

The seal of the Delaware County Prosecutor's Office is circular. It features a central sunburst design. The outer ring contains the text "PROSECUTOR'S OFFICE" at the top and "DELAWARE COUNTY, OHIO" at the bottom. Below the ring is a banner with the motto "WITH GOD ALL THINGS ARE POSSIBLE".

Melissa A. Schiffel

Delaware County Prosecutor

January 30, 2025

Dave Yost
Ohio Attorney General
Opinions Section
30 E. Broad Street
Columbus, Ohio 43215-3428

Re: Request for Formal Opinion Regarding the Recent Amendment to R.C. § 149.43(B)(1), made by Am. Sub. H.B. No. 315 (135th G.A.), permitting a “Law Enforcement Agency” to charge a public records requester the actual cost Associated with preparing a video record

Dear Attorney General Yost:

Our office requests clarification and an opinion from your office regarding the recent amendment to R.C. § 149.43(B)(1), made by Am. Sub. H.B. No. 315 (135th G.A.), permitting a “law enforcement agency” to charge a public records requester the actual cost associated with preparing a video record in response to a public records request. Specifically, we request an opinion on the following question:

- 1) Is a county prosecutor’s office included within the definition of “law enforcement agency” as used in amended R.C. § 149.43(B)(1), such that a county prosecutor’s office may charge a public records requester the actual cost associated with preparing a video record as permitted by the amendment to R.C. § 149.43(B)(1)?

Preparing a video record for inspection or production consumes significant amounts of time and resources, which is why this legislation was offered at the general assembly. Given the large volume of these records that are often generated in criminal cases, it is a large investment of taxpayer dollars to get these records ready for release. We understand that the purpose of the amendment to R.C. § 149.43(B)(1) was, in-large-part, to help cover these costs.

As used in the amendment “law enforcement agency” is not defined. However, prosecutors perform the same actions as law enforcement agencies when preparing a video record in response to a public records request. Because prosecutors perform the same actions, it seems that prosecutors too were contemplated by the legislature when this amendment was crafted.

That said, a “prosecuting attorney, assistant prosecuting attorney, . . . or municipal prosecutor” are generally defined as “law enforcement officer[s]” under R.C. §2901.01(A)(11)(h). This definition is applicable throughout the Revised Code and would seem to make the prosecutor’s office a “law enforcement agency” for purposes of the amendment to R.C. §149.43(B)(1). There are also a variety of other Revised Code sections that include prosecutors within the definition of law enforcement agency and suggesting that their offices are “law enforcement agencies” for purposes of this amendment as well.

Since “law enforcement agency” is not clearly defined for the amendment to R.C. §149.43(B)(1), we are requesting clarification and your opinion on how this term is defined for purposes of applying the amendment. We seek your opinion on the question stated above so that we will know whether a county prosecutor’s office is included in the definition of the term “law enforcement agency” as used in R.C. 149.43(B)(1) and thus may charge public records requesters the actual cost associated with preparing a video record as permitted by the amendment.

Please feel free to contact me with any questions. This particular issue has been discussed with the Executive Committee of the Ohio Prosecuting Attorneys Association, and given the significant time and resources being expended by offices across the state to produce these records, clarification of this matter is of great importance to our Association as well.

Sincerely,



Melissa A. Schiffel
Delaware County Prosecuting Attorney