



## Ohio Revised Code

### Section 2743.62 Privilege - mental and physical examinations.

Effective: July 10, 2014

Legislation: House Bill 261 - 130th General Assembly

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(A)(1) Subject to division (A)(2) of this section, there is no privilege, except the privileges arising from the attorney-client relationship, as to communications or records that are relevant to the physical, mental, or emotional condition of the claimant or victim in a proceeding under sections 2743.51 to 2743.72 of the Revised Code in which that condition is an element.

(2)(a) Except as specified in division (A)(2)(b) of this section, any record or report that the court of claims or the attorney general has obtained prior to, or obtains on or after, June 30, 1998, under the provisions of sections 2743.51 to 2743.72 of the Revised Code and that is confidential or otherwise exempt from public disclosure under section 149.43 of the Revised Code while in the possession of the creator of the record or report shall remain confidential or exempt from public disclosure under section 149.43 of the Revised Code while in the possession of the court of claims or the attorney general.

(b) Notwithstanding division (A)(2)(a) of this section, a judge of the court of claims, a magistrate, a claimant, a claimant's attorney, or the attorney general may disclose or refer to records or reports described in that division in any hearing conducted under sections 2743.51 to 2743.72 of the Revised Code or in the judge's, magistrate's, claimant's, or attorney general's written pleadings, findings, recommendations, and decisions.

(B) If the mental, physical, or emotional condition of a victim or claimant is material to a claim for an award of reparations, the attorney general or the court of claims may order the victim or claimant to submit to a mental or physical examination and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant. The order shall specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made. In the case of a mental examination, the person specified may be a physician or psychologist. In the case of a physical examination, the person specified may be a physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. In the case of an autopsy, the person specified must be a



physician. The order shall require the person who performs the examination or autopsy to file with the attorney general a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnoses, prognoses, and other conclusions and reports of earlier examinations of the same conditions.

(C) On request of the person examined, the attorney general shall furnish the person a copy of the report. If the victim is deceased, the attorney general, on request, shall furnish the claimant a copy of the report.

(D) The attorney general or the court of claims may require the claimant to supplement the application for an award of reparations with any reasonably available medical or psychological reports relating to the injury for which the award of reparations is claimed.

(E) The attorney general or the court of claims, in a claim arising out of a violation of any provision of sections 2907.02 to 2907.07 of the Revised Code, shall not request the victim or the claimant to supply, or permit any person to supply, any evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, or reputation evidence of the victim's sexual activity unless it involves evidence of the origin of semen, pregnancy, or disease or evidence of the victim's past sexual activity with the offender and only to the extent that the court of claims or the attorney general finds that the evidence is relevant to a fact at issue in the claim.