
PUBLIC RECORD AND OPEN MEETING PROVISIONS

Public records changes

Automated license plate recognition systems

- Exempts images and data captured by an automated license plate recognition system that are maintained in a law enforcement database from the Public Records Law.

Specific investigatory work

- Modifies the definition of specific investigatory work product that is protected from public records request disclosure.

Inmate records

- Restates that records pertaining to inmates committed to DRC and persons under Adult Parole Authority supervision are not public records, unless specifically exempted.

Victim statements

- Specifies that written and oral statements provided by victim or victim's representative to DRC in connection with the pendency of any pardon, commutation, or parole are confidential and privileged statements, are not public records, and are not subject to subpoena or discovery.
- Prohibits the victim statements specified above from being admissible as evidence in any action.

ABLE account records not public records

- Exempts from Public Records Law any record of the Treasurer of State indicating ABLE account beneficiaries, balances, and activity on ABLE accounts.

License holder contact information

- Specifies that the address, telephone number, or email address of a holder, or former holder, of an occupational license, specialty occupational license for medical reimbursement, certification, or registration is confidential and not a public record for purposes of Ohio's Public Records Law.
- Allows an occupational licensing board or the Office of Information Technology, which operates Ohio's eLicense database, to make a covered address, telephone number, or email address available under specific circumstances.

Procurement law and public records

- Clarifies that all documents related to a competitive selection (including competitive sealed bidding, competitive sealed proposals, reverse auctions, and electronic procurement) are not public records until after the contract has been awarded.
- Eliminates a provision of law that specifies such documents are public records after a competitive selection is cancelled.

Designation of a public records officer

- Expressly authorizes a public office or person responsible for public records to designate one or more officials or employees to act as its public records officer or officers.

Notice of open meeting on public body's website

- Changes the requirement that a public body must establish, by rule, a reasonable method to provide notice to the public of the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings to instead require the method to be on the public body's website.
- Specifies that any advance notification may include electronically mailing the agenda of meetings to all subscribers on an electronic mailing list.
- Removes the reference of making an advance notification using self-addressed, stamped envelopes provided by a person requesting an advanced notice.

Public records changes

The bill includes a number of new or revised exceptions to the Public Records Law. Although some are discussed in context of larger provisions above, several are addressed in this chapter together.

Automated license plate recognition systems

(R.C. 149.43)

The bill exempts images and data captured by an automated license plate recognition systems (ALPRS) that are maintained in a law enforcement database from the Public Records Law. ALPRS are typically used by law enforcement agencies to capture an image of a vehicle's license plate as the vehicle passes by. The license plate image is then translated into letters and numbers using specialized software. The software assists law enforcement in identifying stolen vehicles or persons of interest.

Specific investigatory work product

The bill defines "specific investigatory work product" as that term pertains to the Public Records Law to mean any record, thing, or item that documents the independent thought processes, factual findings, mental impressions, theories, strategies, opinions, or analyses of an investigating officer or an agent of an investigative agency or prosecuting attorney and also includes any documents and evidence collected, written or recorded interviews or statements, interview notes, test results, lab results, preliminary lab results, and other internal memoranda, things, or items created during any point of an investigation. Basic information regarding the date, time, address, and type of incident are excluded from the definition of "specific investigatory work product."

Under continuing law, "confidential law enforcement investigatory records" are not considered public records. A record is a "confidential law enforcement investigatory record" if it

pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of certain types of information, including “specific investigatory work product.”

Inmate records

(R.C. 149.43 and 5120.21)

The bill states that records pertaining to inmates committed to the Department of Rehabilitation and Correction (DRC) and persons under Adult Parole Authority supervision are not public records, except for the following information:

1. Name;
2. Criminal convictions;
3. Photograph;
4. Supervision status, including current and past place of incarceration;
5. Disciplinary history.

Current law further provides that except as otherwise provided by state or U.S. law, these records are also confidential and accessible only to employees. The bill modifies this to instead provide that notwithstanding any other law of the state or the United States to the contrary, these records are confidential and must be accessible to employees only. The U.S. Constitution in Article IV, Clause 2 grants federal law supremacy in situations where state and federal law come into conflict. Because federal law is above state law, a state is not able to “notwithstanding” the laws of the United States. If challenged in the courts, the amendments in this provision are likely to be found unconstitutional under this principle.

Victim statements

(R.C. 149.43 and 2967.12)

The bill specifies that all written and oral statements provided by a victim or victim’s representative to DRC in connection with the pendency of any pardon, commutation, or parole are confidential and privileged and are not:

- Subject to subpoena or discovery;
- Admissible in evidence in any action;
- Public records.

ABLE account records not public records

(R.C. 113.51)

The bill exempts any record of the Treasurer of State indicating the account beneficiaries and the balances and activity in ABLE accounts from the Public Records Law, meaning that these records are not available to the public, by request or otherwise.

Achieving a Better Life Experience (“ABLE”) accounts are tax exempt accounts created by the IRS, and established by the state, for people with disabilities to pay the costs of qualified disability expenses.

License holder contact information

(R.C. 4798.10, with conforming changes in R.C. 3743.56, 4701.13, 4703.11, 4713.07, 4715.08, 4715.42, 4723.653, 4723.89, 4725.07, 4729.06, 4729.59, 4731.07, 4731.295, 4731.298, 4732.07, 4734.04, 4741.03, 4744.12, 4749.06, 4755.41, 4755.61, 4779.21, and 5123.451)

Except as described below, under the bill both of the following apply to the address, telephone number, and email address (the “contact information”) of a current or former holder of an occupational license, specialty occupational license for medical reimbursement, certification, or registration:

- The contact information is not a public record under Ohio’s Public Records Law;¹³⁶
- The contact information is confidential and may not be released by the licensing board that issued the license, specialty license for medical reimbursement, certification, or registration.

The bill’s limitations on a holder’s or former holder’s contact information also apply if the address, telephone number, or email address are contained in the eLicense Database created and administered by the Office of Information Technology. The bill does not, however, prohibit the Office from displaying an individual’s county and state of residence or business on a website operated by the Office for the purpose of verifying that the individual possesses a license, specialty license for medical reimbursement, certification, or registration.

Exceptions

The bill allows a licensing board or the Office of Information Technology to make any covered contact information available under any of the following circumstances:

- At the request of a federal, state, or local government agency or a professional organization approved by the licensing board, provided the agency or approved organization agrees not to disseminate the information to third parties;
- Making the information available is necessary for Ohio to join or maintain membership in an interstate licensure compact or other method of granting interstate reciprocal licensure;
- For the purpose of enforcing state or federal law, including conducting investigations, issuing citations, enforcing settlements, and conducting lawful adjudication hearings;
- At the request of a law enforcement agency or an agency in another state responsible for the licensure, regulation, or investigation of the holder of an occupational license,

¹³⁶ R.C. 149.43.

specialty occupational license for medical reimbursement, certification, or registration under the jurisdiction of an occupational licensing board in that state;

- At the request of an accredited educational institution for research purposes approved by the occupational licensing board, provided the institution agrees not to disseminate the information to third parties;
- At the request of an entity performing services on behalf of an occupational licensing board, provided the organization or entity agrees not to disseminate the information to third parties unless the disclosure is necessary to provide the services and is authorized as part of a contract or agreement between the entity and the board;
- For the purpose of reporting disciplinary actions to federal or state authorities or to organizations approved by the occupational licensing board;
- At the request of the individual who holds or held the occupational license, specialty occupational license for medical reimbursement, certification, or registration.

Designated public service workers

If the holder or former holder of a license, specialty license for medical reimbursement, certification, or registration is a designated public service worker, the bill specifies that any release of information protected by the bill also must comply with the Public Records Law. The Public Records Law allows limited information about a designated public service worker to be disclosed only on written request made and signed by a journalist. The following individuals are considered “designated public service workers” under continuing law:

- Peace officers;
- Parole officers;
- Probation officers;
- Bailiffs, prosecuting attorneys, and assistant prosecuting attorneys;
- Correctional employees, county or multicounty corrections officers, community-based correctional facility employees;
- Designated Ohio National Guard members;
- Protective services workers and youth services employees;
- Firefighters, EMTs, and medical directors or members of a cooperating physician advisory board of an emergency medical service organization;
- State Board of Pharmacy employees;
- Bureau of Criminal Identification and Investigation investigators;
- Emergency service telecommunicators, forensic mental health providers, mental health evaluation providers, regional psychiatric hospital employees; and

- Judges, magistrates, and federal law enforcement officers.¹³⁷

Procurement law and public records

(R.C. 9.28, 125.071, and 125.11)

The bill clarifies that all documents related to a competitive selection (including competitive sealed bidding, competitive sealed proposals, reverse auctions, and electronic procurement) are not public records until after the contract has been awarded.

The bill eliminates a provision of law that specifies such documents are public records after a competitive selection is cancelled. Therefore, under the bill, if a solicitation is cancelled before the award of a contract, the related documents do not become public records.

Designation of a public records officer

(R.C. 149.43(B)(11))

The bill expressly authorizes a public office or person responsible for public records to designate one or more officials or employees to act as its public records officer or officers, and specifies that the public office may require that a person making a request for a public record address a request to the designated public records officer or officers. Continuing law requires that, upon request by any person, all public records responsive to a request to be promptly prepared and made available for inspection, and a public office or person responsible for public records to make copies of the requested public record available to the requester at cost and within a reasonable period of time.

The bill requires a public office to include the designation of the public records officer or officers and operative contact information for the public records officer or officers in its public records policy, and to post this information on any website of the public office.

Notice of open meeting on public body's website

(R.C. 121.22)

The bill changes the requirement that a public body must establish, by rule, a reasonable method to provide notice to the public of the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings to instead require the method to be on the public body's website. Additionally, the bill specifies that any advance notification may include electronically mailing the agenda of the meetings to all subscribers on an electronic mailing list and removes the reference of making an advance notification using self-addressed, stamped envelopes provided by a person requesting an advanced notice.

Under the continuing Open Meetings Law, public bodies generally are required to take official action and deliberate official business only in open meetings where the public may attend and observe. A public body is any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any

¹³⁷ R.C. 149.43(A)(7) and (B)(9).

county, township, municipal corporation, school district, or other political subdivision or local public institution.