review board regarding facts and circumstances of a death or 1077
injury are not subject to subpoena, but documents that are 1078
available from other sources are not exempt from subpoena, 1079
discovery, or introduction into evidence solely because they were 1080
presented to or reviewed by a review board. 1081

(B) Information identifying a victim of domestic violence 1082
whose case is being reviewed, that victim's family members, or the 1083
alleged or suspected perpetrator of domestic violence against the 1084
victim or regarding the involvement of any agency with the victim 1085
or the victim's family shall not be disclosed in any report that 1086
is available to the public. 1087

(C) Each member of a domestic violence fatality review board 1088
or the member's designee shall sign a confidentiality agreement 1089
acknowledging that any information provided during a meeting of 1090
the review board is confidential. Neither an individual who 1091
participates as a member of a review board or an organization 1092
represented by that individual in the individual's capacity as a 1093
participant in a review board meeting shall be compelled to 1094
testify about or otherwise reveal what transpires during the 1095
review board's review of a fatal domestic violence incident or 1096
information collected during a review. 1097

Sec. 307.6216. (A) Any information, document, or report 1098
presented to a domestic violence fatality review board, all 1099

statements made by review board members during meetings of the 1100
review board, all work products of the review board, and domestic 1101
violence fatality review data submitted by the review board to the 1102
department of health, other than the report prepared pursuant to 1103
section 307.6217 of the Revised Code, are confidential and shall 1104
be used by the board, its members, and the department of health 1105
only in the exercise of the proper functions of the board and the 1106
department. 1107

(B) No person shall permit or encourage the unauthorized 1108
dissemination of the confidential information described in 1109
division (A) of this section. 1110

(C) Whoever violates division (B) of this section is guilty 1111
of a misdemeanor of the second degree. 1112

Sec. 307.6217. Not later than April first of each year, each 1113
domestic violence fatality review board shall submit to the Ohio 1114
department of health an annual report that includes a description 1115
of the deaths and incidents reviewed during the previous calendar 1116
year and findings and recommendations relating to responses to and 1117
prevention of domestic violence. The report shall not contain 1118
information that identifies any victim of domestic violence, the 1119
members of a victim's family, or an alleged or suspected 1120
perpetrator of domestic violence or information regarding the 1121
involvement of any agency with a victim or that person's family. 1122

Sec. 307.6218. A domestic violence fatality review board, any 1123
member of a domestic violence fatality review board, any person 1124
who provides information to a domestic violence fatality review 1125
board, and any other person acting within the scope of sections 1126
307.6210 to 307.6218 of the Revised Code is immune from any civil 1127
liability for injury, death, or loss to person or property that 1128
otherwise might be incurred or imposed as a result of any act, 1129

proceeding, decision, or determination undertaken or performed or 1130
recommendation made pursuant to sections 307.6210 to 307.6218 of 1131
the Revised Code if the review board or person acted in good faith 1132
and without malice. There is a rebuttable presumption that the 1133
review board or person acted in good faith and without malice. No 1134
organization, institution, or person furnishing information, data, 1135
testimony, reports, or records to a domestic violence fatality 1136
review board as part of a review board's review under sections 1137
307.6210 to 307.6218 of the Revised Code shall, by reason of 1138
furnishing the information, be liable in damages or subject to any 1139
other recourse, civil or criminal. 1140

Sec. 2919.25. (A) No person shall knowingly cause or attempt 1141
to cause physical harm to a family or household member. 1142

(B) No person shall recklessly cause serious physical harm to 1143
a family or household member. 1144

(C) No person, by threat of force, shall knowingly cause a 1145
family or household member to believe that the offender will cause 1146
imminent physical harm to the family or household member. 1147

(D)(1) Whoever violates this section is guilty of domestic 1148
violence, and the court shall sentence the offender as provided in 1149
divisions (D)(2) to ~~(6)~~(7) of this section. 1150

(2) Except as otherwise provided in ~~division~~ divisions (D)(3) 1151
to (5) of this section, a violation of division (C) of this 1152
section is a misdemeanor of the fourth degree, and a violation of 1153
division (A) or (B) of this section is a misdemeanor of the first 1154
degree for which the court may impose a definite jail term of not 1155
more than one year. 1156

(3) Except as otherwise provided in division (D)(4) of this 1157
section, if the offender previously has pleaded guilty to or been 1158
convicted of domestic violence, a violation of an existing or 1159

former municipal ordinance or law of this or any other state or 1160
the United States that is substantially similar to domestic 1161
violence, a violation of section 2903.14, 2909.06, 2909.07, 1162
2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of 1163
the violation was a family or household member at the time of the 1164
violation, a violation of an existing or former municipal 1165
ordinance or law of this or any other state or the United States 1166
that is substantially similar to any of those sections if the 1167
victim of the violation was a family or household member at the 1168
time of the commission of the violation, or any offense of 1169
violence if the victim of the offense was a family or household 1170
member at the time of the commission of the offense, a violation 1171
of division (A) or (B) of this section is a felony of the fourth 1172
degree, and, if the offender knew that the victim of the violation 1173
was pregnant at the time of the violation, the court shall impose 1174
a mandatory prison term on the offender pursuant to division 1175
(A)(6) of this section, and a violation of division (C) of this 1176
section is a misdemeanor of the second degree. 1177

(4) If the offender previously has pleaded guilty to or been 1178
convicted of two or more offenses of domestic violence or two or 1179
more violations or offenses of the type described in division 1180
(D)(3) of this section involving a person who was a family or 1181
household member at the time of the violations or offenses, a 1182
violation of division (A) or (B) of this section is a felony of 1183
the third degree, and, if the offender knew that the victim of the 1184
violation was pregnant at the time of the violation, the court 1185
shall impose a mandatory prison term on the offender pursuant to 1186
division (A)(6) of this section, and a violation of division (C) 1187
of this section is a misdemeanor of the first degree. 1188

(5) Except as otherwise provided in division (D)(3) or (4) of 1189
this section, if the offender knew that the victim of the 1190
violation was pregnant at the time of the violation, a violation 1191

of division (A) or (B) of this section is a felony of the fifth 1192
degree, and the court shall impose a mandatory prison term on the 1193
offender pursuant to division (A)(6) of this section, and a 1194
violation of division (C) of this section is a misdemeanor of the 1195
third degree. 1196

(6) If division (A)(3), (4), or (5) of this section requires 1197
the court that sentences an offender for a violation of division 1198
(A) or (B) of this section to impose a mandatory prison term on 1199
the offender pursuant to this division, the court shall impose the 1200
mandatory prison term as follows: 1201

(a) If the violation of division (A) or (B) of this section 1202
is a felony of the fourth or fifth degree, except as otherwise 1203
provided in division (A)(6)(b) or (c) of this section, the court 1204
shall impose a mandatory prison term on the offender of at least 1205
six months. 1206

(b) If the violation of division (A) or (B) of this section 1207
is a felony of the fifth degree and the offender, in committing 1208
the violation, caused serious physical harm to the pregnant 1209
woman's unborn or caused the termination of the pregnant woman's 1210
pregnancy, the court shall impose a mandatory prison term on the 1211
offender of twelve months. 1212

(c) If the violation of division (A) or (B) of this section 1213
is a felony of the fourth degree and the offender, in committing 1214
the violation, caused serious physical harm to the pregnant 1215
woman's unborn or caused the termination of the pregnant woman's 1216
pregnancy, the court shall impose a mandatory prison term on the 1217
offender of at least twelve months. 1218

(d) If the violation of division (A) or (B) of this section 1219
is a felony of the third degree, except as otherwise provided in 1220
division (A)(6)(e) of this section and notwithstanding the range 1221
of prison terms prescribed in section 2929.14 of the Revised Code 1222

for a felony of the third degree, the court shall impose a 1223
mandatory prison term on the offender of either a definite term of 1224
six months or one of the prison terms prescribed in section 1225
2929.14 of the Revised Code for felonies of the third degree. 1226

(e) If the violation of division (A) or (B) of this section 1227
is a felony of the third degree and the offender, in committing 1228
the violation, caused serious physical harm to the pregnant 1229
woman's unborn or caused the termination of the pregnant woman's 1230
pregnancy, notwithstanding the range of prison terms prescribed in 1231
section 2929.14 of the Revised Code for a felony of the third 1232
degree, the court shall impose a mandatory prison term on the 1233
offender of either a definite term of one year or one of the 1234
prison terms prescribed in section 2929.14 of the Revised Code for 1235
felonies of the third degree. 1236

(7) In addition to any other sentence imposed under division 1237
(D) of this section, the court shall require the offender to do 1238
both of the following: 1239

(a) Participate in a domestic violence treatment program or 1240
other program or counseling, specified by the court, that 1241
addresses domestic violence; 1242

(b) Appear before the sentencing court at least once and, at 1243
the court's discretion, at intervals of approximately thirty, 1244
sixty, ninety, or one hundred twenty days until final discharge, 1245
to ensure that the offender is in compliance with any conditions 1246
of probation or other orders issued by the court in connection 1247
with the offender's conviction. The first appearance shall take 1248
place approximately thirty days after sentencing or, if the 1249
offender is incarcerated, after the offender's release from 1250
incarceration. 1251

(8) In addition to any other sentence imposed under division 1252
(D) of this section, the court may issue a protection order 1253

containing terms designed to ensure the safety and protection of 1254
the victim and expiring not later than the date of the offender's 1255
final discharge. 1256

(E) Notwithstanding any provision of law to the contrary, no 1257
court or unit of state or local government shall charge any fee, 1258
cost, deposit, or money in connection with the filing of charges 1259
against a person alleging that the person violated this section or 1260
a municipal ordinance substantially similar to this section or in 1261
connection with the prosecution of any charges so filed. 1262

(F) As used in this section and sections 2919.251 and 2919.26 1263
of the Revised Code: 1264

(1) "Family or household member" means any of the following: 1265

(a) Any of the following who is residing or has resided with 1266
the offender: 1267

(i) A spouse, a person living as a spouse, or a former spouse 1268
of the offender; 1269

(ii) A parent or a child of the offender, or another person 1270
related by consanguinity or affinity to the offender; 1271

(iii) A parent or a child of a spouse, person living as a 1272
spouse, or former spouse of the offender, or another person 1273
related by consanguinity or affinity to a spouse, person living as 1274
a spouse, or former spouse of the offender. 1275

(b) The natural parent of any child of whom the offender is 1276
the other natural parent or is the putative other natural parent. 1277

(2) "Person living as a spouse" means a person who is living 1278
or has lived with the offender in a common law marital 1279
relationship, who otherwise is cohabiting with the offender, or 1280
who otherwise has cohabited with the offender within five years 1281
prior to the date of the alleged commission of the act in 1282
question. 1283

(3) "Pregnant woman's unborn" has the same meaning as "such other person's unborn," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.

(4) "Termination of the pregnant woman's pregnancy" has the same meaning as "unlawful termination of another's pregnancy," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.

Sec. 2919.27. (A) No person shall recklessly violate the terms of any of the following:

(1) A protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code;

(2) A protection order issued pursuant to section 2903.213 ~~or~~, 2903.214, or 2919.25 of the Revised Code;

(3) A protection order issued by a court of another state.

(B)(1) Whoever violates this section is guilty of violating a protection order.

(2) Except as otherwise provided in division (B)(3) or (4) of this section, violating a protection order is a misdemeanor of the first degree.

(3) If the offender previously has been convicted of or

pleaded guilty to a violation of a protection order issued 1314
pursuant to section 2903.213 ~~or~~, 2903.214, or 2919.25 of the 1315
Revised Code, two or more violations of section 2903.21, 2903.211, 1316
2903.22, or 2911.211 of the Revised Code that involved the same 1317
person who is the subject of the protection order or consent 1318
agreement, or one or more violations of this section, violating a 1319
protection order is a felony of the fifth degree. 1320

(4) If the offender violates a protection order or consent 1321
agreement while committing a felony offense, violating a 1322
protection order is a felony of the third degree. 1323

(5) If the protection order violated by the offender was an 1324
order issued pursuant to section 2903.214 of the Revised Code that 1325
required electronic monitoring of the offender pursuant to that 1326
section, the court may require in addition to any other sentence 1327
imposed upon the offender that the offender be electronically 1328
monitored for a period not exceeding five years by a law 1329
enforcement agency designated by the court. If the court requires 1330
under this division that the offender be electronically monitored, 1331
unless the court determines that the offender is indigent, the 1332
court shall order that the offender pay the costs of the 1333
installation of the electronic monitoring device and the cost of 1334
monitoring the electronic monitoring device. If the court 1335
determines that the offender is indigent, the costs of the 1336
installation of the electronic monitoring device and the cost of 1337
monitoring the electronic monitoring device shall be paid out of 1338
funds from the reparations fund created pursuant to section 1339
2743.191 of the Revised Code. 1340

(C) It is an affirmative defense to a charge under division 1341
(A)(3) of this section that the protection order issued by a court 1342
of another state does not comply with the requirements specified 1343
in 18 U.S.C. 2265(b) for a protection order that must be accorded 1344
full faith and credit by a court of this state or that it is not 1345

entitled to full faith and credit under 18 U.S.C. 2265(c). 1346

(D) As used in this section, "protection order issued by a 1347
court of another state" means an injunction or another order 1348
issued by a criminal court of another state for the purpose of 1349
preventing violent or threatening acts or harassment against, 1350
contact or communication with, or physical proximity to another 1351
person, including a temporary order, and means an injunction or 1352
order of that nature issued by a civil court of another state, 1353
including a temporary order and a final order issued in an 1354
independent action or as a pendente lite order in a proceeding for 1355
other relief, if the court issued it in response to a complaint, 1356
petition, or motion filed by or on behalf of a person seeking 1357
protection. "Protection order issued by a court of another state" 1358
does not include an order for support or for custody of a child 1359
issued pursuant to the divorce and child custody laws of another 1360
state, except to the extent that the order for support or for 1361
custody of a child is entitled to full faith and credit under the 1362
laws of the United States. 1363

Sec. 2923.13. (A) Unless relieved from disability as provided 1364
in section 2923.14 of the Revised Code, no person shall knowingly 1365
acquire, have, carry, or use any firearm or dangerous ordnance, if 1366
any of the following apply: 1367

(1) The person is a fugitive from justice. 1368

(2) The person is under indictment for or has been convicted 1369
of a violation of section 2919.25 of the Revised Code or any 1370
felony offense of violence or has been adjudicated a delinquent 1371
child for the commission of an offense that, if committed by an 1372
adult, would have been a violation of section 2919.25 of the 1373
Revised Code or a felony offense of violence. 1374

(3) The person is under indictment for or has been convicted 1375
of any offense involving the illegal possession, use, sale, 1376

administration, distribution, or trafficking in any drug of abuse 1377
or has been adjudicated a delinquent child for the commission of 1378
an offense that, if committed by an adult, would have been an 1379
offense involving the illegal possession, use, sale, 1380
administration, distribution, or trafficking in any drug of abuse. 1381

(4) The person is drug dependent, in danger of drug 1382
dependence, or a chronic alcoholic. 1383

(5) The person is under adjudication of mental incompetence, 1384
has been adjudicated as a mental defective, has been committed to 1385
a mental institution, has been found by a court to be a mentally 1386
ill person subject to hospitalization by court order, or is an 1387
involuntary patient other than one who is a patient only for 1388
purposes of observation. As used in this division, "mentally ill 1389
person subject to hospitalization by court order" and "patient" 1390
have the same meanings as in section 5122.01 of the Revised Code. 1391

(B) Whoever violates this section is guilty of having weapons 1392
while under disability, a felony of the third degree. 1393

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 1394
deputy marshal, municipal police officer, township constable, 1395
police officer of a township or joint township police district, 1396
member of a police force employed by a metropolitan housing 1397
authority under division (D) of section 3735.31 of the Revised 1398
Code, member of a police force employed by a regional transit 1399
authority under division (Y) of section 306.35 of the Revised 1400
Code, state university law enforcement officer appointed under 1401
section 3345.04 of the Revised Code, veterans' home police officer 1402
appointed under section 5907.02 of the Revised Code, special 1403
police officer employed by a port authority under section 4582.04 1404
or 4582.28 of the Revised Code, or a special police officer 1405
employed by a municipal corporation at a municipal airport, or 1406
other municipal air navigation facility, that has scheduled 1407

operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's, state fire marshal law enforcement officer's, or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at

arms's or assistant sergeant at arms's territorial jurisdiction 1440
specified in division (D)(1)(a) of section 101.311 of the Revised 1441
Code or while providing security pursuant to division (D)(1)(f) of 1442
section 101.311 of the Revised Code, a law of this state, an 1443
ordinance of a municipal corporation, or a resolution of a 1444
township. 1445

(B)(1)(a) When there is reasonable ground to believe that an 1446
offense of violence, the offense of criminal child enticement as 1447
defined in section 2905.05 of the Revised Code, the offense of 1448
public indecency as defined in section 2907.09 of the Revised 1449
Code, the offense of domestic violence as defined in section 1450
2919.25 of the Revised Code, ~~the offense of violating a protection~~ 1451
~~order as defined in section 2919.27 of the Revised Code,~~ the 1452
offense of menacing by stalking as defined in section 2903.211 of 1453
the Revised Code, the offense of aggravated trespass as defined in 1454
section 2911.211 of the Revised Code, a theft offense as defined 1455
in section 2913.01 of the Revised Code, or a felony drug abuse 1456
offense as defined in section 2925.01 of the Revised Code, has 1457
been committed within the limits of the political subdivision, 1458
metropolitan housing authority housing project, regional transit 1459
authority facilities or those areas of a municipal corporation 1460
that have been agreed to by a regional transit authority and a 1461
municipal corporation located within its territorial jurisdiction, 1462
college, university, veterans' home operated under Chapter 5907. 1463
of the Revised Code, port authority, or municipal airport or other 1464
municipal air navigation facility, in which the peace officer is 1465
appointed, employed, or elected or within the limits of the 1466
territorial jurisdiction of the peace officer, a peace officer 1467
described in division (A) of this section may arrest and detain 1468
until a warrant can be obtained any person who the peace officer 1469
has reasonable cause to believe is guilty of the violation. 1470

(b) When there is reasonable ground to believe that the 1471

offense of violating a protection order as defined in section 1472
2919.27 of the Revised Code has been committed within the limits 1473
of the political subdivision, metropolitan housing authority 1474
housing project, regional transit authority facilities or those 1475
areas of a municipal corporation that have been agreed to by a 1476
regional transit authority and a municipal corporation located 1477
within its territorial jurisdiction, college, university, 1478
veterans' home operated under Chapter 5907. of the Revised Code, 1479
port authority, or municipal airport or other municipal air 1480
navigation facility in which the peace officer is appointed, 1481
employed, or elected or within the limits of the territorial 1482
jurisdiction of the peace officer, a peace officer described in 1483
division (A) of this section shall arrest and detain until a 1484
warrant can be obtained any person who the peace officer has 1485
reasonable cause to believe is guilty of the violation. 1486

(2) For purposes of division (B)(1) of this section, the 1487
execution of any of the following constitutes reasonable ground to 1488
believe that the offense alleged in the statement was committed 1489
and reasonable cause to believe that the person alleged in the 1490
statement to have committed the offense is guilty of the 1491
violation: 1492

(a) A written statement by a person alleging that an alleged 1493
offender has committed the offense of menacing by stalking or 1494
aggravated trespass; 1495

(b) A written statement by the administrator of the 1496
interstate compact on mental health appointed under section 1497
5119.51 of the Revised Code alleging that a person who had been 1498
hospitalized, institutionalized, or confined in any facility under 1499
an order made pursuant to or under authority of section 2945.37, 1500
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 1501
Revised Code has escaped from the facility, from confinement in a 1502
vehicle for transportation to or from the facility, or from 1503

supervision by an employee of the facility that is incidental to 1504
hospitalization, institutionalization, or confinement in the 1505
facility and that occurs outside of the facility, in violation of 1506
section 2921.34 of the Revised Code; 1507

(c) A written statement by the administrator of any facility 1508
in which a person has been hospitalized, institutionalized, or 1509
confined under an order made pursuant to or under authority of 1510
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 1511
2945.402 of the Revised Code alleging that the person has escaped 1512
from the facility, from confinement in a vehicle for 1513
transportation to or from the facility, or from supervision by an 1514
employee of the facility that is incidental to hospitalization, 1515
institutionalization, or confinement in the facility and that 1516
occurs outside of the facility, in violation of section 2921.34 of 1517
the Revised Code. 1518

(3)(a) For purposes of division (B)(1) of this section, a 1519
peace officer described in division (A) of this section has 1520
reasonable grounds to believe that the offense of domestic 1521
violence or the offense of violating a protection order has been 1522
committed and reasonable cause to believe that a particular person 1523
is guilty of committing the offense if any of the following 1524
occurs: 1525

(i) A person executes a written statement alleging that the 1526
person in question has committed the offense of domestic violence 1527
or the offense of violating a protection order against the person 1528
who executes the statement or against a child of the person who 1529
executes the statement. 1530

(ii) No written statement of the type described in division 1531
(B)(3)(a)(i) of this section is executed, but the peace officer, 1532
based upon the peace officer's own knowledge and observation of 1533
the facts and circumstances of the alleged incident of the offense 1534
of domestic violence or the alleged incident of the offense of 1535

violating a protection order or based upon any other information, 1536
including, but not limited to, any reasonably trustworthy 1537
information given to the peace officer by the alleged victim of 1538
the alleged incident of the offense or any witness of the alleged 1539
incident of the offense, concludes that there are reasonable 1540
grounds to believe that the offense of domestic violence or the 1541
offense of violating a protection order has been committed and 1542
reasonable cause to believe that the person in question is guilty 1543
of committing the offense. 1544

(iii) No written statement of the type described in division 1545
(B)(3)(a)(i) of this section is executed, but the peace officer 1546
witnessed the person in question commit the offense of domestic 1547
violence or the offense of violating a protection order. 1548

(b) If pursuant to division (B)(3)(a) of this section a peace 1549
officer has reasonable grounds to believe that the offense of 1550
~~domestic violence or the offense of violating a protection order~~ 1551
has been committed and reasonable cause to believe that a 1552
particular person is guilty of committing the offense, it is the 1553
preferred course of action in this state that the officer arrest 1554
and detain that person pursuant to division (B)(1) of this section 1555
until a warrant can be obtained. 1556

If pursuant to division (B)(3)(a) of this section a peace 1557
officer has reasonable grounds to believe that the offense of 1558
~~domestic violence or the offense of violating a protection order~~ 1559
has been committed and reasonable cause to believe that family or 1560
household members have committed the offense against each other, 1561
it is the preferred course of action in this state that the 1562
officer, pursuant to division (B)(1) of this section, arrest and 1563
detain until a warrant can be obtained the family or household 1564
member who committed the offense and whom the officer has 1565
reasonable cause to believe is the primary physical aggressor. 1566
There is no preferred course of action in this state regarding any 1567

other family or household member who committed the offense and 1568
whom the officer does not have reasonable cause to believe is the 1569
primary physical aggressor, but, pursuant to division (B)(1) of 1570
this section, the peace officer may arrest and detain until a 1571
warrant can be obtained any other family or household member who 1572
committed the offense and whom the officer does not have 1573
reasonable cause to believe is the primary physical aggressor. 1574

(c) If a peace officer described in division (A) of this 1575
section does not arrest and detain a person whom the officer has 1576
reasonable cause to believe committed the offense of domestic 1577
violence ~~or the offense of violating a protection order~~ when it is 1578
the preferred course of action in this state pursuant to division 1579
(B)(3)(b) of this section that the officer arrest that person, the 1580
officer shall articulate in the written report of the incident 1581
required by section 2935.032 of the Revised Code a clear statement 1582
of the officer's reasons for not arresting and detaining that 1583
person until a warrant can be obtained. 1584

(d) In determining for purposes of division (B)(3)(b) of this 1585
section which family or household member is the primary physical 1586
aggressor in a situation in which family or household members have 1587
committed the offense of domestic violence ~~or the offense of~~ 1588
~~violating a protection order~~ against each other, a peace officer 1589
described in division (A) of this section, in addition to any 1590
other relevant circumstances, should consider all of the 1591
following: 1592

(i) Any history of domestic violence or of any other violent 1593
acts by either person involved in the alleged offense that the 1594
officer reasonably can ascertain; 1595

(ii) ~~If violence is alleged, whether~~ Whether the alleged 1596
violence was caused by a person acting in self-defense; 1597

(iii) Each person's fear of physical harm, if any, resulting 1598

from the other person's threatened use of force against any person 1599
or resulting from the other person's use or history of the use of 1600
force against any person, and the reasonableness of that fear; 1601

(iv) The comparative severity of any injuries suffered by the 1602
persons involved in the alleged offense; 1603

(v) Statements made by witnesses. 1604

(e)(i) A peace officer described in division (A) of this 1605
section shall not require, as a prerequisite to arresting or 1606
charging a person who has committed the offense of domestic 1607
violence or the offense of violating a protection order, that the 1608
victim of the offense specifically consent to the filing of 1609
charges against the person who has committed the offense or sign a 1610
complaint against the person who has committed the offense. 1611

(ii) If a person is arrested for or charged with committing 1612
the offense of domestic violence or the offense of violating a 1613
protection order and if the victim of the offense does not 1614
cooperate with the involved law enforcement or prosecuting 1615
authorities in the prosecution of the offense or, subsequent to 1616
the arrest or the filing of the charges, informs the involved law 1617
enforcement or prosecuting authorities that the victim does not 1618
wish the prosecution of the offense to continue or wishes to drop 1619
charges against the alleged offender relative to the offense, the 1620
involved prosecuting authorities, in determining whether to 1621
continue with the prosecution of the offense or whether to dismiss 1622
charges against the alleged offender relative to the offense and 1623
notwithstanding the victim's failure to cooperate or the victim's 1624
wishes, shall consider all facts and circumstances that are 1625
relevant to the offense, including, but not limited to, the 1626
statements and observations of the peace officers who responded to 1627
the incident that resulted in the arrest or filing of the charges 1628
and of all witnesses to that incident. 1629

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is

applicable: 1662

(i) The alleged incident of the offense of domestic violence 1663
or the alleged incident of the offense of violating a protection 1664
order to which the officer who seized the deadly weapon responded; 1665

(ii) Any offense that arose out of the same facts and 1666
circumstances as the report of the alleged incident of the offense 1667
of domestic violence or the alleged incident of the offense of 1668
violating a protection order to which the officer who seized the 1669
deadly weapon responded. 1670

(4) If, in the circumstances described in divisions (B)(3)(a) 1671
to (g) of this section, a peace officer described in division (A) 1672
of this section arrests and detains a person pursuant to division 1673
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 1674
this section, a peace officer described in division (A) of this 1675
section seizes a deadly weapon, the officer, to the extent 1676
described in and in accordance with section 9.86 or 2744.03 of the 1677
Revised Code, is immune in any civil action for damages for 1678
injury, death, or loss to person or property that arises from or 1679
is related to the arrest and detention or the seizure. 1680

(C) When there is reasonable ground to believe that a 1681
violation of division (A)(1), (2), (3), (4), or (5) of section 1682
4506.15 or a violation of section 4511.19 of the Revised Code has 1683
been committed by a person operating a motor vehicle subject to 1684
regulation by the public utilities commission of Ohio under Title 1685
XLIX of the Revised Code, a peace officer with authority to 1686
enforce that provision of law may stop or detain the person whom 1687
the officer has reasonable cause to believe was operating the 1688
motor vehicle in violation of the division or section and, after 1689
investigating the circumstances surrounding the operation of the 1690
vehicle, may arrest and detain the person. 1691

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 1692

municipal police officer, member of a police force employed by a 1693
metropolitan housing authority under division (D) of section 1694
3735.31 of the Revised Code, member of a police force employed by 1695
a regional transit authority under division (Y) of section 306.35 1696
of the Revised Code, special police officer employed by a port 1697
authority under section 4582.04 or 4582.28 of the Revised Code, 1698
special police officer employed by a municipal corporation at a 1699
municipal airport or other municipal air navigation facility 1700
described in division (A) of this section, township constable, 1701
police officer of a township or joint township police district, 1702
state university law enforcement officer appointed under section 1703
3345.04 of the Revised Code, peace officer of the department of 1704
natural resources, individual designated to perform law 1705
enforcement duties under section 511.232, 1545.13, or 6101.75 of 1706
the Revised Code, the house sergeant at arms if the house sergeant 1707
at arms has arrest authority pursuant to division (E)(1) of 1708
section 101.311 of the Revised Code, or an assistant house 1709
sergeant at arms is authorized by division (A) or (B) of this 1710
section to arrest and detain, within the limits of the political 1711
subdivision, metropolitan housing authority housing project, 1712
regional transit authority facilities or those areas of a 1713
municipal corporation that have been agreed to by a regional 1714
transit authority and a municipal corporation located within its 1715
territorial jurisdiction, port authority, municipal airport or 1716
other municipal air navigation facility, college, or university in 1717
which the officer is appointed, employed, or elected or within the 1718
limits of the territorial jurisdiction of the peace officer, a 1719
person until a warrant can be obtained, the peace officer, outside 1720
the limits of that territory, may pursue, arrest, and detain that 1721
person until a warrant can be obtained if all of the following 1722
apply: 1723

(1) The pursuit takes place without unreasonable delay after 1724
the offense is committed; 1725

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint township police district created under section 505.481 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any

person found violating any section or chapter of the Revised Code 1758
listed in division (E)(1) of this section, other than sections 1759
4513.33 and 4513.34 of the Revised Code, on the portion of any 1760
street or highway that is located immediately adjacent to the 1761
boundaries of the township police district or joint township 1762
police district, in the case of a member of a township police 1763
district or joint township police district police force, or the 1764
unincorporated territory of the township, in the case of a 1765
township constable. However, if the population of the township 1766
that created the township police district served by the member's 1767
police force, or the townships that created the joint township 1768
police district served by the member's police force, or the 1769
township that is served by the township constable, is sixty 1770
thousand or less, the member of the township police district or 1771
joint police district police force or the township constable may 1772
not make an arrest under division (E)(2) of this section on a 1773
state highway that is included as part of the interstate system. 1774

(3) A police officer or village marshal appointed, elected, 1775
or employed by a municipal corporation may arrest and detain, 1776
until a warrant can be obtained, any person found violating any 1777
section or chapter of the Revised Code listed in division (E)(1) 1778
of this section on the portion of any street or highway that is 1779
located immediately adjacent to the boundaries of the municipal 1780
corporation in which the police officer or village marshal is 1781
appointed, elected, or employed. 1782

(4) A peace officer of the department of natural resources, a 1783
state fire marshal law enforcement officer described in division 1784
(A)(23) of section 109.71 of the Revised Code, or an individual 1785
designated to perform law enforcement duties under section 1786
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 1787
detain, until a warrant can be obtained, any person found 1788
violating any section or chapter of the Revised Code listed in 1789

division (E)(1) of this section, other than sections 4513.33 and 1790
4513.34 of the Revised Code, on the portion of any street or 1791
highway that is located immediately adjacent to the boundaries of 1792
the lands and waters that constitute the territorial jurisdiction 1793
of the peace officer or state fire marshal law enforcement 1794
officer. 1795

(F)(1) A department of mental health special police officer 1796
or a department of developmental disabilities special police 1797
officer may arrest without a warrant and detain until a warrant 1798
can be obtained any person found committing on the premises of any 1799
institution under the jurisdiction of the particular department a 1800
misdemeanor under a law of the state. 1801

A department of mental health special police officer or a 1802
department of developmental disabilities special police officer 1803
may arrest without a warrant and detain until a warrant can be 1804
obtained any person who has been hospitalized, institutionalized, 1805
or confined in an institution under the jurisdiction of the 1806
particular department pursuant to or under authority of section 1807
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 1808
2945.402 of the Revised Code and who is found committing on the 1809
premises of any institution under the jurisdiction of the 1810
particular department a violation of section 2921.34 of the 1811
Revised Code that involves an escape from the premises of the 1812
institution. 1813

(2)(a) If a department of mental health special police 1814
officer or a department of developmental disabilities special 1815
police officer finds any person who has been hospitalized, 1816
institutionalized, or confined in an institution under the 1817
jurisdiction of the particular department pursuant to or under 1818
authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 1819
2945.401, or 2945.402 of the Revised Code committing a violation 1820
of section 2921.34 of the Revised Code that involves an escape 1821

from the premises of the institution, or if there is reasonable 1822
ground to believe that a violation of section 2921.34 of the 1823
Revised Code has been committed that involves an escape from the 1824
premises of an institution under the jurisdiction of the 1825
department of mental health or the department of developmental 1826
disabilities and if a department of mental health special police 1827
officer or a department of developmental disabilities special 1828
police officer has reasonable cause to believe that a particular 1829
person who has been hospitalized, institutionalized, or confined 1830
in the institution pursuant to or under authority of section 1831
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 1832
2945.402 of the Revised Code is guilty of the violation, the 1833
special police officer, outside of the premises of the 1834
institution, may pursue, arrest, and detain that person for that 1835
violation of section 2921.34 of the Revised Code, until a warrant 1836
can be obtained, if both of the following apply: 1837

(i) The pursuit takes place without unreasonable delay after 1838
the offense is committed; 1839

(ii) The pursuit is initiated within the premises of the 1840
institution from which the violation of section 2921.34 of the 1841
Revised Code occurred. 1842

(b) For purposes of division (F)(2)(a) of this section, the 1843
execution of a written statement by the administrator of the 1844
institution in which a person had been hospitalized, 1845
institutionalized, or confined pursuant to or under authority of 1846
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 1847
2945.402 of the Revised Code alleging that the person has escaped 1848
from the premises of the institution in violation of section 1849
2921.34 of the Revised Code constitutes reasonable ground to 1850
believe that the violation was committed and reasonable cause to 1851
believe that the person alleged in the statement to have committed 1852
the offense is guilty of the violation. 1853

(G) As used in this section:	1854
(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.	1855 1856 1857 1858 1859 1860
(2) A "department of developmental disabilities special police officer" means a special police officer of the department of developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.	1861 1862 1863 1864 1865 1866 1867
(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.	1868 1869
(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.	1870 1871
(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.	1872 1873
(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.	1874 1875
(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer	1876 1877 1878 1879 1880 1881 1882 1883 1884

designated pursuant to section 1547.521 of the Revised Code. 1885

(8) "Portion of any street or highway" means all lanes of the 1886
street or highway irrespective of direction of travel, including 1887
designated turn lanes, and any berm, median, or shoulder. 1888

Sec. 2935.032. (A) Not later than ninety days after ~~the~~ 1889
~~effective date of this amendment~~ October 21, 1997, each agency, 1890
instrumentality, or political subdivision that is served by any 1891
peace officer described in division (B)(1) of section 2935.03 of 1892
the Revised Code shall adopt, in accordance with division (E) of 1893
this section, written policies, written procedures implementing 1894
the policies, and other written procedures for the peace officers 1895
who serve it to follow in implementing division (B)(3) of section 1896
2935.03 of the Revised Code and for their appropriate response to 1897
each report of an alleged incident of the offense of domestic 1898
violence or an alleged incident of the offense of violating a 1899
protection order. The policies and procedures shall conform to and 1900
be consistent with the provisions of divisions (B)(1) and (B)(3) 1901
of section 2935.03 of the Revised Code and divisions (B) ~~to (D)~~ 1902
and (C) of this section. Each policy adopted under this division 1903
shall include, but not be limited to, all of the following: 1904

(1) Provisions specifying that, if a peace officer who serves 1905
the agency, instrumentality, or political subdivision responds to 1906
an alleged incident of the offense of domestic violence, an 1907
alleged incident of the offense of violating a protection order, 1908
or an alleged incident of any other offense, both of the following 1909
apply: 1910

(a) If the officer determines that there are reasonable 1911
grounds to believe that a person knowingly caused serious physical 1912
harm to another or to another's unborn or knowingly caused or 1913
attempted to cause physical harm to another or to another's unborn 1914
by means of a deadly weapon or dangerous ordnance, then, 1915

regardless of whether the victim of the offense was a family or 1916
household member of the offender, the officer shall treat the 1917
incident as felonious assault, shall consider the offender to have 1918
committed and the victim to have been the victim of felonious 1919
assault, shall consider the offense that was committed to have 1920
been felonious assault in determining the manner in which the 1921
offender should be treated, and shall comply with whichever of the 1922
following is applicable: 1923

(i) Unless the officer has reasonable cause to believe that, 1924
during the incident, the offender who committed the felonious 1925
assault and one or more other persons committed offenses against 1926
each other, the officer shall arrest the offender who committed 1927
the felonious assault pursuant to section 2935.03 of the Revised 1928
Code and shall detain that offender pursuant to that section until 1929
a warrant can be obtained, and the arrest shall be for felonious 1930
assault. 1931

(ii) If the officer has reasonable cause to believe that, 1932
during the incident, the offender who committed the felonious 1933
assault and one or more other persons committed offenses against 1934
each other, the officer shall determine in accordance with 1935
division (B)(3)(d) of section 2935.03 of the Revised Code which of 1936
those persons is the primary physical aggressor. If the offender 1937
who committed the felonious assault is the primary physical 1938
aggressor, the officer shall arrest that offender for felonious 1939
assault pursuant to section 2935.03 of the Revised Code and shall 1940
detain that offender pursuant to that section until a warrant can 1941
be obtained, and the officer is not required to arrest but may 1942
arrest pursuant to section 2935.03 of the Revised Code any other 1943
person who committed an offense but who is not the primary 1944
physical aggressor. If the offender who committed the felonious 1945
assault is not the primary physical aggressor, the officer is not 1946
required to arrest that offender or any other person who committed 1947

an offense during the incident but may arrest any of them pursuant 1948
to section 2935.03 of the Revised Code and detain them pursuant to 1949
that section until a warrant can be obtained. 1950

(b) If the officer determines that there are reasonable 1951
grounds to believe that a person, while under the influence of 1952
sudden passion or in a sudden fit of rage, either of which is 1953
brought on by serious provocation occasioned by the victim that is 1954
reasonably sufficient to incite the person into using deadly 1955
force, knowingly caused serious physical harm to another or to 1956
another's unborn or knowingly caused or attempted to cause 1957
physical harm to another or to another's unborn by means of a 1958
deadly weapon or dangerous ordnance, then, regardless of whether 1959
the victim of the offense was a family or household member of the 1960
offender, the officer shall treat the incident as aggravated 1961
assault, shall consider the offender to have committed and the 1962
victim to have been the victim of aggravated assault, shall 1963
consider the offense that was committed to have been aggravated 1964
assault in determining the manner in which the offender should be 1965
treated, and shall comply with whichever of the following is 1966
applicable: 1967

(i) Unless the officer has reasonable cause to believe that, 1968
during the incident, the offender who committed the aggravated 1969
assault and one or more other persons committed offenses against 1970
each other, the officer shall arrest the offender who committed 1971
the aggravated assault pursuant to section 2935.03 of the Revised 1972
Code and shall detain that offender pursuant to that section until 1973
a warrant can be obtained, and the arrest shall be for aggravated 1974
assault. 1975

(ii) If the officer has reasonable cause to believe that, 1976
during the incident, the offender who committed the aggravated 1977
assault and one or more other persons committed offenses against 1978
each other, the officer shall determine in accordance with 1979

division (B)(3)(d) of section 2935.03 of the Revised Code which of 1980
those persons is the primary physical aggressor. If the offender 1981
who committed the aggravated assault is the primary physical 1982
aggressor, the officer shall arrest that offender for aggravated 1983
assault pursuant to section 2935.03 of the Revised Code and shall 1984
detain that offender pursuant to that section until a warrant can 1985
be obtained, and the officer is not required to arrest but may 1986
arrest pursuant to section 2935.03 of the Revised Code any other 1987
person who committed an offense but who is not the primary 1988
physical aggressor. If the offender who committed the aggravated 1989
assault is not the primary physical aggressor, the officer is not 1990
required to arrest that offender or any other person who committed 1991
an offense during the incident but may arrest any of them pursuant 1992
to section 2935.03 of the Revised Code and detain them pursuant to 1993
that section until a warrant can be obtained. 1994

(2) Provisions requiring the peace officers who serve the 1995
agency, instrumentality, or political subdivision to do all of the 1996
following: 1997

(a) Respond without undue delay to a report of an alleged 1998
incident of the offense of domestic violence or the offense of 1999
violating a protection order; 2000

(b) If the alleged offender has been granted pretrial release 2001
from custody on a prior charge of the offense of domestic violence 2002
or the offense of violating a protection order and has violated 2003
one or more conditions of that pretrial release, document the 2004
facts and circumstances of the violation in the report to the law 2005
enforcement agency that the peace officer makes pursuant to 2006
division (D) of this section; 2007

(c) Separate the victim of the offense of domestic violence 2008
or the offense of violating a protection order and the alleged 2009
offender, conduct separate interviews with the victim and the 2010
alleged offender in separate locations, and take a written 2011

statement from the victim that indicates the frequency and 2012
severity of any prior incidents of physical abuse of the victim by 2013
the alleged offender, the number of times the victim has called 2014
peace officers for assistance, and the disposition of those calls, 2015
if known; 2016

(d) Comply with divisions (B)(1) and (B)(3) of section 2017
2935.03 of the Revised Code and with divisions (B), (C), and (D) 2018
of this section. 2019

(3) Sanctions to be imposed upon a peace officer who serves 2020
the agency, instrumentality, or political subdivision and who 2021
fails to comply with any provision in the policy or with division 2022
(B)(1) or (B)(3) of section 2935.03 of the Revised Code or 2023
division (B), (C), or (D) of this section. 2024

(4) Examples of reasons that a peace officer may consider for 2025
not arresting and detaining until a warrant can be obtained a 2026
person who allegedly committed the offense of domestic violence ~~or~~ 2027
~~the offense of violating a protection order~~ when it is the 2028
preferred course of action in this state that the officer arrest 2029
the alleged offender, as described in division (B)(3)(b) of 2030
section 2935.03 of the Revised Code. 2031

(B)(1) Nothing in this section or in division (B)(1) or 2032
(B)(3) of section 2935.03 of the Revised Code precludes an agency, 2033
instrumentality, or political subdivision that is served by any 2034
peace officer described in division (B)(1) of section 2935.03 of 2035
the Revised Code from including in the policy it adopts under 2036
division (A) of this section either of the following types of 2037
provisions: 2038

(a) A provision that requires the peace officers who serve 2039
it, if they have reasonable grounds to believe that the offense of 2040
domestic violence ~~or the offense of violating a protection order~~ 2041
has been committed within the limits of the jurisdiction of the 2042

agency, instrumentality, or political subdivision and reasonable 2043
cause to believe that a particular person committed the offense, 2044
to arrest the alleged offender; 2045

(b) A provision that does not require the peace officers who 2046
serve it, if they have reasonable grounds to believe that the 2047
offense of domestic violence ~~or the offense of violating a~~ 2048
~~protection order~~ has been committed within the limits of the 2049
jurisdiction of the agency, instrumentality, or political 2050
subdivision and reasonable cause to believe that a particular 2051
person committed the offense, to arrest the alleged offender, but 2052
that grants the officers less discretion in those circumstances in 2053
deciding whether to arrest the alleged offender than peace 2054
officers are granted by divisions (B)(1) and (B)(3) of section 2055
2935.03 of the Revised Code. 2056

(2) If an agency, instrumentality, or political subdivision 2057
that is served by any peace officer described in division (B)(1) 2058
of section 2935.03 of the Revised Code includes in the policy it 2059
adopts under division (A) of this section a provision of the type 2060
described in division (B)(1)(a) or (b) of this section, the peace 2061
officers who serve the agency, instrumentality, or political 2062
subdivision shall comply with the provision in making arrests 2063
authorized under division (B)(1) of section 2935.03 of the Revised 2064
Code. 2065

(C) When a peace officer described in division (B)(1) of 2066
section 2935.03 of the Revised Code investigates a report of an 2067
alleged incident of the offense of domestic violence or an alleged 2068
incident of the offense of violating a protection order, the 2069
officer shall do all of the following: 2070

(1) Complete a domestic violence report in accordance with 2071
division (D) of this section; 2072

(2) Advise the victim of the availability of a temporary 2073

protection order pursuant to section 2919.26 of the Revised Code 2074
or a protection order or consent agreement pursuant to section 2075
3113.31 of the Revised Code; 2076

(3) Give the victim the officer's name, the officer's badge 2077
number if the officer has a badge and the badge has a number, the 2078
report number for the incident if a report number is available at 2079
the time of the officer's investigation, a telephone number that 2080
the victim can call for information about the case, the telephone 2081
number of a domestic violence shelter in the area, and information 2082
on any local victim advocate program. 2083

(D) A peace officer who investigates a report of an alleged 2084
incident of the offense of domestic violence or an alleged 2085
incident of the offense of violating a protection order shall make 2086
a written report of the incident whether or not an arrest is made. 2087
The report shall document the officer's observations of the victim 2088
and the alleged offender, any visible injuries of the victim or 2089
alleged offender, any weapons at the scene, the actions of the 2090
alleged offender, any statements made by the victim or witnesses, 2091
and any other significant facts or circumstances. If the officer 2092
does not arrest and detain until a warrant can be obtained a 2093
person who allegedly committed the offense of domestic violence ~~or~~ 2094
~~the offense of violating a protection order~~ when it is the 2095
preferred course of action in this state pursuant to division 2096
(B)(3)(b) of section 2935.03 of the Revised Code that the alleged 2097
offender be arrested, the officer must articulate in the report a 2098
clear statement of the officer's reasons for not arresting and 2099
detaining that alleged offender until a warrant can be obtained. 2100
The officer shall submit the written report to the law enforcement 2101
agency to which the officer has been appointed, employed, or 2102
elected. 2103

(E) Each agency, instrumentality, or political subdivision 2104
that is required to adopt policies and procedures under division 2105

(A) of this section shall adopt those policies and procedures in conjunction and consultation with shelters in the community for victims of domestic violence and private organizations, law enforcement agencies, and other public agencies in the community that have expertise in the recognition and handling of domestic violence cases.

(F) To the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, a peace officer who arrests an offender for the offense of violating a protection order with respect to a protection order or consent agreement of this state or another state that on its face is valid is immune from liability in a civil action for damages for injury, death, or loss to person or property that allegedly was caused by or related to the arrest.

(G) Each agency, instrumentality, or political subdivision described in division (A) of this section that arrests an offender for an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order shall consider referring the case to federal authorities for prosecution under 18 U.S.C. 2261 if the incident constitutes a violation of federal law.

(H) As used in this section:

(1) "Another's unborn" has the same meaning as in section 2903.09 of the Revised Code.

(2) "Dangerous ordnance" and "deadly weapon" have the same meanings as in section 2923.11 of the Revised Code.

(3) "The offense of violating a protection order" includes the former offense of violating a protection order or consent agreement or anti-stalking protection order as set forth in section 2919.27 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ October 21, 1997.

Sec. 3701.048. (A) The Ohio department of health, in 2137
consultation with bodies acting as domestic violence statewide 2138
coalitions and initiatives on the effective date of this section, 2139
shall adopt rules in accordance with Chapter 119. of the Revised 2140
Code that establish a procedure for domestic violence fatality 2141
review boards to follow in conducting a review of the death of an 2142
adult as a result of domestic violence. 2143

(B) The Ohio department of health shall provide for training 2144
for members of domestic violence fatality review boards in the 2145
purpose of the review process, the scope of their immunity from 2146
civil liability, the nature and confidentiality of the information 2147
they collect or review, and the manner in which the data they 2148
collect must be reported to the department. The department shall 2149
establish guidelines and develop materials for use in the 2150
training. 2151

Sec. 4731.22. (A) The state medical board, by an affirmative 2152
vote of not fewer than six of its members, may revoke or may 2153
refuse to grant a certificate to a person found by the board to 2154
have committed fraud during the administration of the examination 2155
for a certificate to practice or to have committed fraud, 2156
misrepresentation, or deception in applying for or securing any 2157
certificate to practice or certificate of registration issued by 2158
the board. 2159

(B) The board, by an affirmative vote of not fewer than six 2160
members, shall, to the extent permitted by law, limit, revoke, or 2161
suspend an individual's certificate to practice, refuse to 2162
register an individual, refuse to reinstate a certificate, or 2163
reprimand or place on probation the holder of a certificate for 2164
one or more of the following reasons: 2165

(1) Permitting one's name or one's certificate to practice or 2166

certificate of registration to be used by a person, group, or 2167
corporation when the individual concerned is not actually 2168
directing the treatment given; 2169

(2) Failure to maintain minimal standards applicable to the 2170
selection or administration of drugs, or failure to employ 2171
acceptable scientific methods in the selection of drugs or other 2172
modalities for treatment of disease; 2173

(3) Selling, giving away, personally furnishing, prescribing, 2174
or administering drugs for other than legal and legitimate 2175
therapeutic purposes or a plea of guilty to, a judicial finding of 2176
guilt of, or a judicial finding of eligibility for intervention in 2177
lieu of conviction of, a violation of any federal or state law 2178
regulating the possession, distribution, or use of any drug; 2179

(4) Willfully betraying a professional confidence. 2180

For purposes of this division, "willfully betraying a 2181
professional confidence" does not include providing any 2182
information, documents, or reports to a child fatality review 2183
board under sections 307.621 to 307.629 of the Revised Code or to 2184
a domestic violence fatality review board under sections 307.6210 2185
to 307.6218 of the Revised Code and does not include the making of 2186
a report of an employee's use of a drug of abuse, or a report of a 2187
condition of an employee other than one involving the use of a 2188
drug of abuse, to the employer of the employee as described in 2189
division (B) of section 2305.33 of the Revised Code. Nothing in 2190
this division affects the immunity from civil liability conferred 2191
by that section upon a physician who makes either type of report 2192
in accordance with division (B) of that section. As used in this 2193
division, "employee," "employer," and "physician" have the same 2194
meanings as in section 2305.33 of the Revised Code. 2195

(5) Making a false, fraudulent, deceptive, or misleading 2196
statement in the solicitation of or advertising for patients; in 2197

relation to the practice of medicine and surgery, osteopathic 2198
medicine and surgery, podiatric medicine and surgery, or a limited 2199
branch of medicine; or in securing or attempting to secure any 2200
certificate to practice or certificate of registration issued by 2201
the board. 2202

As used in this division, "false, fraudulent, deceptive, or 2203
misleading statement" means a statement that includes a 2204
misrepresentation of fact, is likely to mislead or deceive because 2205
of a failure to disclose material facts, is intended or is likely 2206
to create false or unjustified expectations of favorable results, 2207
or includes representations or implications that in reasonable 2208
probability will cause an ordinarily prudent person to 2209
misunderstand or be deceived. 2210

(6) A departure from, or the failure to conform to, minimal 2211
standards of care of similar practitioners under the same or 2212
similar circumstances, whether or not actual injury to a patient 2213
is established; 2214

(7) Representing, with the purpose of obtaining compensation 2215
or other advantage as personal gain or for any other person, that 2216
an incurable disease or injury, or other incurable condition, can 2217
be permanently cured; 2218

(8) The obtaining of, or attempting to obtain, money or 2219
anything of value by fraudulent misrepresentations in the course 2220
of practice; 2221

(9) A plea of guilty to, a judicial finding of guilt of, or a 2222
judicial finding of eligibility for intervention in lieu of 2223
conviction for, a felony; 2224

(10) Commission of an act that constitutes a felony in this 2225
state, regardless of the jurisdiction in which the act was 2226
committed; 2227

(11) A plea of guilty to, a judicial finding of guilt of, or 2228

a judicial finding of eligibility for intervention in lieu of 2229
conviction for, a misdemeanor committed in the course of practice; 2230

(12) Commission of an act in the course of practice that 2231
constitutes a misdemeanor in this state, regardless of the 2232
jurisdiction in which the act was committed; 2233

(13) A plea of guilty to, a judicial finding of guilt of, or 2234
a judicial finding of eligibility for intervention in lieu of 2235
conviction for, a misdemeanor involving moral turpitude; 2236

(14) Commission of an act involving moral turpitude that 2237
constitutes a misdemeanor in this state, regardless of the 2238
jurisdiction in which the act was committed; 2239

(15) Violation of the conditions of limitation placed by the 2240
board upon a certificate to practice; 2241

(16) Failure to pay license renewal fees specified in this 2242
chapter; 2243

(17) Except as authorized in section 4731.31 of the Revised 2244
Code, engaging in the division of fees for referral of patients, 2245
or the receiving of a thing of value in return for a specific 2246
referral of a patient to utilize a particular service or business; 2247

(18) Subject to section 4731.226 of the Revised Code, 2248
violation of any provision of a code of ethics of the American 2249
medical association, the American osteopathic association, the 2250
American podiatric medical association, or any other national 2251
professional organizations that the board specifies by rule. The 2252
state medical board shall obtain and keep on file current copies 2253
of the codes of ethics of the various national professional 2254
organizations. The individual whose certificate is being suspended 2255
or revoked shall not be found to have violated any provision of a 2256
code of ethics of an organization not appropriate to the 2257
individual's profession. 2258

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling,

or treatment by physicians approved or designated by the board, as 2291
a condition for initial, continued, reinstated, or renewed 2292
authority to practice. An individual affected under this division 2293
shall be afforded an opportunity to demonstrate to the board the 2294
ability to resume practice in compliance with acceptable and 2295
prevailing standards under the provisions of the individual's 2296
certificate. For the purpose of this division, any individual who 2297
applies for or receives a certificate to practice under this 2298
chapter accepts the privilege of practicing in this state and, by 2299
so doing, shall be deemed to have given consent to submit to a 2300
mental or physical examination when directed to do so in writing 2301
by the board, and to have waived all objections to the 2302
admissibility of testimony or examination reports that constitute 2303
a privileged communication. 2304

(20) Except when civil penalties are imposed under section 2305
4731.225 or 4731.281 of the Revised Code, and subject to section 2306
4731.226 of the Revised Code, violating or attempting to violate, 2307
directly or indirectly, or assisting in or abetting the violation 2308
of, or conspiring to violate, any provisions of this chapter or 2309
any rule promulgated by the board. 2310

This division does not apply to a violation or attempted 2311
violation of, assisting in or abetting the violation of, or a 2312
conspiracy to violate, any provision of this chapter or any rule 2313
adopted by the board that would preclude the making of a report by 2314
a physician of an employee's use of a drug of abuse, or of a 2315
condition of an employee other than one involving the use of a 2316
drug of abuse, to the employer of the employee as described in 2317
division (B) of section 2305.33 of the Revised Code. Nothing in 2318
this division affects the immunity from civil liability conferred 2319
by that section upon a physician who makes either type of report 2320
in accordance with division (B) of that section. As used in this 2321
division, "employee," "employer," and "physician" have the same 2322

meanings as in section 2305.33 of the Revised Code. 2323

(21) The violation of section 3701.79 of the Revised Code or 2324
of any abortion rule adopted by the public health council pursuant 2325
to section 3701.341 of the Revised Code; 2326

(22) Any of the following actions taken by the agency 2327
responsible for regulating the practice of medicine and surgery, 2328
osteopathic medicine and surgery, podiatric medicine and surgery, 2329
or the limited branches of medicine in another jurisdiction, for 2330
any reason other than the nonpayment of fees: the limitation, 2331
revocation, or suspension of an individual's license to practice; 2332
acceptance of an individual's license surrender; denial of a 2333
license; refusal to renew or reinstate a license; imposition of 2334
probation; or issuance of an order of censure or other reprimand; 2335

(23) The violation of section 2919.12 of the Revised Code or 2336
the performance or inducement of an abortion upon a pregnant woman 2337
with actual knowledge that the conditions specified in division 2338
(B) of section 2317.56 of the Revised Code have not been satisfied 2339
or with a heedless indifference as to whether those conditions 2340
have been satisfied, unless an affirmative defense as specified in 2341
division (H)(2) of that section would apply in a civil action 2342
authorized by division (H)(1) of that section; 2343

(24) The revocation, suspension, restriction, reduction, or 2344
termination of clinical privileges by the United States department 2345
of defense or department of veterans affairs or the termination or 2346
suspension of a certificate of registration to prescribe drugs by 2347
the drug enforcement administration of the United States 2348
department of justice; 2349

(25) Termination or suspension from participation in the 2350
medicare or medicaid programs by the department of health and 2351
human services or other responsible agency for any act or acts 2352
that also would constitute a violation of division (B)(2), (3), 2353

(6), (8), or (19) of this section; 2354

(26) Impairment of ability to practice according to 2355
acceptable and prevailing standards of care because of habitual or 2356
excessive use or abuse of drugs, alcohol, or other substances that 2357
impair ability to practice. 2358

For the purposes of this division, any individual authorized 2359
to practice by this chapter accepts the privilege of practicing in 2360
this state subject to supervision by the board. By filing an 2361
application for or holding a certificate to practice under this 2362
chapter, an individual shall be deemed to have given consent to 2363
submit to a mental or physical examination when ordered to do so 2364
by the board in writing, and to have waived all objections to the 2365
admissibility of testimony or examination reports that constitute 2366
privileged communications. 2367

If it has reason to believe that any individual authorized to 2368
practice by this chapter or any applicant for certification to 2369
practice suffers such impairment, the board may compel the 2370
individual to submit to a mental or physical examination, or both. 2371
The expense of the examination is the responsibility of the 2372
individual compelled to be examined. Any mental or physical 2373
examination required under this division shall be undertaken by a 2374
treatment provider or physician who is qualified to conduct the 2375
examination and who is chosen by the board. 2376

Failure to submit to a mental or physical examination ordered 2377
by the board constitutes an admission of the allegations against 2378
the individual unless the failure is due to circumstances beyond 2379
the individual's control, and a default and final order may be 2380
entered without the taking of testimony or presentation of 2381
evidence. If the board determines that the individual's ability to 2382
practice is impaired, the board shall suspend the individual's 2383
certificate or deny the individual's application and shall require 2384
the individual, as a condition for initial, continued, reinstated, 2385

or renewed certification to practice, to submit to treatment. 2386

Before being eligible to apply for reinstatement of a 2387
certificate suspended under this division, the impaired 2388
practitioner shall demonstrate to the board the ability to resume 2389
practice in compliance with acceptable and prevailing standards of 2390
care under the provisions of the practitioner's certificate. The 2391
demonstration shall include, but shall not be limited to, the 2392
following: 2393

(a) Certification from a treatment provider approved under 2394
section 4731.25 of the Revised Code that the individual has 2395
successfully completed any required inpatient treatment; 2396

(b) Evidence of continuing full compliance with an aftercare 2397
contract or consent agreement; 2398

(c) Two written reports indicating that the individual's 2399
ability to practice has been assessed and that the individual has 2400
been found capable of practicing according to acceptable and 2401
prevailing standards of care. The reports shall be made by 2402
individuals or providers approved by the board for making the 2403
assessments and shall describe the basis for their determination. 2404

The board may reinstate a certificate suspended under this 2405
division after that demonstration and after the individual has 2406
entered into a written consent agreement. 2407

When the impaired practitioner resumes practice, the board 2408
shall require continued monitoring of the individual. The 2409
monitoring shall include, but not be limited to, compliance with 2410
the written consent agreement entered into before reinstatement or 2411
with conditions imposed by board order after a hearing, and, upon 2412
termination of the consent agreement, submission to the board for 2413
at least two years of annual written progress reports made under 2414
penalty of perjury stating whether the individual has maintained 2415
sobriety. 2416

(27) A second or subsequent violation of section 4731.66 or	2417
4731.69 of the Revised Code;	2418
(28) Except as provided in division (N) of this section:	2419
(a) Waiving the payment of all or any part of a deductible or	2420
copayment that a patient, pursuant to a health insurance or health	2421
care policy, contract, or plan that covers the individual's	2422
services, otherwise would be required to pay if the waiver is used	2423
as an enticement to a patient or group of patients to receive	2424
health care services from that individual;	2425
(b) Advertising that the individual will waive the payment of	2426
all or any part of a deductible or copayment that a patient,	2427
pursuant to a health insurance or health care policy, contract, or	2428
plan that covers the individual's services, otherwise would be	2429
required to pay.	2430
(29) Failure to use universal blood and body fluid	2431
precautions established by rules adopted under section 4731.051 of	2432
the Revised Code;	2433
(30) Failure to provide notice to, and receive acknowledgment	2434
of the notice from, a patient when required by section 4731.143 of	2435
the Revised Code prior to providing nonemergency professional	2436
services, or failure to maintain that notice in the patient's	2437
file;	2438
(31) Failure of a physician supervising a physician assistant	2439
to maintain supervision in accordance with the requirements of	2440
Chapter 4730. of the Revised Code and the rules adopted under that	2441
chapter;	2442
(32) Failure of a physician or podiatrist to enter into a	2443
standard care arrangement with a clinical nurse specialist,	2444
certified nurse-midwife, or certified nurse practitioner with whom	2445
the physician or podiatrist is in collaboration pursuant to	2446
section 4731.27 of the Revised Code or failure to fulfill the	2447

responsibilities of collaboration after entering into a standard care arrangement;	2448 2449
(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;	2450 2451 2452
(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	2453 2454 2455 2456 2457 2458 2459 2460 2461
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	2462 2463 2464
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	2465 2466 2467
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	2468 2469
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	2470 2471
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	2472 2473 2474
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code.	2475 2476 2477

(C) Disciplinary actions taken by the board under divisions 2478
(A) and (B) of this section shall be taken pursuant to an 2479
adjudication under Chapter 119. of the Revised Code, except that 2480
in lieu of an adjudication, the board may enter into a consent 2481
agreement with an individual to resolve an allegation of a 2482
violation of this chapter or any rule adopted under it. A consent 2483
agreement, when ratified by an affirmative vote of not fewer than 2484
six members of the board, shall constitute the findings and order 2485
of the board with respect to the matter addressed in the 2486
agreement. If the board refuses to ratify a consent agreement, the 2487
admissions and findings contained in the consent agreement shall 2488
be of no force or effect. 2489

If the board takes disciplinary action against an individual 2490
under division (B) of this section for a second or subsequent plea 2491
of guilty to, or judicial finding of guilt of, a violation of 2492
section 2919.123 of the Revised Code, the disciplinary action 2493
shall consist of a suspension of the individual's certificate to 2494
practice for a period of at least one year or, if determined 2495
appropriate by the board, a more serious sanction involving the 2496
individual's certificate to practice. Any consent agreement 2497
entered into under this division with an individual that pertains 2498
to a second or subsequent plea of guilty to, or judicial finding 2499
of guilt of, a violation of that section shall provide for a 2500
suspension of the individual's certificate to practice for a 2501
period of at least one year or, if determined appropriate by the 2502
board, a more serious sanction involving the individual's 2503
certificate to practice. 2504

(D) For purposes of divisions (B)(10), (12), and (14) of this 2505
section, the commission of the act may be established by a finding 2506
by the board, pursuant to an adjudication under Chapter 119. of 2507
the Revised Code, that the individual committed the act. The board 2508
does not have jurisdiction under those divisions if the trial 2509

court renders a final judgment in the individual's favor and that 2510
judgment is based upon an adjudication on the merits. The board 2511
has jurisdiction under those divisions if the trial court issues 2512
an order of dismissal upon technical or procedural grounds. 2513

(E) The sealing of conviction records by any court shall have 2514
no effect upon a prior board order entered under this section or 2515
upon the board's jurisdiction to take action under this section 2516
if, based upon a plea of guilty, a judicial finding of guilt, or a 2517
judicial finding of eligibility for intervention in lieu of 2518
conviction, the board issued a notice of opportunity for a hearing 2519
prior to the court's order to seal the records. The board shall 2520
not be required to seal, destroy, redact, or otherwise modify its 2521
records to reflect the court's sealing of conviction records. 2522

(F)(1) The board shall investigate evidence that appears to 2523
show that a person has violated any provision of this chapter or 2524
any rule adopted under it. Any person may report to the board in a 2525
signed writing any information that the person may have that 2526
appears to show a violation of any provision of this chapter or 2527
any rule adopted under it. In the absence of bad faith, any person 2528
who reports information of that nature or who testifies before the 2529
board in any adjudication conducted under Chapter 119. of the 2530
Revised Code shall not be liable in damages in a civil action as a 2531
result of the report or testimony. Each complaint or allegation of 2532
a violation received by the board shall be assigned a case number 2533
and shall be recorded by the board. 2534

(2) Investigations of alleged violations of this chapter or 2535
any rule adopted under it shall be supervised by the supervising 2536
member elected by the board in accordance with section 4731.02 of 2537
the Revised Code and by the secretary as provided in section 2538
4731.39 of the Revised Code. The president may designate another 2539
member of the board to supervise the investigation in place of the 2540
supervising member. No member of the board who supervises the 2541

investigation of a case shall participate in further adjudication 2542
of the case. 2543

(3) In investigating a possible violation of this chapter or 2544
any rule adopted under this chapter, the board may administer 2545
oaths, order the taking of depositions, issue subpoenas, and 2546
compel the attendance of witnesses and production of books, 2547
accounts, papers, records, documents, and testimony, except that a 2548
subpoena for patient record information shall not be issued 2549
without consultation with the attorney general's office and 2550
approval of the secretary and supervising member of the board. 2551
Before issuance of a subpoena for patient record information, the 2552
secretary and supervising member shall determine whether there is 2553
probable cause to believe that the complaint filed alleges a 2554
violation of this chapter or any rule adopted under it and that 2555
the records sought are relevant to the alleged violation and 2556
material to the investigation. The subpoena may apply only to 2557
records that cover a reasonable period of time surrounding the 2558
alleged violation. 2559

On failure to comply with any subpoena issued by the board 2560
and after reasonable notice to the person being subpoenaed, the 2561
board may move for an order compelling the production of persons 2562
or records pursuant to the Rules of Civil Procedure. 2563

A subpoena issued by the board may be served by a sheriff, 2564
the sheriff's deputy, or a board employee designated by the board. 2565
Service of a subpoena issued by the board may be made by 2566
delivering a copy of the subpoena to the person named therein, 2567
reading it to the person, or leaving it at the person's usual 2568
place of residence. When the person being served is a person whose 2569
practice is authorized by this chapter, service of the subpoena 2570
may be made by certified mail, restricted delivery, return receipt 2571
requested, and the subpoena shall be deemed served on the date 2572
delivery is made or the date the person refuses to accept 2573

delivery. 2574

A sheriff's deputy who serves a subpoena shall receive the 2575
same fees as a sheriff. Each witness who appears before the board 2576
in obedience to a subpoena shall receive the fees and mileage 2577
provided for under section 119.094 of the Revised Code. 2578

(4) All hearings and investigations of the board shall be 2579
considered civil actions for the purposes of section 2305.252 of 2580
the Revised Code. 2581

(5) Information received by the board pursuant to an 2582
investigation is confidential and not subject to discovery in any 2583
civil action. 2584

The board shall conduct all investigations and proceedings in 2585
a manner that protects the confidentiality of patients and persons 2586
who file complaints with the board. The board shall not make 2587
public the names or any other identifying information about 2588
patients or complainants unless proper consent is given or, in the 2589
case of a patient, a waiver of the patient privilege exists under 2590
division (B) of section 2317.02 of the Revised Code, except that 2591
consent or a waiver of that nature is not required if the board 2592
possesses reliable and substantial evidence that no bona fide 2593
physician-patient relationship exists. 2594

The board may share any information it receives pursuant to 2595
an investigation, including patient records and patient record 2596
information, with law enforcement agencies, other licensing 2597
boards, and other governmental agencies that are prosecuting, 2598
adjudicating, or investigating alleged violations of statutes or 2599
administrative rules. An agency or board that receives the 2600
information shall comply with the same requirements regarding 2601
confidentiality as those with which the state medical board must 2602
comply, notwithstanding any conflicting provision of the Revised 2603
Code or procedure of the agency or board that applies when it is 2604

dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that an individual has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the

individual's certificate to practice without a prior hearing. 2636
Written allegations shall be prepared for consideration by the 2637
board. 2638

The board, upon review of those allegations and by an 2639
affirmative vote of not fewer than six of its members, excluding 2640
the secretary and supervising member, may suspend a certificate 2641
without a prior hearing. A telephone conference call may be 2642
utilized for reviewing the allegations and taking the vote on the 2643
summary suspension. 2644

The board shall issue a written order of suspension by 2645
certified mail or in person in accordance with section 119.07 of 2646
the Revised Code. The order shall not be subject to suspension by 2647
the court during pendency of any appeal filed under section 119.12 2648
of the Revised Code. If the individual subject to the summary 2649
suspension requests an adjudicatory hearing by the board, the date 2650
set for the hearing shall be within fifteen days, but not earlier 2651
than seven days, after the individual requests the hearing, unless 2652
otherwise agreed to by both the board and the individual. 2653

Any summary suspension imposed under this division shall 2654
remain in effect, unless reversed on appeal, until a final 2655
adjudicative order issued by the board pursuant to this section 2656
and Chapter 119. of the Revised Code becomes effective. The board 2657
shall issue its final adjudicative order within seventy-five days 2658
after completion of its hearing. A failure to issue the order 2659
within seventy-five days shall result in dissolution of the 2660
summary suspension order but shall not invalidate any subsequent, 2661
final adjudicative order. 2662

(H) If the board takes action under division (B)(9), (11), or 2663
(13) of this section and the judicial finding of guilt, guilty 2664
plea, or judicial finding of eligibility for intervention in lieu 2665
of conviction is overturned on appeal, upon exhaustion of the 2666
criminal appeal, a petition for reconsideration of the order may 2667

be filed with the board along with appropriate court documents. 2668
Upon receipt of a petition of that nature and supporting court 2669
documents, the board shall reinstate the individual's certificate 2670
to practice. The board may then hold an adjudication under Chapter 2671
119. of the Revised Code to determine whether the individual 2672
committed the act in question. Notice of an opportunity for a 2673
hearing shall be given in accordance with Chapter 119. of the 2674
Revised Code. If the board finds, pursuant to an adjudication held 2675
under this division, that the individual committed the act or if 2676
no hearing is requested, the board may order any of the sanctions 2677
identified under division (B) of this section. 2678

(I) The certificate to practice issued to an individual under 2679
this chapter and the individual's practice in this state are 2680
automatically suspended as of the date of the individual's second 2681
or subsequent plea of guilty to, or judicial finding of guilt of, 2682
a violation of section 2919.123 of the Revised Code, or the date 2683
the individual pleads guilty to, is found by a judge or jury to be 2684
guilty of, or is subject to a judicial finding of eligibility for 2685
intervention in lieu of conviction in this state or treatment or 2686
intervention in lieu of conviction in another jurisdiction for any 2687
of the following criminal offenses in this state or a 2688
substantially equivalent criminal offense in another jurisdiction: 2689
aggravated murder, murder, voluntary manslaughter, felonious 2690
assault, kidnapping, rape, sexual battery, gross sexual 2691
imposition, aggravated arson, aggravated robbery, or aggravated 2692
burglary. Continued practice after suspension shall be considered 2693
practicing without a certificate. 2694

The board shall notify the individual subject to the 2695
suspension by certified mail or in person in accordance with 2696
section 119.07 of the Revised Code. If an individual whose 2697
certificate is automatically suspended under this division fails 2698
to make a timely request for an adjudication under Chapter 119. of 2699

the Revised Code, the board shall do whichever of the following is applicable: 2700
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(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice. 2702
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(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to practice. 2709
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(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section. 2712
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(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board. 2721
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(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, 2729
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refuses to register an applicant, or refuses to reinstate an 2731
individual's certificate to practice, the board may specify that 2732
its action is permanent. An individual subject to a permanent 2733
action taken by the board is forever thereafter ineligible to hold 2734
a certificate to practice and the board shall not accept an 2735
application for reinstatement of the certificate or for issuance 2736
of a new certificate. 2737

(M) Notwithstanding any other provision of the Revised Code, 2738
all of the following apply: 2739

(1) The surrender of a certificate issued under this chapter 2740
shall not be effective unless or until accepted by the board. 2741
Reinstatement of a certificate surrendered to the board requires 2742
an affirmative vote of not fewer than six members of the board. 2743

(2) An application for a certificate made under the 2744
provisions of this chapter may not be withdrawn without approval 2745
of the board. 2746

(3) Failure by an individual to renew a certificate of 2747
registration in accordance with this chapter shall not remove or 2748
limit the board's jurisdiction to take any disciplinary action 2749
under this section against the individual. 2750

(N) Sanctions shall not be imposed under division (B)(28) of 2751
this section against any person who waives deductibles and 2752
copayments as follows: 2753

(1) In compliance with the health benefit plan that expressly 2754
allows such a practice. Waiver of the deductibles or copayments 2755
shall be made only with the full knowledge and consent of the plan 2756
purchaser, payer, and third-party administrator. Documentation of 2757
the consent shall be made available to the board upon request. 2758

(2) For professional services rendered to any other person 2759
authorized to practice pursuant to this chapter, to the extent 2760
allowed by this chapter and rules adopted by the board. 2761

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

Section 2. That existing sections 121.22, 149.43, 2919.25,

2919.27, 2923.13, 2935.03, 2935.032, and 4731.22 of the Revised Code are hereby repealed.

Section 3. Section 4731.22 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 280, Sub. H.B. 525, and Sub. S.B. 229 of the 127th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.