

As Reported by the Senate Government Oversight and Reform Committee

131st General Assembly

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Sub. S. B. No. 321

Senator Faber

**Cosponsors: Senators Burke, Eklund, Jordan, LaRose, Peterson, Seitz, Obhof,
Skindell**

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 to a person under the age of eighteen;	281 282
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	283 284 285 286 287 288
(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	289 290
(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	291 292
(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.	293 294 295 296
(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.	297 298
(B) (1) Upon request and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B) (8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or	299 300 301 302 303 304 305 306 307 308

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 ~~requestor~~ 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 ~~requestor~~ 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) 551
of this section exist, action filed under division (C) (1) of this 552~~

section, the following apply: 553

(a) (i) If the court orders the public office or the person 554
responsible for the public record to comply with division (B) of 555
this section, the court shall determine and award to the relator 556
all court costs, which shall be construed as remedial and not 557
punitive. 558

(ii) If the court makes a determination described in 559
division (C) (3) (b) (iii) of this section, the court shall 560
determine and award to the relator all court costs, which shall 561
be construed as remedial and not punitive. 562

~~(b) If the court renders a judgment that orders the public~~ 563
~~office or the person responsible for the public record to comply~~ 564
~~with division (B) of this section, the~~ The court may award 565
reasonable attorney's fees to the relator, subject to ~~reduction~~ 566
~~as described in the provisions of division (C) (2) (e) (4) of this~~ 567
~~section. The court shall award reasonable attorney's fees,~~ 568
~~subject to reduction as described in division (C) (2) (e) of this~~ 569
~~section when either,~~ if the court determines any of the 570
following applies: 571

(i) The public office or the person responsible for the 572
public records failed to respond affirmatively or negatively to 573
the public records request in accordance with the time allowed 574
under division (B) of this section. 575

(ii) The public office or the person responsible for the 576
public records promised to permit the relator to inspect or 577
receive copies of the public records requested within a 578
specified period of time but failed to fulfill that promise 579
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) (c) (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) <u>(b)</u> 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) <u>(c)</u> 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) <u>(3)</u> An emergency management plan adopted pursuant to	771
section 3313.536 of the Revised Code.	772
(B) <u>(1)</u> 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
<u>(2) A record kept by a public office that is an</u>	777
<u>infrastructure record of a public office or a chartered</u>	778
<u>nonpublic school is not a public record under section 149.43 of</u>	779
<u>the Revised Code and is not subject to mandatory release or</u>	780
<u>disclosure under that section.</u>	781
<u>(3) A record kept by a public office that is an</u>	782
<u>infrastructure record of a private entity may be exempted from</u>	783
<u>release or disclosure under division (C) of this section.</u>	784
(C) <u>A record prepared by, submitted to, or kept by a</u>	785
<u>public office that is an infrastructure record of a private</u>	786
<u>entity, which is submitted to the public office for use by the</u>	787
<u>public office, when accompanied by an express statement, is</u>	788

exempt from release or disclosure under section 149.43 of the 789
Revised Code for a period of twenty-five years after its 790
creation if it is retained by the public office for that length 791
of time. 792

(D) Notwithstanding any other section of the Revised Code, 793
disclosure by a public office, public employee, chartered 794
nonpublic school, or chartered nonpublic school employee of a 795
security record or infrastructure record that is necessary for 796
construction, renovation, or remodeling work on any public 797
building or project or chartered nonpublic school does not 798
constitute public disclosure for purposes of waiving division 799
(B) of this section and does not result in that record becoming 800
a public record for purposes of section 149.43 of the Revised 801
Code. 802

Sec. 2323.52. (A) As used in this section: 803

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

(2) "Vexatious conduct" means conduct of a party in a 806
civil action that satisfies any of the following: 807

(a) The conduct obviously serves merely to harass or 808
maliciously injure another party to the civil action. 809

(b) The conduct is not warranted under existing law and 810
cannot be supported by a good faith argument for an extension, 811
modification, or reversal of existing law. 812

(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 967

otherwise that a person found to be a vexatious litigator under 968
this section has instituted, continued, or made an application 969
in legal proceedings without obtaining leave to proceed from the 970
appropriate court of common pleas or court of appeals to do so 971
under division (F) of this section, the court in which the legal 972
proceedings are pending shall dismiss the proceedings or 973
application of the vexatious litigator. 974

Sec. 2743.03. (A) (1) There is hereby created a court of 975
claims. The court of claims is a court of record and has 976
exclusive, original jurisdiction of all civil actions against 977
the state permitted by the waiver of immunity contained in 978
section 2743.02 of the Revised Code and exclusive jurisdiction 979
of the causes of action of all parties in civil actions that are 980
removed to the court of claims. The court shall have full equity 981
powers in all actions within its jurisdiction and may entertain 982
and determine all counterclaims, cross-claims, and third-party 983
claims. 984

(2) If the claimant in a civil action as described in 985
division (A) (1) of this section also files a claim for a 986
declaratory judgment, injunctive relief, or other equitable 987
relief against the state that arises out of the same 988
circumstances that gave rise to the civil action described in 989
division (A) (1) of this section, the court of claims has 990
exclusive, original jurisdiction to hear and determine that 991
claim in that civil action. This division does not affect, and 992
shall not be construed as affecting, the original jurisdiction 993
of another court of this state to hear and determine a civil 994
action in which the sole relief that the claimant seeks against 995
the state is a declaratory judgment, injunctive relief, or other 996
equitable relief. 997

(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 his <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