

As Introduced

133rd General Assembly

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S. B. No. 208

Senator Johnson

**Cosponsors: Senators Obhof, McColley, Roegner, Brenner, Gavarone, Schaffer,
Eklund, Huffman, S., Lehner, Huffman, M., Wilson**

A BILL

To amend sections 149.43, 2919.13, 3701.79, and 1
3701.99 and to enact section 3701.792 of the 2
Revised Code to require reports to be made after 3
a child is born alive following an abortion or 4
attempted abortion and to establish certain 5
civil or criminal penalties for failing to 6
preserve the health or life of such a child. 7

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

Section 1. That sections 149.43, 2919.13, 3701.79, and 8
3701.99 be amended and section 3701.792 of the Revised Code be 9
enacted to read as follows: 10

Sec. 149.43. (A) As used in this section: 11

(1) "Public record" means records kept by any public 12
office, including, but not limited to, state, county, city, 13
village, township, and school district units, and records 14
pertaining to the delivery of educational services by an 15
alternative school in this state kept by the nonprofit or for- 16
profit entity operating the alternative school pursuant to 17

section 3313.533 of the Revised Code. "Public record" does not 18
mean any of the following: 19

(a) Medical records; 20

(b) Records pertaining to probation and parole 21
proceedings, to proceedings related to the imposition of 22
community control sanctions and post-release control sanctions, 23
or to proceedings related to determinations under section 24
2967.271 of the Revised Code regarding the release or maintained 25
incarceration of an offender to whom that section applies; 26

(c) Records pertaining to actions under section 2151.85 27
and division (C) of section 2919.121 of the Revised Code and to 28
appeals of actions arising under those sections; 29

(d) Records pertaining to adoption proceedings, including 30
the contents of an adoption file maintained by the department of 31
health under sections 3705.12 to 3705.124 of the Revised Code; 32

(e) Information in a record contained in the putative 33
father registry established by section 3107.062 of the Revised 34
Code, regardless of whether the information is held by the 35
department of job and family services or, pursuant to section 36
3111.69 of the Revised Code, the office of child support in the 37
department or a child support enforcement agency; 38

(f) Records specified in division (A) of section 3107.52 39
of the Revised Code; 40

(g) Trial preparation records; 41

(h) Confidential law enforcement investigatory records; 42

(i) Records containing information that is confidential 43
under section 2710.03 or 4112.05 of the Revised Code; 44

(j) DNA records stored in the DNA database pursuant to 45
section 109.573 of the Revised Code; 46

(k) Inmate records released by the department of 47
rehabilitation and correction to the department of youth 48
services or a court of record pursuant to division (E) of 49
section 5120.21 of the Revised Code; 50

(l) Records maintained by the department of youth services 51
pertaining to children in its custody released by the department 52
of youth services to the department of rehabilitation and 53
correction pursuant to section 5139.05 of the Revised Code; 54

(m) Intellectual property records; 55

(n) Donor profile records; 56

(o) Records maintained by the department of job and family 57
services pursuant to section 3121.894 of the Revised Code; 58

(p) Designated public service worker residential and 59
familial information; 60

(q) In the case of a county hospital operated pursuant to 61
Chapter 339. of the Revised Code or a municipal hospital 62
operated pursuant to Chapter 749. of the Revised Code, 63
information that constitutes a trade secret, as defined in 64
section 1333.61 of the Revised Code; 65

(r) Information pertaining to the recreational activities 66
of a person under the age of eighteen; 67

(s) In the case of a child fatality review board acting 68
under sections 307.621 to 307.629 of the Revised Code or a 69
review conducted pursuant to guidelines established by the 70
director of health under section 3701.70 of the Revised Code, 71
records provided to the board or director, statements made by 72

board members during meetings of the board or by persons 73
participating in the director's review, and all work products of 74
the board or director, and in the case of a child fatality 75
review board, child fatality review data submitted by the board 76
to the department of health or a national child death review 77
database, other than the report prepared pursuant to division 78
(A) of section 307.626 of the Revised Code; 79

(t) Records provided to and statements made by the 80
executive director of a public children services agency or a 81
prosecuting attorney acting pursuant to section 5153.171 of the 82
Revised Code other than the information released under that 83
section; 84

(u) Test materials, examinations, or evaluation tools used 85
in an examination for licensure as a nursing home administrator 86
that the board of executives of long-term services and supports 87
administers under section 4751.15 of the Revised Code or 88
contracts under that section with a private or government entity 89
to administer; 90

(v) Records the release of which is prohibited by state or 91
federal law; 92

(w) Proprietary information of or relating to any person 93
that is submitted to or compiled by the Ohio venture capital 94
authority created under section 150.01 of the Revised Code; 95

(x) Financial statements and data any person submits for 96
any purpose to the Ohio housing finance agency or the 97
controlling board in connection with applying for, receiving, or 98
accounting for financial assistance from the agency, and 99
information that identifies any individual who benefits directly 100
or indirectly from financial assistance from the agency; 101

(y) Records listed in section 5101.29 of the Revised Code;	102
(z) Discharges recorded with a county recorder under	103
section 317.24 of the Revised Code, as specified in division (B)	104
(2) of that section;	105
(aa) Usage information including names and addresses of	106
specific residential and commercial customers of a municipally	107
owned or operated public utility;	108
(bb) Records described in division (C) of section 187.04	109
of the Revised Code that are not designated to be made available	110
to the public as provided in that division;	111
(cc) Information and records that are made confidential,	112
privileged, and not subject to disclosure under divisions (B)	113
and (C) of section 2949.221 of the Revised Code;	114
(dd) Personal information, as defined in section 149.45 of	115
the Revised Code;	116
(ee) The confidential name, address, and other personally	117
identifiable information of a program participant in the address	118
confidentiality program established under sections 111.41 to	119
111.47 of the Revised Code, including the contents of any	120
application for absent voter's ballots, absent voter's ballot	121
identification envelope statement of voter, or provisional	122
ballot affirmation completed by a program participant who has a	123
confidential voter registration record, and records or portions	124
of records pertaining to that program that identify the number	125
of program participants that reside within a precinct, ward,	126
township, municipal corporation, county, or any other geographic	127
area smaller than the state. As used in this division,	128
"confidential address" and "program participant" have the	129
meaning defined in section 111.41 of the Revised Code.	130

(ff) Orders for active military service of an individual 131
serving or with previous service in the armed forces of the 132
United States, including a reserve component, or the Ohio 133
organized militia, except that, such order becomes a public 134
record on the day that is fifteen years after the published date 135
or effective date of the call to order; 136

(gg) The name, address, contact information, or other 137
personal information of an individual who is less than eighteen 138
years of age that is included in any record related to a traffic 139
accident involving a school vehicle in which the individual was 140
an occupant at the time of the accident; 141

(hh) Protected health information, as defined in 45 C.F.R. 142
160.103, that is in a claim for payment for a health care 143
product, service, or procedure, as well as any other health 144
claims data in another document that reveals the identity of an 145
individual who is the subject of the data or could be used to 146
reveal that individual's identity; 147

(ii) Any depiction by photograph, film, videotape, or 148
printed or digital image under either of the following 149
circumstances: 150

(i) The depiction is that of a victim of an offense the 151
release of which would be, to a reasonable person of ordinary 152
sensibilities, an offensive and objectionable intrusion into the 153
victim's expectation of bodily privacy and integrity. 154

(ii) The depiction captures or depicts the victim of a 155
sexually oriented offense, as defined in section 2950.01 of the 156
Revised Code, at the actual occurrence of that offense. 157

(jj) Restricted portions of a body-worn camera or 158
dashboard camera recording; 159

(kk) In the case of a fetal-infant mortality review board 160
acting under sections 3707.70 to 3707.77 of the Revised Code, 161
records, documents, reports, or other information presented to 162
the board or a person abstracting such materials on the board's 163
behalf, statements made by review board members during board 164
meetings, all work products of the board, and data submitted by 165
the board to the department of health or a national infant death 166
review database, other than the report prepared pursuant to 167
section 3707.77 of the Revised Code. 168

(ll) Records, documents, reports, or other information 169
presented to the pregnancy-associated mortality review board 170
established under section 3738.01 of the Revised Code, 171
statements made by board members during board meetings, all work 172
products of the board, and data submitted by the board to the 173
department of health, other than the biennial reports prepared 174
under section 3738.08 of the Revised Code; 175

(mm) Telephone numbers for a victim, as defined in section 176
2930.01 of the Revised Code, a witness to a crime, or a party to 177
a motor vehicle accident subject to the requirements of section 178
5502.11 of the Revised Code that are listed on any law 179
enforcement record or report; 180

(nn) A completed child survival form submitted to the 181
department of health under section 3701.792 of the Revised Code. 182

A record that is not a public record under division (A) (1) 183
of this section and that, under law, is permanently retained 184
becomes a public record on the day that is seventy-five years 185
after the day on which the record was created, except for any 186
record protected by the attorney-client privilege, a trial 187
preparation record as defined in this section, a statement 188
prohibiting the release of identifying information signed under 189

section 3107.083 of the Revised Code, a denial of release form 190
filed pursuant to section 3107.46 of the Revised Code, or any 191
record that is exempt from release or disclosure under section 192
149.433 of the Revised Code. If the record is a birth 193
certificate and a biological parent's name redaction request 194
form has been accepted under section 3107.391 of the Revised 195
Code, the name of that parent shall be redacted from the birth 196
certificate before it is released under this paragraph. If any 197
other section of the Revised Code establishes a time period for 198
disclosure of a record that conflicts with the time period 199
specified in this section, the time period in the other section 200
prevails. 201

(2) "Confidential law enforcement investigatory record" 202
means any record that pertains to a law enforcement matter of a 203
criminal, quasi-criminal, civil, or administrative nature, but 204
only to the extent that the release of the record would create a 205
high probability of disclosure of any of the following: 206

(a) The identity of a suspect who has not been charged 207
with the offense to which the record pertains, or of an 208
information source or witness to whom confidentiality has been 209
reasonably promised; 210

(b) Information provided by an information source or 211
witness to whom confidentiality has been reasonably promised, 212
which information would reasonably tend to disclose the source's 213
or witness's identity; 214

(c) Specific confidential investigatory techniques or 215
procedures or specific investigatory work product; 216

(d) Information that would endanger the life or physical 217
safety of law enforcement personnel, a crime victim, a witness, 218

or a confidential information source. 219

(3) "Medical record" means any document or combination of 220
documents, except births, deaths, and the fact of admission to 221
or discharge from a hospital, that pertains to the medical 222
history, diagnosis, prognosis, or medical condition of a patient 223
and that is generated and maintained in the process of medical 224
treatment. 225

(4) "Trial preparation record" means any record that 226
contains information that is specifically compiled in reasonable 227
anticipation of, or in defense of, a civil or criminal action or 228
proceeding, including the independent thought processes and 229
personal trial preparation of an attorney. 230

(5) "Intellectual property record" means a record, other 231
than a financial or administrative record, that is produced or 232
collected by or for faculty or staff of a state institution of 233
higher learning in the conduct of or as a result of study or 234
research on an educational, commercial, scientific, artistic, 235
technical, or scholarly issue, regardless of whether the study 236
or research was sponsored by the institution alone or in 237
conjunction with a governmental body or private concern, and 238
that has not been publicly released, published, or patented. 239

(6) "Donor profile record" means all records about donors 240
or potential donors to a public institution of higher education 241
except the names and reported addresses of the actual donors and 242
the date, amount, and conditions of the actual donation. 243

(7) "Designated public service worker" means a peace 244
officer, parole officer, probation officer, bailiff, prosecuting 245
attorney, assistant prosecuting attorney, correctional employee, 246
county or multicounty corrections officer, community-based 247

correctional facility employee, youth services employee, 248
firefighter, EMT, medical director or member of a cooperating 249
physician advisory board of an emergency medical service 250
organization, state board of pharmacy employee, investigator of 251
the bureau of criminal identification and investigation, judge, 252
magistrate, or federal law enforcement officer. 253

(8) "Designated public service worker residential and 254
familial information" means any information that discloses any 255
of the following about a designated public service worker: 256

(a) The address of the actual personal residence of a 257
designated public service worker, except for the following 258
information: 259

(i) The address of the actual personal residence of a 260
prosecuting attorney or judge; and 261

(ii) The state or political subdivision in which a 262
designated public service worker resides. 263

(b) Information compiled from referral to or participation 264
in an employee assistance program; 265

(c) The social security number, the residential telephone 266
number, any bank account, debit card, charge card, or credit 267
card number, or the emergency telephone number of, or any 268
medical information pertaining to, a designated public service 269
worker; 270

(d) The name of any beneficiary of employment benefits, 271
including, but not limited to, life insurance benefits, provided 272
to a designated public service worker by the designated public 273
service worker's employer; 274

(e) The identity and amount of any charitable or 275

employment benefit deduction made by the designated public 276
service worker's employer from the designated public service 277
worker's compensation, unless the amount of the deduction is 278
required by state or federal law; 279

(f) The name, the residential address, the name of the 280
employer, the address of the employer, the social security 281
number, the residential telephone number, any bank account, 282
debit card, charge card, or credit card number, or the emergency 283
telephone number of the spouse, a former spouse, or any child of 284
a designated public service worker; 285

(g) A photograph of a peace officer who holds a position 286
or has an assignment that may include undercover or plain 287
clothes positions or assignments as determined by the peace 288
officer's appointing authority. 289

(9) As used in divisions (A) (7) and (15) to (17) of this 290
section: 291

"Peace officer" has the meaning defined in section 109.71 292
of the Revised Code and also includes the superintendent and 293
troopers of the state highway patrol; it does not include the 294
sheriff of a county or a supervisory employee who, in the 295
absence of the sheriff, is authorized to stand in for, exercise 296
the authority of, and perform the duties of the sheriff. 297

"Correctional employee" means any employee of the 298
department of rehabilitation and correction who in the course of 299
performing the employee's job duties has or has had contact with 300
inmates and persons under supervision. 301

"County or multicounty corrections officer" means any 302
corrections officer employed by any county or multicounty 303
correctional facility. 304

"Youth services employee" means any employee of the 305
department of youth services who in the course of performing the 306
employee's job duties has or has had contact with children 307
committed to the custody of the department of youth services. 308

"Firefighter" means any regular, paid or volunteer, member 309
of a lawfully constituted fire department of a municipal 310
corporation, township, fire district, or village. 311

"EMT" means EMTs-basic, EMTs-I, and paramedics that 312
provide emergency medical services for a public emergency 313
medical service organization. "Emergency medical service 314
organization," "EMT-basic," "EMT-I," and "paramedic" have the 315
meanings defined in section 4765.01 of the Revised Code. 316

"Investigator of the bureau of criminal identification and 317
investigation" has the meaning defined in section 2903.11 of the 318
Revised Code. 319

"Federal law enforcement officer" has the meaning defined 320
in section 9.88 of the Revised Code. 321

(10) "Information pertaining to the recreational 322
activities of a person under the age of eighteen" means 323
information that is kept in the ordinary course of business by a 324
public office, that pertains to the recreational activities of a 325
person under the age of eighteen years, and that discloses any 326
of the following: 327

(a) The address or telephone number of a person under the 328
age of eighteen or the address or telephone number of that 329
person's parent, guardian, custodian, or emergency contact 330
person; 331

(b) The social security number, birth date, or 332
photographic image of a person under the age of eighteen; 333

(c) Any medical record, history, or information pertaining 334
to a person under the age of eighteen; 335

(d) Any additional information sought or required about a 336
person under the age of eighteen for the purpose of allowing 337
that person to participate in any recreational activity 338
conducted or sponsored by a public office or to use or obtain 339
admission privileges to any recreational facility owned or 340
operated by a public office. 341

(11) "Community control sanction" has the meaning defined 342
in section 2929.01 of the Revised Code. 343

(12) "Post-release control sanction" has the meaning 344
defined in section 2967.01 of the Revised Code. 345

(13) "Redaction" means obscuring or deleting any 346
information that is exempt from the duty to permit public 347
inspection or copying from an item that otherwise meets the 348
definition of a "record" in section 149.011 of the Revised Code. 349

(14) "Designee," "elected official," and "future official" 350
have the meanings defined in section 109.43 of the Revised Code. 351

(15) "Body-worn camera" means a visual and audio recording 352
device worn on the person of a peace officer while the peace 353
officer is engaged in the performance of the peace officer's 354
duties. 355

(16) "Dashboard camera" means a visual and audio recording 356
device mounted on a peace officer's vehicle or vessel that is 357
used while the peace officer is engaged in the performance of 358
the peace officer's duties. 359

(17) "Restricted portions of a body-worn camera or 360
dashboard camera recording" means any visual or audio portion of 361

a body-worn camera or dashboard camera recording that shows, 362
communicates, or discloses any of the following: 363

(a) The image or identity of a child or information that 364
could lead to the identification of a child who is a primary 365
subject of the recording when the law enforcement agency knows 366
or has reason to know the person is a child based on the law 367
enforcement agency's records or the content of the recording; 368

(b) The death of a person or a deceased person's body, 369
unless the death was caused by a peace officer or, subject to 370
division (H)(1) of this section, the consent of the decedent's 371
executor or administrator has been obtained; 372

(c) The death of a peace officer, firefighter, paramedic, 373
or other first responder, occurring while the decedent was 374
engaged in the performance of official duties, unless, subject 375
to division (H)(1) of this section, the consent of the 376
decedent's executor or administrator has been obtained; 377

(d) Grievous bodily harm, unless the injury was effected 378
by a peace officer or, subject to division (H)(1) of this 379
section, the consent of the injured person or the injured 380
person's guardian has been obtained; 381

(e) An act of severe violence against a person that 382
results in serious physical harm to the person, unless the act 383
and injury was effected by a peace officer or, subject to 384
division (H)(1) of this section, the consent of the injured 385
person or the injured person's guardian has been obtained; 386

(f) Grievous bodily harm to a peace officer, firefighter, 387
paramedic, or other first responder, occurring while the injured 388
person was engaged in the performance of official duties, 389
unless, subject to division (H)(1) of this section, the consent 390

of the injured person or the injured person's guardian has been 391
obtained; 392

(g) An act of severe violence resulting in serious 393
physical harm against a peace officer, firefighter, paramedic, 394
or other first responder, occurring while the injured person was 395
engaged in the performance of official duties, unless, subject 396
to division (H) (1) of this section, the consent of the injured 397
person or the injured person's guardian has been obtained; 398

(h) A person's nude body, unless, subject to division (H) 399
(1) of this section, the person's consent has been obtained; 400

(i) Protected health information, the identity of a person 401
in a health care facility who is not the subject of a law 402
enforcement encounter, or any other information in a health care 403
facility that could identify a person who is not the subject of 404
a law enforcement encounter; 405

(j) Information that could identify the alleged victim of 406
a sex offense, menacing by stalking, or domestic violence; 407

(k) Information, that does not constitute a confidential 408
law enforcement investigatory record, that could identify a 409
person who provides sensitive or confidential information to a 410
law enforcement agency when the disclosure of the person's 411
identity or the information provided could reasonably be 412
expected to threaten or endanger the safety or property of the 413
person or another person; 414

(l) Personal information of a person who is not arrested, 415
cited, charged, or issued a written warning by a peace officer; 416

(m) Proprietary police contingency plans or tactics that 417
are intended to prevent crime and maintain public order and 418
safety; 419

(n) A personal conversation unrelated to work between 420
peace officers or between a peace officer and an employee of a 421
law enforcement agency; 422

(o) A conversation between a peace officer and a member of 423
the public that does not concern law enforcement activities; 424

(p) The interior of a residence, unless the interior of a 425
residence is the location of an adversarial encounter with, or a 426
use of force by, a peace officer; 427

(q) Any portion of the interior of a private business that 428
is not open to the public, unless an adversarial encounter with, 429
or a use of force by, a peace officer occurs in that location. 430

As used in division (A) (17) of this section: 431

"Grievous bodily harm" has the same meaning as in section 432
5924.120 of the Revised Code. 433

"Health care facility" has the same meaning as in section 434
1337.11 of the Revised Code. 435

"Protected health information" has the same meaning as in 436
45 C.F.R. 160.103. 437

"Law enforcement agency" has the same meaning as in 438
section 2925.61 of the Revised Code. 439

"Personal information" means any government-issued 440
identification number, date of birth, address, financial 441
information, or criminal justice information from the law 442
enforcement automated data system or similar databases. 443

"Sex offense" has the same meaning as in section 2907.10 444
of the Revised Code. 445

"Firefighter," "paramedic," and "first responder" have the 446

same meanings as in section 4765.01 of the Revised Code. 447

(B) (1) Upon request and subject to division (B) (8) of this 448
section, all public records responsive to the request shall be 449
promptly prepared and made available for inspection to any 450
person at all reasonable times during regular business hours. 451
Subject to division (B) (8) of this section, upon request by any 452
person, a public office or person responsible for public records 453
shall make copies of the requested public record available to 454
the requester at cost and within a reasonable period of time. If 455
a public record contains information that is exempt from the 456
duty to permit public inspection or to copy the public record, 457
the public office or the person responsible for the public 458
record shall make available all of the information within the 459
public record that is not exempt. When making that public record 460
available for public inspection or copying that public record, 461
the public office or the person responsible for the public 462
record shall notify the requester of any redaction or make the 463
redaction plainly visible. A redaction shall be deemed a denial 464
of a request to inspect or copy the redacted information, except 465
if federal or state law authorizes or requires a public office 466
to make the redaction. 467

(2) To facilitate broader access to public records, a 468
public office or the person responsible for public records shall 469
organize and maintain public records in a manner that they can 470
be made available for inspection or copying in accordance with 471
division (B) of this section. A public office also shall have 472
available a copy of its current records retention schedule at a 473
location readily available to the public. If a requester makes 474
an ambiguous or overly broad request or has difficulty in making 475
a request for copies or inspection of public records under this 476
section such that the public office or the person responsible 477

for the requested public record cannot reasonably identify what 478
public records are being requested, the public office or the 479
person responsible for the requested public record may deny the 480
request but shall provide the requester with an opportunity to 481
revise the request by informing the requester of the manner in 482
which records are maintained by the public office and accessed 483
in the ordinary course of the public office's or person's 484
duties. 485

(3) If a request is ultimately denied, in part or in 486
whole, the public office or the person responsible for the 487
requested public record shall provide the requester with an 488
explanation, including legal authority, setting forth why the 489
request was denied. If the initial request was provided in 490
writing, the explanation also shall be provided to the requester 491
in writing. The explanation shall not preclude the public office 492
or the person responsible for the requested public record from 493
relying upon additional reasons or legal authority in defending 494
an action commenced under division (C) of this section. 495

(4) Unless specifically required or authorized by state or 496
federal law or in accordance with division (B) of this section, 497
no public office or person responsible for public records may 498
limit or condition the availability of public records by 499
requiring disclosure of the requester's identity or the intended 500
use of the requested public record. Any requirement that the 501
requester disclose the requester's identity or the intended use 502
of the requested public record constitutes a denial of the 503
request. 504

(5) A public office or person responsible for public 505
records may ask a requester to make the request in writing, may 506
ask for the requester's identity, and may inquire about the 507

intended use of the information requested, but may do so only 508
after disclosing to the requester that a written request is not 509
mandatory, that the requester may decline to reveal the 510
requester's identity or the intended use, and when a written 511
request or disclosure of the identity or intended use would 512
benefit the requester by enhancing the ability of the public 513
office or person responsible for public records to identify, 514
locate, or deliver the public records sought by the requester. 515

(6) If any person requests a copy of a public record in 516
accordance with division (B) of this section, the public office 517
or person responsible for the public record may require that 518
person to pay in advance the cost involved in providing the copy 519
of the public record in accordance with the choice made by the 520
person requesting the copy under this division. The public 521
office or the person responsible for the public record shall 522
permit that person to choose to have the public record 523
duplicated upon paper, upon the same medium upon which the 524
public office or person responsible for the public record keeps 525
it, or upon any other medium upon which the public office or 526
person responsible for the public record determines that it 527
reasonably can be duplicated as an integral part of the normal 528
operations of the public office or person responsible for the 529
public record. When the person requesting the copy makes a 530
choice under this division, the public office or person 531
responsible for the public record shall provide a copy of it in 532
accordance with the choice made by that person. Nothing in this 533
section requires a public office or person responsible for the 534
public record to allow the person requesting a copy of the 535
public record to make the copies of the public record. 536

(7) (a) Upon a request made in accordance with division (B) 537
of this section and subject to division (B) (6) of this section, 538

a public office or person responsible for public records shall 539
transmit a copy of a public record to any person by United 540
States mail or by any other means of delivery or transmission 541
within a reasonable period of time after receiving the request 542
for the copy. The public office or person responsible for the 543
public record may require the person making the request to pay 544
in advance the cost of postage if the copy is transmitted by 545
United States mail or the cost of delivery if the copy is 546
transmitted other than by United States mail, and to pay in 547
advance the costs incurred for other supplies used in the 548
mailing, delivery, or transmission. 549

(b) Any public office may adopt a policy and procedures 550
that it will follow in transmitting, within a reasonable period 551
of time after receiving a request, copies of public records by 552
United States mail or by any other means of delivery or 553
transmission pursuant to division (B) (7) of this section. A 554
public office that adopts a policy and procedures under division 555
(B) (7) of this section shall comply with them in performing its 556
duties under that division. 557

(c) In any policy and procedures adopted under division 558
(B) (7) of this section: 559

(i) A public office may limit the number of records 560
requested by a person that the office will physically deliver by 561
United States mail or by another delivery service to ten per 562
month, unless the person certifies to the office in writing that 563
the person does not intend to use or forward the requested 564
records, or the information contained in them, for commercial 565
purposes; 566

(ii) A public office that chooses to provide some or all 567
of its public records on a web site that is fully accessible to 568

and searchable by members of the public at all times, other than 569
during acts of God outside the public office's control or 570
maintenance, and that charges no fee to search, access, 571
download, or otherwise receive records provided on the web site, 572
may limit to ten per month the number of records requested by a 573
person that the office will deliver in a digital format, unless 574
the requested records are not provided on the web site and 575
unless the person certifies to the office in writing that the 576
person does not intend to use or forward the requested records, 577
or the information contained in them, for commercial purposes. 578

(iii) For purposes of division (B) (7) of this section, 579
"commercial" shall be narrowly construed and does not include 580
reporting or gathering news, reporting or gathering information 581
to assist citizen oversight or understanding of the operation or 582
activities of government, or nonprofit educational research. 583

(8) A public office or person responsible for public 584
records is not required to permit a person who is incarcerated 585
pursuant to a criminal conviction or a juvenile adjudication to 586
inspect or to obtain a copy of any public record concerning a 587
criminal investigation or prosecution or concerning what would 588
be a criminal investigation or prosecution if the subject of the 589
investigation or prosecution were an adult, unless the request 590
to inspect or to obtain a copy of the record is for the purpose 591
of acquiring information that is subject to release as a public 592
record under this section and the judge who imposed the sentence 593
or made the adjudication with respect to the person, or the 594
judge's successor in office, finds that the information sought 595
in the public record is necessary to support what appears to be 596
a justiciable claim of the person. 597

(9) (a) Upon written request made and signed by a 598

journalist, a public office, or person responsible for public 599
records, having custody of the records of the agency employing a 600
specified designated public service worker shall disclose to the 601
journalist the address of the actual personal residence of the 602
designated public service worker and, if the designated public 603
service worker's spouse, former spouse, or child is employed by 604
a public office, the name and address of the employer of the 605
designated public service worker's spouse, former spouse, or 606
child. The request shall include the journalist's name and title 607
and the name and address of the journalist's employer and shall 608
state that disclosure of the information sought would be in the 609
public interest. 610

(b) Division (B) (9) (a) of this section also applies to 611
journalist requests for: 612

(i) Customer information maintained by a municipally owned 613
or operated public utility, other than social security numbers 614
and any private financial information such as credit reports, 615
payment methods, credit card numbers, and bank account 616
information; 617

(ii) Information about minors involved in a school vehicle 618
accident as provided in division (A) (1) (gg) of this section, 619
other than personal information as defined in section 149.45 of 620
the Revised Code. 621

(c) As used in division (B) (9) of this section, 622
"journalist" means a person engaged in, connected with, or 623
employed by any news medium, including a newspaper, magazine, 624
press association, news agency, or wire service, a radio or 625
television station, or a similar medium, for the purpose of 626
gathering, processing, transmitting, compiling, editing, or 627
disseminating information for the general public. 628

(10) Upon a request made by a victim, victim's attorney, 629
or victim's representative, as that term is used in section 630
2930.02 of the Revised Code, a public office or person 631
responsible for public records shall transmit a copy of a 632
depiction of the victim as described in division (A) (1) (gg) of 633
this section to the victim, victim's attorney, or victim's 634
representative. 635

(C) (1) If a person allegedly is aggrieved by the failure 636
of a public office or the person responsible for public records 637
to promptly prepare a public record and to make it available to 638
the person for inspection in accordance with division (B) of 639
this section or by any other failure of a public office or the 640
person responsible for public records to comply with an 641
obligation in accordance with division (B) of this section, the 642
person allegedly aggrieved may do only one of the following, and 643
not both: 644

(a) File a complaint with the clerk of the court of claims 645
or the clerk of the court of common pleas under section 2743.75 646
of the Revised Code; 647

(b) Commence a mandamus action to obtain a judgment that 648
orders the public office or the person responsible for the 649
public record to comply with division (B) of this section, that 650
awards court costs and reasonable attorney's fees to the person 651
that instituted the mandamus action, and, if applicable, that 652
includes an order fixing statutory damages under division (C) (2) 653
of this section. The mandamus action may be commenced in the 654
court of common pleas of the county in which division (B) of 655
this section allegedly was not complied with, in the supreme 656
court pursuant to its original jurisdiction under Section 2 of 657
Article IV, Ohio Constitution, or in the court of appeals for 658

the appellate district in which division (B) of this section 659
allegedly was not complied with pursuant to its original 660
jurisdiction under Section 3 of Article IV, Ohio Constitution. 661

(2) If a requester transmits a written request by hand 662
delivery, electronic submission, or certified mail to inspect or 663
receive copies of any public record in a manner that fairly 664
describes the public record or class of public records to the 665
public office or person responsible for the requested public 666
records, except as otherwise provided in this section, the 667
requester shall be entitled to recover the amount of statutory 668
damages set forth in this division if a court determines that 669
the public office or the person responsible for public records 670
failed to comply with an obligation in accordance with division 671
(B) of this section. 672

The amount of statutory damages shall be fixed at one 673
hundred dollars for each business day during which the public 674
office or person responsible for the requested public records 675
failed to comply with an obligation in accordance with division 676
(B) of this section, beginning with the day on which the 677
requester files a mandamus action to recover statutory damages, 678
up to a maximum of one thousand dollars. The award of statutory 679
damages shall not be construed as a penalty, but as compensation 680
for injury arising from lost use of the requested information. 681
The existence of this injury shall be conclusively presumed. The 682
award of statutory damages shall be in addition to all other 683
remedies authorized by this section. 684

The court may reduce an award of statutory damages or not 685
award statutory damages if the court determines both of the 686
following: 687

(a) That, based on the ordinary application of statutory 688

law and case law as it existed at the time of the conduct or 689
threatened conduct of the public office or person responsible 690
for the requested public records that allegedly constitutes a 691
failure to comply with an obligation in accordance with division 692
(B) of this section and that was the basis of the mandamus 693
action, a well-informed public office or person responsible for 694
the requested public records reasonably would believe that the 695
conduct or threatened conduct of the public office or person 696
responsible for the requested public records did not constitute 697
a failure to comply with an obligation in accordance with 698
division (B) of this section; 699

(b) That a well-informed public office or person 700
responsible for the requested public records reasonably would 701
believe that the conduct or threatened conduct of the public 702
office or person responsible for the requested public records 703
would serve the public policy that underlies the authority that 704
is asserted as permitting that conduct or threatened conduct. 705

(3) In a mandamus action filed under division (C) (1) of 706
this section, the following apply: 707

(a) (i) If the court orders the public office or the person 708
responsible for the public record to comply with division (B) of 709
this section, the court shall determine and award to the relator 710
all court costs, which shall be construed as remedial and not 711
punitive. 712

(ii) If the court makes a determination described in 713
division (C) (3) (b) (iii) of this section, the court shall 714
determine and award to the relator all court costs, which shall 715
be construed as remedial and not punitive. 716

(b) If the court renders a judgment that orders the public 717

office or the person responsible for the public record to comply 718
with division (B) of this section or if the court determines any 719
of the following, the court may award reasonable attorney's fees 720
to the relator, subject to division (C) (4) of this section: 721

(i) The public office or the person responsible for the 722
public records failed to respond affirmatively or negatively to 723
the public records request in accordance with the time allowed 724
under division (B) of this section. 725

(ii) The public office or the person responsible for the 726
public records promised to permit the relator to inspect or 727
receive copies of the public records requested within a 728
specified period of time but failed to fulfill that promise 729
within that specified period of time. 730

(iii) The public office or the person responsible for the 731
public records acted in bad faith when the office or person 732
voluntarily made the public records available to the relator for 733
the first time after the relator commenced the mandamus action, 734
but before the court issued any order concluding whether or not 735
the public office or person was required to comply with division 736
(B) of this section. No discovery may be conducted on the issue 737
of the alleged bad faith of the public office or person 738
responsible for the public records. This division shall not be 739
construed as creating a presumption that the public office or 740
the person responsible for the public records acted in bad faith 741
when the office or person voluntarily made the public records 742
available to the relator for the first time after the relator 743
commenced the mandamus action, but before the court issued any 744
order described in this division. 745

(c) The court shall not award attorney's fees to the 746
relator if the court determines both of the following: 747

(i) That, based on the ordinary application of statutory 748
law and case law as it existed at the time of the conduct or 749
threatened conduct of the public office or person responsible 750
for the requested public records that allegedly constitutes a 751
failure to comply with an obligation in accordance with division 752
(B) of this section and that was the basis of the mandamus 753
action, a well-informed public office or person responsible for 754
the requested public records reasonably would believe that the 755
conduct or threatened conduct of the public office or person 756
responsible for the requested public records did not constitute 757
a failure to comply with an obligation in accordance with 758
division (B) of this section; 759

(ii) That a well-informed public office or person 760
responsible for the requested public records reasonably would 761
believe that the conduct or threatened conduct of the public 762
office or person responsible for the requested public records 763
would serve the public policy that underlies the authority that 764
is asserted as permitting that conduct or threatened conduct. 765

(4) All of the following apply to any award of reasonable 766
attorney's fees awarded under division (C) (3) (b) of this 767
section: 768

(a) The fees shall be construed as remedial and not 769
punitive. 770

(b) The fees awarded shall not exceed the total of the 771
reasonable attorney's fees incurred before the public record was 772
made available to the relator and the fees described in division 773
(C) (4) (c) of this section. 774

(c) Reasonable attorney's fees shall include reasonable 775
fees incurred to produce proof of the reasonableness and amount 776

of the fees and to otherwise litigate entitlement to the fees. 777

(d) The court may reduce the amount of fees awarded if the 778
court determines that, given the factual circumstances involved 779
with the specific public records request, an alternative means 780
should have been pursued to more effectively and efficiently 781
resolve the dispute that was subject to the mandamus action 782
filed under division (C) (1) of this section. 783

(5) If the court does not issue a writ of mandamus under 784
division (C) of this section and the court determines at that 785
time that the bringing of the mandamus action was frivolous 786
conduct as defined in division (A) of section 2323.51 of the 787
Revised Code, the court may award to the public office all court 788
costs, expenses, and reasonable attorney's fees, as determined 789
by the court. 790

(D) Chapter 1347. of the Revised Code does not limit the 791
provisions of this section. 792

(E) (1) To ensure that all employees of public offices are 793
appropriately educated about a public office's obligations under 794
division (B) of this section, all elected officials or their 795
appropriate designees shall attend training approved by the 796
attorney general as provided in section 109.43 of the Revised 797
Code. A future official may satisfy the requirements of this 798
division by attending the training before taking office, 799
provided that the future official may not send a designee in the 800
future official's place. 801

(2) All public offices shall adopt a public records policy 802
in compliance with this section for responding to public records 803
requests. In adopting a public records policy under this 804
division, a public office may obtain guidance from the model 805

public records policy developed and provided to the public 806
office by the attorney general under section 109.43 of the 807
Revised Code. Except as otherwise provided in this section, the 808
policy may not limit the number of public records that the 809
public office will make available to a single person, may not 810
limit the number of public records that it will make available 811
during a fixed period of time, and may not establish a fixed 812
period of time before it will respond to a request for 813
inspection or copying of public records, unless that period is 814
less than eight hours. 815

The public office shall distribute the public records 816
policy adopted by the public office under this division to the 817
employee of the public office who is the records custodian or 818
records manager or otherwise has custody of the records of that 819
office. The public office shall require that employee to 820
acknowledge receipt of the copy of the public records policy. 821
The public office shall create a poster that describes its 822
public records policy and shall post the poster in a conspicuous 823
place in the public office and in all locations where the public 824
office has branch offices. The public office may post its public 825
records policy on the internet web site of the public office if 826
the public office maintains an internet web site. A public 827
office that has established a manual or handbook of its general 828
policies and procedures for all employees of the public office 829
shall include the public records policy of the public office in 830
the manual or handbook. 831

(F) (1) The bureau of motor vehicles may adopt rules 832
pursuant to Chapter 119. of the Revised Code to reasonably limit 833
the number of bulk commercial special extraction requests made 834
by a person for the same records or for updated records during a 835
calendar year. The rules may include provisions for charges to 836

be made for bulk commercial special extraction requests for the 837
actual cost of the bureau, plus special extraction costs, plus 838
ten per cent. The bureau may charge for expenses for redacting 839
information, the release of which is prohibited by law. 840

(2) As used in division (F)(1) of this section: 841

(a) "Actual cost" means the cost of depleted supplies, 842
records storage media costs, actual mailing and alternative 843
delivery costs, or other transmitting costs, and any direct 844
equipment operating and maintenance costs, including actual 845
costs paid to private contractors for copying services. 846

(b) "Bulk commercial special extraction request" means a 847
request for copies of a record for information in a format other 848
than the format already available, or information that cannot be 849
extracted without examination of all items in a records series, 850
class of records, or database by a person who intends to use or 851
forward the copies for surveys, marketing, solicitation, or 852
resale for commercial purposes. "Bulk commercial special 853
extraction request" does not include a request by a person who 854
gives assurance to the bureau that the person making the request 855
does not intend to use or forward the requested copies for 856
surveys, marketing, solicitation, or resale for commercial 857
purposes. 858

(c) "Commercial" means profit-seeking production, buying, 859
or selling of any good, service, or other product. 860

(d) "Special extraction costs" means the cost of the time 861
spent by the lowest paid employee competent to perform the task, 862
the actual amount paid to outside private contractors employed 863
by the bureau, or the actual cost incurred to create computer 864
programs to make the special extraction. "Special extraction 865

costs" include any charges paid to a public agency for computer 866
or records services. 867

(3) For purposes of divisions (F) (1) and (2) of this 868
section, "surveys, marketing, solicitation, or resale for 869
commercial purposes" shall be narrowly construed and does not 870
include reporting or gathering news, reporting or gathering 871
information to assist citizen oversight or understanding of the 872
operation or activities of government, or nonprofit educational 873
research. 874

(G) A request by a defendant, counsel of a defendant, or 875
any agent of a defendant in a criminal action that public 876
records related to that action be made available under this 877
section shall be considered a demand for discovery pursuant to 878
the Criminal Rules, except to the extent that the Criminal Rules 879
plainly indicate a contrary intent. The defendant, counsel of 880
the defendant, or agent of the defendant making a request under 881
this division shall serve a copy of the request on the 882
prosecuting attorney, director of law, or other chief legal 883
officer responsible for prosecuting the action. 884

(H) (1) Any portion of a body-worn camera or dashboard 885
camera recording described in divisions (A) (17) (b) to (h) of 886
this section may be released by consent of the subject of the 887
recording or a representative of that person, as specified in 888
those divisions, only if either of the following applies: 889

(a) The recording will not be used in connection with any 890
probable or pending criminal proceedings; 891

(b) The recording has been used in connection with a 892
criminal proceeding that was dismissed or for which a judgment 893
has been entered pursuant to Rule 32 of the Rules of Criminal 894

Procedure, and will not be used again in connection with any 895
probable or pending criminal proceedings. 896

(2) If a public office denies a request to release a 897
restricted portion of a body-worn camera or dashboard camera 898
recording, as defined in division (A)(17) of this section, any 899
person may file a mandamus action pursuant to this section or a 900
complaint with the clerk of the court of claims pursuant to 901
section 2743.75 of the Revised Code, requesting the court to 902
order the release of all or portions of the recording. If the 903
court considering the request determines that the filing 904
articulates by clear and convincing evidence that the public 905
interest in the recording substantially outweighs privacy 906
interests and other interests asserted to deny release, the 907
court shall order the public office to release the recording. 908

Sec. 2919.13. (A) No person shall purposely take the life 909
of a child born by attempted abortion who is alive when removed 910
from the uterus of the pregnant woman. 911

(B) No person who performs an abortion shall purposely 912
fail to take the measures required by the exercise of medical 913
judgment in light of the attending circumstances to preserve the 914
health or life of a child who is alive when removed from the 915
uterus of the pregnant woman. 916

(C) Whoever violates this section is guilty of abortion 917
manslaughter, a felony of the first degree. 918

(D) (1) A woman on whom an abortion is performed or 919
attempted may file a civil action for the wrongful death of the 920
woman's child against a person who violates division (A) of this 921
section. 922

(2) A woman on whom an abortion is performed or attempted 923

may file a civil action for injury, death, or loss to person or 924
property against a person who violates division (B) of this 925
section. 926

(3) A woman who prevails in an action filed under division 927
(D) (1) or (2) of this section shall receive both of the 928
following from the person who committed the act: 929

(a) Compensatory and exemplary damages in an amount 930
determined by the trier of fact; 931

(b) Court costs and reasonable attorney's fees. 932

Sec. 3701.79. (A) As used in this section and in sections 933
3701.791 and 3701.792 of the Revised Code: 934

(1) "Abortion" has the same meaning as in section 2919.11 935
of the Revised Code. 936

(2) "Abortion report" means a form completed pursuant to 937
division (C) of this section. 938

(3) "Ambulatory surgical facility" has the same meaning as 939
in section 3702.30 of the Revised Code. 940

(4) "Department" means the department of health. 941

(5) "Hospital" means any building, structure, institution, 942
or place devoted primarily to the maintenance and operation of 943
facilities for the diagnosis, treatment, and medical or surgical 944
care for three or more unrelated individuals suffering from 945
illness, disease, injury, or deformity, and regularly making 946
available at least clinical laboratory services, diagnostic x- 947
ray services, treatment facilities for surgery or obstetrical 948
care, or other definitive medical treatment. "Hospital" does not 949
include a "home" as defined in section 3721.01 of the Revised 950
Code. 951

(6) "Physician's office" means an office or portion of an 952
office that is used to provide medical or surgical services to 953
the physician's patients. "Physician's office" does not mean an 954
ambulatory surgical facility, a hospital, or a hospital 955
emergency department. 956

(7) "Postabortion care" means care given after the uterus 957
has been evacuated by abortion. 958

(B) The department shall be responsible for collecting and 959
collating abortion data reported to the department as required 960
by this section. 961

(C) The attending physician shall complete an individual 962
abortion report for each abortion the physician performs upon a 963
woman. The report shall be confidential and shall not contain 964
the woman's name. The report shall include, but is not limited 965
to, all of the following, insofar as the patient makes the data 966
available that is not within the physician's knowledge: 967

(1) Patient number; 968

(2) The name and address of the facility in which the 969
abortion was performed, and whether the facility is a hospital, 970
ambulatory surgical facility, physician's office, or other 971
facility; 972

(3) The date of the abortion; 973

(4) All of the following regarding the woman on whom the 974
abortion was performed: 975

(a) Zip code of residence; 976

(b) Age; 977

(c) Race; 978

(d) Marital status;	979
(e) Number of previous pregnancies;	980
(f) Years of education;	981
(g) Number of living children;	982
(h) Number of previously induced abortions;	983
(i) Date of last induced abortion;	984
(j) Date of last live birth;	985
(k) Method of contraception at the time of conception;	986
(l) Date of the first day of the last menstrual period;	987
(m) Medical condition at the time of the abortion;	988
(n) Rh-type;	989
(o) The number of weeks of gestation at the time of the abortion.	990 991
(5) The type of abortion procedure performed;	992
(6) Complications by type;	993
(7) Written acknowledgment by the attending physician that the pregnant woman is not seeking the abortion, in whole or in part, because of any of the following:	994 995 996
(a) A test result indicating Down syndrome in an unborn child;	997 998
(b) A prenatal diagnosis of Down syndrome in an unborn child;	999 1000
(c) Any other reason to believe that an unborn child has Down syndrome.	1001 1002

(8) Type of procedure performed after the abortion;	1003
(9) Type of family planning recommended;	1004
(10) Type of additional counseling given;	1005
(11) Signature of attending physician.	1006
(D) The physician who completed the abortion report under	1007
division (C) of this section shall submit the abortion report to	1008
the department within fifteen days after the woman is	1009
discharged.	1010
(E) The appropriate vital records report or certificate	1011
shall be made out after the twentieth week of gestation.	1012
(F) A copy of the abortion report shall be made part of	1013
the medical record of the patient of the facility in which the	1014
abortion was performed.	1015
(G) Each hospital shall file monthly and annual reports	1016
listing the total number of women who have undergone a post-	1017
twelve-week-gestation abortion and received postabortion care.	1018
The annual report shall be filed following the conclusion of the	1019
state's fiscal year. Each report shall be filed within thirty	1020
days after the end of the applicable reporting period.	1021
(H) Each case in which a physician treats a post abortion	1022
complication shall be reported on a postabortion complication	1023
form. The report shall be made upon a form prescribed by the	1024
department, shall be signed by the attending physician, and	1025
shall be confidential.	1026
(I) (1) Not later than the first day of October of each	1027
year, the department shall issue an annual report of the	1028
abortion data reported to the department for the previous	1029
calendar year as required by this section. The annual report	1030

shall include at least the following information: 1031

(a) The total number of induced abortions; 1032

(b) The number of abortions performed on Ohio and out-of- 1033
state residents; 1034

(c) The number of abortions performed, sorted by each of 1035
the following: 1036

(i) The age of the woman on whom the abortion was 1037
performed, using the following categories: under fifteen years 1038
of age, fifteen to nineteen years of age, twenty to twenty-four 1039
years of age, twenty-five to twenty-nine years of age, thirty to 1040
thirty-four years of age, thirty-five to thirty-nine years of 1041
age, forty to forty-four years of age, forty-five years of age 1042
or older; 1043

(ii) The race and Hispanic ethnicity of the woman on whom 1044
the abortion was performed; 1045

(iii) The education level of the woman on whom the 1046
abortion was performed, using the following categories or their 1047
equivalents: less than ninth grade, ninth through twelfth grade, 1048
one or more years of college; 1049

(iv) The marital status of the woman on whom the abortion 1050
was performed; 1051

(v) The number of living children of the woman on whom the 1052
abortion was performed, using the following categories: none, 1053
one, or two or more; 1054

(vi) The number of weeks of gestation of the woman at the 1055
time the abortion was performed, using the following categories: 1056
less than nine weeks, nine to twelve weeks, thirteen to nineteen 1057
weeks, or twenty weeks or more; 1058

(vii) The county in which the abortion was performed;	1059
(viii) The type of abortion procedure performed;	1060
(ix) The number of abortions previously performed on the woman on whom the abortion was performed;	1061 1062
(x) The type of facility in which the abortion was performed;	1063 1064
(xi) For Ohio residents, the county of residence of the woman on whom the abortion was performed.	1065 1066
(2) The report also shall indicate the number and type of the abortion complications reported to the department either on the abortion report required under division (C) of this section or the postabortion complication report required under division (H) of this section.	1067 1068 1069 1070 1071
(3) In addition to the annual report required under division (I)(1) of this section, the department shall make available, on request, the number of abortions performed by zip code of residence.	1072 1073 1074 1075
(J) The director of health shall implement this section and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of its requirements. This action is an additional remedy not dependent on the adequacy of the remedy at law.	1076 1077 1078 1079 1080
<u>Sec. 3701.792. (A) The director of health shall develop a child survival form to be submitted to the department of health in accordance with division (B) of this section each time a child is born alive after an abortion or attempted abortion. In developing the form, the director may consult with obstetricians, maternal-fetal specialists, or any other</u>	1081 1082 1083 1084 1085 1086

professionals the director considers appropriate. The form shall 1087
include areas for all of the following to be provided: 1088

(1) The patient number for the woman on whom the abortion 1089
was performed or attempted; 1090

(2) The name, primary business address, and signature of 1091
the attending physician described in section 3701.79 of the 1092
Revised Code who performed or attempted to perform the abortion; 1093

(3) The name and address of the facility in which the 1094
abortion was performed or attempted, and whether the facility is 1095
a hospital, ambulatory surgical facility, physician's office, or 1096
other facility; 1097

(4) The date the abortion was performed or attempted; 1098

(5) The type of abortion procedure that was performed or 1099
attempted; 1100

(6) The gestational age of the child who was born; 1101

(7) Complications, by type, for both the woman and child; 1102

(8) Any other information the director considers 1103
appropriate. 1104

(B) The attending physician who performed or attempted an 1105
abortion in which a child was born alive after that event shall 1106
complete a child survival form developed under division (A) of 1107
this section. The physician shall submit the completed form to 1108
the department of health not later than fifteen days after the 1109
woman is discharged from the facility. 1110

A completed child survival form is confidential and not a 1111
public record under section 149.43 of the Revised Code. 1112

(C) A copy of the child survival form completed under this 1113

section shall be made part of the medical record maintained for 1114
the woman by the facility in which the abortion was performed or 1115
attempted. 1116

(D) Each facility in which an abortion was performed or 1117
attempted and in which a child was born alive after that event 1118
shall submit monthly and annual reports to the department of 1119
health listing the total number of women on whom an abortion was 1120
performed or attempted at the facility and in which a child was 1121
born alive after that event, delineated by the type of abortion 1122
procedure that was performed or attempted. The annual report 1123
shall be submitted following the conclusion of the state's 1124
fiscal year. Each monthly or annual report shall be submitted 1125
not later than thirty days after the end of the applicable 1126
reporting period. 1127

(E) Not later than the first day of October of each year, 1128
the department shall issue an annual report of the data 1129
submitted to the department for the previous calendar year as 1130
required by this section. At a minimum, the annual report shall 1131
specify the number of women on whom an abortion was performed or 1132
attempted and in which a child was born alive after that event, 1133
delineated by the type of abortion procedure that was performed 1134
or attempted and the facility in which the abortion was 1135
performed or attempted. The report shall not contain any 1136
information that would permit the identity of a woman on whom an 1137
abortion was performed or attempted or any child to be 1138
ascertained. 1139

(F) No person shall purposely fail to comply with the 1140
child survival form submission requirement described in division 1141
(B) of this section or the copy maintenance requirement 1142
described in division (C) of this section. 1143

(G) No person shall purposely fail to comply with the 1144
monthly or annual report submission requirements described in 1145
division (D) of this section. 1146

(H) A woman on whom an abortion is performed or attempted 1147
may file a civil action against a person who violates division 1148
(F) or (G) or this section. A woman who prevails in an action 1149
filed under this division shall receive both of the following 1150
from the person who committed the violation: 1151

(1) Damages in the amount of ten thousand dollars; 1152

(2) Court costs and reasonable attorney's fees. 1153

Sec. 3701.99. (A) Whoever violates division (C) of section 1154
3701.23, division (C) of section 3701.232, division (C) of 1155
section 3701.24, division (D) (2) of section 3701.262, or 1156
sections 3701.46 to 3701.55 of the Revised Code is guilty of a 1157
minor misdemeanor on a first offense; on each subsequent 1158
offense, the person is guilty of a misdemeanor of the fourth 1159
degree. 1160

(B) Whoever violates section 3701.82 of the Revised Code 1161
is guilty of a misdemeanor of the first degree. 1162

(C) Whoever violates section 3701.352 or 3701.81 of the 1163
Revised Code is guilty of a misdemeanor of the second degree. 1164

(D) Whoever violates division (F) or (G) of section 1165
3701.792 of the Revised Code is guilty of a felony of the third 1166
degree. 1167

Section 2. That existing sections 149.43, 2919.13, 1168
3701.79, and 3701.99 of the Revised Code are hereby repealed. 1169