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via email only to OpinionsRequest@OhioAttorneyGeneral.gov
The Honorable Dave Yost
Attorney General of the State of Ohio
30 East Broad Street, 15th Floor
Columbus, Ohio 43215

Dear Attorney General Yost,

Pursuant to R.C. 109.14, I am writing to request a formal opinion on behalf of my client, the Lake County Clerk of Courts, seeking guidance as it pertains to redacting victims' information from public records based on recent changes to the law.

House Bill 343, effective April 6, 2023, and Senate Bill 16, effective July 7, 2023, have expanded the privacy rights of crime victims by allowing victims to request their name, address, and other identifying information to be redacted from records held by a public office, and also requiring redaction of such information in certain situations when the victim has not yet made a request.

R.C. 2930.07(C) requires a public office to "[t]ake measures to prevent the public disclosure of the name, address, or other identifying information of the victim or victim's representative through the use of redaction as set forth in division (D) of this section." Pursuant to division (D)(1)(a)(i) of R.C. 2930.07, the victim, or the victim's representative, may make a written request to a law enforcement agency, prosecutor's office, or court to have the name, address, or other identifying information of the victim redacted from all case documents related to the cases or matters specified by the victim which are maintained by that entity.

Additionally, R.C. 2930.07(D)(1)(a)(ii) requires the name, address, or other identifying information of a victim to be redacted prior to public release in situations where a victim of violating a protection order, an offense of violence, or a sexually oriented offense, or the victim's representative, was unable to complete the form requesting redaction of the victim's information at the time of first contact with law enforcement. This redaction is required prior to public release of the case documents regarding that offense from the time of the victim's first contact with law enforcement until that victim has their initial interaction with the prosecutor. *Id.*

In 2020, the Supreme Court of Ohio ruled that Marsy's Law (Ohio Constitution, Article I, Section 10a(A)(1)) did not provide an exception to the Public Records Act in the case of *State ex rel. Summers v. Fox*, 163 Ohio St.3d 217, at ¶ 42, 2020-Ohio-5585.

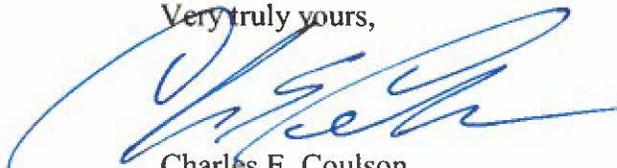
In that case, the father of an inmate made a number of public records requests to the county prosecutor and sheriff pertaining to his son's criminal case. Part of his requests were for records of interviews conducted of the victim of the crime. The county officials refused to turn over the requested records, citing, in part, an exemption under Marsy's Law. The Supreme Court of Ohio stated that Marsy's Law did not provide an exception to the Public Records Act because the matter was a "[c]ivil dispute over the release of public records relating to a criminal matter that is no longer ongoing." *Id.*

Based upon the foregoing, the Lake County Clerk of Courts is seeking a legal opinion on the extent of the new requirements and has the following questions:

1. Can a victim request to have their name, address, and other identifying information redacted from any type of case maintained by the Clerk of Courts that contains the victim's information (e.g. a bank foreclosure; divorce case; etc.), or does the law only permit redaction from the criminal case pertaining to the victim? Since R.C. 2930.07 permits a victim to have their information redacted from "the cases or matters specified by the victim," it is unclear how far this redaction requirement extends.
2. Is the Clerk of Courts required to automatically redact the victim's information from all records relating to a protection order to prevent an unintentional release in the event the protection order has been violated and the victim was unable to complete the form to request redaction of their information upon first contact with law enforcement in accordance with R.C. 2930.07(D)(1)(a)(ii)? For example, in a situation where a petitioner has obtained a protection order and the respondent then violates that order, if a public records request is made soon thereafter, how would the Clerk of Courts know whether the requirements of R.C. 2930.07(D)(1)(a)(ii) are met?
3. What effect, if any, does *State ex rel. Summers v. Fox* have on the new law with regard to public records requests made for records in a case where a victim has requested redaction of their information in accordance with R.C. 2930.07(D)?

If you need any additional information to aid you in answering these questions, please let me know. Thank you in advance for your consideration of this request.

Very truly yours,



Charles E. Coulson