



COUNTY ADVISORY BULLETIN

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PUBLIC RECORDS LAW CHANGES

APPLICABLE LEGISLATION: Substitute House Bill 265 (135th General Assembly)

REVISED CODE SECTIONS AMENDED: 149.43, 149.45, 319.28, 319.54, 2323.52, 2743.75, and 2951.03

REVISED CODE SECTIONS ENACTED: 9.59

LEAD SPONSORS: Rep. Scott Wiggam and Rep. Thomas Hall

HOUSE COSPONSORS: Plummer, Williams, Willis, Gross, Young, T., Click, Abrams, Bird, Brennan, Creech, Dell'Aquila, Demetriou, Dobos, Ghanbari, Grim, Holmes, John, Johnson, Jones, LaRe, Lorenz, Mathews, Miller, J., Miller, K., Miller, M., Mohamed, Patton, Pavliga, Peterson, Piccolantonio, Richardson, Robb Blasdel, Roemer, Russo, Santucci, Thomas, C., Upchurch, White

SENATE COSPONSORS: Manning, Antonio, Cirino, Craig, Landis, Reineke, Smith

EFFECTIVE DATE: April 9, 2025

BACKGROUND

House Bill 265 was introduced by Representatives Scott Wiggam and Thomas Hall with the goal of protecting sensitive, personal information of first responders and other designated public service records. Prior to the bill's effective date, such information was considered a public record. There was a concern that first responders and their families were at greater risk with the information being publicly available. Through the legislative process, other provisions, including language addressing vexatious litigators, were added.

DEFINITIONS

"Designated public service worker" means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and

investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer. This definition is unchanged under the legislation. R.C. 149.43(A)(7)

“Qualifying former designated public service worker” means a former designated public service worker with a minimum of five years of qualifying service who was an employee in good standing at the completion of such service. This definition was added in HB 265. R.C. 149.45(A)(3) and 319.28(A)

“Personal information” means any of the following:

- (a) An individual's social security number;
- (b) An individual's state or federal tax identification number;
- (c) An individual's driver's license number or state identification number;
- (d) An individual's checking account number, savings account number, credit card number, or debit card number;
- (e) An individual's demand deposit account number, money market account number, mutual fund account number, or any other financial or medical account number.

R.C. 149.45(A). This definition remains unchanged.

"Vexatious litigator" means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions. "Vexatious litigator" does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions. R.C. 2323.52(A)(3)

VEXATIOUS LITIGATORS RECORD REQUEST LIMITS

R.C. 2323.52(J)(1)

R.C. 2323.52 establishes a procedure that allows common pleas courts to declare certain persons to be vexatious litigators. The individual is served with a notice that declares them to be vexatious litigators once the court makes its order. The Supreme Court of Ohio maintains a list of the orders and vexatious litigators on their [website](#).

Under the new law, vexatious litigators are prohibited from requesting public records from a public office or person responsible for public records unless they have:

1. Leave to do so from the court of common pleas; and
2. An order from the court specifying with particularity what public records the person may request.

Until these requirements are satisfied and evidence of satisfaction is presented to the public office or person responsible for public records, the public office or person responsible is not under obligation to respond to the request.

ABILITY TO REQUIRE IDENTIFICATION FROM REQUESTORS

R.C. 2323.52(J)(2)

If a records request is submitted anonymously and the public office or person responsible for public records has reasonable cause to believe the requestor is a vexatious litigator, the new law permits a public office or person responsible to require the person making the request present an acceptable form of identification.

Additionally, if the public office or person responsible knows or has reasonable cause to believe, based on the requestor's listed name, that the requestor is a vexatious litigator, the public office or person responsible may require an acceptable form of identification be presented.

PUBLIC RECORD LAWSUITS

R.C. 149.43(C)(1) and (2)

The bill requires a person allegedly aggrieved by a violation of the Public Records Law to transmit a complaint for the public office or person responsible for public records before bringing the claim to court. The public office or person responsible for public records has three business days to cure or otherwise address the alleged violation.

Following the three-day period, the aggrieved person may file the claim in court or commence a mandamus action against the public office or person responsible for public records allegedly responsible for the violation. HB 265 requires the person filing to include with the claim a written affirmation that states:

1. The person properly transmitted the complaint to the public office or person responsible for public records;
2. The alleged violation was not cured or otherwise resolved to the person's satisfaction; and
3. The person transmitted the complain to the public office or person responsible for public records at least three business days before the filing of the suit.

If the aggrieved person fails to file this affirmation with the claim, the suit must be dismissed.

PUBLIC RECORD EXEMPTIONS FOR DESIGNATED PUBLIC SERVICE WORKERS

R.C. 149.43(A)(1)(uu)-(ww), R.C. 149.45(C), (D), and (F), 319.28(B) and (C)

The new law exempts the following records from the definition of a "public record" that may be obtainable under Ohio's Public Records Law:

1. Records of the past, current and future work schedule of a designated public service worker; R.C. 149.43(A)(1)(uu)

2. A request form or confirmation letter submitted to a public office by an individual asking the office to redact personal information of that individual from any record made available to the general public on the internet; R.C. 149.43(A)(1)(vv) and 149.45(C) and (F)
3. An affidavit or a confirmation letter submitted to a county auditor, by a designated public service worker, a qualifying former designated public service worker, or the spouse of either, requesting the county auditor to remove the name of the individual filing the affidavit from any record made available to the general public on the internet or a publicly accessible database, and from the general tax list and duplicate of real and public utility property, and to instead insert the individual's initials on the record. [If the removal and insertion is not practicable, the county auditor shall verbally or in writing within five business days after receiving the affidavit explain to the individual why the removal and insertion is impracticable]; R.C. 149.43(A)(1)(ww) and 319.28(B) and (C)
4. A request form or confirmation letter submitted to a public office (other than the county auditor) by a current or former designated public service worker asking the office to redact the designated public service worker's address from any record made available to the general public on the internet. R.C. 149.43(A)(1)(vv) and 149.45(D) and (F)

FORMER DESIGNATED PUBLIC SERVICE WORKER REDACTION REQUESTS

R.C. 149.45 and R.C. 319.28

The act extends the ability to request a redaction previously only held by designated public service workers to qualifying former designated public service workers, including the following:

1. Request that a public office, other than a county auditor, redact the designated public service worker's address from any record made available to the general public on the internet.
2. Submit an affidavit to the county auditor requesting that the county auditor remove the name of the individual filing the affidavit from any record made available to the general public on the internet or a publicly accessible database, and from the general tax list and duplicate of real and public utility property, and to instead insert the individual's initials on the record.

A redaction request must be written on a form developed by the Attorney General.

A qualifying former designated public service worker must provide, with the form or affidavit, a confirmation letter from each employer at which the worker was employed confirming the years of service and that the worker departed service in good standing.

WORK SCHEDULE EXEMPTION AND DEFINITION

R.C. 149.45(A)(1)(vv), R.C. 149.43(A)(1)

Certain work schedules are exempt from disclosure under Public Records Law. "Work schedule" does not include the docket of cases of a court, judge, or magistrate. Work schedules that are retained will become a public record three years after the date of creation.

The default statute in continuing law is that an exempted record, if retained, becomes a public record on the day that is 75 years after the date of creation. The new work schedule statute is a departure and exemption from this continuing law.

JOURNALIST ACCESS TO EXEMPTED RECORDS

R.C. 149.43(B)(9)

A journalist is permitted to obtain records including work schedules, request forms, and affidavits, even though these documents are exempt from release as a public record. Under continuing law, a journalist may obtain certain records that are otherwise exempt from release as a public record. For example, the residential address of a designated public service worker, which is exempt from release as a public record, may be obtained by a journalist upon a written request to the public office. The request must include the journalist's name and title and the name and address of the journalist's employer and must state that disclosure of the information sought would be in the public interest.

PROHIBIT INCARCERATED PERSONS FROM STATUTORY DAMAGES IN PUBLIC RECORD LAWSUITS

R.C. 149.43(C)(3)

The new language prohibits individuals committed to the custody of the Department of Rehabilitation and Correction, the U.S. Bureau of Prisons, or the Department of Youth Services from recovering statutory damages in connection with a lawsuit under Public Records Law.

CRIMINAL INVESTIGATION RECORDS

R.C. 149.43(B)(8)

Continuing law does not require a public office or person responsible for public records to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or obtain a copy of a "public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult." HB 265 clarifies that this includes personnel files, payroll records and attendance records of designated public service workers.

The exceptions in current statute are if (1) the request is for the purpose of acquiring information subject to release as a public record and (2) the sentencing judge, or the judge's successor in office, finds the information necessary to support a justiciable claim.

PRESENTENCE INVESTIGATION REPORTS

R.C. 2951.03(D)(1)

Continuing law states the contents of a presentence investigation report are confidential and not a public record; and authorizes the court and other authorized parties to access the contents of a presentence investigation report under certain circumstances. The act clarifies that the contents of a presentence report, or parts thereof, may be shared between courts.

CHARGE FOR PREPARATION OF VIDEO PUBLIC RECORDS

R.C. 149.43(B)(1)

Another provision regarding public records law was included in House Bill 315. The provision allows law enforcement agencies to charge a requester a fee to prepare a video record for inspection. The fee is capped at \$75 per hour or \$750 total. The fee must be the actual cost incurred in reviewing, blurring or obscuring, redacting, uploading, or producing the video records and can include the storage medium to which the record is saved, staff time used on the request, and any other relevant overhead necessary.

Agencies may include in their public records policy the requirement that the requester pay the estimated actual cost before the agency begins to prepare the video record. If the actual cost exceeds the estimated cost, the agency can charge the requester the difference upon fulfilling the request, provided the agency notified the request. The difference charged may not exceed 20% of the estimated actual cost.

Note: In addition to House Bill 265, three other bills that become effective on April 9, 2025 also amended R.C. 149.43: Senate Bill 29, House Bill 315, and Senate Bill 109, all of the 135th General Assembly. If viewing the As Passed Version of House Bill 265, some code sections may be numbered differently because they were not yet harmonized by the Legislative Service Commission. The code sections in this Bulletin reflect the final section numbers on April 9, 2025.