OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 425 of the 132nd G.A. **Status:** As Passed by the House

Sponsor: Reps. Antani and Craig **Local Impact Statement Procedure Required:** Yes

Subject: Public Records Law exemption for "restricted portions" of peace officer recordings

State & Local Fiscal Highlights

- State and local law enforcement agencies will incur both of the following: (1) a no more than minimal annual cost to train staff in public records policy, and (2) costs to ensure "restricted portions" of certain recordings are redacted and not released as part of a public records request.
- It does not appear that the Court of Claims or a court of common pleas will incur significant costs to process filings to compel the disclosure of the bill's "restricted portions." Any new filings will be absorbed into the existing workloads to resolve public records disputes.
- The bill's specification that an infrastructure record of a public school is not a public record subject to mandatory release or disclosure under the Public Records Law will generate minimal at most annual compliance costs for state and local public entities in possession of such records.

Detailed Fiscal Analysis

Application of Public Records Law to peace officer recordings

The bill exempts from disclosure certain "restricted portions" of a body-worn camera or a dashboard camera recording under the Public Records Law. Under the bill, "restricted portions" generally include a depiction of the death of a person, grievous bodily harm, an act of severe violence, or a nude body. If a person requests a recording that contains restricted portions, a state or local law enforcement agency is required to redact objectionable parts of the recording, unless consent is obtained when certain criteria are met.

The practical impact of exempting these depictions is that some recordings will require redaction that would otherwise not have been the case under current law. As a result, agencies will likely experience an increase in administrative work, including time and effort, to comply with the bill's exemption. The magnitude of any additional costs is uncertain, as the volume of requests varies by agency. In addition, costs will depend on the number of staff available to handle requests, the manner in which

redaction is performed, the extent to which an agency utilizes cameras, and how long recordings are retained. Law enforcement agencies will also incur a likely no more than minimal annual cost to adjust existing public records training and public records policy. The annual net increase in training and response costs, while variable and uncertain, could exceed minimal in certain jurisdictions.

Public school infrastructure records

The bill specifies that an infrastructure record of a public school is not a public record subject to mandatory release or disclosure under the Public Records Law. The annual compliance costs for state and local public entities in possession of such records will be minimal at most.

Civil actions

Under continuing law, if a person is denied access to public records by a public official or office, the person may do one of the following, but not both:

- File a complaint with the clerk of the Court of Claims or the clerk of the court of common pleas.
- Commence a mandamus action to obtain a judgment that orders the public office or the person responsible to comply with the Public Records Law.

This procedure will apply to compel the disclosure of the restricted portions of a recording that are not a public record. At the outset, it appears that courts generally will not incur significant costs to resolve additional disputes; however, it is unclear as to whether administrative costs will grow in future years, especially as peace officer cameras become more regularly and widely used. Any additional costs may be offset, to some degree, from the collection of the $25 fee for an aggrieved person to file a complaint.[1]

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[1] If the complaint is filed with the clerk of the court of common pleas, the fee is credited to the county general fund. If the complaint is filed directly with the Court of Claims, the fee is credited to the state's Public Records Fund, and used by the court to defray its costs.