

**As Passed by the Senate**

**131st General Assembly**

**Regular Session**

**2015-2016**

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

**Senator Faber**

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

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**A BILL**

To amend sections 149.43, 149.433, 2323.52, 1  
2743.03, and 2746.04 and to enact section 2  
2743.75 of the Revised Code to create a 3  
procedure within the Court of Claims to hear 4  
complaints alleging a denial of access to public 5  
records, to modify the circumstances under which 6  
a person who files a mandamus action seeking the 7  
release of public records may be awarded court 8  
costs and attorney's fees, and to expand the 9  
infrastructure record exemption under Public 10  
Records Law. 11

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

**Section 1.** That sections 149.43, 149.433, 2323.52, 12  
2743.03, and 2746.04 be amended and section 2743.75 of the 13  
Revised Code be enacted to read as follows: 14

**Sec. 149.43.** (A) As used in this section: 15

(1) "Public record" means records kept by any public 16

office, including, but not limited to, state, county, city, 17  
village, township, and school district units, and records 18  
pertaining to the delivery of educational services by an 19  
alternative school in this state kept by the nonprofit or for- 20  
profit entity operating the alternative school pursuant to 21  
section 3313.533 of the Revised Code. "Public record" does not 22  
mean any of the following: 23

(a) Medical records; 24

(b) Records pertaining to probation and parole proceedings 25  
or to proceedings related to the imposition of community control 26  
sanctions and post-release control sanctions; 27

(c) Records pertaining to actions under section 2151.85 28  
and division (C) of section 2919.121 of the Revised Code and to 29  
appeals of actions arising under those sections; 30

(d) Records pertaining to adoption proceedings, including 31  
the contents of an adoption file maintained by the department of 32  
health under sections 3705.12 to 3705.124 of the Revised Code; 33

(e) Information in a record contained in the putative 34  
father registry established by section 3107.062 of the Revised 35  
Code, regardless of whether the information is held by the 36  
department of job and family services or, pursuant to section 37  
3111.69 of the Revised Code, the office of child support in the 38  
department or a child support enforcement agency; 39

(f) Records specified in division (A) of section 3107.52 40  
of the Revised Code; 41

(g) Trial preparation records; 42

(h) Confidential law enforcement investigatory records; 43

(i) Records containing information that is confidential 44

under section 2710.03 or 4112.05 of the Revised Code;	45
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	46 47
(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;	48 49 50 51
(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;	52 53 54 55
(m) Intellectual property records;	56
(n) Donor profile records;	57
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	58 59
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	60 61 62 63 64 65
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	66 67 68 69 70
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	71 72

(s) In the case of a child fatality review board acting	73
under sections 307.621 to 307.629 of the Revised Code or a	74
review conducted pursuant to guidelines established by the	75
director of health under section 3701.70 of the Revised Code,	76
records provided to the board or director, statements made by	77
board members during meetings of the board or by persons	78
participating in the director's review, and all work products of	79
the board or director, and in the case of a child fatality	80
review board, child fatality review data submitted by the board	81
to the department of health or a national child death review	82
database, other than the report prepared pursuant to division	83
(A) of section 307.626 of the Revised Code;	84
(t) Records provided to and statements made by the	85
executive director of a public children services agency or a	86
prosecuting attorney acting pursuant to section 5153.171 of the	87
Revised Code other than the information released under that	88
section;	89
(u) Test materials, examinations, or evaluation tools used	90
in an examination for licensure as a nursing home administrator	91
that the board of executives of long-term services and supports	92
administers under section 4751.04 of the Revised Code or	93
contracts under that section with a private or government entity	94
to administer;	95
(v) Records the release of which is prohibited by state or	96
federal law;	97
(w) Proprietary information of or relating to any person	98
that is submitted to or compiled by the Ohio venture capital	99
authority created under section 150.01 of the Revised Code;	100
(x) Financial statements and data any person submits for	101

any purpose to the Ohio housing finance agency or the	102
controlling board in connection with applying for, receiving, or	103
accounting for financial assistance from the agency, and	104
information that identifies any individual who benefits directly	105
or indirectly from financial assistance from the agency;	106
(y) Records listed in section 5101.29 of the Revised Code;	107
(z) Discharges recorded with a county recorder under	108
section 317.24 of the Revised Code, as specified in division (B)	109
(2) of that section;	110
(aa) Usage information including names and addresses of	111
specific residential and commercial customers of a municipally	112
owned or operated public utility;	113
(bb) Records described in division (C) of section 187.04	114
of the Revised Code that are not designated to be made available	115
to the public as provided in that division;	116
(cc) Information and records that are made confidential,	117
privileged, and not subject to disclosure under divisions (B)	118
and (C) of section 2949.221 of the Revised Code.	119
(2) "Confidential law enforcement investigatory record"	120
means any record that pertains to a law enforcement matter of a	121
criminal, quasi-criminal, civil, or administrative nature, but	122
only to the extent that the release of the record would create a	123
high probability of disclosure of any of the following:	124
(a) The identity of a suspect who has not been charged	125
with the offense to which the record pertains, or of an	126
information source or witness to whom confidentiality has been	127
reasonably promised;	128
(b) Information provided by an information source or	129

witness to whom confidentiality has been reasonably promised, 130  
which information would reasonably tend to disclose the source's 131  
or witness's identity; 132

(c) Specific confidential investigatory techniques or 133  
procedures or specific investigatory work product; 134

(d) Information that would endanger the life or physical 135  
safety of law enforcement personnel, a crime victim, a witness, 136  
or a confidential information source. 137

(3) "Medical record" means any document or combination of 138  
documents, except births, deaths, and the fact of admission to 139  
or discharge from a hospital, that pertains to the medical 140  
history, diagnosis, prognosis, or medical condition of a patient 141  
and that is generated and maintained in the process of medical 142  
treatment. 143

(4) "Trial preparation record" means any record that 144  
contains information that is specifically compiled in reasonable 145  
anticipation of, or in defense of, a civil or criminal action or 146  
proceeding, including the independent thought processes and 147  
personal trial preparation of an attorney. 148

(5) "Intellectual property record" means a record, other 149  
than a financial or administrative record, that is produced or 150  
collected by or for faculty or staff of a state institution of 151  
higher learning in the conduct of or as a result of study or 152  
research on an educational, commercial, scientific, artistic, 153  
technical, or scholarly issue, regardless of whether the study 154  
or research was sponsored by the institution alone or in 155  
conjunction with a governmental body or private concern, and 156  
that has not been publicly released, published, or patented. 157

(6) "Donor profile record" means all records about donors 158

or potential donors to a public institution of higher education 159  
except the names and reported addresses of the actual donors and 160  
the date, amount, and conditions of the actual donation. 161

(7) "Peace officer, parole officer, probation officer, 162  
bailiff, prosecuting attorney, assistant prosecuting attorney, 163  
correctional employee, community-based correctional facility 164  
employee, youth services employee, firefighter, EMT, or 165  
investigator of the bureau of criminal identification and 166  
investigation residential and familial information" means any 167  
information that discloses any of the following about a peace 168  
officer, parole officer, probation officer, bailiff, prosecuting 169  
attorney, assistant prosecuting attorney, correctional employee, 170  
community-based correctional facility employee, youth services 171  
employee, firefighter, EMT, or investigator of the bureau of 172  
criminal identification and investigation: 173

(a) The address of the actual personal residence of a 174  
peace officer, parole officer, probation officer, bailiff, 175  
assistant prosecuting attorney, correctional employee, 176  
community-based correctional facility employee, youth services 177  
employee, firefighter, EMT, or an investigator of the bureau of 178  
criminal identification and investigation, except for the state 179  
or political subdivision in which the peace officer, parole 180  
officer, probation officer, bailiff, assistant prosecuting 181  
attorney, correctional employee, community-based correctional 182  
facility employee, youth services employee, firefighter, EMT, or 183  
investigator of the bureau of criminal identification and 184  
investigation resides; 185

(b) Information compiled from referral to or participation 186  
in an employee assistance program; 187

(c) The social security number, the residential telephone 188

number, any bank account, debit card, charge card, or credit 189  
card number, or the emergency telephone number of, or any 190  
medical information pertaining to, a peace officer, parole 191  
officer, probation officer, bailiff, prosecuting attorney, 192  
assistant prosecuting attorney, correctional employee, 193  
community-based correctional facility employee, youth services 194  
employee, firefighter, EMT, or investigator of the bureau of 195  
criminal identification and investigation; 196

(d) The name of any beneficiary of employment benefits, 197  
including, but not limited to, life insurance benefits, provided 198  
to a peace officer, parole officer, probation officer, bailiff, 199  
prosecuting attorney, assistant prosecuting attorney, 200  
correctional employee, community-based correctional facility 201  
employee, youth services employee, firefighter, EMT, or 202  
investigator of the bureau of criminal identification and 203  
investigation by the peace officer's, parole officer's, 204  
probation officer's, bailiff's, prosecuting attorney's, 205  
assistant prosecuting attorney's, correctional employee's, 206  
community-based correctional facility employee's, youth services 207  
employee's, firefighter's, EMT's, or investigator of the bureau 208  
of criminal identification and investigation's employer; 209

(e) The identity and amount of any charitable or 210  
employment benefit deduction made by the peace officer's, parole 211  
officer's, probation officer's, bailiff's, prosecuting 212  
attorney's, assistant prosecuting attorney's, correctional 213  
employee's, community-based correctional facility employee's, 214  
youth services employee's, firefighter's, EMT's, or investigator 215  
of the bureau of criminal identification and investigation's 216  
employer from the peace officer's, parole officer's, probation 217  
officer's, bailiff's, prosecuting attorney's, assistant 218  
prosecuting attorney's, correctional employee's, community-based 219



correctional facility employee's, youth services employee's, 220  
firefighter's, EMT's, or investigator of the bureau of criminal 221  
identification and investigation's compensation unless the 222  
amount of the deduction is required by state or federal law; 223

(f) The name, the residential address, the name of the 224  
employer, the address of the employer, the social security 225  
number, the residential telephone number, any bank account, 226  
debit card, charge card, or credit card number, or the emergency 227  
telephone number of the spouse, a former spouse, or any child of 228  
a peace officer, parole officer, probation officer, bailiff, 229  
prosecuting attorney, assistant prosecuting attorney, 230  
correctional employee, community-based correctional facility 231  
employee, youth services employee, firefighter, EMT, or 232  
investigator of the bureau of criminal identification and 233  
investigation; 234

(g) A photograph of a peace officer who holds a position 235  
or has an assignment that may include undercover or plain 236  
clothes positions or assignments as determined by the peace 237  
officer's appointing authority. 238

As used in divisions (A) (7) and (B) (9) of this section, 239  
"peace officer" has the same meaning as in section 109.71 of the 240  
Revised Code and also includes the superintendent and troopers 241  
of the state highway patrol; it does not include the sheriff of 242  
a county or a supervisory employee who, in the absence of the 243  
sheriff, is authorized to stand in for, exercise the authority 244  
of, and perform the duties of the sheriff. 245

As used in divisions (A) (7) and (B) (9) of this section, 246  
"correctional employee" means any employee of the department of 247  
rehabilitation and correction who in the course of performing 248  
the employee's job duties has or has had contact with inmates 249

and persons under supervision. 250

As used in divisions (A) (7) and (B) (9) of this section, 251  
"youth services employee" means any employee of the department 252  
of youth services who in the course of performing the employee's 253  
job duties has or has had contact with children committed to the 254  
custody of the department of youth services. 255

As used in divisions (A) (7) and (B) (9) of this section, 256  
"firefighter" means any regular, paid or volunteer, member of a 257  
lawfully constituted fire department of a municipal corporation, 258  
township, fire district, or village. 259

As used in divisions (A) (7) and (B) (9) of this section, 260  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 261  
emergency medical services for a public emergency medical 262  
service organization. "Emergency medical service organization," 263  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 264  
in section 4765.01 of the Revised Code. 265

As used in divisions (A) (7) and (B) (9) of this section, 266  
"investigator of the bureau of criminal identification and 267  
investigation" has the meaning defined in section 2903.11 of the 268  
Revised Code. 269

(8) "Information pertaining to the recreational activities 270  
of a person under the age of eighteen" means information that is 271  
kept in the ordinary course of business by a public office, that 272  
pertains to the recreational activities of a person under the 273  
age of eighteen years, and that discloses any of the following: 274

(a) The address or telephone number of a person under the 275  
age of eighteen or the address or telephone number of that 276  
person's parent, guardian, custodian, or emergency contact 277  
person; 278

(b) The social security number, birth date, or	279
photographic image of a person under the age of eighteen;	280
(c) Any medical record, history, or information pertaining	281
to a person under the age of eighteen;	282
(d) Any additional information sought or required about a	283
person under the age of eighteen for the purpose of allowing	284
that person to participate in any recreational activity	285
conducted or sponsored by a public office or to use or obtain	286
admission privileges to any recreational facility owned or	287
operated by a public office.	288
(9) "Community control sanction" has the same meaning as	289
in section 2929.01 of the Revised Code.	290
(10) "Post-release control sanction" has the same meaning	291
as in section 2967.01 of the Revised Code.	292
(11) "Redaction" means obscuring or deleting any	293
information that is exempt from the duty to permit public	294
inspection or copying from an item that otherwise meets the	295
definition of a "record" in section 149.011 of the Revised Code.	296
(12) "Designee" and "elected official" have the same	297
meanings as in section 109.43 of the Revised Code.	298
(B) (1) Upon request and subject to division (B) (8) of this	299
section, all public records responsive to the request shall be	300
promptly prepared and made available for inspection to any	301
person at all reasonable times during regular business hours.	302
Subject to division (B) (8) of this section, upon request, a	303
public office or person responsible for public records shall	304
make copies of the requested public record available at cost and	305
within a reasonable period of time. If a public record contains	306
information that is exempt from the duty to permit public	307

inspection or to copy the public record, the public office or 308  
the person responsible for the public record shall make 309  
available all of the information within the public record that 310  
is not exempt. When making that public record available for 311  
public inspection or copying that public record, the public 312  
office or the person responsible for the public record shall 313  
notify the requester of any redaction or make the redaction 314  
plainly visible. A redaction shall be deemed a denial of a 315  
request to inspect or copy the redacted information, except if 316  
federal or state law authorizes or requires a public office to 317  
make the redaction. 318

(2) To facilitate broader access to public records, a 319  
public office or the person responsible for public records shall 320  
organize and maintain public records in a manner that they can 321  
be made available for inspection or copying in accordance with 322  
division (B) of this section. A public office also shall have 323  
available a copy of its current records retention schedule at a 324  
location readily available to the public. If a requester makes 325  
an ambiguous or overly broad request or has difficulty in making 326  
a request for copies or inspection of public records under this 327  
section such that the public office or the person responsible 328  
for the requested public record cannot reasonably identify what 329  
public records are being requested, the public office or the 330  
person responsible for the requested public record may deny the 331  
request but shall provide the requester with an opportunity to 332  
revise the request by informing the requester of the manner in 333  
which records are maintained by the public office and accessed 334  
in the ordinary course of the public office's or person's 335  
duties. 336

(3) If a request is ultimately denied, in part or in 337  
whole, the public office or the person responsible for the 338

requested public record shall provide the requester with an 339  
explanation, including legal authority, setting forth why the 340  
request was denied. If the initial request was provided in 341  
writing, the explanation also shall be provided to the requester 342  
in writing. The explanation shall not preclude the public office 343  
or the person responsible for the requested public record from 344  
relying upon additional reasons or legal authority in defending 345  
an action commenced under division (C) of this section. 346

(4) Unless specifically required or authorized by state or 347  
federal law or in accordance with division (B) of this section, 348  
no public office or person responsible for public records may 349  
limit or condition the availability of public records by 350  
requiring disclosure of the requester's identity or the intended 351  
use of the requested public record. Any requirement that the 352  
requester disclose the ~~requester's~~requester's identity or the 353  
intended use of the requested public record constitutes a denial 354  
of the request. 355

(5) A public office or person responsible for public 356  
records may ask a requester to make the request in writing, may 357  
ask for the requester's identity, and may inquire about the 358  
intended use of the information requested, but may do so only 359  
after disclosing to the requester that a written request is not 360  
mandatory and that the requester may decline to reveal the 361  
requester's identity or the intended use and when a written 362  
request or disclosure of the identity or intended use would 363  
benefit the requester by enhancing the ability of the public 364  
office or person responsible for public records to identify, 365  
locate, or deliver the public records sought by the requester. 366

(6) If any person chooses to obtain a copy of a public 367  
record in accordance with division (B) of this section, the 368

public office or person responsible for the public record may 369  
require that person to pay in advance the cost involved in 370  
providing the copy of the public record in accordance with the 371  
choice made by the person seeking the copy under this division. 372  
The public office or the person responsible for the public 373  
record shall permit that person to choose to have the public 374  
record duplicated upon paper, upon the same medium upon which 375  
the public office or person responsible for the public record 376  
keeps it, or upon any other medium upon which the public office 377  
or person responsible for the public record determines that it 378  
reasonably can be duplicated as an integral part of the normal 379  
operations of the public office or person responsible for the 380  
public record. When the person seeking the copy makes a choice 381  
under this division, the public office or person responsible for 382  
the public record shall provide a copy of it in accordance with 383  
the choice made by the person seeking the copy. Nothing in this 384  
section requires a public office or person responsible for the 385  
public record to allow the person seeking a copy of the public 386  
record to make the copies of the public record. 387

(7) Upon a request made in accordance with division (B) of 388  
this section and subject to division (B)(6) of this section, a 389  
public office or person responsible for public records shall 390  
transmit a copy of a public record to any person by United 391  
States mail or by any other means of delivery or transmission 392  
within a reasonable period of time after receiving the request 393  
for the copy. The public office or person responsible for the 394  
public record may require the person making the request to pay 395  
in advance the cost of postage if the copy is transmitted by 396  
United States mail or the cost of delivery if the copy is 397  
transmitted other than by United States mail, and to pay in 398  
advance the costs incurred for other supplies used in the 399

mailing, delivery, or transmission. 400

Any public office may adopt a policy and procedures that 401  
it will follow in transmitting, within a reasonable period of 402  
time after receiving a request, copies of public records by 403  
United States mail or by any other means of delivery or 404  
transmission pursuant to this division. A public office that 405  
adopts a policy and procedures under this division shall comply 406  
with them in performing its duties under this division. 407

In any policy and procedures adopted under this division, 408  
a public office may limit the number of records requested by a 409  
person that the office will transmit by United States mail to 410  
ten per month, unless the person certifies to the office in 411  
writing that the person does not intend to use or forward the 412  
requested records, or the information contained in them, for 413  
commercial purposes. For purposes of this division, "commercial" 414  
shall be narrowly construed and does not include reporting or 415  
gathering news, reporting or gathering information to assist 416  
citizen oversight or understanding of the operation or 417  
activities of government, or nonprofit educational research. 418

(8) A public office or person responsible for public 419  
records is not required to permit a person who is incarcerated 420  
pursuant to a criminal conviction or a juvenile adjudication to 421  
inspect or to obtain a copy of any public record concerning a 422  
criminal investigation or prosecution or concerning what would 423  
be a criminal investigation or prosecution if the subject of the 424  
investigation or prosecution were an adult, unless the request 425  
to inspect or to obtain a copy of the record is for the purpose 426  
of acquiring information that is subject to release as a public 427  
record under this section and the judge who imposed the sentence 428  
or made the adjudication with respect to the person, or the 429

judge's successor in office, finds that the information sought 430  
in the public record is necessary to support what appears to be 431  
a justiciable claim of the person. 432

(9) (a) Upon written request made and signed by a 433  
journalist on or after December 16, 1999, a public office, or 434  
person responsible for public records, having custody of the 435  
records of the agency employing a specified peace officer, 436  
parole officer, probation officer, bailiff, prosecuting 437  
attorney, assistant prosecuting attorney, correctional employee, 438  
community-based correctional facility employee, youth services 439  
employee, firefighter, EMT, or investigator of the bureau of 440  
criminal identification and investigation shall disclose to the 441  
journalist the address of the actual personal residence of the 442  
peace officer, parole officer, probation officer, bailiff, 443  
prosecuting attorney, assistant prosecuting attorney, 444  
correctional employee, community-based correctional facility 445  
employee, youth services employee, firefighter, EMT, or 446  
investigator of the bureau of criminal identification and 447  
investigation and, if the peace officer's, parole officer's, 448  
probation officer's, bailiff's, prosecuting attorney's, 449  
assistant prosecuting attorney's, correctional employee's, 450  
community-based correctional facility employee's, youth services 451  
employee's, firefighter's, EMT's, or investigator of the bureau 452  
of criminal identification and investigation's spouse, former 453  
spouse, or child is employed by a public office, the name and 454  
address of the employer of the peace officer's, parole 455  
officer's, probation officer's, bailiff's, prosecuting 456  
attorney's, assistant prosecuting attorney's, correctional 457  
employee's, community-based correctional facility employee's, 458  
youth services employee's, firefighter's, EMT's, or investigator 459  
of the bureau of criminal identification and investigation's 460



spouse, former spouse, or child. The request shall include the 461  
journalist's name and title and the name and address of the 462  
journalist's employer and shall state that disclosure of the 463  
information sought would be in the public interest. 464

(b) Division (B) (9) (a) of this section also applies to 465  
journalist requests for customer information maintained by a 466  
municipally owned or operated public utility, other than social 467  
security numbers and any private financial information such as 468  
credit reports, payment methods, credit card numbers, and bank 469  
account information. 470

(c) As used in division (B) (9) of this section, 471  
"journalist" means a person engaged in, connected with, or 472  
employed by any news medium, including a newspaper, magazine, 473  
press association, news agency, or wire service, a radio or 474  
television station, or a similar medium, for the purpose of 475  
gathering, processing, transmitting, compiling, editing, or 476  
disseminating information for the general public. 477

(C) (1) If a person allegedly is aggrieved by the failure 478  
of a public office or the person responsible for public records 479  
to promptly prepare a public record and to make it available to 480  
the person for inspection in accordance with division (B) of 481  
this section or by any other failure of a public office or the 482  
person responsible for public records to comply with an 483  
obligation in accordance with division (B) of this section, the 484  
person allegedly aggrieved may ~~commence~~ do only one of the 485  
following, and not both: 486

(a) File a complaint with the clerk of the court of claims 487  
or the clerk of the court of common pleas under section 2743.75 488  
of the Revised Code; 489

(b) Commence a mandamus action to obtain a judgment that 490  
orders the public office or the person responsible for the 491  
public record to comply with division (B) of this section, that 492  
awards court costs and reasonable attorney's fees to the person 493  
that instituted the mandamus action, and, if applicable, that 494  
includes an order fixing statutory damages under division (C) ~~(1)~~ 495  
(2) of this section. The mandamus action may be commenced in the 496  
court of common pleas of the county in which division (B) of 497  
this section allegedly was not complied with, in the supreme 498  
court pursuant to its original jurisdiction under Section 2 of 499  
Article IV, Ohio Constitution, or in the court of appeals for 500  
the appellate district in which division (B) of this section 501  
allegedly was not complied with pursuant to its original 502  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 503

(2) If a ~~requester~~ requester transmits a written request 504  
by hand delivery or certified mail to inspect or receive copies 505  
of any public record in a manner that fairly describes the 506  
public record or class of public records to the public office or 507  
person responsible for the requested public records, except as 508  
otherwise provided in this section, the ~~requester~~ requester 509  
shall be entitled to recover the amount of statutory damages set 510  
forth in this division if a court determines that the public 511  
office or the person responsible for public records failed to 512  
comply with an obligation in accordance with division (B) of 513  
this section. 514

The amount of statutory damages shall be fixed at one 515  
hundred dollars for each business day during which the public 516  
office or person responsible for the requested public records 517  
failed to comply with an obligation in accordance with division 518  
(B) of this section, beginning with the day on which the 519  
requester files a mandamus action to recover statutory damages, 520

up to a maximum of one thousand dollars. The award of statutory 521  
damages shall not be construed as a penalty, but as compensation 522  
for injury arising from lost use of the requested information. 523  
The existence of this injury shall be conclusively presumed. The 524  
award of statutory damages shall be in addition to all other 525  
remedies authorized by this section. 526

The court may reduce an award of statutory damages or not 527  
award statutory damages if the court determines both of the 528  
following: 529

(a) That, based on the ordinary application of statutory 530  
law and case law as it existed at the time of the conduct or 531  
threatened conduct of the public office or person responsible 532  
for the requested public records that allegedly constitutes a 533  
failure to comply with an obligation in accordance with division 534  
(B) of this section and that was the basis of the mandamus 535  
action, a well-informed public office or person responsible for 536  
the requested public records reasonably would believe that the 537  
conduct or threatened conduct of the public office or person 538  
responsible for the requested public records did not constitute 539  
a failure to comply with an obligation in accordance with 540  
division (B) of this section; 541

(b) That a well-informed public office or person 542  
responsible for the requested public records reasonably would 543  
believe that the conduct or threatened conduct of the public 544  
office or person responsible for the requested public records 545  
would serve the public policy that underlies the authority that 546  
is asserted as permitting that conduct or threatened conduct. 547

~~(2) (a) If the court issues a writ of (3) In a mandamus 548  
that orders the public office or the person responsible for the 549  
public record to comply with division (B) of this section and 550~~

~~determines that the circumstances described in division (C)(1) of this section exist~~ action filed under division (C)(1) of this section, the following apply: 551  
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553

(a)(i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive. 554  
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(ii) If the court makes a determination described in division (C)(3)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive. 559  
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~~(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the~~ The court may award reasonable attorney's fees to the relator, subject to reduction as described in the provisions of division (C)(2)(e)(4) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(e) of this section when either, if the court determines any of the following applies: 563  
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(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. 572  
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(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 576  
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within that specified period of time. 580

(iii) The public office or the person responsible for the 581  
public records acted in bad faith when the office or person 582  
voluntarily made the public records available to the relator for 583  
the first time after the relator commenced the mandamus action, 584  
but before the court issued any order concluding whether or not 585  
the public office or person was required to comply with division 586  
(B) of this section. 587

~~(c) Court costs and reasonable attorney's fees awarded~~ 588  
~~under this section shall be construed as remedial and not~~ 589  
~~punitive. Reasonable attorney's fees shall include reasonable~~ 590  
~~fees incurred to produce proof of the reasonableness and amount~~ 591  
~~of the fees and to otherwise litigate entitlement to the fees.~~ 592  
The court may reduce an award of attorney's fees to the relator 593  
~~or shall not~~ award attorney's fees to the relator if the court 594  
determines both of the following: 595

(i) That, based on the ordinary application of statutory 596  
law and case law as it existed at the time of the conduct or 597  
threatened conduct of the public office or person responsible 598  
for the requested public records that allegedly constitutes a 599  
failure to comply with an obligation in accordance with division 600  
(B) of this section and that was the basis of the mandamus 601  
action, a well-informed public office or person responsible for 602  
the requested public records reasonably would believe that the 603  
conduct or threatened conduct of the public office or person 604  
responsible for the requested public records did not constitute 605  
a failure to comply with an obligation in accordance with 606  
division (B) of this section; 607

(ii) That a well-informed public office or person 608  
responsible for the requested public records reasonably would 609

believe that the conduct or threatened conduct of the public 610  
office or person responsible for the requested public records ~~as~~ 611  
~~described in division (C) (2) (e) (i) of this section~~ would serve 612  
the public policy that underlies the authority that is asserted 613  
as permitting that conduct or threatened conduct. 614

(4) All of the following apply to any award of reasonable 615  
attorney's fees awarded under division (C) (3) (b) of this 616  
section: 617

(a) The fees shall be construed as remedial and not 618  
punitive. 619

(b) The fees awarded shall not exceed the total of the 620  
reasonable attorney's fees incurred before the public record was 621  
made available to the relator and the fees described in division 622  
(C) (4) (c) of this section. 623

(c) Reasonable attorney's fees shall include reasonable 624  
fees incurred to produce proof of the reasonableness and amount 625  
of the fees and to otherwise litigate entitlement to the fees. 626

(d) The court may reduce the amount of fees awarded if the 627  
court determines that, given the factual circumstances involved 628  
with the specific public records request, an alternative means 629  
should have been pursued to more effectively and efficiently 630  
resolve the dispute that was subject to the mandamus action 631  
filed under division (C) (1) of this section. 632

(5) If the court does not issue a writ of mandamus under 633  
division (C) of this section and the court determines at that 634  
time that the bringing of the mandamus action was frivolous 635  
conduct as defined in division (A) of section 2323.51 of the 636  
Revised Code, the court may award to the public office all court 637  
costs, expenses, and reasonable attorney's fees, as determined 638

by the court. 639

(D) Chapter 1347. of the Revised Code does not limit the 640  
provisions of this section. 641

(E) (1) To ensure that all employees of public offices are 642  
appropriately educated about a public office's obligations under 643  
division (B) of this section, all elected officials or their 644  
appropriate designees shall attend training approved by the 645  
attorney general as provided in section 109.43 of the Revised 646  
Code. In addition, all public offices shall adopt a public 647  
records policy in compliance with this section for responding to 648  
public records requests. In adopting a public records policy 649  
under this division, a public office may obtain guidance from 650  
the model public records policy developed and provided to the 651  
public office by the attorney general under section 109.43 of 652  
the Revised Code. Except as otherwise provided in this section, 653  
the policy may not limit the number of public records that the 654  
public office will make available to a single person, may not 655  
limit the number of public records that it will make available 656  
during a fixed period of time, and may not establish a fixed 657  
period of time before it will respond to a request for 658  
inspection or copying of public records, unless that period is 659  
less than eight hours. 660

(2) The public office shall distribute the public records 661  
policy adopted by the public office under division (E) (1) of 662  
this section to the employee of the public office who is the 663  
records custodian or records manager or otherwise has custody of 664  
the records of that office. The public office shall require that 665  
employee to acknowledge receipt of the copy of the public 666  
records policy. The public office shall create a poster that 667  
describes its public records policy and shall post the poster in 668

a conspicuous place in the public office and in all locations 669  
where the public office has branch offices. The public office 670  
may post its public records policy on the internet web site of 671  
the public office if the public office maintains an internet web 672  
site. A public office that has established a manual or handbook 673  
of its general policies and procedures for all employees of the 674  
public office shall include the public records policy of the 675  
public office in the manual or handbook. 676

(F) (1) The bureau of motor vehicles may adopt rules 677  
pursuant to Chapter 119. of the Revised Code to reasonably limit 678  
the number of bulk commercial special extraction requests made 679  
by a person for the same records or for updated records during a 680  
calendar year. The rules may include provisions for charges to 681  
be made for bulk commercial special extraction requests for the 682  
actual cost of the bureau, plus special extraction costs, plus 683  
ten per cent. The bureau may charge for expenses for redacting 684  
information, the release of which is prohibited by law. 685

(2) As used in division (F) (1) of this section: 686

(a) "Actual cost" means the cost of depleted supplies, 687  
records storage media costs, actual mailing and alternative 688  
delivery costs, or other transmitting costs, and any direct 689  
equipment operating and maintenance costs, including actual 690  
costs paid to private contractors for copying services. 691

(b) "Bulk commercial special extraction request" means a 692  
request for copies of a record for information in a format other 693  
than the format already available, or information that cannot be 694  
extracted without examination of all items in a records series, 695  
class of records, or database by a person who intends to use or 696  
forward the copies for surveys, marketing, solicitation, or 697  
resale for commercial purposes. "Bulk commercial special 698



extraction request" does not include a request by a person who 699  
gives assurance to the bureau that the person making the request 700  
does not intend to use or forward the requested copies for 701  
surveys, marketing, solicitation, or resale for commercial 702  
purposes. 703

(c) "Commercial" means profit-seeking production, buying, 704  
or selling of any good, service, or other product. 705

(d) "Special extraction costs" means the cost of the time 706  
spent by the lowest paid employee competent to perform the task, 707  
the actual amount paid to outside private contractors employed 708  
by the bureau, or the actual cost incurred to create computer 709  
programs to make the special extraction. "Special extraction 710  
costs" include any charges paid to a public agency for computer 711  
or records services. 712

(3) For purposes of divisions (F) (1) and (2) of this 713  
section, "surveys, marketing, solicitation, or resale for 714  
commercial purposes" shall be narrowly construed and does not 715  
include reporting or gathering news, reporting or gathering 716  
information to assist citizen oversight or understanding of the 717  
operation or activities of government, or nonprofit educational 718  
research. 719

(G) A request by a defendant, counsel of a defendant, or 720  
any agent of a defendant in a criminal action that public 721  
records related to that action be made available under this 722  
section shall be considered a demand for discovery pursuant to 723  
the Criminal Rules, except to the extent that the Criminal Rules 724  
plainly indicate a contrary intent. 725

**Sec. 149.433.** (A) As used in this section: 726

~~(1)~~—"Act of terrorism" has the same meaning as in section 727

2909.21 of the Revised Code. 728

~~(2)~~ "Express statement" means a written statement 729  
substantially similar to the following: "This information is 730  
voluntarily submitted to a public office in expectation of 731  
protection from disclosure as provided by section 149.433 of the 732  
Revised Code." 733

"Infrastructure record" means any record that discloses 734  
the configuration of ~~a public office's or chartered nonpublic~~ 735  
~~school's~~ critical systems including, but not limited to, 736  
communication, computer, electrical, mechanical, ventilation, 737  
water, and plumbing systems, security codes, or the 738  
infrastructure or structural configuration of ~~the a building in~~ 739  
~~which a public office or chartered nonpublic school is located.~~ 740  
~~"Infrastructure"~~ 741

"Infrastructure record" includes a risk assessment of 742  
infrastructure performed by a local law enforcement agency at 743  
the request of a property owner or manager. 744

"Infrastructure record" does not mean a simple floor plan 745  
that discloses only the spatial relationship of components of ~~a~~ 746  
~~public office or chartered nonpublic school or the building in~~ 747  
~~which a public office or chartered nonpublic school is located.~~ 748

~~(3)~~ "Security record" means any of the following: 749

~~(a)~~ (1) Any record that contains information directly used 750  
for protecting or maintaining the security of a public office 751  
against attack, interference, or sabotage; 752

~~(b)~~ (2) Any record assembled, prepared, or maintained by a 753  
public office or public body to prevent, mitigate, or respond to 754  
acts of terrorism, including any of the following: 755

~~(i)~~ (a) Those portions of records containing specific and 756  
unique vulnerability assessments or specific and unique response 757  
plans either of which is intended to prevent or mitigate acts of 758  
terrorism, and communication codes or deployment plans of law 759  
enforcement or emergency response personnel; 760

~~(ii)~~ (b) Specific intelligence information and specific 761  
investigative records shared by federal and international law 762  
enforcement agencies with state and local law enforcement and 763  
public safety agencies; 764

~~(iii)~~ (c) National security records classified under 765  
federal executive order and not subject to public disclosure 766  
under federal law that are shared by federal agencies, and other 767  
records related to national security briefings to assist state 768  
and local government with domestic preparedness for acts of 769  
terrorism. 770

~~(e)~~ (3) An emergency management plan adopted pursuant to 771  
section 3313.536 of the Revised Code. 772

(B) (1) A record kept by a public office that is a security 773  
record ~~or an infrastructure record~~ is not a public record under 774  
section 149.43 of the Revised Code and is not subject to 775  
mandatory release or disclosure under that section. 776

(2) A record kept by a public office that is an 777  
infrastructure record of a public office or a chartered 778  
nonpublic school is not a public record under section 149.43 of 779  
the Revised Code and is not subject to mandatory release or 780  
disclosure under that section. 781

(3) A record kept by a public office that is an 782  
infrastructure record of a private entity may be exempted from 783  
release or disclosure under division (C) of this section. 784

(C) A record prepared by, submitted to, or kept by a public office that is an infrastructure record of a private entity, which is submitted to the public office for use by the public office, when accompanied by an express statement, is exempt from release or disclosure under section 149.43 of the Revised Code for a period of twenty-five years after its creation if it is retained by the public office for that length of time. 785  
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(D) Notwithstanding any other section of the Revised Code, disclosure by a public office, public employee, chartered nonpublic school, or chartered nonpublic school employee of a security record or infrastructure record that is necessary for construction, renovation, or remodeling work on any public building or project or chartered nonpublic school does not constitute public disclosure for purposes of waiving division (B) of this section and does not result in that record becoming a public record for purposes of section 149.43 of the Revised Code. 793  
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**Sec. 2323.52.** (A) As used in this section: 803

(1) "Conduct" has the same meaning as in section 2323.51 of the Revised Code. 804  
805

(2) "Vexatious conduct" means conduct of a party in a civil action that satisfies any of the following: 806  
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(a) The conduct obviously serves merely to harass or maliciously injure another party to the civil action. 808  
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(b) The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. 810  
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(c) The conduct is imposed solely for delay. 813

(3) "Vexatious litigator" means any person who has 814  
habitually, persistently, and without reasonable grounds engaged 815  
in vexatious conduct in a civil action or actions, whether in 816  
the court of claims or in a court of appeals, court of common 817  
pleas, municipal court, or county court, whether the person or 818  
another person instituted the civil action or actions, and 819  
whether the vexatious conduct was against the same party or 820  
against different parties in the civil action or actions. 821  
"Vexatious litigator" does not include a person who is 822  
authorized to practice law in the courts of this state under the 823  
Ohio Supreme Court Rules for the Government of the Bar of Ohio 824  
unless that person is representing or has represented self pro 825  
se in the civil action or actions. For the purposes of division 826  
(A) (3) of this section, "civil action" includes a proceeding 827  
under section 2743.75 of the Revised Code. 828

(B) A person, the office of the attorney general, or a 829  
prosecuting attorney, city director of law, village solicitor, 830  
or similar chief legal officer of a municipal corporation who 831  
has defended against habitual and persistent vexatious conduct 832  
in the court of claims or in a court of appeals, court of common 833  
pleas, municipal court, or county court may commence a civil 834  
action in a court of common pleas with jurisdiction over the 835  
person who allegedly engaged in the habitual and persistent 836  
vexatious conduct to have that person declared a vexatious 837  
litigator. The person, office of the attorney general, 838  
prosecuting attorney, city director of law, village solicitor, 839  
or similar chief legal officer of a municipal corporation may 840  
commence this civil action while the civil action or actions in 841  
which the habitual and persistent vexatious conduct occurred are 842  
still pending or within one year after the termination of the 843  
civil action or actions in which the habitual and persistent 844

vexatious conduct occurred. 845

(C) A civil action to have a person declared a vexatious 846  
litigator shall proceed as any other civil action, and the Ohio 847  
Rules of Civil Procedure apply to the action. 848

(D) (1) If the person alleged to be a vexatious litigator 849  
is found to be a vexatious litigator, subject to division (D) (2) 850  
of this section, the court of common pleas may enter an order 851  
prohibiting the vexatious litigator from doing one or more of 852  
the following without first obtaining the leave of that court to 853  
proceed: 854

(a) Instituting legal proceedings in the court of claims 855  
or in a court of common pleas, municipal court, or county court; 856

(b) Continuing any legal proceedings that the vexatious 857  
litigator had instituted in any of the courts specified in 858  
division (D) (1) (a) of this section prior to the entry of the 859  
order; 860

(c) Making any application, other than an application for 861  
leave to proceed under division (F) (1) of this section, in any 862  
legal proceedings instituted by the vexatious litigator or 863  
another person in any of the courts specified in division (D) (1) 864  
(a) of this section. 865

(2) If the court of common pleas finds a person who is 866  
authorized to practice law in the courts of this state under the 867  
Ohio Supreme Court Rules for the Government of the Bar of Ohio 868  
to be a vexatious litigator and enters an order described in 869  
division (D) (1) of this section in connection with that finding, 870  
the order shall apply to the person only insofar as the person 871  
would seek to institute proceedings described in division (D) (1) 872  
(a) of this section on a pro se basis, continue proceedings 873

described in division (D) (1) (b) of this section on a pro se 874  
basis, or make an application described in division (D) (1) (c) of 875  
this section on a pro se basis. The order shall not apply to the 876  
person insofar as the person represents one or more other 877  
persons in the person's capacity as a licensed and registered 878  
attorney in a civil or criminal action or proceeding or other 879  
matter in a court of common pleas, municipal court, or county 880  
court or in the court of claims. Division (D) (2) of this section 881  
does not affect any remedy that is available to a court or an 882  
adversely affected party under section 2323.51 or another 883  
section of the Revised Code, under Civil Rule 11 or another 884  
provision of the Ohio Rules of Civil Procedure, or under the 885  
common law of this state as a result of frivolous conduct or 886  
other inappropriate conduct by an attorney who represents one or 887  
more clients in connection with a civil or criminal action or 888  
proceeding or other matter in a court of common pleas, municipal 889  
court, or county court or in the court of claims. 890

(3) A person who is subject to an order entered pursuant 891  
to division (D) (1) of this section may not institute legal 892  
proceedings in a court of appeals, continue any legal 893  
proceedings that the vexatious litigator had instituted in a 894  
court of appeals prior to entry of the order, or make any 895  
application, other than the application for leave to proceed 896  
allowed by division (F) (2) of this section, in any legal 897  
proceedings instituted by the vexatious litigator or another 898  
person in a court of appeals without first obtaining leave of 899  
the court of appeals to proceed pursuant to division (F) (2) of 900  
this section. 901

(E) An order that is entered under division (D) (1) of this 902  
section shall remain in force indefinitely unless the order 903  
provides for its expiration after a specified period of time. 904

(F) (1) A court of common pleas that entered an order under 905  
division (D) (1) of this section shall not grant a person found 906  
to be a vexatious litigator leave for the institution or 907  
continuance of, or the making of an application in, legal 908  
proceedings in the court of claims or in a court of common 909  
pleas, municipal court, or county court unless the court of 910  
common pleas that entered that order is satisfied that the 911  
proceedings or application are not an abuse of process of the 912  
court in question and that there are reasonable grounds for the 913  
proceedings or application. If a person who has been found to be 914  
a vexatious litigator under this section requests the court of 915  
common pleas that entered an order under division (D) (1) of this 916  
section to grant the person leave to proceed as described in 917  
division (F) (1) of this section, the period of time commencing 918  
with the filing with that court of an application for the 919  
issuance of an order granting leave to proceed and ending with 920  
the issuance of an order of that nature shall not be computed as 921  
a part of an applicable period of limitations within which the 922  
legal proceedings or application involved generally must be 923  
instituted or made. 924

(2) A person who is subject to an order entered pursuant 925  
to division (D) (1) of this section and who seeks to institute or 926  
continue any legal proceedings in a court of appeals or to make 927  
an application, other than an application for leave to proceed 928  
under division (F) (2) of this section, in any legal proceedings 929  
in a court of appeals shall file an application for leave to 930  
proceed in the court of appeals in which the legal proceedings 931  
would be instituted or are pending. The court of appeals shall 932  
not grant a person found to be a vexatious litigator leave for 933  
the institution or continuance of, or the making of an 934  
application in, legal proceedings in the court of appeals unless 935



the court of appeals is satisfied that the proceedings or 936  
application are not an abuse of process of the court and that 937  
there are reasonable grounds for the proceedings or application. 938  
If a person who has been found to be a vexatious litigator under 939  
this section requests the court of appeals to grant the person 940  
leave to proceed as described in division (F) (2) of this 941  
section, the period of time commencing with the filing with the 942  
court of an application for the issuance of an order granting 943  
leave to proceed and ending with the issuance of an order of 944  
that nature shall not be computed as a part of an applicable 945  
period of limitations within which the legal proceedings or 946  
application involved generally must be instituted or made. 947

(G) During the period of time that the order entered under 948  
division (D) (1) of this section is in force, no appeal by the 949  
person who is the subject of that order shall lie from a 950  
decision of the court of common pleas or court of appeals under 951  
division (F) of this section that denies that person leave for 952  
the institution or continuance of, or the making of an 953  
application in, legal proceedings in the court of claims or in a 954  
court of appeals, court of common pleas, municipal court, or 955  
county court. 956

(H) The clerk of the court of common pleas that enters an 957  
order under division (D) (1) of this section shall send a 958  
certified copy of the order to the supreme court for publication 959  
in a manner that the supreme court determines is appropriate and 960  
that will facilitate the clerk of the court of claims and a 961  
clerk of a court of appeals, court of common pleas, municipal 962  
court, or county court in refusing to accept pleadings or other 963  
papers submitted for filing by persons who have been found to be 964  
a vexatious litigator under this section and who have failed to 965  
obtain leave to proceed under this section. 966

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

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

(2) If the claimant in a civil action as described in division (A) (1) of this section also files a claim for a declaratory judgment, injunctive relief, or other equitable relief against the state that arises out of the same circumstances that gave rise to the civil action described in division (A) (1) of this section, the court of claims has exclusive, original jurisdiction to hear and determine that claim in that civil action. This division does not affect, and shall not be construed as affecting, the original jurisdiction of another court of this state to hear and determine a civil action in which the sole relief that the claimant seeks against the state is a declaratory judgment, injunctive relief, or other equitable relief.

(3) In addition to its exclusive, original jurisdiction as 998  
conferred by ~~division~~ divisions (A) (1) and (2) of this section, 999  
the court of claims has exclusive, original jurisdiction as 1000  
follows: 1001

(a) As described in division (F) of section 2743.02, 1002  
division (B) of section 3335.03, and division (C) of section 1003  
5903.02 of the Revised Code; 1004

(b) Under section 2743.75 of the Revised Code to hear 1005  
complaints alleging a denial of access to public records in 1006  
violation of division (B) of section 149.43 of the Revised Code, 1007  
regardless of whether the public office or person responsible 1008  
for public records is an office or employee of the state or of a 1009  
political subdivision. 1010

(B) The court of claims shall sit in Franklin county, its 1011  
hearings shall be public, and it shall consist of incumbent 1012  
justices or judges of the supreme court, courts of appeals, or 1013  
courts of common pleas, or retired justices or judges eligible 1014  
for active duty pursuant to division (C) of Section 6 of Article 1015  
IV, Ohio Constitution, sitting by temporary assignment of the 1016  
chief justice of the supreme court. The chief justice may direct 1017  
the court to sit in any county for cases on removal upon a 1018  
showing of substantial hardship and whenever justice dictates. 1019

(C) (1) A civil action against the state shall be heard and 1020  
determined by a single judge. Upon application by the claimant 1021  
or the state, the chief justice of the supreme court may assign 1022  
a panel of three judges to hear and determine a civil action 1023  
presenting novel or complex issues of law or fact. Concurrence 1024  
of two members of the panel is necessary for any judgment or 1025  
order. 1026

(2) Whenever the chief justice of the supreme court 1027  
believes an equitable resolution of a case will be expedited, 1028  
the chief justice may appoint magistrates in accordance with 1029  
Civil Rule 53 to hear the case. 1030

(3) When any dispute under division (B) of section 153.12 1031  
of the Revised Code is brought to the court of claims, upon 1032  
request of either party to the dispute, the chief justice of the 1033  
supreme court shall appoint a single referee or a panel of three 1034  
referees. The referees need not be attorneys, but shall be 1035  
persons knowledgeable about construction contract law, a member 1036  
of the construction industry panel of the American arbitration 1037  
association, or an individual or individuals deemed qualified by 1038  
the chief justice to serve. No person shall serve as a referee 1039  
if that person has been employed by an affected state agency or 1040  
a contractor or subcontractor involved in the dispute at any 1041  
time in the preceding five years. Proceedings governing referees 1042  
shall be in accordance with Civil Rule 53, except as modified by 1043  
this division. The referee or panel of referees shall submit its 1044  
report, which shall include a recommendation and finding of 1045  
fact, to the judge assigned to the case by the chief justice, 1046  
within thirty days of the conclusion of the hearings. Referees 1047  
appointed pursuant to this division shall be compensated on a 1048  
per diem basis at the same rate as is paid to judges of the 1049  
court and also shall be paid their expenses. If a single referee 1050  
is appointed or a panel of three referees is appointed, then, 1051  
with respect to one referee of the panel, the compensation and 1052  
expenses of the referee shall not be taxed as part of the costs 1053  
in the case but shall be included in the budget of the court. If 1054  
a panel of three referees is appointed, the compensation and 1055  
expenses of the two remaining referees shall be taxed as costs 1056  
of the case. 1057

All costs of a case shall be apportioned among the 1058  
parties. The court may not require that any party deposit with 1059  
the court cash, bonds, or other security in excess of two 1060  
hundred dollars to guarantee payment of costs without the prior 1061  
approval in each case of the chief justice. 1062

(4) An appeal from a decision of the attorney general 1063  
pursuant to sections 2743.51 to 2743.72 of the Revised Code 1064  
shall be heard and determined by the court of claims. 1065

(D) The Rules of Civil Procedure shall govern practice and 1066  
procedure in all actions in the court of claims, except insofar 1067  
as inconsistent with this chapter. The supreme court may 1068  
promulgate rules governing practice and procedure in actions in 1069  
the court as provided in Section 5 of Article IV, Ohio 1070  
Constitution. 1071

(E) (1) A party who files a counterclaim against the state 1072  
or makes the state a third-party defendant in an action 1073  
commenced in any court, other than the court of claims, shall 1074  
file a petition for removal in the court of claims. The petition 1075  
shall state the basis for removal, be accompanied by a copy of 1076  
all process, pleadings, and other papers served upon the 1077  
petitioner, and shall be signed in accordance with Civil Rule 1078  
11. A petition for removal based on a counterclaim shall be 1079  
filed within twenty-eight days after service of the counterclaim 1080  
of the petitioner. A petition for removal based on third-party 1081  
practice shall be filed within twenty-eight days after the 1082  
filing of the third-party complaint of the petitioner. 1083

(2) Within seven days after filing a petition for removal, 1084  
the petitioner shall give written notice to the parties, and 1085  
shall file a copy of the petition with the clerk of the court in 1086  
which the action was brought originally. The filing effects the 1087

removal of the action to the court of claims, and the clerk of 1088  
the court where the action was brought shall forward all papers 1089  
in the case to the court of claims. The court of claims shall 1090  
adjudicate all civil actions removed. The court may remand a 1091  
civil action to the court in which it originated upon a finding 1092  
that the removal petition does not justify removal, or upon a 1093  
finding that the state is no longer a party. 1094

(3) Bonds, undertakings, or security and injunctions, 1095  
attachments, sequestrations, or other orders issued prior to 1096  
removal remain in effect until dissolved or modified by the 1097  
court of claims. 1098

Sec. 2743.75. (A) In order to provide for an expeditious 1099  
and economical procedure that attempts to resolve disputes 1100  
alleging a denial of access to public records in violation of 1101  
division (B) of section 149.43 of the Revised Code, except for a 1102  
court that hears a mandamus action pursuant to that section, the 1103  
court of claims shall be the sole and exclusive authority in 1104  
this state that adjudicates or resolves complaints based on 1105  
alleged violations of that section. The clerk of the court of 1106  
claims shall designate one or more current employees or hire one 1107  
or more individuals to serve as special masters to hear 1108  
complaints brought under this section. All special masters shall 1109  
have been engaged in the practice of law in this state for at 1110  
least four years and be in good standing with the supreme court 1111  
at the time of designation or hiring. The clerk may assign 1112  
administrative and clerical work associated with complaints 1113  
brought under this section to current employees or may hire such 1114  
additional employees as may be necessary to perform such work. 1115

(B) The clerk of the court of common pleas in each county 1116  
shall act as the clerk of the court of claims for purposes of 1117

accepting those complaints filed with the clerk under division 1118  
(D) (1) of this section, accepting filing fees for those 1119  
complaints, and serving those complaints. 1120

(C) (1) Subject to division (C) (2) of this section, a 1121  
person allegedly aggrieved by a denial of access to public 1122  
records in violation of division (B) of section 149.43 of the 1123  
Revised Code may seek relief under that section or under this 1124  
section, provided, however, that if the allegedly aggrieved 1125  
person files a complaint under either section, that person may 1126  
not seek relief that pertains to the same request for records in 1127  
a complaint filed under the other section. 1128

(2) If the allegedly aggrieved person files a complaint 1129  
under this section and the court of claims determines that the 1130  
complaint constitutes a case of first impression that involves 1131  
an issue of substantial public interest, the court shall dismiss 1132  
the complaint without prejudice and direct the allegedly 1133  
aggrieved person to commence a mandamus action in the court of 1134  
appeals with appropriate jurisdiction as provided in division 1135  
(C) (1) of section 149.43 of the Revised Code. 1136

(D) (1) An allegedly aggrieved person who proceeds under 1137  
this section shall file a complaint, on a form prescribed by the 1138  
clerk of the court of claims, with the clerk of the court of 1139  
claims or with the clerk of the court of common pleas of the 1140  
county in which the public office from which the records are 1141  
requested is located. The person shall attach to the complaint 1142  
copies of the original records request and any written responses 1143  
or other communications relating to the request from the public 1144  
office or person responsible for public records and shall pay a 1145  
filing fee of twenty-five dollars made payable to the clerk of 1146  
the court with whom the complaint is filed. The clerk shall 1147

serve a copy of the complaint on the public office or person 1148  
responsible for public records for the particular public office 1149  
in accordance with Civil Rule 4.1 and, if the complaint is filed 1150  
with the clerk of the court of common pleas, shall forward the 1151  
complaint to the clerk of the court of claims, and to no other 1152  
court, within three days after service is complete. 1153

(2) Upon receipt of a complaint filed under division (D) 1154  
(1) of this section, the clerk of the court of claims shall 1155  
assign a case number for the action and a special master to 1156  
examine the complaint. Notwithstanding any provision to the 1157  
contrary in this section, upon the recommendation of the special 1158  
master, the court of claims on its own motion may dismiss the 1159  
complaint at any time. 1160

(E) (1) Upon service of a complaint under division (D) (1) 1161  
of this section, except as otherwise provided in this division, 1162  
the special master assigned by the clerk under division (D) (2) 1163  
of this section immediately shall refer the case to mediation 1164  
services that the court of claims makes available to persons. 1165  
If, in the interest of justice considering the circumstances of 1166  
the case or the parties, the special master determines that the 1167  
case should not be referred to mediation, the special master 1168  
shall notify the court that the case was not referred to 1169  
mediation, and the case shall proceed in accordance with 1170  
division (F) of this section. If the case is referred to 1171  
mediation, any further proceedings under division (F) of this 1172  
section shall be stayed until the conclusion of the mediation. 1173  
If an agreement is reached during mediation, a written 1174  
agreement, including its material terms, shall be drafted and 1175  
signed by all of the parties. The court shall then dismiss the 1176  
complaint. If an agreement is not reached, the special master 1177  
shall notify the court that the case was not resolved and that 1178



the mediation has been terminated. 1179

(2) Within ten business days after the termination of the 1180  
mediation or the notification to the court that the case was not 1181  
referred to mediation under division (E)(1) of this section, the 1182  
public office or person responsible for public records shall 1183  
file a response, and if applicable, a motion to dismiss the 1184  
complaint, with the clerk of the court of claims and transmit 1185  
copies of the pleadings to the allegedly aggrieved party. No 1186  
further motions or pleadings shall be accepted by the clerk of 1187  
the court of claims or by the special master assigned by the 1188  
clerk under division (D)(2) of this section unless the special 1189  
master directs in writing that a further motion or pleading be 1190  
filed. 1191

(3) All of the following apply prior to the submission of 1192  
the special master's report and recommendation to the court of 1193  
claims under division (F)(1) of this section: 1194

(a) The special master shall not permit any discovery. 1195

(b) The parties may attach supporting affidavits to their 1196  
respective pleadings. 1197

(c) The special master may require either or both of the 1198  
parties to submit additional information or documentation 1199  
supported by affidavits. 1200

(F)(1) Not later than seven days after receiving the 1201  
response, or motion to dismiss the complaint, if applicable, of 1202  
the public office or person responsible for public records, the 1203  
special master shall submit to the court of claims a report and 1204  
recommendation based on the ordinary application of statutory 1205  
law and case law as they existed at the time of the filing of 1206  
the complaint. For good cause shown, the special master may 1207

extend the seven-day period for the submission of the report and 1208  
recommendation to the court of claims under this division by an 1209  
additional seven days. 1210

(2) Upon submission of the special master's report and 1211  
recommendation to the court of claims under division (F)(1) of 1212  
this section, the clerk shall send copies of the report and 1213  
recommendation to each party by certified mail, return receipt 1214  
requested, not later than three days after the report and 1215  
recommendation is filed. Either party may object to the report 1216  
and recommendation within seven days after receiving the report 1217  
and recommendation by filing a written objection with the clerk 1218  
and sending a copy to the other party by certified mail, return 1219  
receipt requested. Any objection to the report and 1220  
recommendation shall be specific and state with particularity 1221  
all grounds for the objection. If neither party timely objects, 1222  
the court of claims shall promptly issue a final order adopting 1223  
the report and recommendation, unless it determines that there 1224  
is an error of law or other defect evident on the face of the 1225  
report and recommendation. If either party timely objects, the 1226  
other party may file with the clerk a response within seven days 1227  
after receiving the objection and send a copy of the response to 1228  
the objecting party by certified mail, return receipt requested. 1229  
The court, within seven days after the response to the objection 1230  
is filed, shall issue a final order that adopts, modifies, or 1231  
rejects the report and recommendation. 1232

(3) If the court of claims determines that the public 1233  
office or person responsible for the public records denied the 1234  
aggrieved person access to the public records in violation of 1235  
division (B) of section 149.43 of the Revised Code and if no 1236  
appeal from the court's final order is taken under division (G) 1237  
of this section, both of the following apply: 1238

(a) The public office or the person responsible for the 1239  
public records shall permit the aggrieved person to inspect or 1240  
receive copies of the public records that the court requires to 1241  
be disclosed in its order. 1242

(b) The aggrieved person shall be entitled to recover from 1243  
the public office or person responsible for the public records 1244  
the amount of the filing fee of twenty-five dollars and any 1245  
other costs associated with the action that are incurred by the 1246  
aggrieved person, but shall not be entitled to recover 1247  
attorney's fees, except that division (G) (2) of this section 1248  
applies if an appeal is taken under division (G) (1) of this 1249  
section. 1250

(G) (1) Any appeal from a final order of the court of 1251  
claims under this section or from an order of the court of 1252  
claims dismissing the complaint as provided in division (D) (2) 1253  
of this section shall be taken to the court of appeals of the 1254  
appellate district where the principal place of business of the 1255  
public office from which the public record is requested is 1256  
located. However, no appeal may be taken from a final order of 1257  
the court of claims that adopts the special master's report and 1258  
recommendation unless a timely objection to that report and 1259  
recommendation was filed under division (F) (2) of this section. 1260  
If the court of claims materially modifies the special master's 1261  
report and recommendation, either party may take an appeal to 1262  
the court of appeals of the appellate district of the principal 1263  
place of business where that public office is located but the 1264  
appeal shall be limited to the issue in the report and 1265  
recommendation that is materially modified by the court of 1266  
claims. In order to facilitate the expeditious resolution of 1267  
disputes over alleged denials of access to public records in 1268  
violation of division (B) of section 149.43 of the Revised Code, 1269

the appeal shall be given such precedence over other pending 1270  
matters as will ensure that the court will reach a decision 1271  
promptly. 1272

(2) If a court of appeals in any appeal taken under 1273  
division (G) (1) of this section by the public office or person 1274  
responsible for the public records determines that the public 1275  
office or person denied the aggrieved person access to the 1276  
public records in violation of division (B) of section 149.43 of 1277  
the Revised Code and obviously filed the appeal with the intent 1278  
to either delay compliance with the court of claims' order from 1279  
which the appeal is taken for no reasonable cause or unduly 1280  
harass the aggrieved person, the court of appeals may award 1281  
reasonable attorney's fees to the aggrieved person in accordance 1282  
with division (C) of section 149.43 of the Revised Code. 1283

(H) The powers of the court of claims prescribed in 1284  
section 2743.05 of the Revised Code apply to the proceedings in 1285  
that court under this section. 1286

(I) (1) All filing fees collected by a clerk of the court 1287  
of common pleas under division (D) (1) of this section shall be 1288  
paid to the county treasurer for deposit into the fund for the 1289  
computerization of the office of the clerk established pursuant 1290  
to division (B) of section 2303.201 of the Revised Code. If 1291  
there is no such fund, the filing fees shall be paid to the 1292  
county treasurer for deposit into the county general revenue 1293  
fund. All such money collected during a month shall be 1294  
transmitted on or before the twentieth day of the following 1295  
month by the clerk of the court of common pleas to the county 1296  
treasurer. 1297

(2) All filing fees collected by the clerk of the court of 1298  
claims under division (D) (1) of this section shall be kept by 1299

the court of claims to assist in paying for its costs to 1300  
implement this section. Not later than the first day of February 1301  
of each year, the clerk of the court of claims shall prepare a 1302  
report accessible to the public that details the fees collected 1303  
during the preceding calendar year by the clerk of the court of 1304  
claims and the clerks of the courts of common pleas under this 1305  
section. 1306

(J) Nothing in this section shall be construed to limit 1307  
the authority of the auditor of state under division (G) of 1308  
section 109.43 of the Revised Code. 1309

**Sec. 2746.04.** In addition to any applicable fees or costs 1310  
set forth in sections 2746.01 and 2746.02 of the Revised Code or 1311  
any other applicable provision of law, a court of common pleas 1312  
shall tax as costs or otherwise require the payment of fees for 1313  
the following services rendered or as compensation for the 1314  
following persons or any other of the following fees that are 1315  
applicable in a particular case: 1316

(A) The fees provided for in section 2303.20 of the 1317  
Revised Code; 1318

(B) Additional fees to computerize the court, make 1319  
available computerized legal research services, computerize the 1320  
office of the clerk of the court, provide financial assistance 1321  
to legal aid societies, support the office of the state public 1322  
defender, fund shelters for victims of domestic violence, and 1323  
special projects of the court, as provided in section 2303.201 1324  
and, for a court that has a domestic relations division, section 1325  
2301.031 of the Revised Code; 1326

(C) Filing for a divorce decree under section 3105.10 or a 1327  
decree of dissolution under section 3105.65 of the Revised Code, 1328

as provided in section 3109.14 of the Revised Code;	1329
(D) Filing of a foreign judgment pursuant to section 2329.022 of the Revised Code, as provided in section 2329.025 of the Revised Code;	1330 1331 1332
(E) Interpreters, as provided in section 2301.14 of the Revised Code;	1333 1334
(F) Jurors in civil actions, as provided in section 2335.28 of the Revised Code;	1335 1336
(G) Reporters, as provided in sections 2301.21 and 2301.24 of the Revised Code;	1337 1338
(H) In a case involving the operation by a nonresident of a vessel upon the waters in this state, or the operation on the waters in this state of a vessel owned by a nonresident if operated with <del>his</del> <u>the nonresident's</u> consent, actual traveling expenses of the defendant, as provided in section 1547.36 of the Revised Code;	1339 1340 1341 1342 1343 1344
(I) In a civil case, the expenses of taking a deposition of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, as provided in section 2317.06 of the Revised Code;	1345 1346 1347 1348 1349
(J) In proceedings relating to the examination of a judgment debtor under sections 2333.09 to 2333.27 of the Revised Code, compensation for clerks, sheriffs, referees, receivers, and witnesses, as provided in section 2333.27 of the Revised Code;	1350 1351 1352 1353 1354
(K) In an appeal from an order of an agency issued pursuant to an adjudication under section 119.12 of the Revised	1355 1356

Code, the expense of preparing and transcribing the record; 1357

(L) In a case in which the court issues a protection order 1358  
upon a petition alleging that the respondent engaged in domestic 1359  
violence against a family or household member, the cost of 1360  
supervision of the respondent's exercise of parenting time, 1361  
visitation, or companionship rights, as provided in section 1362  
3113.31 of the Revised Code; 1363

(M) Upon a petition to have a person involuntarily 1364  
institutionalized, the costs of appointed counsel for the 1365  
respondent at a full hearing, as provided in section 5123.76 of 1366  
the Revised Code; 1367

(N) In a case before the domestic relations division of 1368  
the Hamilton county court of common pleas, the expense of 1369  
serving a summons, warrant, citation, subpoena, or other writ 1370  
issued to an officer other than a bailiff, constable, or staff 1371  
investigator of the division, as provided in section 2301.03 of 1372  
the Revised Code; 1373

(O) The filing fee specified in section 2743.75 of the 1374  
Revised Code in a case filed with the court of claims that 1375  
alleges a denial of access to public records in violation of 1376  
division (B) of section 149.43 of the Revised Code. 1377

**Section 2.** That existing sections 149.43, 149.433, 1378  
2323.52, 2743.03, and 2746.04 of the Revised Code are hereby 1379  
repealed. 1380