

**As Passed by the Senate**

**133rd General Assembly**

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**2019-2020**

**Sub. S. B. No. 208**

**Senator Johnson**

**Cosponsors: Senators Obhof, McColley, Roegner, Brenner, Gavarone, Schaffer,  
Eklund, Huffman, S., Lehner, Huffman, M., Wilson, Hottinger, Blessing, Burke,  
Coley, Hackett, Hoagland**

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**A BILL**

To amend sections 149.43, 2919.13, 3701.79, 1  
3701.99, and 4731.22 and to enact sections 2  
3701.792 and 4731.92 of the Revised Code to 3  
require reports to be made after a child is born 4  
alive following an abortion or attempted 5  
abortion and to establish certain civil or 6  
criminal penalties for failing to preserve the 7  
health or life of such a child. 8

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

**Section 1.** That sections 149.43, 2919.13, 3701.79, 9  
3701.99, and 4731.22 be amended and sections 3701.792 and 10  
4731.92 of the Revised Code be enacted to read as follows: 11

**Sec. 149.43.** (A) As used in this section: 12

(1) "Public record" means records kept by any public 13  
office, including, but not limited to, state, county, city, 14  
village, township, and school district units, and records 15  
pertaining to the delivery of educational services by an 16

alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

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

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

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

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

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

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential

under section 2710.03 or 4112.05 of the Revised Code; 45

(j) DNA records stored in the DNA database pursuant to 46  
section 109.573 of the Revised Code; 47

(k) Inmate records released by the department of 48  
rehabilitation and correction to the department of youth 49  
services or a court of record pursuant to division (E) of 50  
section 5120.21 of the Revised Code; 51

(l) Records maintained by the department of youth services 52  
pertaining to children in its custody released by the department 53  
of youth services to the department of rehabilitation and 54  
correction pursuant to section 5139.05 of the Revised Code; 55

(m) Intellectual property records; 56

(n) Donor profile records; 57

(o) Records maintained by the department of job and family 58  
services pursuant to section 3121.894 of the Revised Code; 59

(p) Designated public service worker residential and 60  
familial information; 61

(q) In the case of a county hospital operated pursuant to 62  
Chapter 339. of the Revised Code or a municipal hospital 63  
operated pursuant to Chapter 749. of the Revised Code, 64  
information that constitutes a trade secret, as defined in 65  
section 1333.61 of the Revised Code; 66

(r) Information pertaining to the recreational activities 67  
of a person under the age of eighteen; 68

(s) In the case of a child fatality review board acting 69  
under sections 307.621 to 307.629 of the Revised Code or a 70  
review conducted pursuant to guidelines established by the 71

director of health under section 3701.70 of the Revised Code, 72  
records provided to the board or director, statements made by 73  
board members during meetings of the board or by persons 74  
participating in the director's review, and all work products of 75  
the board or director, and in the case of a child fatality 76  
review board, child fatality review data submitted by the board 77  
to the department of health or a national child death review 78  
database, other than the report prepared pursuant to division 79  
(A) of section 307.626 of the Revised Code; 80

(t) Records provided to and statements made by the 81  
executive director of a public children services agency or a 82  
prosecuting attorney acting pursuant to section 5153.171 of the 83  
Revised Code other than the information released under that 84  
section; 85

(u) Test materials, examinations, or evaluation tools used 86  
in an examination for licensure as a nursing home administrator 87  
that the board of executives of long-term services and supports 88  
administers under section 4751.15 of the Revised Code or 89  
contracts under that section with a private or government entity 90  
to administer; 91

(v) Records the release of which is prohibited by state or 92  
federal law; 93

(w) Proprietary information of or relating to any person 94  
that is submitted to or compiled by the Ohio venture capital 95  
authority created under section 150.01 of the Revised Code; 96

(x) Financial statements and data any person submits for 97  
any purpose to the Ohio housing finance agency or the 98  
controlling board in connection with applying for, receiving, or 99  
accounting for financial assistance from the agency, and 100

information that identifies any individual who benefits directly 101  
or indirectly from financial assistance from the agency; 102

(y) Records listed in section 5101.29 of the Revised Code; 103

(z) Discharges recorded with a county recorder under 104  
section 317.24 of the Revised Code, as specified in division (B) 105  
(2) of that section; 106

(aa) Usage information including names and addresses of 107  
specific residential and commercial customers of a municipally 108  
owned or operated public utility; 109

(bb) Records described in division (C) of section 187.04 110  
of the Revised Code that are not designated to be made available 111  
to the public as provided in that division; 112

(cc) Information and records that are made confidential, 113  
privileged, and not subject to disclosure under divisions (B) 114  
and (C) of section 2949.221 of the Revised Code; 115

(dd) Personal information, as defined in section 149.45 of 116  
the Revised Code; 117

(ee) The confidential name, address, and other personally 118  
identifiable information of a program participant in the address 119  
confidentiality program established under sections 111.41 to 120  
111.47 of the Revised Code, including the contents of any 121  
application for absent voter's ballots, absent voter's ballot 122  
identification envelope statement of voter, or provisional 123  
ballot affirmation completed by a program participant who has a 124  
confidential voter registration record, and records or portions 125  
of records pertaining to that program that identify the number 126  
of program participants that reside within a precinct, ward, 127  
township, municipal corporation, county, or any other geographic 128  
area smaller than the state. As used in this division, 129

"confidential address" and "program participant" have the 130  
meaning defined in section 111.41 of the Revised Code. 131

(ff) Orders for active military service of an individual 132  
serving or with previous service in the armed forces of the 133  
United States, including a reserve component, or the Ohio 134  
organized militia, except that, such order becomes a public 135  
record on the day that is fifteen years after the published date 136  
or effective date of the call to order; 137

(gg) The name, address, contact information, or other 138  
personal information of an individual who is less than eighteen 139  
years of age that is included in any record related to a traffic 140  
accident involving a school vehicle in which the individual was 141  
an occupant at the time of the accident; 142

(hh) Protected health information, as defined in 45 C.F.R. 143  
160.103, that is in a claim for payment for a health care 144  
product, service, or procedure, as well as any other health 145  
claims data in another document that reveals the identity of an 146  
individual who is the subject of the data or could be used to 147  
reveal that individual's identity; 148

(ii) Any depiction by photograph, film, videotape, or 149  
printed or digital image under either of the following 150  
circumstances: 151

(i) The depiction is that of a victim of an offense the 152  
release of which would be, to a reasonable person of ordinary 153  
sensibilities, an offensive and objectionable intrusion into the 154  
victim's expectation of bodily privacy and integrity. 155

(ii) The depiction captures or depicts the victim of a 156  
sexually oriented offense, as defined in section 2950.01 of the 157  
Revised Code, at the actual occurrence of that offense. 158

(jj) Restricted portions of a body-worn camera or 159  
dashboard camera recording; 160

(kk) In the case of a fetal-infant mortality review board 161  
acting under sections 3707.70 to 3707.77 of the Revised Code, 162  
records, documents, reports, or other information presented to 163  
the board or a person abstracting such materials on the board's 164  
behalf, statements made by review board members during board 165  
meetings, all work products of the board, and data submitted by 166  
the board to the department of health or a national infant death 167  
review database, other than the report prepared pursuant to 168  
section 3707.77 of the Revised Code. 169

(ll) Records, documents, reports, or other information 170  
presented to the pregnancy-associated mortality review board 171  
established under section 3738.01 of the Revised Code, 172  
statements made by board members during board meetings, all work 173  
products of the board, and data submitted by the board to the 174  
department of health, other than the biennial reports prepared 175  
under section 3738.08 of the Revised Code; 176

(mm) Telephone numbers for a victim, as defined in section 177  
2930.01 of the Revised Code, a witness to a crime, or a party to 178  
a motor vehicle accident subject to the requirements of section 179  
5502.11 of the Revised Code that are listed on any law 180  
enforcement record or report; 181

(nn) A completed child survival form submitted to the 182  
department of health under section 3701.792 of the Revised Code. 183

A record that is not a public record under division (A) (1) 184  
of this section and that, under law, is permanently retained 185  
becomes a public record on the day that is seventy-five years 186  
after the day on which the record was created, except for any 187

record protected by the attorney-client privilege, a trial 188  
preparation record as defined in this section, a statement 189  
prohibiting the release of identifying information signed under 190  
section 3107.083 of the Revised Code, a denial of release form 191  
filed pursuant to section 3107.46 of the Revised Code, or any 192  
record that is exempt from release or disclosure under section 193  
149.433 of the Revised Code. If the record is a birth 194  
certificate and a biological parent's name redaction request 195  
form has been accepted under section 3107.391 of the Revised 196  
Code, the name of that parent shall be redacted from the birth 197  
certificate before it is released under this paragraph. If any 198  
other section of the Revised Code establishes a time period for 199  
disclosure of a record that conflicts with the time period 200  
specified in this section, the time period in the other section 201  
prevails. 202

(2) "Confidential law enforcement investigatory record" 203  
means any record that pertains to a law enforcement matter of a 204  
criminal, quasi-criminal, civil, or administrative nature, but 205  
only to the extent that the release of the record would create a 206  
high probability of disclosure of any of the following: 207

(a) The identity of a suspect who has not been charged 208  
with the offense to which the record pertains, or of an 209  
information source or witness to whom confidentiality has been 210  
reasonably promised; 211

(b) Information provided by an information source or 212  
witness to whom confidentiality has been reasonably promised, 213  
which information would reasonably tend to disclose the source's 214  
or witness's identity; 215

(c) Specific confidential investigatory techniques or 216  
procedures or specific investigatory work product; 217



(d) Information that would endanger the life or physical 218  
safety of law enforcement personnel, a crime victim, a witness, 219  
or a confidential information source. 220

(3) "Medical record" means any document or combination of 221  
documents, except births, deaths, and the fact of admission to 222  
or discharge from a hospital, that pertains to the medical 223  
history, diagnosis, prognosis, or medical condition of a patient 224  
and that is generated and maintained in the process of medical 225  
treatment. 226

(4) "Trial preparation record" means any record that 227  
contains information that is specifically compiled in reasonable 228  
anticipation of, or in defense of, a civil or criminal action or 229  
proceeding, including the independent thought processes and 230  
personal trial preparation of an attorney. 231

(5) "Intellectual property record" means a record, other 232  
than a financial or administrative record, that is produced or 233  
collected by or for faculty or staff of a state institution of 234  
higher learning in the conduct of or as a result of study or 235  
research on an educational, commercial, scientific, artistic, 236  
technical, or scholarly issue, regardless of whether the study 237  
or research was sponsored by the institution alone or in 238  
conjunction with a governmental body or private concern, and 239  
that has not been publicly released, published, or patented. 240

(6) "Donor profile record" means all records about donors 241  
or potential donors to a public institution of higher education 242  
except the names and reported addresses of the actual donors and 243  
the date, amount, and conditions of the actual donation. 244

(7) "Designated public service worker" means a peace 245  
officer, parole officer, probation officer, bailiff, prosecuting 246

attorney, assistant prosecuting attorney, correctional employee, 247  
county or multicounty corrections officer, community-based 248  
correctional facility employee, youth services employee, 249  
firefighter, EMT, medical director or member of a cooperating 250  
physician advisory board of an emergency medical service 251  
organization, state board of pharmacy employee, investigator of 252  
the bureau of criminal identification and investigation, judge, 253  
magistrate, or federal law enforcement officer. 254

(8) "Designated public service worker residential and 255  
familial information" means any information that discloses any 256  
of the following about a designated public service worker: 257

(a) The address of the actual personal residence of a 258  
designated public service worker, except for the following 259  
information: 260

(i) The address of the actual personal residence of a 261  
prosecuting attorney or judge; and 262

(ii) The state or political subdivision in which a 263  
designated public service worker resides. 264

(b) Information compiled from referral to or participation 265  
in an employee assistance program; 266

(c) The social security number, the residential telephone 267  
number, any bank account, debit card, charge card, or credit 268  
card number, or the emergency telephone number of, or any 269  
medical information pertaining to, a designated public service 270  
worker; 271

(d) The name of any beneficiary of employment benefits, 272  
including, but not limited to, life insurance benefits, provided 273  
to a designated public service worker by the designated public 274  
service worker's employer; 275

(e) The identity and amount of any charitable or 276  
employment benefit deduction made by the designated public 277  
service worker's employer from the designated public service 278  
worker's compensation, unless the amount of the deduction is 279  
required by state or federal law; 280

(f) The name, the residential address, the name of the 281  
employer, the address of the employer, the social security 282  
number, the residential telephone number, any bank account, 283  
debit card, charge card, or credit card number, or the emergency 284  
telephone number of the spouse, a former spouse, or any child of 285  
a designated public service worker; 286

(g) A photograph of a peace officer who holds a position 287  
or has an assignment that may include undercover or plain 288  
clothes positions or assignments as determined by the peace 289  
officer's appointing authority. 290

(9) As used in divisions (A) (7) and (15) to (17) of this 291  
section: 292

"Peace officer" has the meaning defined in section 109.71 293  
of the Revised Code and also includes the superintendent and 294  
troopers of the state highway patrol; it does not include the 295  
sheriff of a county or a supervisory employee who, in the 296  
absence of the sheriff, is authorized to stand in for, exercise 297  
the authority of, and perform the duties of the sheriff. 298

"Correctional employee" means any employee of the 299  
department of rehabilitation and correction who in the course of 300  
performing the employee's job duties has or has had contact with 301  
inmates and persons under supervision. 302

"County or multicounty corrections officer" means any 303  
corrections officer employed by any county or multicounty 304

correctional facility. 305

"Youth services employee" means any employee of the 306  
department of youth services who in the course of performing the 307  
employee's job duties has or has had contact with children 308  
committed to the custody of the department of youth services. 309

"Firefighter" means any regular, paid or volunteer, member 310  
of a lawfully constituted fire department of a municipal 311  
corporation, township, fire district, or village. 312

"EMT" means EMTs-basic, EMTs-I, and paramedics that 313  
provide emergency medical services for a public emergency 314  
medical service organization. "Emergency medical service 315  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 316  
meanings defined in section 4765.01 of the Revised Code. 317

"Investigator of the bureau of criminal identification and 318  
investigation" has the meaning defined in section 2903.11 of the 319  
Revised Code. 320

"Federal law enforcement officer" has the meaning defined 321  
in section 9.88 of the Revised Code. 322

(10) "Information pertaining to the recreational 323  
activities of a person under the age of eighteen" means 324  
information that is kept in the ordinary course of business by a 325  
public office, that pertains to the recreational activities of a 326  
person under the age of eighteen years, and that discloses any 327  
of the following: 328

(a) The address or telephone number of a person under the 329  
age of eighteen or the address or telephone number of that 330  
person's parent, guardian, custodian, or emergency contact 331  
person; 332

(b) The social security number, birth date, or 333  
photographic image of a person under the age of eighteen; 334

(c) Any medical record, history, or information pertaining 335  
to a person under the age of eighteen; 336

(d) Any additional information sought or required about a 337  
person under the age of eighteen for the purpose of allowing 338  
that person to participate in any recreational activity 339  
conducted or sponsored by a public office or to use or obtain 340  
admission privileges to any recreational facility owned or 341  
operated by a public office. 342

(11) "Community control sanction" has the meaning defined 343  
in section 2929.01 of the Revised Code. 344

(12) "Post-release control sanction" has the meaning 345  
defined in section 2967.01 of the Revised Code. 346

(13) "Redaction" means obscuring or deleting any 347  
information that is exempt from the duty to permit public 348  
inspection or copying from an item that otherwise meets the 349  
definition of a "record" in section 149.011 of the Revised Code. 350

(14) "Designee," "elected official," and "future official" 351  
have the meanings defined in section 109.43 of the Revised Code. 352

(15) "Body-worn camera" means a visual and audio recording 353  
device worn on the person of a peace officer while the peace 354  
officer is engaged in the performance of the peace officer's 355  
duties. 356

(16) "Dashboard camera" means a visual and audio recording 357  
device mounted on a peace officer's vehicle or vessel that is 358  
used while the peace officer is engaged in the performance of 359  
the peace officer's duties. 360

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

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

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

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

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

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

(f) Grievous bodily harm to a peace officer, firefighter, paramedic, or other first responder, occurring while the injured

person was engaged in the performance of official duties, 390  
unless, subject to division (H) (1) of this section, the consent 391  
of the injured person or the injured person's guardian has been 392  
obtained; 393

(g) An act of severe violence resulting in serious 394  
physical harm against a peace officer, firefighter, paramedic, 395  
or other first responder, occurring while the injured person was 396  
engaged in the performance of official duties, unless, subject 397  
to division (H) (1) of this section, the consent of the injured 398  
person or the injured person's guardian has been obtained; 399

(h) A person's nude body, unless, subject to division (H) 400  
(1) of this section, the person's consent has been obtained; 401

(i) Protected health information, the identity of a person 402  
in a health care facility who is not the subject of a law 403  
enforcement encounter, or any other information in a health care 404  
facility that could identify a person who is not the subject of 405  
a law enforcement encounter; 406

(j) Information that could identify the alleged victim of 407  
a sex offense, menacing by stalking, or domestic violence; 408

(k) Information, that does not constitute a confidential 409  
law enforcement investigatory record, that could identify a 410  
person who provides sensitive or confidential information to a 411  
law enforcement agency when the disclosure of the person's 412  
identity or the information provided could reasonably be 413  
expected to threaten or endanger the safety or property of the 414  
person or another person; 415

(l) Personal information of a person who is not arrested, 416  
cited, charged, or issued a written warning by a peace officer; 417

(m) Proprietary police contingency plans or tactics that 418

are intended to prevent crime and maintain public order and 419  
safety; 420

(n) A personal conversation unrelated to work between 421  
peace officers or between a peace officer and an employee of a 422  
law enforcement agency; 423

(o) A conversation between a peace officer and a member of 424  
the public that does not concern law enforcement activities; 425

(p) The interior of a residence, unless the interior of a 426  
residence is the location of an adversarial encounter with, or a 427  
use of force by, a peace officer; 428

(q) Any portion of the interior of a private business that 429  
is not open to the public, unless an adversarial encounter with, 430  
or a use of force by, a peace officer occurs in that location. 431

As used in division (A) (17) of this section: 432

"Grievous bodily harm" has the same meaning as in section 433  
5924.120 of the Revised Code. 434

"Health care facility" has the same meaning as in section 435  
1337.11 of the Revised Code. 436

"Protected health information" has the same meaning as in 437  
45 C.F.R. 160.103. 438

"Law enforcement agency" has the same meaning as in 439  
section 2925.61 of the Revised Code. 440

"Personal information" means any government-issued 441  
identification number, date of birth, address, financial 442  
information, or criminal justice information from the law 443  
enforcement automated data system or similar databases. 444

"Sex offense" has the same meaning as in section 2907.10 445



of the Revised Code. 446

"Firefighter," "paramedic," and "first responder" have the 447  
same meanings as in section 4765.01 of the Revised Code. 448

(B) (1) Upon request and subject to division (B) (8) of this 449  
section, all public records responsive to the request shall be 450  
promptly prepared and made available for inspection to any 451  
person at all reasonable times during regular business hours. 452  
Subject to division (B) (8) of this section, upon request by any 453  
person, a public office or person responsible for public records 454  
shall make copies of the requested public record available to 455  
the requester at cost and within a reasonable period of time. If 456  
a public record contains information that is exempt from the 457  
duty to permit public inspection or to copy the public record, 458  
the public office or the person responsible for the public 459  
record shall make available all of the information within the 460  
public record that is not exempt. When making that public record 461  
available for public inspection or copying that public record, 462  
the public office or the person responsible for the public 463  
record shall notify the requester of any redaction or make the 464  
redaction plainly visible. A redaction shall be deemed a denial 465  
of a request to inspect or copy the redacted information, except 466  
if federal or state law authorizes or requires a public office 467  
to make the redaction. 468

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

an ambiguous or overly broad request or has difficulty in making 476  
a request for copies or inspection of public records under this 477  
section such that the public office or the person responsible 478  
for the requested public record cannot reasonably identify what 479  
public records are being requested, the public office or the 480  
person responsible for the requested public record may deny the 481  
request but shall provide the requester with an opportunity to 482  
revise the request by informing the requester of the manner in 483  
which records are maintained by the public office and accessed 484  
in the ordinary course of the public office's or person's 485  
duties. 486

(3) If a request is ultimately denied, in part or in 487  
whole, the public office or the person responsible for the 488  
requested public record shall provide the requester with an 489  
explanation, including legal authority, setting forth why the 490  
request was denied. If the initial request was provided in 491  
writing, the explanation also shall be provided to the requester 492  
in writing. The explanation shall not preclude the public office 493  
or the person responsible for the requested public record from 494  
relying upon additional reasons or legal authority in defending 495  
an action commenced under division (C) of this section. 496

(4) Unless specifically required or authorized by state or 497  
federal law or in accordance with division (B) of this section, 498  
no public office or person responsible for public records may 499  
limit or condition the availability of public records by 500  
requiring disclosure of the requester's identity or the intended 501  
use of the requested public record. Any requirement that the 502  
requester disclose the requester's identity or the intended use 503  
of the requested public record constitutes a denial of the 504  
request. 505

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

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person requesting the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person requesting the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by that person. Nothing in this section requires a public office or person responsible for the public record to allow the person requesting a copy of the

public record to make the copies of the public record. 537

(7) (a) Upon a request made in accordance with division (B) 538  
of this section and subject to division (B) (6) of this section, 539  
a public office or person responsible for public records shall 540  
transmit a copy of a public record to any person by United 541  
States mail or by any other means of delivery or transmission 542  
within a reasonable period of time after receiving the request 543  
for the copy. The public office or person responsible for the 544  
public record may require the person making the request to pay 545  
in advance the cost of postage if the copy is transmitted by 546  
United States mail or the cost of delivery if the copy is 547  
transmitted other than by United States mail, and to pay in 548  
advance the costs incurred for other supplies used in the 549  
mailing, delivery, or transmission. 550

(b) Any public office may adopt a policy and procedures 551  
that it will follow in transmitting, within a reasonable period 552  
of time after receiving a request, copies of public records by 553  
United States mail or by any other means of delivery or 554  
transmission pursuant to division (B) (7) of this section. A 555  
public office that adopts a policy and procedures under division 556  
(B) (7) of this section shall comply with them in performing its 557  
duties under that division. 558

(c) In any policy and procedures adopted under division 559  
(B) (7) of this section: 560

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

purposes; 567

(ii) A public office that chooses to provide some or all 568  
of its public records on a web site that is fully accessible to 569  
and searchable by members of the public at all times, other than 570  
during acts of God outside the public office's control or 571  
maintenance, and that charges no fee to search, access, 572  
download, or otherwise receive records provided on the web site, 573  
may limit to ten per month the number of records requested by a 574  
person that the office will deliver in a digital format, unless 575  
the requested records are not provided on the web site and 576  
unless the person certifies to the office in writing that the 577  
person does not intend to use or forward the requested records, 578  
or the information contained in them, for commercial purposes. 579

(iii) For purposes of division (B)(7) of this section, 580  
"commercial" shall be narrowly construed and does not include 581  
reporting or gathering news, reporting or gathering information 582  
to assist citizen oversight or understanding of the operation or 583  
activities of government, or nonprofit educational research. 584

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

in the public record is necessary to support what appears to be 597  
a justiciable claim of the person. 598

(9) (a) Upon written request made and signed by a 599  
journalist, a public office, or person responsible for public 600  
records, having custody of the records of the agency employing a 601  
specified designated public service worker shall disclose to the 602  
journalist the address of the actual personal residence of the 603  
designated public service worker and, if the designated public 604  
service worker's spouse, former spouse, or child is employed by 605  
a public office, the name and address of the employer of the 606  
designated public service worker's spouse, former spouse, or 607  
child. The request shall include the journalist's name and title 608  
and the name and address of the journalist's employer and shall 609  
state that disclosure of the information sought would be in the 610  
public interest. 611

(b) Division (B) (9) (a) of this section also applies to 612  
journalist requests for: 613

(i) Customer information maintained by a municipally owned 614  
or operated public utility, other than social security numbers 615  
and any private financial information such as credit reports, 616  
payment methods, credit card numbers, and bank account 617  
information; 618

(ii) Information about minors involved in a school vehicle 619  
accident as provided in division (A) (1) (gg) of this section, 620  
other than personal information as defined in section 149.45 of 621  
the Revised Code. 622

(c) As used in division (B) (9) of this section, 623  
"journalist" means a person engaged in, connected with, or 624  
employed by any news medium, including a newspaper, magazine, 625

press association, news agency, or wire service, a radio or 626  
television station, or a similar medium, for the purpose of 627  
gathering, processing, transmitting, compiling, editing, or 628  
disseminating information for the general public. 629

(10) Upon a request made by a victim, victim's attorney, 630  
or victim's representative, as that term is used in section 631  
2930.02 of the Revised Code, a public office or person 632  
responsible for public records shall transmit a copy of a 633  
depiction of the victim as described in division (A) (1) (gg) of 634  
this section to the victim, victim's attorney, or victim's 635  
representative. 636

(C) (1) If a person allegedly is aggrieved by the failure 637  
of a public office or the person responsible for public records 638  
to promptly prepare a public record and to make it available to 639  
the person for inspection in accordance with division (B) of 640  
this section or by any other failure of a public office or the 641  
person responsible for public records to comply with an 642  
obligation in accordance with division (B) of this section, the 643  
person allegedly aggrieved may do only one of the following, and 644  
not both: 645

(a) File a complaint with the clerk of the court of claims 646  
or the clerk of the court of common pleas under section 2743.75 647  
of the Revised Code; 648

(b) Commence a mandamus action to obtain a judgment that 649  
orders the public office or the person responsible for the 650  
public record to comply with division (B) of this section, that 651  
awards court costs and reasonable attorney's fees to the person 652  
that instituted the mandamus action, and, if applicable, that 653  
includes an order fixing statutory damages under division (C) (2) 654  
of this section. The mandamus action may be commenced in the 655

court of common pleas of the county in which division (B) of 656  
this section allegedly was not complied with, in the supreme 657  
court pursuant to its original jurisdiction under Section 2 of 658  
Article IV, Ohio Constitution, or in the court of appeals for 659  
the appellate district in which division (B) of this section 660  
allegedly was not complied with pursuant to its original 661  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 662

(2) If a requester transmits a written request by hand 663  
delivery, electronic submission, or certified mail to inspect or 664  
receive copies of any public record in a manner that fairly 665  
describes the public record or class of public records to the 666  
public office or person responsible for the requested public 667  
records, except as otherwise provided in this section, the 668  
requester shall be entitled to recover the amount of statutory 669  
damages set forth in this division if a court determines that 670  
the public office or the person responsible for public records 671  
failed to comply with an obligation in accordance with division 672  
(B) of this section. 673

The amount of statutory damages shall be fixed at one 674  
hundred dollars for each business day during which the public 675  
office or person responsible for the requested public records 676  
failed to comply with an obligation in accordance with division 677  
(B) of this section, beginning with the day on which the 678  
requester files a mandamus action to recover statutory damages, 679  
up to a maximum of one thousand dollars. The award of statutory 680  
damages shall not be construed as a penalty, but as compensation 681  
for injury arising from lost use of the requested information. 682  
The existence of this injury shall be conclusively presumed. The 683  
award of statutory damages shall be in addition to all other 684  
remedies authorized by this section. 685



The court may reduce an award of statutory damages or not 686  
award statutory damages if the court determines both of the 687  
following: 688

(a) That, based on the ordinary application of statutory 689  
law and case law as it existed at the time of the conduct or 690  
threatened conduct of the public office or person responsible 691  
for the requested public records that allegedly constitutes a 692  
failure to comply with an obligation in accordance with division 693  
(B) of this section and that was the basis of the mandamus 694  
action, a well-informed public office or person responsible for 695  
the requested public records reasonably would believe that the 696  
conduct or threatened conduct of the public office or person 697  
responsible for the requested public records did not constitute 698  
a failure to comply with an obligation in accordance with 699  
division (B) of this section; 700

(b) That a well-informed public office or person 701  
responsible for the requested public records reasonably would 702  
believe that the conduct or threatened conduct of the public 703  
office or person responsible for the requested public records 704  
would serve the public policy that underlies the authority that 705  
is asserted as permitting that conduct or threatened conduct. 706

(3) In a mandamus action filed under division (C) (1) of 707  
this section, the following apply: 708

(a) (i) If the court orders the public office or the person 709  
responsible for the public record to comply with division (B) of 710  
this section, the court shall determine and award to the relator 711  
all court costs, which shall be construed as remedial and not 712  
punitive. 713

(ii) If the court makes a determination described in 714

division (C) (3) (b) (iii) of this section, the court shall 715  
determine and award to the relator all court costs, which shall 716  
be construed as remedial and not punitive. 717

(b) If the court renders a judgment that orders the public 718  
office or the person responsible for the public record to comply 719  
with division (B) of this section or if the court determines any 720  
of the following, the court may award reasonable attorney's fees 721  
to the relator, subject to division (C) (4) of this section: 722

(i) The public office or the person responsible for the 723  
public records failed to respond affirmatively or negatively to 724  
the public records request in accordance with the time allowed 725  
under division (B) of this section. 726

(ii) The public office or the person responsible for the 727  
public records promised to permit the relator to inspect or 728  
receive copies of the public records requested within a 729  
specified period of time but failed to fulfill that promise 730  
within that specified period of time. 731

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

commenced the mandamus action, but before the court issued any 745  
order described in this division. 746

(c) The court shall not award attorney's fees to the 747  
relator if the court determines both of the following: 748

(i) That, based on the ordinary application of statutory 749  
law and case law as it existed at the time of the conduct or 750  
threatened conduct of the public office or person responsible 751  
for the requested public records that allegedly constitutes a 752  
failure to comply with an obligation in accordance with division 753  
(B) of this section and that was the basis of the mandamus 754  
action, a well-informed public office or person responsible for 755  
the requested public records reasonably would believe that the 756  
conduct or threatened conduct of the public office or person 757  
responsible for the requested public records did not constitute 758  
a failure to comply with an obligation in accordance with 759  
division (B) of this section; 760

(ii) That a well-informed public office or person 761  
responsible for the requested public records reasonably would 762  
believe that the conduct or threatened conduct of the public 763  
office or person responsible for the requested public records 764  
would serve the public policy that underlies the authority that 765  
is asserted as permitting that conduct or threatened conduct. 766

(4) All of the following apply to any award of reasonable 767  
attorney's fees awarded under division (C) (3) (b) of this 768  
section: 769

(a) The fees shall be construed as remedial and not 770  
punitive. 771

(b) The fees awarded shall not exceed the total of the 772  
reasonable attorney's fees incurred before the public record was 773

made available to the relator and the fees described in division 774  
(C) (4) (c) of this section. 775

(c) Reasonable attorney's fees shall include reasonable 776  
fees incurred to produce proof of the reasonableness and amount 777  
of the fees and to otherwise litigate entitlement to the fees. 778

(d) The court may reduce the amount of fees awarded if the 779  
court determines that, given the factual circumstances involved 780  
with the specific public records request, an alternative means 781  
should have been pursued to more effectively and efficiently 782  
resolve the dispute that was subject to the mandamus action 783  
filed under division (C) (1) of this section. 784

(5) If the court does not issue a writ of mandamus under 785  
division (C) of this section and the court determines at that 786  
time that the bringing of the mandamus action was frivolous 787  
conduct as defined in division (A) of section 2323.51 of the 788  
Revised Code, the court may award to the public office all court 789  
costs, expenses, and reasonable attorney's fees, as determined 790  
by the court. 791

(D) Chapter 1347. of the Revised Code does not limit the 792  
provisions of this section. 793

(E) (1) To ensure that all employees of public offices are 794  
appropriately educated about a public office's obligations under 795  
division (B) of this section, all elected officials or their 796  
appropriate designees shall attend training approved by the 797  
attorney general as provided in section 109.43 of the Revised 798  
Code. A future official may satisfy the requirements of this 799  
division by attending the training before taking office, 800  
provided that the future official may not send a designee in the 801  
future official's place. 802

(2) All public offices shall adopt a public records policy 803  
in compliance with this section for responding to public records 804  
requests. In adopting a public records policy under this 805  
division, a public office may obtain guidance from the model 806  
public records policy developed and provided to the public 807  
office by the attorney general under section 109.43 of the 808  
Revised Code. Except as otherwise provided in this section, the 809  
policy may not limit the number of public records that the 810  
public office will make available to a single person, may not 811  
limit the number of public records that it will make available 812  
during a fixed period of time, and may not establish a fixed 813  
period of time before it will respond to a request for 814  
inspection or copying of public records, unless that period is 815  
less than eight hours. 816

The public office shall distribute the public records 817  
policy adopted by the public office under this division to the 818  
employee of the public office who is the records custodian or 819  
records manager or otherwise has custody of the records of that 820  
office. The public office shall require that employee to 821  
acknowledge receipt of the copy of the public records policy. 822  
The public office shall create a poster that describes its 823  
public records policy and shall post the poster in a conspicuous 824  
place in the public office and in all locations where the public 825  
office has branch offices. The public office may post its public 826  
records policy on the internet web site of the public office if 827  
the public office maintains an internet web site. A public 828  
office that has established a manual or handbook of its general 829  
policies and procedures for all employees of the public office 830  
shall include the public records policy of the public office in 831  
the manual or handbook. 832

(F) (1) The bureau of motor vehicles may adopt rules 833

pursuant to Chapter 119. of the Revised Code to reasonably limit 834  
the number of bulk commercial special extraction requests made 835  
by a person for the same records or for updated records during a 836  
calendar year. The rules may include provisions for charges to 837  
be made for bulk commercial special extraction requests for the 838  
actual cost of the bureau, plus special extraction costs, plus 839  
ten per cent. The bureau may charge for expenses for redacting 840  
information, the release of which is prohibited by law. 841

(2) As used in division (F)(1) of this section: 842

(a) "Actual cost" means the cost of depleted supplies, 843  
records storage media costs, actual mailing and alternative 844  
delivery costs, or other transmitting costs, and any direct 845  
equipment operating and maintenance costs, including actual 846  
costs paid to private contractors for copying services. 847

(b) "Bulk commercial special extraction request" means a 848  
request for copies of a record for information in a format other 849  
than the format already available, or information that cannot be 850  
extracted without examination of all items in a records series, 851  
class of records, or database by a person who intends to use or 852  
forward the copies for surveys, marketing, solicitation, or 853  
resale for commercial purposes. "Bulk commercial special 854  
extraction request" does not include a request by a person who 855  
gives assurance to the bureau that the person making the request 856  
does not intend to use or forward the requested copies for 857  
surveys, marketing, solicitation, or resale for commercial 858  
purposes. 859

(c) "Commercial" means profit-seeking production, buying, 860  
or selling of any good, service, or other product. 861

(d) "Special extraction costs" means the cost of the time 862

spent by the lowest paid employee competent to perform the task, 863  
the actual amount paid to outside private contractors employed 864  
by the bureau, or the actual cost incurred to create computer 865  
programs to make the special extraction. "Special extraction 866  
costs" include any charges paid to a public agency for computer 867  
or records services. 868

(3) For purposes of divisions (F) (1) and (2) of this 869  
section, "surveys, marketing, solicitation, or resale for 870  
commercial purposes" shall be narrowly construed and does not 871  
include reporting or gathering news, reporting or gathering 872  
information to assist citizen oversight or understanding of the 873  
operation or activities of government, or nonprofit educational 874  
research. 875

(G) A request by a defendant, counsel of a defendant, or 876  
any agent of a defendant in a criminal action that public 877  
records related to that action be made available under this 878  
section shall be considered a demand for discovery pursuant to 879  
the Criminal Rules, except to the extent that the Criminal Rules 880  
plainly indicate a contrary intent. The defendant, counsel of 881  
the defendant, or agent of the defendant making a request under 882  
this division shall serve a copy of the request on the 883  
prosecuting attorney, director of law, or other chief legal 884  
officer responsible for prosecuting the action. 885

(H) (1) Any portion of a body-worn camera or dashboard 886  
camera recording described in divisions (A) (17) (b) to (h) of 887  
this section may be released by consent of the subject of the 888  
recording or a representative of that person, as specified in 889  
those divisions, only if either of the following applies: 890

(a) The recording will not be used in connection with any 891  
probable or pending criminal proceedings; 892

(b) The recording has been used in connection with a 893  
criminal proceeding that was dismissed or for which a judgment 894  
has been entered pursuant to Rule 32 of the Rules of Criminal 895  
Procedure, and will not be used again in connection with any 896  
probable or pending criminal proceedings. 897

(2) If a public office denies a request to release a 898  
restricted portion of a body-worn camera or dashboard camera 899  
recording, as defined in division (A)(17) of this section, any 900  
person may file a mandamus action pursuant to this section or a 901  
complaint with the clerk of the court of claims pursuant to 902  
section 2743.75 of the Revised Code, requesting the court to 903  
order the release of all or portions of the recording. If the 904  
court considering the request determines that the filing 905  
articulates by clear and convincing evidence that the public 906  
interest in the recording substantially outweighs privacy 907  
interests and other interests asserted to deny release, the 908  
court shall order the public office to release the recording. 909

**Sec. 2919.13.** (A) No person shall purposely take the life 910  
of a child born by attempted abortion who is alive when removed 911  
from the uterus of the pregnant woman. 912

(B) No person who performs an abortion shall purposely 913  
fail to take the measures required by the exercise of medical 914  
judgment in light of the attending circumstances to preserve the 915  
health or life of a child who is alive when removed from the 916  
uterus of the pregnant woman. 917

(C) Whoever violates this section is guilty of abortion 918  
manslaughter, a felony of the first degree. 919

(D)(1) A woman on whom an abortion is performed or 920  
attempted may file a civil action for the wrongful death of the 921



woman's child against a person who violates division (A) of this 922  
section. 923

(2) A woman on whom an abortion is performed or attempted 924  
may file a civil action for injury, death, or loss to person or 925  
property against a person who violates division (B) of this 926  
section. 927

(3) A woman who prevails in an action filed under division 928  
(D) (1) or (2) of this section shall receive both of the 929  
following from the person who committed the act: 930

(a) Compensatory and exemplary damages in an amount 931  
determined by the trier of fact; 932

(b) Court costs and reasonable attorney's fees. 933

**Sec. 3701.79.** (A) As used in this section and in sections 934  
3701.791 and 3701.792 of the Revised Code: 935

(1) "Abortion" has the same meaning as in section 2919.11 936  
of the Revised Code. 937

(2) "Abortion report" means a form completed pursuant to 938  
division (C) of this section. 939

(3) "Ambulatory surgical facility" has the same meaning as 940  
in section 3702.30 of the Revised Code. 941

(4) "Department" means the department of health. 942

(5) "Hospital" means any building, structure, institution, 943  
or place devoted primarily to the maintenance and operation of 944  
facilities for the diagnosis, treatment, and medical or surgical 945  
care for three or more unrelated individuals suffering from 946  
illness, disease, injury, or deformity, and regularly making 947  
available at least clinical laboratory services, diagnostic x- 948

ray services, treatment facilities for surgery or obstetrical 949  
care, or other definitive medical treatment. "Hospital" does not 950  
include a "home" as defined in section 3721.01 of the Revised 951  
Code. 952

(6) "Physician's office" means an office or portion of an 953  
office that is used to provide medical or surgical services to 954  
the physician's patients. "Physician's office" does not mean an 955  
ambulatory surgical facility, a hospital, or a hospital 956  
emergency department. 957

(7) "Postabortion care" means care given after the uterus 958  
has been evacuated by abortion. 959

(B) The department shall be responsible for collecting and 960  
collating abortion data reported to the department as required 961  
by this section. 962

(C) The attending physician shall complete an individual 963  
abortion report for each abortion the physician performs upon a 964  
woman. The report shall be confidential and shall not contain 965  
the woman's name. The report shall include, but is not limited 966  
to, all of the following, insofar as the patient makes the data 967  
available that is not within the physician's knowledge: 968

(1) Patient number; 969

(2) The name and address of the facility in which the 970  
abortion was performed, and whether the facility is a hospital, 971  
ambulatory surgical facility, physician's office, or other 972  
facility; 973

(3) The date of the abortion; 974

(4) All of the following regarding the woman on whom the 975  
abortion was performed: 976

(a) Zip code of residence;	977
(b) Age;	978
(c) Race;	979
(d) Marital status;	980
(e) Number of previous pregnancies;	981
(f) Years of education;	982
(g) Number of living children;	983
(h) Number of previously induced abortions;	984
(i) Date of last induced abortion;	985
(j) Date of last live birth;	986
(k) Method of contraception at the time of conception;	987
(l) Date of the first day of the last menstrual period;	988
(m) Medical condition at the time of the abortion;	989
(n) Rh-type;	990
(o) The number of weeks of gestation at the time of the abortion.	991 992
(5) The type of abortion procedure performed;	993
(6) Complications by type;	994
(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:	995 996 997
(a) A test result indicating Down syndrome in an unborn child;	998 999
(b) A prenatal diagnosis of Down syndrome in an unborn	1000

child; 1001

(c) Any other reason to believe that an unborn child has 1002  
Down syndrome. 1003

(8) Type of procedure performed after the abortion; 1004

(9) Type of family planning recommended; 1005

(10) Type of additional counseling given; 1006

(11) Signature of attending physician. 1007

(D) The physician who completed the abortion report under 1008  
division (C) of this section shall submit the abortion report to 1009  
the department within fifteen days after the woman is 1010  
discharged. 1011

(E) The appropriate vital records report or certificate 1012  
shall be made out after the twentieth week of gestation. 1013

(F) A copy of the abortion report shall be made part of 1014  
the medical record of the patient of the facility in which the 1015  
abortion was performed. 1016

(G) Each hospital shall file monthly and annual reports 1017  
listing the total number of women who have undergone a post- 1018  
twelve-week-gestation abortion and received postabortion care. 1019  
The annual report shall be filed following the conclusion of the 1020  
state's fiscal year. Each report shall be filed within thirty 1021  
days after the end of the applicable reporting period. 1022

(H) Each case in which a physician treats a post abortion 1023  
complication shall be reported on a postabortion complication 1024  
form. The report shall be made upon a form prescribed by the 1025  
department, shall be signed by the attending physician, and 1026  
shall be confidential. 1027

(I) (1) Not later than the first day of October of each 1028  
year, the department shall issue an annual report of the 1029  
abortion data reported to the department for the previous 1030  
calendar year as required by this section. The annual report 1031  
shall include at least the following information: 1032

(a) The total number of induced abortions; 1033

(b) The number of abortions performed on Ohio and out-of- 1034  
state residents; 1035

(c) The number of abortions performed, sorted by each of 1036  
the following: 1037

(i) The age of the woman on whom the abortion was 1038  
performed, using the following categories: under fifteen years 1039  
of age, fifteen to nineteen years of age, twenty to twenty-four 1040  
years of age, twenty-five to twenty-nine years of age, thirty to 1041  
thirty-four years of age, thirty-five to thirty-nine years of 1042  
age, forty to forty-four years of age, forty-five years of age 1043  
or older; 1044

(ii) The race and Hispanic ethnicity of the woman on whom 1045  
the abortion was performed; 1046

(iii) The education level of the woman on whom the 1047  
abortion was performed, using the following categories or their 1048  
equivalents: less than ninth grade, ninth through twelfth grade, 1049  
one or more years of college; 1050

(iv) The marital status of the woman on whom the abortion 1051  
was performed; 1052

(v) The number of living children of the woman on whom the 1053  
abortion was performed, using the following categories: none, 1054  
one, or two or more; 1055

(vi) The number of weeks of gestation of the woman at the 1056  
time the abortion was performed, using the following categories: 1057  
less than nine weeks, nine to twelve weeks, thirteen to nineteen 1058  
weeks, or twenty weeks or more; 1059

(vii) The county in which the abortion was performed; 1060

(viii) The type of abortion procedure performed; 1061

(ix) The number of abortions previously performed on the 1062  
woman on whom the abortion was performed; 1063

(x) The type of facility in which the abortion was 1064  
performed; 1065

(xi) For Ohio residents, the county of residence of the 1066  
woman on whom the abortion was performed. 1067

(2) The report also shall indicate the number and type of 1068  
the abortion complications reported to the department either on 1069  
the abortion report required under division (C) of this section 1070  
or the postabortion complication report required under division 1071  
(H) of this section. 1072

(3) In addition to the annual report required under 1073  
division (I)(1) of this section, the department shall make 1074  
available, on request, the number of abortions performed by zip 1075  
code of residence. 1076

(J) The director of health shall implement this section 1077  
and shall apply to the court of common pleas for temporary or 1078  
permanent injunctions restraining a violation or threatened 1079  
violation of its requirements. This action is an additional 1080  
remedy not dependent on the adequacy of the remedy at law. 1081

**Sec. 3701.792.** (A) The director of health shall develop a 1082  
child survival form to be submitted to the department of health 1083

in accordance with division (B) of this section each time a 1084  
child is born alive after an abortion or attempted abortion. In 1085  
developing the form, the director may consult with 1086  
obstetricians, maternal-fetal specialists, or any other 1087  
professionals the director considers appropriate. The form shall 1088  
include areas for all of the following to be provided: 1089

(1) The patient number for the woman on whom the abortion 1090  
was performed or attempted; 1091

(2) The name, primary business address, and signature of 1092  
the attending physician described in section 3701.79 of the 1093  
Revised Code who performed or attempted to perform the abortion; 1094

(3) The name and address of the facility in which the 1095  
abortion was performed or attempted, and whether the facility is 1096  
a hospital, ambulatory surgical facility, physician's office, or 1097  
other facility; 1098

(4) The date the abortion was performed or attempted; 1099

(5) The type of abortion procedure that was performed or 1100  
attempted; 1101

(6) The gestational age of the child who was born; 1102

(7) Complications, by type, for both the woman and child; 1103

(8) Any other information the director considers 1104  
appropriate. 1105

(B) The attending physician who performed or attempted an 1106  
abortion in which a child was born alive after that event shall 1107  
complete a child survival form developed under division (A) of 1108  
this section. The physician shall submit the completed form to 1109  
the department of health not later than fifteen days after the 1110  
woman is discharged from the facility. 1111

A completed child survival form is confidential and not a 1112  
public record under section 149.43 of the Revised Code. 1113

(C) A copy of the child survival form completed under this 1114  
section shall be made part of the medical record maintained for 1115  
the woman by the facility in which the abortion was performed or 1116  
attempted. 1117

(D) Each facility in which an abortion was performed or 1118  
attempted and in which a child was born alive after that event 1119  
shall submit monthly and annual reports to the department of 1120  
health listing the total number of women on whom an abortion was 1121  
performed or attempted at the facility and in which a child was 1122  
born alive after that event, delineated by the type of abortion 1123  
procedure that was performed or attempted. The annual report 1124  
shall be submitted following the conclusion of the state's 1125  
fiscal year. Each monthly or annual report shall be submitted 1126  
not later than thirty days after the end of the applicable 1127  
reporting period. 1128

(E) Not later than the first day of October of each year, 1129  
the department shall issue an annual report of the data 1130  
submitted to the department for the previous calendar year as 1131  
required by this section. At a minimum, the annual report shall 1132  
specify the number of women on whom an abortion was performed or 1133  
attempted and in which a child was born alive after that event, 1134  
delineated by the type of abortion procedure that was performed 1135  
or attempted and the facility in which the abortion was 1136  
performed or attempted. The report shall not contain any 1137  
information that would permit the identity of a woman on whom an 1138  
abortion was performed or attempted or any child to be 1139  
ascertained. 1140

(F) No person shall purposely fail to comply with the 1141



child survival form submission requirement described in division 1142  
(B) of this section or the copy maintenance requirement 1143  
described in division (C) of this section. 1144

(G) No person shall purposely fail to comply with the 1145  
monthly or annual report submission requirements described in 1146  
division (D) of this section. 1147

(H) A woman on whom an abortion is performed or attempted 1148  
may file a civil action against a person who violates division 1149  
(F) or (G) or this section. A woman who prevails in an action 1150  
filed under this division shall receive both of the following 1151  
from the person who committed the violation: 1152

(1) Damages in the amount of ten thousand dollars; 1153

(2) Court costs and reasonable attorney's fees. 1154

**Sec. 3701.99.** (A) Whoever violates division (C) of section 1155  
3701.23, division (C) of section 3701.232, division (C) of 1156  
section 3701.24, division (D) (2) of section 3701.262, or 1157  
sections 3701.46 to 3701.55 of the Revised Code is guilty of a 1158  
minor misdemeanor on a first offense; on each subsequent 1159  
offense, the person is guilty of a misdemeanor of the fourth 1160  
degree. 1161

(B) Whoever violates section 3701.82 of the Revised Code 1162  
is guilty of a misdemeanor of the first degree. 1163

(C) Whoever violates section 3701.352 or 3701.81 of the 1164  
Revised Code is guilty of a misdemeanor of the second degree. 1165

(D) Whoever violates division (F) or (G) of section 1166  
3701.792 of the Revised Code is guilty of a felony of the third 1167  
degree. 1168

**Sec. 4731.22.** (A) The state medical board, by an 1169

affirmative vote of not fewer than six of its members, may 1170  
limit, revoke, or suspend a license or certificate to practice 1171  
or certificate to recommend, refuse to grant a license or 1172  
certificate, refuse to renew a license or certificate, refuse to 1173  
reinstate a license or certificate, or reprimand or place on 1174  
probation the holder of a license or certificate if the 1175  
individual applying for or holding the license or certificate is 1176  
found by the board to have committed fraud during the 1177  
administration of the examination for a license or certificate 1178  
to practice or to have committed fraud, misrepresentation, or 1179  
deception in applying for, renewing, or securing any license or 1180  
certificate to practice or certificate to recommend issued by 1181  
the board. 1182

(B) The board, by an affirmative vote of not fewer than 1183  
six members, shall, to the extent permitted by law, limit, 1184  
revoke, or suspend a license or certificate to practice or 1185  
certificate to recommend, refuse to issue a license or 1186  
certificate, refuse to renew a license or certificate, refuse to 1187  
reinstate a license or certificate, or reprimand or place on 1188  
probation the holder of a license or certificate for one or more 1189  
of the following reasons: 1190

(1) Permitting one's name or one's license or certificate 1191  
to practice to be used by a person, group, or corporation when 1192  
the individual concerned is not actually directing the treatment 1193  
given; 1194

(2) Failure to maintain minimal standards applicable to 1195  
the selection or administration of drugs, or failure to employ 1196  
acceptable scientific methods in the selection of drugs or other 1197  
modalities for treatment of disease; 1198

(3) Except as provided in section 4731.97 of the Revised 1199

Code, selling, giving away, personally furnishing, prescribing, 1200  
or administering drugs for other than legal and legitimate 1201  
therapeutic purposes or a plea of guilty to, a judicial finding 1202  
of guilt of, or a judicial finding of eligibility for 1203  
intervention in lieu of conviction of, a violation of any 1204  
federal or state law regulating the possession, distribution, or 1205  
use of any drug; 1206

(4) Willfully betraying a professional confidence. 1207

For purposes of this division, "willfully betraying a 1208  
professional confidence" does not include providing any 1209  
information, documents, or reports under sections 307.621 to 1210  
307.629 of the Revised Code to a child fatality review board; 1211  
does not include providing any information, documents, or 1212  
reports to the director of health pursuant to guidelines 1213  
established under section 3701.70 of the Revised Code; does not 1214  
include written notice to a mental health professional under 1215  
section 4731.62 of the Revised Code; and does not include the 1216  
making of a report of an employee's use of a drug of abuse, or a 1217  
report of a condition of an employee other than one involving 1218  
the use of a drug of abuse, to the employer of the employee as 1219  
described in division (B) of section 2305.33 of the Revised 1220  
Code. Nothing in this division affects the immunity from civil 1221  
liability conferred by section 2305.33 or 4731.62 of the Revised 1222  
Code upon a physician who makes a report in accordance with 1223  
section 2305.33 or notifies a mental health professional in 1224  
accordance with section 4731.62 of the Revised Code. As used in 1225  
this division, "employee," "employer," and "physician" have the 1226  
same meanings as in section 2305.33 of the Revised Code. 1227

(5) Making a false, fraudulent, deceptive, or misleading 1228  
statement in the solicitation of or advertising for patients; in 1229

relation to the practice of medicine and surgery, osteopathic 1230  
medicine and surgery, podiatric medicine and surgery, or a 1231  
limited branch of medicine; or in securing or attempting to 1232  
secure any license or certificate to practice issued by the 1233  
board. 1234

As used in this division, "false, fraudulent, deceptive, 1235  
or misleading statement" means a statement that includes a 1236  
misrepresentation of fact, is likely to mislead or deceive 1237  
because of a failure to disclose material facts, is intended or 1238  
is likely to create false or unjustified expectations of 1239  
favorable results, or includes representations or implications 1240  
that in reasonable probability will cause an ordinarily prudent 1241  
person to misunderstand or be deceived. 1242

(6) A departure from, or the failure to conform to, 1243  
minimal standards of care of similar practitioners under the 1244  
same or similar circumstances, whether or not actual injury to a 1245  
patient is established; 1246

(7) Representing, with the purpose of obtaining 1247  
compensation or other advantage as personal gain or for any 1248  
other person, that an incurable disease or injury, or other 1249  
incurable condition, can be permanently cured; 1250

(8) The obtaining of, or attempting to obtain, money or 1251  
anything of value by fraudulent misrepresentations in the course 1252  
of practice; 1253

(9) A plea of guilty to, a judicial finding of guilt of, 1254  
or a judicial finding of eligibility for intervention in lieu of 1255  
conviction for, a felony; 1256

(10) Commission of an act that constitutes a felony in 1257  
this state, regardless of the jurisdiction in which the act was 1258

committed; 1259

(11) A plea of guilty to, a judicial finding of guilt of, 1260  
or a judicial finding of eligibility for intervention in lieu of 1261  
conviction for, a misdemeanor committed in the course of 1262  
practice; 1263

(12) Commission of an act in the course of practice that 1264  
constitutes a misdemeanor in this state, regardless of the 1265  
jurisdiction in which the act was committed; 1266

(13) A plea of guilty to, a judicial finding of guilt of, 1267  
or a judicial finding of eligibility for intervention in lieu of 1268  
conviction for, a misdemeanor involving moral turpitude; 1269

(14) Commission of an act involving moral turpitude that 1270  
constitutes a misdemeanor in this state, regardless of the 1271  
jurisdiction in which the act was committed; 1272

(15) Violation of the conditions of limitation placed by 1273  
the board upon a license or certificate to practice; 1274

(16) Failure to pay license renewal fees specified in this 1275  
chapter; 1276

(17) Except as authorized in section 4731.31 of the 1277  
Revised Code, engaging in the division of fees for referral of 1278  
patients, or the receiving of a thing of value in return for a 1279  
specific referral of a patient to utilize a particular service 1280  
or business; 1281

(18) Subject to section 4731.226 of the Revised Code, 1282  
violation of any provision of a code of ethics of the American 1283  
medical association, the American osteopathic association, the 1284  
American podiatric medical association, or any other national 1285  
professional organizations that the board specifies by rule. The 1286

state medical board shall obtain and keep on file current copies 1287  
of the codes of ethics of the various national professional 1288  
organizations. The individual whose license or certificate is 1289  
being suspended or revoked shall not be found to have violated 1290  
any provision of a code of ethics of an organization not 1291  
appropriate to the individual's profession. 1292

For purposes of this division, a "provision of a code of 1293  
ethics of a national professional organization" does not include 1294  
any provision that would preclude the making of a report by a 1295  
physician of an employee's use of a drug of abuse, or of a 1296  
condition of an employee other than one involving the use of a 1297  
drug of abuse, to the employer of the employee as described in 1298  
division (B) of section 2305.33 of the Revised Code. Nothing in 1299  
this division affects the immunity from civil liability 1300  
conferred by that section upon a physician who makes either type 1301  
of report in accordance with division (B) of that section. As 1302  
used in this division, "employee," "employer," and "physician" 1303  
have the same meanings as in section 2305.33 of the Revised 1304  
Code. 1305

(19) Inability to practice according to acceptable and 1306  
prevailing standards of care by reason of mental illness or 1307  
physical illness, including, but not limited to, physical 1308  
deterioration that adversely affects cognitive, motor, or 1309  
perceptive skills. 1310

In enforcing this division, the board, upon a showing of a 1311  
possible violation, may compel any individual authorized to 1312  
practice by this chapter or who has submitted an application 1313  
pursuant to this chapter to submit to a mental examination, 1314  
physical examination, including an HIV test, or both a mental 1315  
and a physical examination. The expense of the examination is 1316

the responsibility of the individual compelled to be examined. 1317  
Failure to submit to a mental or physical examination or consent 1318  
to an HIV test ordered by the board constitutes an admission of 1319  
the allegations against the individual unless the failure is due 1320  
to circumstances beyond the individual's control, and a default 1321  
and final order may be entered without the taking of testimony 1322  
or presentation of evidence. If the board finds an individual 1323  
unable to practice because of the reasons set forth in this 1324  
division, the board shall require the individual to submit to 1325  
care, counseling, or treatment by physicians approved or 1326  
designated by the board, as a condition for initial, continued, 1327  
reinstated, or renewed authority to practice. An individual 1328  
affected under this division shall be afforded an opportunity to 1329  
demonstrate to the board the ability to resume practice in 1330  
compliance with acceptable and prevailing standards under the 1331  
provisions of the individual's license or certificate. For the 1332  
purpose of this division, any individual who applies for or 1333  
receives a license or certificate to practice under this chapter 1334  
accepts the privilege of practicing in this state and, by so 1335  
doing, shall be deemed to have given consent to submit to a 1336  
mental or physical examination when directed to do so in writing 1337  
by the board, and to have waived all objections to the 1338  
admissibility of testimony or examination reports that 1339  
constitute a privileged communication. 1340

(20) Except as provided in division (F)(1)(b) of section 1341  
4731.282 of the Revised Code or when civil penalties are imposed 1342  
under section 4731.225 of the Revised Code, and subject to 1343  
section 4731.226 of the Revised Code, violating or attempting to 1344  
violate, directly or indirectly, or assisting in or abetting the 1345  
violation of, or conspiring to violate, any provisions of this 1346  
chapter or any rule promulgated by the board. 1347

This division does not apply to a violation or attempted 1348  
violation of, assisting in or abetting the violation of, or a 1349  
conspiracy to violate, any provision of this chapter or any rule 1350  
adopted by the board that would preclude the making of a report 1351  
by a physician of an employee's use of a drug of abuse, or of a 1352  
condition of an employee other than one involving the use of a 1353  
drug of abuse, to the employer of the employee as described in 1354  
division (B) of section 2305.33 of the Revised Code. Nothing in 1355  
this division affects the immunity from civil liability 1356  
conferred by that section upon a physician who makes either type 1357  
of report in accordance with division (B) of that section. As 1358  
used in this division, "employee," "employer," and "physician" 1359  
have the same meanings as in section 2305.33 of the Revised 1360  
Code. 1361

(21) The violation of section 3701.79 of the Revised Code 1362  
or of any abortion rule adopted by the director of health 1363  
pursuant to section 3701.341 of the Revised Code; 1364

(22) Any of the following actions taken by an agency 1365  
responsible for authorizing, certifying, or regulating an 1366  
individual to practice a health care occupation or provide 1367  
health care services in this state or another jurisdiction, for 1368  
any reason other than the nonpayment of fees: the limitation, 1369  
revocation, or suspension of an individual's license to 1370  
practice; acceptance of an individual's license surrender; 1371  
denial of a license; refusal to renew or reinstate a license; 1372  
imposition of probation; or issuance of an order of censure or 1373  
other reprimand; 1374

(23) The violation of section 2919.12 of the Revised Code 1375  
or the performance or inducement of an abortion upon a pregnant 1376  
woman with actual knowledge that the conditions specified in 1377



division (B) of section 2317.56 of the Revised Code have not 1378  
been satisfied or with a heedless indifference as to whether 1379  
those conditions have been satisfied, unless an affirmative 1380  
defense as specified in division (H) (2) of that section would 1381  
apply in a civil action authorized by division (H) (1) of that 1382  
section; 1383

(24) The revocation, suspension, restriction, reduction, 1384  
or termination of clinical privileges by the United States 1385  
department of defense or department of veterans affairs or the 1386  
termination or suspension of a certificate of registration to 1387  
prescribe drugs by the drug enforcement administration of the 1388  
United States department of justice; 1389

(25) Termination or suspension from participation in the 1390  
medicare or medicaid programs by the department of health and 1391  
human services or other responsible agency; 1392

(26) Impairment of ability to practice according to 1393  
acceptable and prevailing standards of care because of habitual 1394  
or excessive use or abuse of drugs, alcohol, or other substances 1395  
that impair ability to practice. 1396

For the purposes of this division, any individual 1397  
authorized to practice by this chapter accepts the privilege of 1398  
practicing in this state subject to supervision by the board. By 1399  
filing an application for or holding a license or certificate to 1400  
practice under this chapter, an individual shall be deemed to 1401  
have given consent to submit to a mental or physical examination 1402  
when ordered to do so by the board in writing, and to have 1403  
waived all objections to the admissibility of testimony or 1404  
examination reports that constitute privileged communications. 1405

If it has reason to believe that any individual authorized 1406

to practice by this chapter or any applicant for licensure or 1407  
certification to practice suffers such impairment, the board may 1408  
compel the individual to submit to a mental or physical 1409  
examination, or both. The expense of the examination is the 1410  
responsibility of the individual compelled to be examined. Any 1411  
mental or physical examination required under this division 1412  
shall be undertaken by a treatment provider or physician who is 1413  
qualified to conduct the examination and who is chosen by the 1414  
board. 1415

Failure to submit to a mental or physical examination 1416  
ordered by the board constitutes an admission of the allegations 1417  
against the individual unless the failure is due to 1418  
circumstances beyond the individual's control, and a default and 1419  
final order may be entered without the taking of testimony or 1420  
presentation of evidence. If the board determines that the 1421  
individual's ability to practice is impaired, the board shall 1422  
suspend the individual's license or certificate or deny the 1423  
individual's application and shall require the individual, as a 1424  
condition for initial, continued, reinstated, or renewed 1425  
licensure or certification to practice, to submit to treatment. 1426

Before being eligible to apply for reinstatement of a 1427  
license or certificate suspended under this division, the 1428  
impaired practitioner shall demonstrate to the board the ability 1429  
to resume practice in compliance with acceptable and prevailing 1430  
standards of care under the provisions of the practitioner's 1431  
license or certificate. The demonstration shall include, but 1432  
shall not be limited to, the following: 1433

(a) Certification from a treatment provider approved under 1434  
section 4731.25 of the Revised Code that the individual has 1435  
successfully completed any required inpatient treatment; 1436

(b) Evidence of continuing full compliance with an 1437  
aftercare contract or consent agreement; 1438

(c) Two written reports indicating that the individual's 1439  
ability to practice has been assessed and that the individual 1440  
has been found capable of practicing according to acceptable and 1441  
prevailing standards of care. The reports shall be made by 1442  
individuals or providers approved by the board for making the 1443  
assessments and shall describe the basis for their 1444  
determination. 1445

The board may reinstate a license or certificate suspended 1446  
under this division after that demonstration and after the 1447  
individual has entered into a written consent agreement. 1448

When the impaired practitioner resumes practice, the board 1449  
shall require continued monitoring of the individual. The 1450  
monitoring shall include, but not be limited to, compliance with 1451  
the written consent agreement entered into before reinstatement 1452  
or with conditions imposed by board order after a hearing, and, 1453  
upon termination of the consent agreement, submission to the 1454  
board for at least two years of annual written progress reports 1455  
made under penalty of perjury stating whether the individual has 1456  
maintained sobriety. 1457

(27) A second or subsequent violation of section 4731.66 1458  
or 4731.69 of the Revised Code; 1459

(28) Except as provided in division (N) of this section: 1460

(a) Waiving the payment of all or any part of a deductible 1461  
or copayment that a patient, pursuant to a health insurance or 1462  
health care policy, contract, or plan that covers the 1463  
individual's services, otherwise would be required to pay if the 1464  
waiver is used as an enticement to a patient or group of 1465

patients to receive health care services from that individual; 1466

(b) Advertising that the individual will waive the payment 1467  
of all or any part of a deductible or copayment that a patient, 1468  
pursuant to a health insurance or health care policy, contract, 1469  
or plan that covers the individual's services, otherwise would 1470  
be required to pay. 1471

(29) Failure to use universal blood and body fluid 1472  
precautions established by rules adopted under section 4731.051 1473  
of the Revised Code; 1474

(30) Failure to provide notice to, and receive 1475  
acknowledgment of the notice from, a patient when required by 1476  
section 4731.143 of the Revised Code prior to providing 1477  
nonemergency professional services, or failure to maintain that 1478  
notice in the patient's medical record; 1479

(31) Failure of a physician supervising a physician 1480  
assistant to maintain supervision in accordance with the 1481  
requirements of Chapter 4730. of the Revised Code and the rules 1482  
adopted under that chapter; 1483

(32) Failure of a physician or podiatrist to enter into a 1484  
standard care arrangement with a clinical nurse specialist, 1485  
certified nurse-midwife, or certified nurse practitioner with 1486  
whom the physician or podiatrist is in collaboration pursuant to 1487  
section 4731.27 of the Revised Code or failure to fulfill the 1488  
responsibilities of collaboration after entering into a standard 1489  
care arrangement; 1490

(33) Failure to comply with the terms of a consult 1491  
agreement entered into with a pharmacist pursuant to section 1492  
4729.39 of the Revised Code; 1493

(34) Failure to cooperate in an investigation conducted by 1494

the board under division (F) of this section, including failure 1495  
to comply with a subpoena or order issued by the board or 1496  
failure to answer truthfully a question presented by the board 1497  
in an investigative interview, an investigative office 1498  
conference, at a deposition, or in written interrogatories, 1499  
except that failure to cooperate with an investigation shall not 1500  
constitute grounds for discipline under this section if a court 1501  
of competent jurisdiction has issued an order that either 1502  
quashes a subpoena or permits the individual to withhold the 1503  
testimony or evidence in issue; 1504

(35) Failure to supervise an oriental medicine 1505  
practitioner or acupuncturist in accordance with Chapter 4762. 1506  
of the Revised Code and the board's rules for providing that 1507  
supervision; 1508

(36) Failure to supervise an anesthesiologist assistant in 1509  
accordance with Chapter 4760. of the Revised Code and the 1510  
board's rules for supervision of an anesthesiologist assistant; 1511

(37) Assisting suicide, as defined in section 3795.01 of 1512  
the Revised Code; 1513

(38) Failure to comply with the requirements of section 1514  
2317.561 of the Revised Code; 1515

(39) Failure to supervise a radiologist assistant in 1516  
accordance with Chapter 4774. of the Revised Code and the 1517  
board's rules for supervision of radiologist assistants; 1518

(40) Performing or inducing an abortion at an office or 1519  
facility with knowledge that the office or facility fails to 1520  
post the notice required under section 3701.791 of the Revised 1521  
Code; 1522

(41) Failure to comply with the standards and procedures 1523

established in rules under section 4731.054 of the Revised Code 1524  
for the operation of or the provision of care at a pain 1525  
management clinic; 1526

(42) Failure to comply with the standards and procedures 1527  
established in rules under section 4731.054 of the Revised Code 1528  
for providing supervision, direction, and control of individuals 1529  
at a pain management clinic; 1530

(43) Failure to comply with the requirements of section 1531  
4729.79 or 4731.055 of the Revised Code, unless the state board 1532  
of pharmacy no longer maintains a drug database pursuant to 1533  
section 4729.75 of the Revised Code; 1534

(44) Failure to comply with the requirements of section 1535  
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 1536  
to submit to the department of health in accordance with a court 1537  
order a complete report as described in section 2919.171 or 1538  
2919.202 of the Revised Code; 1539

(45) Practicing at a facility that is subject to licensure 1540  
as a category III terminal distributor of dangerous drugs with a 1541  
pain management clinic classification unless the person 1542  
operating the facility has obtained and maintains the license 1543  
with the classification; 1544

(46) Owning a facility that is subject to licensure as a 1545  
category III terminal distributor of dangerous drugs with a pain 1546  
management clinic classification unless the facility is licensed 1547  
with the classification; 1548

(47) Failure to comply with any of the requirements 1549  
regarding making or maintaining medical records or documents 1550  
described in division (A) of section 2919.192, division (C) of 1551  
section 2919.193, division (B) of section 2919.195, or division 1552

(A) of section 2919.196 of the Revised Code; 1553

(48) Failure to comply with the requirements in section 1554  
3719.061 of the Revised Code before issuing for a minor a 1555  
prescription for an opioid analgesic, as defined in section 1556  
3719.01 of the Revised Code; 1557

(49) Failure to comply with the requirements of section 1558  
4731.30 of the Revised Code or rules adopted under section 1559  
4731.301 of the Revised Code when recommending treatment with 1560  
medical marijuana; 1561

(50) Practicing at a facility, clinic, or other location 1562  
that is subject to licensure as a category III terminal 1563  
distributor of dangerous drugs with an office-based opioid 1564  
treatment classification unless the person operating that place 1565  
has obtained and maintains the license with the classification; 1566

(51) Owning a facility, clinic, or other location that is 1567  
subject to licensure as a category III terminal distributor of 1568  
dangerous drugs with an office-based opioid treatment 1569  
classification unless that place is licensed with the 1570  
classification; 1571

(52) A pattern of continuous or repeated violations of 1572  
division (E) (2) or (3) of section 3963.02 of the Revised Code; 1573

(53) Failure to take the steps specified in section 1574  
4731.92 of the Revised Code following an abortion or attempted 1575  
abortion in an ambulatory surgical facility or other location 1576  
that is not a hospital when a child is born alive. 1577

(C) Disciplinary actions taken by the board under 1578  
divisions (A) and (B) of this section shall be taken pursuant to 1579  
an adjudication under Chapter 119. of the Revised Code, except 1580  
that in lieu of an adjudication, the board may enter into a 1581

consent agreement with an individual to resolve an allegation of 1582  
a violation of this chapter or any rule adopted under it. A 1583  
consent agreement, when ratified by an affirmative vote of not 1584  
fewer than six members of the board, shall constitute the 1585  
findings and order of the board with respect to the matter 1586  
addressed in the agreement. If the board refuses to ratify a 1587  
consent agreement, the admissions and findings contained in the 1588  
consent agreement shall be of no force or effect. 1589

A telephone conference call may be utilized for 1590  
ratification of a consent agreement that revokes or suspends an 1591  
individual's license or certificate to practice or certificate 1592  
to recommend. The telephone conference call shall be considered 1593  
a special meeting under division (F) of section 121.22 of the 1594  
Revised Code. 1595

If the board takes disciplinary action against an 1596  
individual under division (B) of this section for a second or 1597  
subsequent plea of guilty to, or judicial finding of guilt of, a 1598  
violation of section 2919.123 of the Revised Code, the 1599  
disciplinary action shall consist of a suspension of the 1600  
individual's license or certificate to practice for a period of 1601  
at least one year or, if determined appropriate by the board, a 1602  
more serious sanction involving the individual's license or 1603  
certificate to practice. Any consent agreement entered into 1604  
under this division with an individual that pertains to a second 1605  
or subsequent plea of guilty to, or judicial finding of guilt 1606  
of, a violation of that section shall provide for a suspension 1607  
of the individual's license or certificate to practice for a 1608  
period of at least one year or, if determined appropriate by the 1609  
board, a more serious sanction involving the individual's 1610  
license or certificate to practice. 1611



(D) For purposes of divisions (B) (10), (12), and (14) of  
this section, the commission of the act may be established by a  
finding by the board, pursuant to an adjudication under Chapter  
119. of the Revised Code, that the individual committed the act.  
The board does not have jurisdiction under those divisions if  
the trial court renders a final judgment in the individual's  
favor and that judgment is based upon an adjudication on the  
merits. The board has jurisdiction under those divisions if the  
trial court issues an order of dismissal upon technical or  
procedural grounds.

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

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

shall be assigned a case number and shall be recorded by the 1643  
board. 1644

(2) Investigations of alleged violations of this chapter 1645  
or any rule adopted under it shall be supervised by the 1646  
supervising member elected by the board in accordance with 1647  
section 4731.02 of the Revised Code and by the secretary as 1648  
provided in section 4731.39 of the Revised Code. The president 1649  
may designate another member of the board to supervise the 1650  
investigation in place of the supervising member. No member of 1651  
the board who supervises the investigation of a case shall 1652  
participate in further adjudication of the case. 1653

(3) In investigating a possible violation of this chapter 1654  
or any rule adopted under this chapter, or in conducting an 1655  
inspection under division (E) of section 4731.054 of the Revised 1656  
Code, the board may question witnesses, conduct interviews, 1657  
administer oaths, order the taking of depositions, inspect and 1658  
copy any books, accounts, papers, records, or documents, issue 1659  
subpoenas, and compel the attendance of witnesses and production 1660  
of books, accounts, papers, records, documents, and testimony, 1661  
except that a subpoena for patient record information shall not 1662  
be issued without consultation with the attorney general's 1663  
office and approval of the secretary and supervising member of 1664  
the board. 1665

(a) Before issuance of a subpoena for patient record 1666  
information, the secretary and supervising member shall 1667  
determine whether there is probable cause to believe that the 1668  
complaint filed alleges a violation of this chapter or any rule 1669  
adopted under it and that the records sought are relevant to the 1670  
alleged violation and material to the investigation. The 1671  
subpoena may apply only to records that cover a reasonable 1672

period of time surrounding the alleged violation. 1673

(b) On failure to comply with any subpoena issued by the 1674  
board and after reasonable notice to the person being 1675  
subpoenaed, the board may move for an order compelling the 1676  
production of persons or records pursuant to the Rules of Civil 1677  
Procedure. 1678

(c) A subpoena issued by the board may be served by a 1679  
sheriff, the sheriff's deputy, or a board employee or agent 1680  
designated by the board. Service of a subpoena issued by the 1681  
board may be made by delivering a copy of the subpoena to the 1682  
person named therein, reading it to the person, or leaving it at 1683  
the person's usual place of residence, usual place of business, 1684  
or address on file with the board. When serving a subpoena to an 1685  
applicant for or the holder of a license or certificate issued 1686  
under this chapter, service of the subpoena may be made by 1687  
certified mail, return receipt requested, and the subpoena shall 1688  
be deemed served on the date delivery is made or the date the 1689  
person refuses to accept delivery. If the person being served 1690  
refuses to accept the subpoena or is not located, service may be 1691  
made to an attorney who notifies the board that the attorney is 1692  
representing the person. 1693

(d) A sheriff's deputy who serves a subpoena shall receive 1694  
the same fees as a sheriff. Each witness who appears before the 1695  
board in obedience to a subpoena shall receive the fees and 1696  
mileage provided for under section 119.094 of the Revised Code. 1697

(4) All hearings, investigations, and inspections of the 1698  
board shall be considered civil actions for the purposes of 1699  
section 2305.252 of the Revised Code. 1700

(5) A report required to be submitted to the board under 1701

this chapter, a complaint, or information received by the board 1702  
pursuant to an investigation or pursuant to an inspection under 1703  
division (E) of section 4731.054 of the Revised Code is 1704  
confidential and not subject to discovery in any civil action. 1705

The board shall conduct all investigations or inspections 1706  
and proceedings in a manner that protects the confidentiality of 1707  
patients and persons who file complaints with the board. The 1708  
board shall not make public the names or any other identifying 1709  
information about patients or complainants unless proper consent 1710  
is given or, in the case of a patient, a waiver of the patient 1711  
privilege exists under division (B) of section 2317.02 of the 1712  
Revised Code, except that consent or a waiver of that nature is 1713  
not required if the board possesses reliable and substantial 1714  
evidence that no bona fide physician-patient relationship 1715  
exists. 1716

The board may share any information it receives pursuant 1717  
to an investigation or inspection, including patient records and 1718  
patient record information, with law enforcement agencies, other 1719  
licensing boards, and other governmental agencies that are 1720  
prosecuting, adjudicating, or investigating alleged violations 1721  
of statutes or administrative rules. An agency or board that 1722  
receives the information shall comply with the same requirements 1723  
regarding confidentiality as those with which the state medical 1724  
board must comply, notwithstanding any conflicting provision of 1725  
the Revised Code or procedure of the agency or board that 1726  
applies when it is dealing with other information in its 1727  
possession. In a judicial proceeding, the information may be 1728  
admitted into evidence only in accordance with the Rules of 1729  
Evidence, but the court shall require that appropriate measures 1730  
are taken to ensure that confidentiality is maintained with 1731  
respect to any part of the information that contains names or 1732

other identifying information about patients or complainants 1733  
whose confidentiality was protected by the state medical board 1734  
when the information was in the board's possession. Measures to 1735  
ensure confidentiality that may be taken by the court include 1736  
sealing its records or deleting specific information from its 1737  
records. 1738

(6) On a quarterly basis, the board shall prepare a report 1739  
that documents the disposition of all cases during the preceding 1740  
three months. The report shall contain the following information 1741  
for each case with which the board has completed its activities: 1742

(a) The case number assigned to the complaint or alleged 1743  
violation; 1744

(b) The type of license or certificate to practice, if 1745  
any, held by the individual against whom the complaint is 1746  
directed; 1747

(c) A description of the allegations contained in the 1748  
complaint; 1749

(d) The disposition of the case. 1750

The report shall state how many cases are still pending 1751  
and shall be prepared in a manner that protects the identity of 1752  
each person involved in each case. The report shall be a public 1753  
record under section 149.43 of the Revised Code. 1754

(G) If the secretary and supervising member determine both 1755  
of the following, they may recommend that the board suspend an 1756  
individual's license or certificate to practice or certificate 1757  
to recommend without a prior hearing: 1758

(1) That there is clear and convincing evidence that an 1759  
individual has violated division (B) of this section; 1760

(2) That the individual's continued practice presents a 1761  
danger of immediate and serious harm to the public. 1762

Written allegations shall be prepared for consideration by 1763  
the board. The board, upon review of those allegations and by an 1764  
affirmative vote of not fewer than six of its members, excluding 1765  
the secretary and supervising member, may suspend a license or 1766  
certificate without a prior hearing. A telephone conference call 1767  
may be utilized for reviewing the allegations and taking the 1768  
vote on the summary suspension. 1769

The board shall issue a written order of suspension by 1770  
certified mail or in person in accordance with section 119.07 of 1771  
the Revised Code. The order shall not be subject to suspension 1772  
by the court during pendency of any appeal filed under section 1773  
119.12 of the Revised Code. If the individual subject to the 1774  
summary suspension requests an adjudicatory hearing by the 1775  
board, the date set for the hearing shall be within fifteen 1776  
days, but not earlier than seven days, after the individual 1777  
requests the hearing, unless otherwise agreed to by both the 1778  
board and the individual. 1779

Any summary suspension imposed under this division shall 1780  
remain in effect, unless reversed on appeal, until a final 1781  
adjudicative order issued by the board pursuant to this section 1782  
and Chapter 119. of the Revised Code becomes effective. The 1783  
board shall issue its final adjudicative order within seventy- 1784  
five days after completion of its hearing. A failure to issue 1785  
the order within seventy-five days shall result in dissolution 1786  
of the summary suspension order but shall not invalidate any 1787  
subsequent, final adjudicative order. 1788

(H) If the board takes action under division (B) (9), (11), 1789  
or (13) of this section and the judicial finding of guilt, 1790

guilty plea, or judicial finding of eligibility for intervention 1791  
in lieu of conviction is overturned on appeal, upon exhaustion 1792  
of the criminal appeal, a petition for reconsideration of the 1793  
order may be filed with the board along with appropriate court 1794  
documents. Upon receipt of a petition of that nature and 1795  
supporting court documents, the board shall reinstate the 1796  
individual's license or certificate to practice. The board may 1797  
then hold an adjudication under Chapter 119. of the Revised Code 1798  
to determine whether the individual committed the act in 1799  
question. Notice of an opportunity for a hearing shall be given 1800  
in accordance with Chapter 119. of the Revised Code. If the 1801  
board finds, pursuant to an adjudication held under this 1802  
division, that the individual committed the act or if no hearing 1803  
is requested, the board may order any of the sanctions 1804  
identified under division (B) of this section. 1805

(I) The license or certificate to practice issued to an 1806  
individual under this chapter and the individual's practice in 1807  
this state are automatically suspended as of the date of the 1808  
individual's second or subsequent plea of guilty to, or judicial 1809  
finding of guilt of, a violation of section 2919.123 of the 1810  
Revised Code. In addition, the license or certificate to 1811  
practice or certificate to recommend issued to an individual 1812  
under this chapter and the individual's practice in this state 1813  
are automatically suspended as of the date the individual pleads 1814  
guilty to, is found by a judge or jury to be guilty of, or is 1815  
subject to a judicial finding of eligibility for intervention in 1816  
lieu of conviction in this state or treatment or intervention in 1817  
lieu of conviction in another jurisdiction for any of the 1818  
following criminal offenses in this state or a substantially 1819  
equivalent criminal offense in another jurisdiction: aggravated 1820  
murder, murder, voluntary manslaughter, felonious assault, 1821

kidnapping, rape, sexual battery, gross sexual imposition, 1822  
aggravated arson, aggravated robbery, or aggravated burglary. 1823  
Continued practice after suspension shall be considered 1824  
practicing without a license or certificate. 1825

The board shall notify the individual subject to the 1826  
suspension by certified mail or in person in accordance with 1827  
section 119.07 of the Revised Code. If an individual whose 1828  
license or certificate is automatically suspended under this 1829  
division fails to make a timely request for an adjudication 1830  
under Chapter 119. of the Revised Code, the board shall do 1831  
whichever of the following is applicable: 1832

(1) If the automatic suspension under this division is for 1833  
a second or subsequent plea of guilty to, or judicial finding of 1834  
guilt of, a violation of section 2919.123 of the Revised Code, 1835  
the board shall enter an order suspending the individual's 1836  
license or certificate to practice for a period of at least one 1837  
year or, if determined appropriate by the board, imposing a more 1838  
serious sanction involving the individual's license or 1839  
certificate to practice. 1840

(2) In all circumstances in which division (I)(1) of this 1841  
section does not apply, enter a final order permanently revoking 1842  
the individual's license or certificate to practice. 1843

(J) If the board is required by Chapter 119. of the 1844  
Revised Code to give notice of an opportunity for a hearing and 1845  
if the individual subject to the notice does not timely request 1846  
a hearing in accordance with section 119.07 of the Revised Code, 1847  
the board is not required to hold a hearing, but may adopt, by 1848  
an affirmative vote of not fewer than six of its members, a 1849  
final order that contains the board's findings. In that final 1850  
order, the board may order any of the sanctions identified under 1851



division (A) or (B) of this section. 1852

(K) Any action taken by the board under division (B) of 1853  
this section resulting in a suspension from practice shall be 1854  
accompanied by a written statement of the conditions under which 1855  
the individual's license or certificate to practice may be 1856  
reinstated. The board shall adopt rules governing conditions to 1857  
be imposed for reinstatement. Reinstatement of a license or 1858  
certificate suspended pursuant to division (B) of this section 1859  
requires an affirmative vote of not fewer than six members of 1860  
the board. 1861

(L) When the board refuses to grant or issue a license or 1862  
certificate to practice to an applicant, revokes an individual's 1863  
license or certificate to practice, refuses to renew an 1864  
individual's license or certificate to practice, or refuses to 1865  
reinstate an individual's license or certificate to practice, 1866  
the board may specify that its action is permanent. An 1867  
individual subject to a permanent action taken by the board is 1868  
forever thereafter ineligible to hold a license or certificate 1869  
to practice and the board shall not accept an application for 1870  
reinstatement of the license or certificate or for issuance of a 1871  
new license or certificate. 1872

(M) Notwithstanding any other provision of the Revised 1873  
Code, all of the following apply: 1874

(1) The surrender of a license or certificate issued under 1875  
this chapter shall not be effective unless or until accepted by 1876  
the board. A telephone conference call may be utilized for 1877  
acceptance of the surrender of an individual's license or 1878  
certificate to practice. The telephone conference call shall be 1879  
considered a special meeting under division (F) of section 1880  
121.22 of the Revised Code. Reinstatement of a license or 1881

certificate surrendered to the board requires an affirmative 1882  
vote of not fewer than six members of the board. 1883

(2) An application for a license or certificate made under 1884  
the provisions of this chapter may not be withdrawn without 1885  
approval of the board. 1886

(3) Failure by an individual to renew a license or 1887  
certificate to practice in accordance with this chapter or a 1888  
certificate to recommend in accordance with rules adopted under 1889  
section 4731.301 of the Revised Code shall not remove or limit 1890  
the board's jurisdiction to take any disciplinary action under 1891  
this section against the individual. 1892

(4) At the request of the board, a license or certificate 1893  
holder shall immediately surrender to the board a license or 1894  
certificate that the board has suspended, revoked, or 1895  
permanently revoked. 1896

(N) Sanctions shall not be imposed under division (B) (28) 1897  
of this section against any person who waives deductibles and 1898  
copayments as follows: 1899

(1) In compliance with the health benefit plan that 1900  
expressly allows such a practice. Waiver of the deductibles or 1901  
copayments shall be made only with the full knowledge and 1902  
consent of the plan purchaser, payer, and third-party 1903  
administrator. Documentation of the consent shall be made 1904  
available to the board upon request. 1905

(2) For professional services rendered to any other person 1906  
authorized to practice pursuant to this chapter, to the extent 1907  
allowed by this chapter and rules adopted by the board. 1908

(O) Under the board's investigative duties described in 1909  
this section and subject to division (F) of this section, the 1910

board shall develop and implement a quality intervention program 1911  
designed to improve through remedial education the clinical and 1912  
communication skills of individuals authorized under this 1913  
chapter to practice medicine and surgery, osteopathic medicine 1914  
and surgery, and podiatric medicine and surgery. In developing 1915  
and implementing the quality intervention program, the board may 1916  
do all of the following: 1917

(1) Offer in appropriate cases as determined by the board 1918  
an educational and assessment program pursuant to an 1919  
investigation the board conducts under this section; 1920

(2) Select providers of educational and assessment 1921  
services, including a quality intervention program panel of case 1922  
reviewers; 1923

(3) Make referrals to educational and assessment service 1924  
providers and approve individual educational programs 1925  
recommended by those providers. The board shall monitor the 1926  
progress of each individual undertaking a recommended individual 1927  
educational program. 1928

(4) Determine what constitutes successful completion of an 1929  
individual educational program and require further monitoring of 1930  
the individual who completed the program or other action that 1931  
the board determines to be appropriate; 1932

(5) Adopt rules in accordance with Chapter 119. of the 1933  
Revised Code to further implement the quality intervention 1934  
program. 1935

An individual who participates in an individual 1936  
educational program pursuant to this division shall pay the 1937  
financial obligations arising from that educational program. 1938

**Sec. 4731.92. (A) As used in this section:** 1939

(1) "Ambulatory surgical facility" has the same meaning as 1940  
in section 3702.30 of the Revised Code. 1941

(2) "Hospital" means a hospital registered with the 1942  
department of health under section 3701.07 of the Revised Code. 1943

(B) A physician who performs or attempts an abortion in an 1944  
ambulatory surgical facility or other location that is not a 1945  
hospital and in which a child is born alive shall immediately 1946  
take the following steps upon the child's birth: 1947

(1) Provide post-birth care to the newborn in accordance 1948  
with prevailing and acceptable standards of care; 1949

(2) Call for assistance from an emergency medical services 1950  
provider; 1951

(3) Arrange for the transfer of the newborn to a hospital. 1952

**Section 2.** That existing sections 149.43, 2919.13, 1953  
3701.79, 3701.99, and 4731.22 of the Revised Code are hereby 1954  
repealed. 1955