

**As Reported by the House State and Local Government Committee**

**132nd General Assembly**

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**Am. H. B. No. 139**

**Representatives Perales, Keller**

**Cosponsors: Representatives Hambley, Fedor, Seitz, Dean**

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**A BILL**

To amend section 149.43 of the Revised Code to  
eliminate the public disclosure exemption for  
any permanently retained record 100 years after  
the date of its creation, with exceptions.

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

**Section 1.** That section 149.43 of the Revised Code be  
amended to read as follows:

**Sec. 149.43.** (A) As used in this section:

(1) "Public record" means records kept by any public  
office, including, but not limited to, state, county, city,  
village, township, and school district units, and records  
pertaining to the delivery of educational services by an  
alternative school in this state kept by the nonprofit or for-  
profit entity operating the alternative school pursuant to  
section 3313.533 of the Revised Code. "Public record" does not  
mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings

or to proceedings related to the imposition of community control	18
sanctions and post-release control sanctions;	19
(c) Records pertaining to actions under section 2151.85	20
and division (C) of section 2919.121 of the Revised Code and to	21
appeals of actions arising under those sections;	22
(d) Records pertaining to adoption proceedings, including	23
the contents of an adoption file maintained by the department of	24
health under sections 3705.12 to 3705.124 of the Revised Code;	25
(e) Information in a record contained in the putative	26
father registry established by section 3107.062 of the Revised	27
Code, regardless of whether the information is held by the	28
department of job and family services or, pursuant to section	29
3111.69 of the Revised Code, the office of child support in the	30
department or a child support enforcement agency;	31
(f) Records specified in division (A) of section 3107.52	32
of the Revised Code;	33
(g) Trial preparation records;	34
(h) Confidential law enforcement investigatory records;	35
(i) Records containing information that is confidential	36
under section 2710.03 or 4112.05 of the Revised Code;	37
(j) DNA records stored in the DNA database pursuant to	38
section 109.573 of the Revised Code;	39
(k) Inmate records released by the department of	40
rehabilitation and correction to the department of youth	41
services or a court of record pursuant to division (E) of	42
section 5120.21 of the Revised Code;	43
(l) Records maintained by the department of youth services	44

pertaining to children in its custody released by the department	45
of youth services to the department of rehabilitation and	46
correction pursuant to section 5139.05 of the Revised Code;	47
(m) Intellectual property records;	48
(n) Donor profile records;	49
(o) Records maintained by the department of job and family	50
services pursuant to section 3121.894 of the Revised Code;	51
(p) Peace officer, parole officer, probation officer,	52
bailiff, prosecuting attorney, assistant prosecuting attorney,	53
correctional employee, community-based correctional facility	54
employee, youth services employee, firefighter, EMT,	55
investigator of the bureau of criminal identification and	56
investigation, or federal law enforcement officer residential	57
and familial information;	58
(q) In the case of a county hospital operated pursuant to	59
Chapter 339. of the Revised Code or a municipal hospital	60
operated pursuant to Chapter 749. of the Revised Code,	61
information that constitutes a trade secret, as defined in	62
section 1333.61 of the Revised Code;	63
(r) Information pertaining to the recreational activities	64
of a person under the age of eighteen;	65
(s) In the case of a child fatality review board acting	66
under sections 307.621 to 307.629 of the Revised Code or a	67
review conducted pursuant to guidelines established by the	68
director of health under section 3701.70 of the Revised Code,	69
records provided to the board or director, statements made by	70
board members during meetings of the board or by persons	71
participating in the director's review, and all work products of	72
the board or director, and in the case of a child fatality	73

review board, child fatality review data submitted by the board	74
to the department of health or a national child death review	75
database, other than the report prepared pursuant to division	76
(A) of section 307.626 of the Revised Code;	77
(t) Records provided to and statements made by the	78
executive director of a public children services agency or a	79
prosecuting attorney acting pursuant to section 5153.171 of the	80
Revised Code other than the information released under that	81
section;	82
(u) Test materials, examinations, or evaluation tools used	83
in an examination for licensure as a nursing home administrator	84
that the board of executives of long-term services and supports	85
administers under section 4751.04 of the Revised Code or	86
contracts under that section with a private or government entity	87
to administer;	88
(v) Records the release of which is prohibited by state or	89
federal law <u>or by the law under which a public office functions;</u>	90
(w) Proprietary information of or relating to any person	91
that is submitted to or compiled by the Ohio venture capital	92
authority created under section 150.01 of the Revised Code;	93
(x) Financial statements and data any person submits for	94
any purpose to the Ohio housing finance agency or the	95
controlling board in connection with applying for, receiving, or	96
accounting for financial assistance from the agency, and	97
information that identifies any individual who benefits directly	98
or indirectly from financial assistance from the agency;	99
(y) Records listed in section 5101.29 of the Revised Code;	100
(z) Discharges recorded with a county recorder under	101
section 317.24 of the Revised Code, as specified in division (B)	102

(2) of that section;	103
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	104 105 106
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	107 108 109
(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;	110 111 112
(dd) Personal information, as defined in section 149.45 of the Revised Code;	113 114
(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record, and records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.	115 116 117 118 119 120 121 122 123 124 125 126 127 128
(ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio	129 130 131

organized militia, except that, such order becomes a public 132  
record on the day that is fifteen years after the published date 133  
or effective date of the call to order. 134

A record that is not a public record under division (A)(1) 135  
of this section and that, under law, is permanently retained 136  
becomes a public record on the day that is one hundred years 137  
after the day on which the record was created, except for any 138  
record protected by the attorney-client privilege, a trial 139  
preparation record as defined in this section, a statement 140  
prohibiting the release of identifying information signed under 141  
section 3107.083 of the Revised Code, or a denial of release 142  
form filed pursuant to section 3107.46 of the Revised Code. If 143  
the record is a birth certificate and a biological parent's name 144  
redaction request form has been accepted under section 3107.391 145  
of the Revised Code, the name of that parent shall be redacted 146  
from the birth certificate before it is released under this 147  
paragraph. If any other section of the Revised Code establishes 148  
a time period for disclosure of a record that conflicts with the 149  
time period specified in this section, the time period in the 150  
other section prevails. 151

(2) "Confidential law enforcement investigatory record" 152  
means any record that pertains to a law enforcement matter of a 153  
criminal, quasi-criminal, civil, or administrative nature, but 154  
only to the extent that the release of the record would create a 155  
high probability of disclosure of any of the following: 156

(a) The identity of a suspect who has not been charged 157  
with the offense to which the record pertains, or of an 158  
information source or witness to whom confidentiality has been 159  
reasonably promised; 160

(b) Information provided by an information source or 161

witness to whom confidentiality has been reasonably promised, 162  
which information would reasonably tend to disclose the source's 163  
or witness's identity; 164

(c) Specific confidential investigatory techniques or 165  
procedures or specific investigatory work product; 166

(d) Information that would endanger the life or physical 167  
safety of law enforcement personnel, a crime victim, a witness, 168  
or a confidential information source. 169

(3) "Medical record" means any document or combination of 170  
documents, except births, deaths, and the fact of admission to 171  
or discharge from a hospital, that pertains to the medical 172  
history, diagnosis, prognosis, or medical condition of a patient 173  
and that is generated and maintained in the process of medical 174  
treatment. 175

(4) "Trial preparation record" means any record that 176  
contains information that is specifically compiled in reasonable 177  
anticipation of, or in defense of, a civil or criminal action or 178  
proceeding, including the independent thought processes and 179  
personal trial preparation of an attorney. 180

(5) "Intellectual property record" means a record, other 181  
than a financial or administrative record, that is produced or 182  
collected by or for faculty or staff of a state institution of 183  
higher learning in the conduct of or as a result of study or 184  
research on an educational, commercial, scientific, artistic, 185  
technical, or scholarly issue, regardless of whether the study 186  
or research was sponsored by the institution alone or in 187  
conjunction with a governmental body or private concern, and 188  
that has not been publicly released, published, or patented. 189

(6) "Donor profile record" means all records about donors 190

or potential donors to a public institution of higher education 191  
except the names and reported addresses of the actual donors and 192  
the date, amount, and conditions of the actual donation. 193

(7) "Peace officer, parole officer, probation officer, 194  
bailiff, prosecuting attorney, assistant prosecuting attorney, 195  
correctional employee, community-based correctional facility 196  
employee, youth services employee, firefighter, EMT, 197  
investigator of the bureau of criminal identification and 198  
investigation, or federal law enforcement officer residential 199  
and familial information" means any information that discloses 200  
any of the following about a peace officer, parole officer, 201  
probation officer, bailiff, prosecuting attorney, assistant 202  
prosecuting attorney, correctional employee, community-based 203  
correctional facility employee, youth services employee, 204  
firefighter, EMT, investigator of the bureau of criminal 205  
identification and investigation, or federal law enforcement 206  
officer: 207

(a) The address of the actual personal residence of a 208  
peace officer, parole officer, probation officer, bailiff, 209  
assistant prosecuting attorney, correctional employee, 210  
community-based correctional facility employee, youth services 211  
employee, firefighter, EMT, an investigator of the bureau of 212  
criminal identification and investigation, or federal law 213  
enforcement officer, except for the state or political 214  
subdivision in which the peace officer, parole officer, 215  
probation officer, bailiff, assistant prosecuting attorney, 216  
correctional employee, community-based correctional facility 217  
employee, youth services employee, firefighter, EMT, 218  
investigator of the bureau of criminal identification and 219  
investigation, or federal law enforcement officer resides; 220



(b) Information compiled from referral to or participation	221
in an employee assistance program;	222
(c) The social security number, the residential telephone	223
number, any bank account, debit card, charge card, or credit	224
card number, or the emergency telephone number of, or any	225
medical information pertaining to, a peace officer, parole	226
officer, probation officer, bailiff, prosecuting attorney,	227
assistant prosecuting attorney, correctional employee,	228
community-based correctional facility employee, youth services	229
employee, firefighter, EMT, investigator of the bureau of	230
criminal identification and investigation, or federal law	231
enforcement officer;	232
(d) The name of any beneficiary of employment benefits,	233
including, but not limited to, life insurance benefits, provided	234
to a peace officer, parole officer, probation officer, bailiff,	235
prosecuting attorney, assistant prosecuting attorney,	236
correctional employee, community-based correctional facility	237
employee, youth services employee, firefighter, EMT,	238
investigator of the bureau of criminal identification and	239
investigation, or federal law enforcement officer by the peace	240
officer's, parole officer's, probation officer's, bailiff's,	241
prosecuting attorney's, assistant prosecuting attorney's,	242
correctional employee's, community-based correctional facility	243
employee's, youth services employee's, firefighter's, EMT's,	244
investigator of the bureau of criminal identification and	245
investigation's, or federal law enforcement officer's employer;	246
(e) The identity and amount of any charitable or	247
employment benefit deduction made by the peace officer's, parole	248
officer's, probation officer's, bailiff's, prosecuting	249
attorney's, assistant prosecuting attorney's, correctional	250

employee's, community-based correctional facility employee's, 251  
youth services employee's, firefighter's, EMT's, investigator of 252  
the bureau of criminal identification and investigation's, or 253  
federal law enforcement officer's employer from the peace 254  
officer's, parole officer's, probation officer's, bailiff's, 255  
prosecuting attorney's, assistant prosecuting attorney's, 256  
correctional employee's, community-based correctional facility 257  
employee's, youth services employee's, firefighter's, EMT's, 258  
investigator of the bureau of criminal identification and 259  
investigation's, or federal law enforcement officer's 260  
compensation unless the amount of the deduction is required by 261  
state or federal law; 262

(f) The name, the residential address, the name of the 263  
employer, the address of the employer, the social security 264  
number, the residential telephone number, any bank account, 265  
debit card, charge card, or credit card number, or the emergency 266  
telephone number of the spouse, a former spouse, or any child of 267  
a peace officer, parole officer, probation officer, bailiff, 268  
prosecuting attorney, assistant prosecuting attorney, 269  
correctional employee, community-based correctional facility 270  
employee, youth services employee, firefighter, EMT, 271  
investigator of the bureau of criminal identification and 272  
investigation, or federal law enforcement officer; 273

(g) A photograph of a peace officer who holds a position 274  
or has an assignment that may include undercover or plain 275  
clothes positions or assignments as determined by the peace 276  
officer's appointing authority. 277

(8) As used in divisions (A) (7) and (B) (9) of this 278  
section, ~~"peace~~: 279

"Peace officer" has the same meaning as in section 109.71 280

of the Revised Code and also includes the superintendent and 281  
troopers of the state highway patrol; it does not include the 282  
sheriff of a county or a supervisory employee who, in the 283  
absence of the sheriff, is authorized to stand in for, exercise 284  
the authority of, and perform the duties of the sheriff. 285

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 286  
~~"correctional"~~ "Correctional employee" means any employee of the 287  
department of rehabilitation and correction who in the course of 288  
performing the employee's job duties has or has had contact with 289  
inmates and persons under supervision. 290

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 291  
~~"youth"~~ "Youth services employee" means any employee of the 292  
department of youth services who in the course of performing the 293  
employee's job duties has or has had contact with children 294  
committed to the custody of the department of youth services. 295

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 296  
~~"firefighter"~~ "Firefighter" means any regular, paid or 297  
volunteer, member of a lawfully constituted fire department of a 298  
municipal corporation, township, fire district, or village. 299

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 300  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 301  
emergency medical services for a public emergency medical 302  
service organization. "Emergency medical service organization," 303  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 304  
in section 4765.01 of the Revised Code. 305

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 306  
~~"investigator"~~ "Investigator of the bureau of criminal 307  
identification and investigation" has the meaning defined in 308  
section 2903.11 of the Revised Code. 309

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 310  
~~"federal"~~Federal law enforcement officer" has the meaning 311  
defined in section 9.88 of the Revised Code. 312

~~(8)~~(9) "Information pertaining to the recreational 313  
activities of a person under the age of eighteen" means 314  
information that is kept in the ordinary course of business by a 315  
public office, that pertains to the recreational activities of a 316  
person under the age of eighteen years, and that discloses any 317  
of the following: 318

(a) The address or telephone number of a person under the 319  
age of eighteen or the address or telephone number of that 320  
person's parent, guardian, custodian, or emergency contact 321  
person; 322

(b) The social security number, birth date, or 323  
photographic image of a person under the age of eighteen; 324

(c) Any medical record, history, or information pertaining 325  
to a person under the age of eighteen; 326

(d) Any additional information sought or required about a 327  
person under the age of eighteen for the purpose of allowing 328  
that person to participate in any recreational activity 329  
conducted or sponsored by a public office or to use or obtain 330  
admission privileges to any recreational facility owned or 331  
operated by a public office. 332

~~(9)~~(10) "Community control sanction" has the same meaning 333  
as in section 2929.01 of the Revised Code. 334

~~(10)~~(11) "Post-release control sanction" has the same 335  
meaning as in section 2967.01 of the Revised Code. 336

~~(11)~~(12) "Redaction" means obscuring or deleting any 337

information that is exempt from the duty to permit public 338  
inspection or copying from an item that otherwise meets the 339  
definition of a "record" in section 149.011 of the Revised Code. 340

~~(12)~~(13) "Designee" and "elected official" have the same 341  
meanings as in section 109.43 of the Revised Code. 342

(B) (1) Upon request and subject to division (B) (8) of this 343  
section, all public records responsive to the request shall be 344  
promptly prepared and made available for inspection to any 345  
person at all reasonable times during regular business hours. 346  
Subject to division (B) (8) of this section, upon request, a 347  
public office or person responsible for public records shall 348  
make copies of the requested public record available at cost and 349  
within a reasonable period of time. If a public record contains 350  
information that is exempt from the duty to permit public 351  
inspection or to copy the public record, the public office or 352  
the person responsible for the public record shall make 353  
available all of the information within the public record that 354  
is not exempt. When making that public record available for 355  
public inspection or copying that public record, the public 356  
office or the person responsible for the public record shall 357  
notify the requester of any redaction or make the redaction 358  
plainly visible. A redaction shall be deemed a denial of a 359  
request to inspect or copy the redacted information, except if 360  
federal or state law authorizes or requires a public office to 361  
make the redaction. 362

(2) To facilitate broader access to public records, a 363  
public office or the person responsible for public records shall 364  
organize and maintain public records in a manner that they can 365  
be made available for inspection or copying in accordance with 366  
division (B) of this section. A public office also shall have 367

available a copy of its current records retention schedule at a 368  
location readily available to the public. If a requester makes 369  
an ambiguous or overly broad request or has difficulty in making 370  
a request for copies or inspection of public records under this 371  
section such that the public office or the person responsible 372  
for the requested public record cannot reasonably identify what 373  
public records are being requested, the public office or the 374  
person responsible for the requested public record may deny the 375  
request but shall provide the requester with an opportunity to 376  
revise the request by informing the requester of the manner in 377  
which records are maintained by the public office and accessed 378  
in the ordinary course of the public office's or person's 379  
duties. 380

(3) If a request is ultimately denied, in part or in 381  
whole, the public office or the person responsible for the 382  
requested public record shall provide the requester with an 383  
explanation, including legal authority, setting forth why the 384  
request was denied. If the initial request was provided in 385  
writing, the explanation also shall be provided to the requester 386  
in writing. The explanation shall not preclude the public office 387  
or the person responsible for the requested public record from 388  
relying upon additional reasons or legal authority in defending 389  
an action commenced under division (C) of this section. 390

(4) Unless specifically required or authorized by state or 391  
federal law or in accordance with division (B) of this section, 392  
no public office or person responsible for public records may 393  
limit or condition the availability of public records by 394  
requiring disclosure of the requester's identity or the intended 395  
use of the requested public record. Any requirement that the 396  
requester disclose the requester's identity or the intended use 397  
of the requested public record constitutes a denial of the 398

request. 399

(5) A public office or person responsible for public 400  
records may ask a requester to make the request in writing, may 401  
ask for the requester's identity, and may inquire about the 402  
intended use of the information requested, but may do so only 403  
after disclosing to the requester that a written request is not 404  
mandatory ~~and~~, that the requester may decline to reveal the 405  
requester's identity or the intended use, and when a written 406  
request or disclosure of the identity or intended use would 407  
benefit the requester by enhancing the ability of the public 408  
office or person responsible for public records to identify, 409  
locate, or deliver the public records sought by the requester. 410

(6) If any person ~~chooses to obtain~~ requests a copy of a 411  
public record in accordance with division (B) of this section, 412  
the public office or person responsible for the public record 413  
may require that person to pay in advance the cost involved in 414  
providing the copy of the public record in accordance with the 415  
choice made by the person seeking the copy under this division. 416  
The public office or the person responsible for the public 417  
record shall permit that person to choose to have the public 418  
record duplicated upon paper, upon the same medium upon which 419  
the public office or person responsible for the public record 420  
keeps it, or upon any other medium upon which the public office 421  
or person responsible for the public record determines that it 422  
reasonably can be duplicated as an integral part of the normal 423  
operations of the public office or person responsible for the 424  
public record. When the person seeking the copy makes a choice 425  
under this division, the public office or person responsible for 426  
the public record shall provide a copy of it in accordance with 427  
the choice made by the person seeking the copy. Nothing in this 428  
section requires a public office or person responsible for the 429

public record to allow the person seeking a copy of the public 430  
record to make the copies of the public record. 431

(7) (a) Upon a request made in accordance with division (B) 432  
of this section and subject to division (B) (6) of this section, 433  
a public office or person responsible for public records shall 434  
transmit a copy of a public record to any person by United 435  
States mail or by any other means of delivery or transmission 436  
within a reasonable period of time after receiving the request 437  
for the copy. The public office or person responsible for the 438  
public record may require the person making the request to pay 439  
in advance the cost of postage if the copy is transmitted by 440  
United States mail or the cost of delivery if the copy is 441  
transmitted other than by United States mail, and to pay in 442  
advance the costs incurred for other supplies used in the 443  
mailing, delivery, or transmission. 444

(b) Any public office may adopt a policy and procedures 445  
that it will follow in transmitting, within a reasonable period 446  
of time after receiving a request, copies of public records by 447  
United States mail or by any other means of delivery or 448  
transmission pursuant to division (B) (7) of this section. A 449  
public office that adopts a policy and procedures under division 450  
(B) (7) of this section shall comply with them in performing its 451  
duties under that division. 452

(c) In any policy and procedures adopted under division 453  
(B) (7) of this section: 454

(i) A public office may limit the number of records 455  
requested by a person that the office will physically deliver by 456  
United States mail or by another delivery service to ten per 457  
month, unless the person certifies to the office in writing that 458  
the person does not intend to use or forward the requested 459



records, or the information contained in them, for commercial 460  
purposes; 461

(ii) A public office that chooses to provide some or all 462  
of its public records on a web site that is fully accessible to 463  
and searchable by members of the public at all times, other than 464  
during acts of God outside the public office's control or 465  
maintenance, and that charges no fee to search, access, 466  
download, or otherwise receive records provided on the web site, 467  
may limit to ten per month the number of records requested by a 468  
person that the office will deliver in a digital format, unless 469  
the requested records are not provided on the web site and 470  
unless the person certifies to the office in writing that the 471  
person does not intend to use or forward the requested records, 472  
or the information contained in them, for commercial purposes. 473

(iii) For purposes of division (B)(7) of this section, 474  
"commercial" shall be narrowly construed and does not include 475  
reporting or gathering news, reporting or gathering information 476  
to assist citizen oversight or understanding of the operation or 477  
activities of government, or nonprofit educational research. 478

(8) A public office or person responsible for public 479  
records is not required to permit a person who is incarcerated 480  
pursuant to a criminal conviction or a juvenile adjudication to 481  
inspect or to obtain a copy of any public record concerning a 482  
criminal investigation or prosecution or concerning what would 483  
be a criminal investigation or prosecution if the subject of the 484  
investigation or prosecution were an adult, unless the request 485  
to inspect or to obtain a copy of the record is for the purpose 486  
of acquiring information that is subject to release as a public 487  
record under this section and the judge who imposed the sentence 488  
or made the adjudication with respect to the person, or the 489

judge's successor in office, finds that the information sought 490  
in the public record is necessary to support what appears to be 491  
a justiciable claim of the person. 492

(9) (a) Upon written request made and signed by a 493  
journalist on or after December 16, 1999, a public office, or 494  
person responsible for public records, having custody of the 495  
records of the agency employing a specified peace officer, 496  
parole officer, probation officer, bailiff, prosecuting 497  
attorney, assistant prosecuting attorney, correctional employee, 498  
community-based correctional facility employee, youth services 499  
employee, firefighter, EMT, investigator of the bureau of 500  
criminal identification and investigation, or federal law 501  
enforcement officer shall disclose to the journalist the address 502  
of the actual personal residence of the peace officer, parole 503  
officer, probation officer, bailiff, prosecuting attorney, 504  
assistant prosecuting attorney, correctional employee, 505  
community-based correctional facility employee, youth services 506  
employee, firefighter, EMT, investigator of the bureau of 507  
criminal identification and investigation, or federal law 508  
enforcement officer and, if the peace officer's, parole 509  
officer's, probation officer's, bailiff's, prosecuting 510  
attorney's, assistant prosecuting attorney's, correctional 511  
employee's, community-based correctional facility employee's, 512  
youth services employee's, firefighter's, EMT's, investigator of 513  
the bureau of criminal identification and investigation's, or 514  
federal law enforcement officer's spouse, former spouse, or 515  
child is employed by a public office, the name and address of 516  
the employer of the peace officer's, parole officer's, probation 517  
officer's, bailiff's, prosecuting attorney's, assistant 518  
prosecuting attorney's, correctional employee's, community-based 519  
correctional facility employee's, youth services employee's, 520

firefighter's, EMT's, investigator of the bureau of criminal 521  
identification and investigation's, or federal law enforcement 522  
officer's spouse, former spouse, or child. The request shall 523  
include the journalist's name and title and the name and address 524  
of the journalist's employer and shall state that disclosure of 525  
the information sought would be in the public interest. 526

(b) Division (B) (9) (a) of this section also applies to 527  
journalist requests for customer information maintained by a 528  
municipally owned or operated public utility, other than social 529  
security numbers and any private financial information such as 530  
credit reports, payment methods, credit card numbers, and bank 531  
account information. 532

(c) As used in division (B) (9) of this section, 533  
"journalist" means a person engaged in, connected with, or 534  
employed by any news medium, including a newspaper, magazine, 535  
press association, news agency, or wire service, a radio or 536  
television station, or a similar medium, for the purpose of 537  
gathering, processing, transmitting, compiling, editing, or 538  
disseminating information for the general public. 539

(C) (1) If a person allegedly is aggrieved by the failure 540  
of a public office or the person responsible for public records 541  
to promptly prepare a public record and to make it available to 542  
the person for inspection in accordance with division (B) of 543  
this section or by any other failure of a public office or the 544  
person responsible for public records to comply with an 545  
obligation in accordance with division (B) of this section, the 546  
person allegedly aggrieved may do only one of the following, and 547  
not both: 548

(a) File a complaint with the clerk of the court of claims 549  
or the clerk of the court of common pleas under section 2743.75 550

of the Revised Code; 551

(b) Commence a mandamus action to obtain a judgment that 552  
orders the public office or the person responsible for the 553  
public record to comply with division (B) of this section, that 554  
awards court costs and reasonable attorney's fees to the person 555  
that instituted the mandamus action, and, if applicable, that 556  
includes an order fixing statutory damages under division (C) (2) 557  
of this section. The mandamus action may be commenced in the 558  
court of common pleas of the county in which division (B) of 559  
this section allegedly was not complied with, in the supreme 560  
court pursuant to its original jurisdiction under Section 2 of 561  
Article IV, Ohio Constitution, or in the court of appeals for 562  
the appellate district in which division (B) of this section 563  
allegedly was not complied with pursuant to its original 564  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 565

(2) If a requester transmits a written request by hand 566  
delivery or certified mail to inspect or receive copies of any 567  
public record in a manner that fairly describes the public 568  
record or class of public records to the public office or person 569  
responsible for the requested public records, except as 570  
otherwise provided in this section, the requester shall be 571  
entitled to recover the amount of statutory damages set forth in 572  
this division if a court determines that the public office or 573  
the person responsible for public records failed to comply with 574  
an obligation in accordance with division (B) of this section. 575

The amount of statutory damages shall be fixed at one 576  
hundred dollars for each business day during which the public 577  
office or person responsible for the requested public records 578  
failed to comply with an obligation in accordance with division 579  
(B) of this section, beginning with the day on which the 580

requester files a mandamus action to recover statutory damages, 581  
up to a maximum of one thousand dollars. The award of statutory 582  
damages shall not be construed as a penalty, but as compensation 583  
for injury arising from lost use of the requested information. 584  
The existence of this injury shall be conclusively presumed. The 585  
award of statutory damages shall be in addition to all other 586  
remedies authorized by this section. 587

The court may reduce an award of statutory damages or not 588  
award statutory damages if the court determines both of the 589  
following: 590

(a) That, based on the ordinary application of statutory 591  
law and case law as it existed at the time of the conduct or 592  
threatened conduct of the public office or person responsible 593  
for the requested public records that allegedly constitutes a 594  
failure to comply with an obligation in accordance with division 595  
(B) of this section and that was the basis of the mandamus 596  
action, a well-informed public office or person responsible for 597  
the requested public records reasonably would believe that the 598  
conduct or threatened conduct of the public office or person 599  
responsible for the requested public records did not constitute 600  
a failure to comply with an obligation in accordance with 601  
division (B) of this section; 602

(b) That a well-informed public office or person 603  
responsible for the requested public records reasonably would 604  
believe that the conduct or threatened conduct of the public 605  
office or person responsible for the requested public records 606  
would serve the public policy that underlies the authority that 607  
is asserted as permitting that conduct or threatened conduct. 608

(3) In a mandamus action filed under division (C) (1) of 609  
this section, the following apply: 610

(a) (i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C) (3) (b) (iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to the provisions of division (C) (4) of this section:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not

the public office or person was required to comply with division 640  
(B) of this section. No discovery may be conducted on the issue 641  
of the alleged bad faith of the public office or person 642  
responsible for the public records. This division shall not be 643  
construed as creating a presumption that the public office or 644  
the person responsible for the public records acted in bad faith 645  
when the office or person voluntarily made the public records 646  
available to the relator for the first time after the relator 647  
commenced the mandamus action, but before the court issued any 648  
order described in this division. 649

(c) The court shall not award attorney's fees to the 650  
relator if the court determines both of the following: 651

(i) That, based on the ordinary application of statutory 652  
law and case law as it existed at the time of the conduct or 653  
threatened conduct of the public office or person responsible 654  
for the requested public records that allegedly constitutes a 655  
failure to comply with an obligation in accordance with division 656  
(B) of this section and that was the basis of the mandamus 657  
action, a well-informed public office or person responsible for 658  
the requested public records reasonably would believe that the 659  
conduct or threatened conduct of the public office or person 660  
responsible for the requested public records did not constitute 661  
a failure to comply with an obligation in accordance with 662  
division (B) of this section; 663

(ii) That a well-informed public office or person 664  
responsible for the requested public records reasonably would 665  
believe that the conduct or threatened conduct of the public 666  
office or person responsible for the requested public records 667  
would serve the public policy that underlies the authority that 668  
is asserted as permitting that conduct or threatened conduct. 669

(4) All of the following apply to any award of reasonable attorney's fees awarded under division (C) (3) (b) of this section: 670  
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(a) The fees shall be construed as remedial and not punitive. 673  
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(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C) (4) (c) of this section. 675  
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(c) Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. 679  
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(d) The court may reduce the amount of fees awarded if the court determines that, given the factual circumstances involved with the specific public records request, an alternative means should have been pursued to more effectively and efficiently resolve the dispute that was subject to the mandamus action filed under division (C) (1) of this section. 682  
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(5) If the court does not issue a writ of mandamus under division (C) of this section and the court determines at that time that the bringing of the mandamus action was frivolous conduct as defined in division (A) of section 2323.51 of the Revised Code, the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court. 688  
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(D) Chapter 1347. of the Revised Code does not limit the provisions of this section. 695  
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(E) (1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under 697  
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division (B) of this section, all elected officials or their 699  
appropriate designees shall attend training approved by the 700  
attorney general as provided in section 109.43 of the Revised 701  
Code. In addition, all public offices shall adopt a public 702  
records policy in compliance with this section for responding to 703  
public records requests. In adopting a public records policy 704  
under this division, a public office may obtain guidance from 705  
the model public records policy developed and provided to the 706  
public office by the attorney general under section 109.43 of 707  
the Revised Code. Except as otherwise provided in this section, 708  
the policy may not limit the number of public records that the 709  
public office will make available to a single person, may not 710  
limit the number of public records that it will make available 711  
during a fixed period of time, and may not establish a fixed 712  
period of time before it will respond to a request for 713  
inspection or copying of public records, unless that period is 714  
less than eight hours. 715

(2) The public office shall distribute the public records 716  
policy adopted by the public office under division (E)(1) of 717  
this section to the employee of the public office who is the 718  
records custodian or records manager or otherwise has custody of 719  
the records of that office. The public office shall require that 720  
employee to acknowledge receipt of the copy of the public 721  
records policy. The public office shall create a poster that 722  
describes its public records policy and shall post the poster in 723  
a conspicuous place in the public office and in all locations 724  
where the public office has branch offices. The public office 725  
may post its public records policy on the internet web site of 726  
the public office if the public office maintains an internet web 727  
site. A public office that has established a manual or handbook 728  
of its general policies and procedures for all employees of the 729

public office shall include the public records policy of the 730  
public office in the manual or handbook. 731

(F) (1) The bureau of motor vehicles may adopt rules 732  
pursuant to Chapter 119. of the Revised Code to reasonably limit 733  
the number of bulk commercial special extraction requests made 734  
by a person for the same records or for updated records during a 735  
calendar year. The rules may include provisions for charges to 736  
be made for bulk commercial special extraction requests for the 737  
actual cost of the bureau, plus special extraction costs, plus 738  
ten per cent. The bureau may charge for expenses for redacting 739  
information, the release of which is prohibited by law. 740

(2) As used in division (F) (1) of this section: 741

(a) "Actual cost" means the cost of depleted supplies, 742  
records storage media costs, actual mailing and alternative 743  
delivery costs, or other transmitting costs, and any direct 744  
equipment operating and maintenance costs, including actual 745  
costs paid to private contractors for copying services. 746

(b) "Bulk commercial special extraction request" means a 747  
request for copies of a record for information in a format other 748  
than the format already available, or information that cannot be 749  
extracted without examination of all items in a records series, 750  
class of records, or database by a person who intends to use or 751  
forward the copies for surveys, marketing, solicitation, or 752  
resale for commercial purposes. "Bulk commercial special 753  
extraction request" does not include a request by a person who 754  
gives assurance to the bureau that the person making the request 755  
does not intend to use or forward the requested copies for 756  
surveys, marketing, solicitation, or resale for commercial 757  
purposes. 758

(c) "Commercial" means profit-seeking production, buying, 759  
or selling of any good, service, or other product. 760

(d) "Special extraction costs" means the cost of the time 761  
spent by the lowest paid employee competent to perform the task, 762  
the actual amount paid to outside private contractors employed 763  
by the bureau, or the actual cost incurred to create computer 764  
programs to make the special extraction. "Special extraction 765  
costs" include any charges paid to a public agency for computer 766  
or records services. 767

(3) For purposes of divisions (F)(1) and (2) of this 768  
section, "surveys, marketing, solicitation, or resale for 769  
commercial purposes" shall be narrowly construed and does not 770  
include reporting or gathering news, reporting or gathering 771  
information to assist citizen oversight or understanding of the 772  
operation or activities of government, or nonprofit educational 773  
research. 774

(G) A request by a defendant, counsel of a defendant, or 775  
any agent of a defendant in a criminal action that public 776  
records related to that action be made available under this 777  
section shall be considered a demand for discovery pursuant to 778  
the Criminal Rules, except to the extent that the Criminal Rules 779  
plainly indicate a contrary intent. The defendant, counsel of 780  
the defendant, or agent of the defendant making a request under 781  
this division shall serve a copy of the request on the 782  
prosecuting attorney, director of law, or other chief legal 783  
officer responsible for prosecuting the action. 784

**Section 2.** That existing section 149.43 of the Revised 785  
Code is hereby repealed. 786