

As Introduced

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H. B. No. 533

Representatives Crossman, Hicks-Hudson

Cosponsors: Representatives Lepore-Hagan, Smith, K., Russo, Miller, J., Sobecki, West, Skindell, Weinstein, Smith, M., Liston, Sheehy, Upchurch, Brown, Miranda, Galonski, Leland, Jarrells, Lightbody, Troy

A BILL

To enact sections 2747.01, 2747.02, 2747.03, 1
2747.04, 2747.05, 2747.06, 2747.07, 2747.08, 2
2747.09, and 2747.10 of the Revised Code 3
regarding filing false or fraudulent claims with 4
the state and defrauding the state of money or 5
property. 6

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

Section 1. That sections 2747.01, 2747.02, 2747.03, 7
2747.04, 2747.05, 2747.06, 2747.07, 2747.08, 2747.09, and 8
2747.10 of the Revised Code be enacted to read as follows: 9

Sec. 2747.01. As used in this chapter: 10

(A) "Claim" includes any request or demand, whether under 11
a contract or otherwise, for money or property that is made to a 12
contractor, grantee, or other recipient if the state provides 13
any portion of the money or property that is requested or 14
demanded or if the state will reimburse the contractor, grantee, 15
or other recipient for any portion of the money or property that 16

is requested or demanded. 17

(B) "Documentary material" includes the original or any 18
copy of any book, record, report, memorandum, paper, 19
communication, tabulation, chart, or other document, or data 20
compilations stored in or accessible through computer or other 21
information retrieval systems, together with instructions and 22
all other materials necessary to use or interpret the data 23
compilations, and any product of discovery. 24

(C) "Knowing" and "knowingly" mean that a person, with 25
respect to information and with or without a specific intent to 26
defraud, meets at least one of the following criteria: 27

(1) The person has actual knowledge of the information. 28

(2) The person acts in deliberate ignorance of the truth 29
or falsity of the information. 30

(3) The person acts in reckless disregard of the truth or 31
falsity of the information. 32

(D) "Product of discovery" includes all of the following: 33

(1) The original or duplicate of any deposition, 34
interrogatory, document, thing, result of the inspection of land 35
or other property, examination, or admission, that is obtained 36
by any method of discovery in any judicial or administrative 37
proceeding of an adversarial nature; 38

(2) Any digest, analysis, selection, compilation, or 39
derivation of any item listed in division (D)(1) of this 40
section; 41

(3) Any index or other manner of access to any item listed 42
in division (D)(1) of this section. 43

<u>Sec. 2747.02. (A) No person shall do any of the following:</u>	44
<u>(1) Knowingly present, or cause to be presented, to an</u>	45
<u>officer or employee of the state or to the state a false or</u>	46
<u>misleading claim for payment or approval;</u>	47
<u>(2) Knowingly make, use, or cause to be made or used a</u>	48
<u>false record or statement to get the state to pay or approve a</u>	49
<u>false or misleading claim;</u>	50
<u>(3) Conspire to defraud the state by getting a false or</u>	51
<u>fraudulent claim allowed or paid;</u>	52
<u>(4) Have possession, custody, or control of property or</u>	53
<u>money used or to be used by the state and, with intent to</u>	54
<u>conceal the property or money, deliver or cause to be delivered</u>	55
<u>less property or money than the amount for which the person</u>	56
<u>receives a certificate or receipt;</u>	57
<u>(5) With intent to defraud, make or deliver a document</u>	58
<u>that certifies receipt of property used by the state or to be</u>	59
<u>used by the state and that the person is authorized to make or</u>	60
<u>deliver if the person does not know that the information on the</u>	61
<u>document is true;</u>	62
<u>(6) Knowingly buy, or receive as a pledge of an obligation</u>	63
<u>or debt, public property from an officer or employee of the</u>	64
<u>state who lawfully may not sell or pledge the property;</u>	65
<u>(7) Knowingly make, use, or cause to be made or used a</u>	66
<u>false record or statement to conceal, avoid, or decrease an</u>	67
<u>obligation to pay or transmit money or property to the state;</u>	68
<u>(8) Knowingly solicit, receive, offer to pay, or pay a</u>	69
<u>kickback, bribe, rebate, or any other form of remuneration,</u>	70
<u>directly or indirectly, overtly or covertly, in cash or in kind,</u>	71

for referring an individual to a health care provider or managed 72
care organization or to a third person for the purpose of 73
referral of the individual by the third person to a health care 74
provider or managed care organization for furnishing the 75
individual with goods or services that may be paid for, in whole 76
or in part, by the medicaid program or by the bureau of workers' 77
compensation under Chapters 4121. or 4123. of the Revised Code 78
and rules adopted pursuant to those chapters. 79

(B) (1) Except as provided in division (B) (2) of this 80
section, whoever violates division (A) of this section is liable 81
to the state for a civil penalty of not less than five thousand 82
dollars and not more than ten thousand dollars for each false or 83
misleading claim, plus three times the amount of damages that 84
the state sustains because of the violation. 85

(2) Whoever violates division (A) of this section is 86
liable to the state for a civil penalty of not less than two 87
times the amount of damages that the state sustains because of 88
the violation, plus the costs of a civil action brought to 89
recover any such penalty or damages, if the court finds all of 90
the following: 91

(a) The person committing the violation furnished the 92
attorney general with all information known to the person about 93
the violation within thirty days after the date on which the 94
person first obtained the information. 95

(b) The person fully cooperated with any state 96
investigation of the violation. 97

(c) At the time the person furnished the attorney general 98
with the information about the violation, no criminal 99
prosecution, civil action, or administrative action had been 100

commenced with respect to the violation, and the person did not 101
have actual knowledge of the existence of an investigation into 102
the violation. 103

(C) Any information furnished as described in division (B) 104
(2) (a), (b), or (c) of this section is not a public record under 105
and is exempt from disclosure under section 149.43 of the 106
Revised Code. 107

(D) Commencement of an action or investigation under this 108
chapter does not preclude either of the following: 109

(1) Commencement of an action under section 5164.35 of the 110
Revised Code with regard to claims, payments, reports, or 111
documents to which section 5164.35 of the Revised Code applies; 112

(2) Commencement of any other action otherwise authorized 113
by law. 114

Sec. 2747.03. (A) The attorney general diligently shall 115
investigate violations of section 2747.02 of the Revised Code. 116
If the attorney general finds that a person has violated or is 117
violating that section, the attorney general may bring a civil 118
action under this section against the person. 119

(B) (1) A person may bring a civil action for a violation 120
of section 2747.02 of the Revised Code on behalf of the person 121
and on behalf of the state. A person may not bring an action 122
under this division against the state or a political 123
subdivision, any department, board, office, commission, agency, 124
institution, or other instrumentality of the state or a 125
political subdivision, or any officer or employee of the state 126
or a political subdivision. A person shall bring the action in 127
the name of the state. 128

(2) A copy of the complaint and written disclosure of 129

substantially all material evidence and information the person 130
possesses shall be served on the attorney general pursuant to 131
Civil Rule 4.2(J). The complaint shall be filed in camera, shall 132
remain under seal for at least sixty days, and shall not be 133
served on the defendant until the court so orders. The state may 134
elect to intervene and proceed with the action within sixty days 135
after it receives both the complaint and the material evidence 136
and information. 137

(3) The state, for good cause shown, may file motions with 138
the court requesting extensions of the time during which the 139
complaint remains under seal, and the state may intervene under 140
division (B) (2) of this section. The motion may be supported by 141
affidavits or other submissions in camera. The defendant is not 142
required to respond to any complaint filed under this section 143
until twenty-eight days after the complaint is unsealed and 144
served on the defendant pursuant to Civil Rule 4. 145

(4) Before the expiration of the sixty-day period under 146
division (B) (2) of this section or any extensions obtained under 147
division (B) (3) of this section, the state shall either proceed 148
with the action or notify the court that it declines to proceed 149
with the action. If the state proceeds with the action, the 150
state shall conduct the action. If the state declines to proceed 151
with the action, the person bringing the action has the right to 152
conduct the action. 153

(5) When a person brings an action under division (B) (1) 154
of this section, no person other than the state may intervene or 155
bring a related action based on the facts underlying that 156
pending action. 157

(C) (1) If the state proceeds with an action under division 158
(B) of this section, it has the primary responsibility for 159

prosecuting the action and is not bound by an action of the 160
person bringing the action. The person bringing the action has 161
the right to continue as a party to the action, subject to the 162
limitations set forth in divisions (C) (2) to (4) of this 163
section. 164

(2) The state may dismiss an action brought under division 165
(B) of this section notwithstanding the objections of the person 166
initiating the action if the state notifies the person of the 167
filing of the motion to dismiss and the court has provided the 168
person with an opportunity for a hearing on the motion. 169

(3) The state may settle an action brought under division 170
(B) of this section with the defendant notwithstanding the 171
objections of the person initiating the action if the court 172
determines, after a hearing, that the proposed settlement is 173
fair, adequate, and reasonable under all the circumstances. On a 174
showing of good cause, the court may hold the hearing in camera. 175

(4) On a showing by the state that unrestricted 176
participation during the course of the litigation by the person 177
initiating the action would interfere with or unduly delay the 178
state's prosecution of the case or would be repetitious, 179
irrelevant, or for purposes of harassment, the court, in its 180
discretion, may impose limitations on the person's 181
participation, including all of the following: 182

(a) Limiting the number of witnesses the person may call; 183

(b) Limiting the length of the testimony of witnesses; 184

(c) Limiting the person's cross-examination of witnesses; 185

(d) Otherwise limiting the participation by the person in 186
the litigation. 187

(5) On a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating an action under division (B) of this section would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit participation by the person initiating the action in the litigation. 188
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(D) If the state elects not to proceed with an action brought by a person under division (B) of this section, the person has the right to conduct the action. If the state so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the state's expense. When the person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the state to intervene at a later date on a showing of good cause. 194
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(E) Whether or not the state proceeds with the action, on a showing by the state that certain discovery by the person initiating the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay that discovery for a period of not more than sixty days. The showing shall be conducted in camera. The court may extend the sixty-day period on a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. 204
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(F) The state may elect to pursue its claim through any available means other than an action brought under division (B) 216
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of this section, including an administrative proceeding to 218
determine a civil monetary penalty. If an alternate remedy is 219
pursued in another proceeding, the person initiating the action 220
has the same rights in that proceeding as the person would have 221
had if the action had continued under this section. Any finding 222
of fact or conclusion of law made in the other proceeding that 223
has become final is conclusive on all parties to an action under 224
this section. A finding or conclusion is final if it has been 225
finally determined on appeal to the appropriate court, if the 226
time for filing an appeal with respect to the finding or 227
conclusion has expired, or if the finding or conclusion is not 228
subject to judicial review. 229

(G) (1) Except as provided in division (G) (1) of this 230
section, if the state proceeds with an action brought by a 231
person under division (B) of this section, the person shall 232
receive at least fifteen per cent but not more than twenty-five 233
per cent of the proceeds of the action or settlement of the 234
claim, depending on the extent to which the person substantially 235
contributed to the prosecution of the action. If the action is 236
one that the court finds to be based primarily on disclosures of 237
specific information, other than information provided by the 238
person bringing the action, relating to allegations or 239
transactions in a criminal or civil hearing, in a legislative or 240
administrative report, hearing, audit, or investigation, or from 241
the news media, the court may award the sums that it considers 242
appropriate, but in no case more than ten per cent of the 243
proceeds, taking into account the significance of the 244
information and the role of the person bringing the action in 245
advancing the case to litigation. Any payment to a person under 246
division (G) (1) of this section shall be made from the proceeds. 247
The person also shall receive an amount for reasonable expenses 248

that the court finds to have been necessarily incurred, plus 249
reasonable attorney's fees and costs. All expenses, fees, and 250
costs shall be awarded against the defendant. 251

(2) If the state does not proceed with an action brought 252
by a person under division (B) of this section, the person 253
bringing the action or settling the claim shall receive an 254
amount that the court decides is reasonable for collecting the 255
civil penalty and damages. The amount shall be not less than 256
twenty-five per cent and not more than thirty per cent of the 257
proceeds of the action or settlement and shall be paid out of 258
the proceeds. The remainder of the proceeds shall be paid to the 259
state. The person also shall receive an amount for reasonable 260
expenses that the court finds to have been necessarily incurred, 261
plus reasonable attorney's fees and costs. All expenses, fees, 262
and costs shall be awarded against the defendant. 263

(3) Whether or not the state proceeds with the action, if 264
the court finds that the action was brought by a person who 265
planned and initiated the violation of section 2747.02 of the 266
Revised Code on which the action was brought, then the court 267
may, to the extent the court considers appropriate, eliminate or 268
reduce the share of the proceeds of the action that the person 269
would otherwise receive under division (G) (1) or (2) of this 270
section, taking into account the role of that person in 271
advancing the case to litigation and any relevant circumstances 272
pertaining to the violation. If the person bringing the action 273
is convicted of criminal conduct arising from the person's role 274
in the violation of section 2747.02 the Revised Code, the civil 275
action shall be dismissed. The dismissal does not prejudice the 276
right of the state to continue the action. 277

(4) If the state does not proceed with the action and the 278

person bringing the action conducts the action, the court may 279
award to the defendant its reasonable attorney's fees and 280
expenses if the defendant prevails in the action and the court 281
finds that the claim of the person bringing the action was 282
clearly frivolous, clearly vexatious, or brought primarily for 283
purposes of harassment. 284

(H) (1) In no event may a person bring an action under 285
division (B) of this section that is based on allegations or 286
transactions that are the subject of a civil suit or an 287
administrative civil money penalty proceeding in which the state 288
is already a party. 289

(2) In no event may a person bring an action under this 290
section based on the public disclosure of allegations or 291
transactions in a criminal, civil, legislative, or 292
administrative hearing, report, audit, or investigation, or from 293
the news media, unless the person bringing the action has direct 294
and independent knowledge of the information on which the 295
allegations are based and has voluntarily provided the 296
information to the state before filing an action based on the 297
information under this section. This division does not apply to 298
the bringing of an action by the state. 299

(I) The state is not liable for expenses that a person 300
incurs in bringing an action under this section. 301

(J) Any employee who is discharged, demoted, suspended, 302
threatened, harassed, or in any other manner discriminated 303
against in the terms and conditions of employment by the 304
employee's employer because of lawful acts done by the employee 305
on behalf of the employee or others in furtherance of an action 306
under this section, including investigation for, initiation of, 307
testimony for, or assistance in an action filed or to be filed 308

under this section, is entitled to all relief necessary to make 309
the employee whole. The relief includes reinstatement with the 310
same seniority status the employee would have had but for the 311
discrimination, two times the amount of back pay, interest on 312
the back pay, and compensation for any special damages sustained 313
as a result of the discrimination, including litigation costs 314
and reasonable attorney's fees. An employee may bring an action 315
in the appropriate court of common pleas for the relief provided 316
in this division. 317

Sec. 2747.04. (A) A subpoena requiring the attendance of a 318
witness at a trial or hearing conducted under section 2747.03 of 319
the Revised Code may be served pursuant to Civil Rule 45. 320

(B) A civil action under section 2747.03 of the Revised 321
Code may not be brought after the later of the date that is six 322
years after the date on which the violation of section 2747.02 323
of the Revised Code is committed or three years after the date 324
when facts material to the right of action are known or 325
reasonably should have been known by the attorney general. 326

(C) In any action brought under section 2747.03 of the 327
Revised Code, the state or, if the state elects to not proceed 328
with the action, the person bringing the action, shall prove all 329
essential elements of the cause of action, including damages, by 330
a preponderance of the evidence. 331

(D) A final judgment rendered in favor of the state in any 332
criminal proceeding charging fraud or false statements, whether 333
on a verdict after trial or on a plea of guilty or nolo 334
contendere, estops the defendant from denying the essential 335
elements of the offense in any action that involves the same 336
transaction as in the criminal proceeding and that is brought 337
under division (A) or (B) of section 2747.03 of the Revised 338

Code. 339

Sec. 2747.05. (A) Except as provided in division (B) of 340
this section, an action under section 2747.02 of the Revised 341
Code may be brought in the court of common pleas of Franklin 342
county or of any county in which the defendant or, in the case 343
of multiple defendants, any one defendant can be found, resides, 344
or transacts business, or in which any act prohibited by section 345
2747.02 of the Revised Code occurred. 346

(B) A civil action under section 2747.03 of the Revised 347
Code against an officer or employee of the state is subject to 348
section 9.86 and division (F) of section 2743.02 of the Revised 349
Code. 350

Sec. 2747.06. (A) Whenever the attorney general has reason 351
to believe that a person may be in possession, custody, or 352
control of any documentary material or information relevant to 353
an investigation conducted under section 2747.03 of the Revised 354
Code, the attorney general may, before commencing a civil 355
proceeding under that section, issue in writing and cause to be 356
served on the person a civil investigative demand requiring the 357
person to do any of the following: 358

(1) Produce the documentary material for inspection and 359
copying in accordance with section 2747.07 of the Revised Code; 360

(2) Answer in writing written interrogatories with respect 361
to the documentary material or information in accordance with 362
section 2747.08 of the Revised Code; 363

(3) Give oral testimony concerning the documentary 364
material or information in accordance with section 2747.09 of 365
the Revised Code; 366

(4) Furnish any combination of the material, answers, or 367

testimony. 368

(B) Each civil investigative demand issued under this 369
section shall state the nature of the conduct constituting the 370
alleged violation of section 2747.02 of the Revised Code that is 371
under investigation. 372

(C) A civil investigative demand may not require the 373
production of any documentary material, the submission of any 374
answers to written interrogatories, or the giving of any oral 375
testimony if the material, answers, or testimony would be 376
protected from disclosure under either of the following: 377

(1) The standards applicable to subpoenas or subpoenas 378
duces tecum issued by a court to aid in a grand jury 379
investigation; 380

(2) The standards applicable to discovery requests under 381
the Rules of Civil Procedure, to the extent that the application 382
of the standards to the demand is appropriate and consistent 383
with the provisions and purposes of this section. 384

(D) Whenever any person fails to comply with any civil 385
investigative demand issued under this section, or whenever 386
satisfactory copying or reproduction of any material requested 387
in the demand cannot be done and the person refuses to surrender 388
the material, the attorney general may file in the court of 389
common pleas in Franklin county or in the county in which the 390
person resides, is found, or transacts business, and serve upon 391
the person, a petition for an order of the court for the 392
enforcement of the civil investigative demand. 393

(E) Any civil investigative demand issued under division 394
(A) of this section or petition filed under division (D) of this 395
section may be served in the same manner as a summons under 396

Civil Rules 4 to 4.3 and 4.5. A verified return by the 397
individual serving a civil investigative demand or petition 398
setting forth the manner of the service is proof of the service. 399
In the case of service by registered or certified mail, the 400
return shall be accompanied by the return post office receipt of 401
delivery of the demand. 402

Sec. 2747.07. (A) If the attorney general demands the 403
production of documentary material under section 2747.06 of the 404
Revised Code, the attorney general shall do both of the 405
following: 406

(1) Describe each class of documentary material to be 407
produced with such definiteness and certainty as to permit the 408
material to be fairly identified; 409

(2) Prescribe a return date for each class of documentary 410
material that will provide a reasonable period of time within 411
which the material may be assembled and made available for 412
inspection and copying. 413

(B) The production of documentary material in response to 414
a civil investigative demand shall be made under a sworn 415
certificate, in any form that the demand designates, by the 416
following methods: 417

(1) In the case of a natural person, the person to whom 418
the demand is directed; 419

(2) In the case of a person other than a natural person, a 420
person having knowledge of the facts and circumstances relating 421
to the production and authorized to act on behalf of the person. 422

(C) The certificate shall state that all of the 423
documentary material required by the demand and in the 424
possession, custody, or control of the person to whom the demand 425

is directed has been produced and made available to the attorney 426
general. 427

(D) Any person on whom any civil investigative demand for 428
the production of documentary material has been served shall 429
make the material available for inspection and copying to the 430
attorney general at the principal place of business of the 431
person or at any other place that the attorney general and the 432
person after service of the demand may agree and prescribe in 433
writing. The person shall make the material available on the 434
return date specified in the demand, or on any later date that 435
the attorney general may prescribe in writing. The person may, 436
on written agreement between the person and the attorney 437
general, substitute copies for originals of all or any part of 438
the material. 439

Sec. 2747.08. (A) If the attorney general demands answers 440
to written interrogatories under section 2747.06 of the Revised 441
Code, the attorney general shall do both of the following: 442

(1) Set forth with specificity the written interrogatories 443
to be answered; 444

(2) Prescribe dates at which time answers to the written 445
interrogatories must be submitted. 446

(B) Each interrogatory in a civil investigative demand 447
shall be answered separately and fully in writing under oath and 448
shall be submitted under a sworn certificate, in the form that 449
the demand designates, by the following persons: 450

(1) In the case of a natural person, the person to whom 451
the demand is directed; 452

(2) In the case of a person other than a natural person, 453
the person or persons responsible for answering each 454

interrogatory. 455

(C) If any interrogatory is objected to, the reasons for 456
the objection shall be stated in the certificate instead of an 457
answer. The certificate shall state that all information 458
required by the demand and in the possession, custody, control, 459
or knowledge of the person to whom the demand is directed has 460
been submitted. To the extent that any information is not 461
furnished, the information shall be identified and reasons set 462
forth with particularity regarding the reasons why the 463
information was not furnished. 464

Sec. 2747.09. (A) If the attorney general demands the 465
giving of oral testimony under section 2747.06 of the Revised 466
Code, the attorney general shall do all of the following: 467

(1) Prescribe a date, time, and place at which oral 468
testimony will commence; 469

(2) Specify that the attendance and testimony are 470
necessary to the conduct of the investigation; 471

(3) Notify the person receiving the demand of the right to 472
be accompanied by an attorney and any other representative; 473

(4) Describe the general purpose for which the demand is 474
being issued and the general nature of the testimony, including 475
the primary areas of inquiry, that will be taken pursuant to the 476
demand. 477

(B) The date prescribed for the commencement of oral 478
testimony shall be a date that is not less than seven days after 479
the date on which the demand is received, unless the attorney 480
general determines that exceptional circumstances are present 481
that warrant the commencement of the testimony within a lesser 482
period of time. 483

(C) The attorney general shall not issue more than one 484
civil investigative demand for oral testimony by the same person 485
unless the person requests otherwise or unless the attorney 486
general, after investigation, notifies the person in writing 487
that an additional demand for oral testimony is necessary. 488

(D) The examination of any person pursuant to a civil 489
investigative demand for oral testimony shall be taken before an 490
officer authorized by law to administer oaths and affirmations. 491
The officer before whom the testimony is to be taken shall put 492
the witness on oath or affirmation and shall, personally or by 493
someone acting under the direction of the officer and in the 494
officer's presence, record the testimony of the witness. The 495
testimony shall be taken stenographically or otherwise recorded 496
in accordance with the Rules of Civil Procedure and shall be 497
transcribed. When the testimony is fully transcribed, the 498
officer before whom the testimony is taken shall promptly 499
transmit a copy of the transcript of the testimony to the 500
attorney general. This section does not preclude the taking of 501
testimony by any means authorized by, and in a manner consistent 502
with, the Rules of Civil Procedure. 503

(E) The attorney general shall exclude from the place 504
where the examination is held all persons except the person 505
giving the testimony, the attorney for and any other 506
representative of the person giving the testimony, any person 507
who may be agreed on by the attorney general and the person 508
giving the testimony, the officer before whom the testimony is 509
to be taken, and any stenographer or other person recording the 510
testimony. 511

The oral testimony of any person shall be taken in 512
Franklin county or in the county within which the person 513

resides, is found, or transacts business, or in any other place 514
that may be agreed on by the attorney general and the person. 515

(F) When the testimony is fully transcribed, the attorney 516
general or the officer before whom the testimony is taken shall 517
afford the witness, who may be accompanied by counsel, a 518
reasonable opportunity to examine and read the transcript, 519
unless examination and reading are waived by the witness. Any 520
changes in form or substance that the witness desires to make 521
shall be entered and identified on the transcript by the officer 522
or the attorney general, with a statement of the reasons given 523
by the witness for making the changes. The transcript shall then 524
be signed by the witness, unless the witness waives the signing 525
in writing, is ill, cannot be found, or refuses to sign. If the 526
transcript is not signed by the witness within thirty days after 527
being afforded a reasonable opportunity to examine it, the 528
officer or the attorney general shall sign it and state on the 529
record the fact of the waiver, illness, absence of the witness, 530
or the refusal to sign, together with the reasons, if any, given 531
therefor. 532

The officer before whom the testimony is taken shall 533
certify on the transcript that the witness was sworn by the 534
officer and that the transcript is a true record of the 535
testimony given by the witness, and the officer or attorney 536
general shall take custody of the transcript. 537

(G) Any person compelled to appear for oral testimony 538
under a civil investigative demand may be accompanied, 539
represented, and advised by counsel. Counsel may advise the 540
person, in confidence, with respect to any question asked of the 541
person. The person or counsel may object on the record to any 542
question, in whole or in part, and shall briefly state for the 543

record the reason for the objection. An objection may be made, 544
received, and entered on the record when it is claimed that the 545
person is entitled to refuse to answer the question on the 546
grounds of any constitutional or other legal right or privilege, 547
including the privilege against self-incrimination. The person 548
may not otherwise object to or refuse to answer any question, 549
and may not directly or through counsel otherwise interrupt the 550
oral examination. If the person refuses to answer any question, 551
a petition may be filed in the court of common pleas in Franklin 552
county or in the county in which the examination takes place for 553
an order compelling the person to answer the question. 554

If the person refuses to answer any question on the 555
grounds of the privilege against self-incrimination, the 556
testimony of the person may be compelled in the manner provided 557
in section 2945.44 of the Revised Code. 558

(H) Any person appearing for oral testimony under a civil 559
investigative demand is entitled to the same fees and allowances 560
that are paid to witnesses in the court of common pleas. 561

Sec. 2747.10. (A) Except as provided in this division, 562
documentary material, answers to interrogatories, or transcripts 563
of oral testimony received under section 2747.06 of the Revised 564
Code, or copies of documentary material, answers to 565
interrogatories, or transcripts of oral testimony so received, 566
while in the possession of the attorney general, are not 567
available for examination by any individual other than an 568
employee of the attorney general. This prohibition on the 569
availability of material, answers, or transcripts does not apply 570
if the person who produced the material, answers, or transcripts 571
gives consent. Nothing in this division is intended to prevent 572
disclosure to the general assembly, including any committee or 573

subcommittee of the general assembly, to any other state agency 574
for use by the agency in furtherance of its statutory 575
responsibilities, or to any law enforcement officer for use in 576
the furtherance of the law enforcement officer's duties. 577
Disclosure of information to any agency other than those 578
specified in this division shall be allowed only on application, 579
made by the attorney general to a court of common pleas showing 580
substantial need for the use of the information by the agency in 581
furtherance of its statutory responsibilities. 582

(B) While in the possession of the attorney general and 583
under any reasonable terms and conditions that the attorney 584
general prescribes, documentary material and answers to 585
interrogatories received under section 2747.06 of the Revised 586
Code shall be available for examination by the person who 587
produced the material or answers, or by a representative of that 588
person authorized by that person to examine the material and 589
answers. 590

The attorney general may use any documentary material, 591
answers to interrogatories, or transcripts of oral testimony 592
received under section 2747.06 of the Revised Code in connection 593
with any case or proceeding before a court, grand jury, or state 594
agency. 595

(C) If any documentary material has been produced by any 596
person in the course of any investigation pursuant to a civil 597
investigative demand under section 2747.06 of the Revised Code, 598
the attorney general shall, on written request of the person who 599
produced the material, return to the person the documentary 600
material, other than copies furnished to the attorney general 601
under division (D) of section 2747.07 of the Revised Code or 602
made for the attorney general under division (B) of this 603

section, that has not passed into the control of any court, 604
grand jury, or agency through introduction into the record of 605
the case or proceeding, or into the control of any law 606
enforcement officer, if either of the following applies: 607

(1) Any case or proceeding before the court or grand jury 608
arising out of the investigation, or any proceeding before any 609
state agency involving the material, has been completed. 610

(2) No case or proceeding in which the material may be 611
used has been commenced within a reasonable time after 612
completion of the examination and analysis of all documentary 613
material and other information assembled in the course of the 614
investigation. 615

(D) Documentary material, answers to written 616
interrogatories, and oral testimony provided under a civil 617
investigative demand issued under section 2747.06 of the Revised 618
Code are not public records and are exempt from disclosure under 619
section 149.43 of the Revised Code. 620