

**As Reported by the House Government Accountability and Oversight
Committee**

132nd General Assembly

**Regular Session
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Am. H. B. No. 406

Representative Lanese

Cosponsors: Representatives Hughes, Riedel, Goodman, Kent, Ginter, Young

A BILL

To amend sections 149.43 and 149.45 of the Revised 1
Code to include forensic mental health 2
providers, mental health evaluation providers, 3
and regional psychiatric hospital employees as 4
individuals whose residential and familial 5
information is exempt from disclosure under the 6
Public Records Law, and whose addresses public 7
offices, upon request, must redact from records 8
available to the general public on the internet. 9

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

Section 1. That sections 149.43 and 149.45 of the Revised 10
Code be amended to read as follows: 11

Sec. 149.43. (A) As used in this section: 12

(1) "Public record" means records kept by any public 13
office, including, but not limited to, state, county, city, 14
village, township, and school district units, and records 15
pertaining to the delivery of educational services by an 16
alternative school in this state kept by the nonprofit or for- 17

profit entity operating the alternative school pursuant to	18
section 3313.533 of the Revised Code. "Public record" does not	19
mean any of the following:	20
(a) Medical records;	21
(b) Records pertaining to probation and parole proceedings	22
or to proceedings related to the imposition of community control	23
sanctions and post-release control sanctions;	24
(c) Records pertaining to actions under section 2151.85	25
and division (C) of section 2919.121 of the Revised Code and to	26
appeals of actions arising under those sections;	27
(d) Records pertaining to adoption proceedings, including	28
the contents of an adoption file maintained by the department of	29
health under sections 3705.12 to 3705.124 of the Revised Code;	30
(e) Information in a record contained in the putative	31
father registry established by section 3107.062 of the Revised	32
Code, regardless of whether the information is held by the	33
department of job and family services or, pursuant to section	34
3111.69 of the Revised Code, the office of child support in the	35
department or a child support enforcement agency;	36
(f) Records specified in division (A) of section 3107.52	37
of the Revised Code;	38
(g) Trial preparation records;	39
(h) Confidential law enforcement investigatory records;	40
(i) Records containing information that is confidential	41
under section 2710.03 or 4112.05 of the Revised Code;	42
(j) DNA records stored in the DNA database pursuant to	43
section 109.573 of the Revised Code;	44

(k) Inmate records released by the department of 45
rehabilitation and correction to the department of youth 46
services or a court of record pursuant to division (E) of 47
section 5120.21 of the Revised Code; 48

(l) Records maintained by the department of youth services 49
pertaining to children in its custody released by the department 50
of youth services to the department of rehabilitation and 51
correction pursuant to section 5139.05 of the Revised Code; 52

(m) Intellectual property records; 53

(n) Donor profile records; 54

(o) Records maintained by the department of job and family 55
services pursuant to section 3121.894 of the Revised Code; 56

(p) ~~Peace officer, parole officer, probation officer, 57
bailiff, prosecuting attorney, assistant prosecuting attorney, 58
correctional employee, community-based correctional facility 59
employee, youth services employee, firefighter, EMT, 60
investigator of the bureau of criminal identification and 61
investigation, or federal law enforcement officer Designated 62
public service worker residential and familial information; 63~~

(q) In the case of a county hospital operated pursuant to 64
Chapter 339. of the Revised Code or a municipal hospital 65
operated pursuant to Chapter 749. of the Revised Code, 66
information that constitutes a trade secret, as defined in 67
section 1333.61 of the Revised Code; 68

(r) Information pertaining to the recreational activities 69
of a person under the age of eighteen; 70

(s) In the case of a child fatality review board acting 71
under sections 307.621 to 307.629 of the Revised Code or a 72

review conducted pursuant to guidelines established by the 73
director of health under section 3701.70 of the Revised Code, 74
records provided to the board or director, statements made by 75
board members during meetings of the board or by persons 76
participating in the director's review, and all work products of 77
the board or director, and in the case of a child fatality 78
review board, child fatality review data submitted by the board 79
to the department of health or a national child death review 80
database, other than the report prepared pursuant to division 81
(A) of section 307.626 of the Revised Code; 82

(t) Records provided to and statements made by the 83
executive director of a public children services agency or a 84
prosecuting attorney acting pursuant to section 5153.171 of the 85
Revised Code other than the information released under that 86
section; 87

(u) Test materials, examinations, or evaluation tools used 88
in an examination for licensure as a nursing home administrator 89
that the board of executives of long-term services and supports 90
administers under section 4751.04 of the Revised Code or 91
contracts under that section with a private or government entity 92
to administer; 93

(v) Records the release of which is prohibited by state or 94
federal law; 95

(w) Proprietary information of or relating to any person 96
that is submitted to or compiled by the Ohio venture capital 97
authority created under section 150.01 of the Revised Code; 98

(x) Financial statements and data any person submits for 99
any purpose to the Ohio housing finance agency or the 100
controlling board in connection with applying for, receiving, or 101

accounting for financial assistance from the agency, and	102
information that identifies any individual who benefits directly	103
or indirectly from financial assistance from the agency;	104
(y) Records listed in section 5101.29 of the Revised Code;	105
(z) Discharges recorded with a county recorder under	106
section 317.24 of the Revised Code, as specified in division (B)	107
(2) of that section;	108
(aa) Usage information including names and addresses of	109
specific residential and commercial customers of a municipally	110
owned or operated public utility;	111
(bb) Records described in division (C) of section 187.04	112
of the Revised Code that are not designated to be made available	113
to the public as provided in that division;	114
(cc) Information and records that are made confidential,	115
privileged, and not subject to disclosure under divisions (B)	116
and (C) of section 2949.221 of the Revised Code;	117
(dd) Personal information, as defined in section 149.45 of	118
the Revised Code;	119
(ee) The confidential name, address, and other personally	120
identifiable information of a program participant in the address	121
confidentiality program established under sections 111.41 to	122
111.47 of the Revised Code, including the contents of any	123
application for absent voter's ballots, absent voter's ballot	124
identification envelope statement of voter, or provisional	125
ballot affirmation completed by a program participant who has a	126
confidential voter registration record, and records or portions	127
of records pertaining to that program that identify the number	128
of program participants that reside within a precinct, ward,	129
township, municipal corporation, county, or any other geographic	130

area smaller than the state. As used in this division, 131
"confidential address" and "program participant" have the 132
meaning defined in section 111.41 of the Revised Code. 133

(ff) Orders for active military service of an individual 134
serving or with previous service in the armed forces of the 135
United States, including a reserve component, or the Ohio 136
organized militia, except that, such order becomes a public 137
record on the day that is fifteen years after the published date 138
or effective date of the call to order. 139

(2) "Confidential law enforcement investigatory record" 140
means any record that pertains to a law enforcement matter of a 141
criminal, quasi-criminal, civil, or administrative nature, but 142
only to the extent that the release of the record would create a 143
high probability of disclosure of any of the following: 144

(a) The identity of a suspect who has not been charged 145
with the offense to which the record pertains, or of an 146
information source or witness to whom confidentiality has been 147
reasonably promised; 148

(b) Information provided by an information source or 149
witness to whom confidentiality has been reasonably promised, 150
which information would reasonably tend to disclose the source's 151
or witness's identity; 152

(c) Specific confidential investigatory techniques or 153
procedures or specific investigatory work product; 154

(d) Information that would endanger the life or physical 155
safety of law enforcement personnel, a crime victim, a witness, 156
or a confidential information source. 157

(3) "Medical record" means any document or combination of 158
documents, except births, deaths, and the fact of admission to 159

or discharge from a hospital, that pertains to the medical 160
history, diagnosis, prognosis, or medical condition of a patient 161
and that is generated and maintained in the process of medical 162
treatment. 163

(4) "Trial preparation record" means any record that 164
contains information that is specifically compiled in reasonable 165
anticipation of, or in defense of, a civil or criminal action or 166
proceeding, including the independent thought processes and 167
personal trial preparation of an attorney. 168

(5) "Intellectual property record" means a record, other 169
than a financial or administrative record, that is produced or 170
collected by or for faculty or staff of a state institution of 171
higher learning in the conduct of or as a result of study or 172
research on an educational, commercial, scientific, artistic, 173
technical, or scholarly issue, regardless of whether the study 174
or research was sponsored by the institution alone or in 175
conjunction with a governmental body or private concern, and 176
that has not been publicly released, published, or patented. 177

(6) "Donor profile record" means all records about donors 178
or potential donors to a public institution of higher education 179
except the names and reported addresses of the actual donors and 180
the date, amount, and conditions of the actual donation. 181

(7) "~~Peace~~Designated public service worker" means a peace 182
officer, parole officer, probation officer, bailiff, prosecuting 183
attorney, assistant prosecuting attorney, correctional employee, 184
community-based correctional facility employee, youth services 185
employee, firefighter, EMT, investigator of the bureau of 186
criminal identification and investigation, forensic mental 187
health provider, mental health evaluation provider, regional 188
psychiatric hospital employee, or federal law enforcement 189

officer. 190

(8) "Designated public service worker residential and 191
familial information" means any information that discloses any 192
of the following about a ~~peace officer, parole officer,~~ 193
~~probation officer, bailiff, prosecuting attorney, assistant-~~ 194
~~prosecuting attorney, correctional employee, community based~~ 195
~~correctional facility employee, youth services employee,~~ 196
~~firefighter, EMT, investigator of the bureau of criminal-~~ 197
~~identification and investigation, or federal law enforcement~~ 198
~~officer~~ designated public service worker: 199

(a) The address of the actual personal residence of a 200
~~peace officer, parole officer, probation officer, bailiff,~~ 201
~~assistant~~ designated public service worker, other than a 202
prosecuting attorney, ~~correctional employee, community based~~ 203
~~correctional facility employee, youth services employee,~~ 204
~~firefighter, EMT, an investigator of the bureau of criminal-~~ 205
~~identification and investigation, or federal law enforcement~~ 206
~~officer,~~ except for the state or political subdivision in which 207
the ~~peace officer, parole officer, probation officer, bailiff,~~ 208
~~assistant~~ designated public service worker, other than a 209
prosecuting attorney, ~~correctional employee, community based~~ 210
~~correctional facility employee, youth services employee,~~ 211
~~firefighter, EMT, investigator of the bureau of criminal-~~ 212
~~identification and investigation, or federal law enforcement~~ 213
~~officer~~ resides; 214

(b) Information compiled from referral to or participation 215
in an employee assistance program; 216

(c) The social security number, the residential telephone 217
number, any bank account, debit card, charge card, or credit 218
card number, or the emergency telephone number of, or any 219

medical information pertaining to, a ~~peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer~~ designated public service worker; 220-226

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a ~~peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer~~ designated public service worker by the ~~peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's~~ designated public service worker's employer; 227-242

(e) The identity and amount of any charitable or employment benefit deduction made by the ~~peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's~~ designated public service 243-250

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

(f) The name, the residential address, the name of the 260
employer, the address of the employer, the social security 261
number, the residential telephone number, any bank account, 262
debit card, charge card, or credit card number, or the emergency 263
telephone number of the spouse, a former spouse, or any child of 264
a ~~peace officer, parole officer, probation officer, bailiff,~~ 265
~~prosecuting attorney, assistant prosecuting attorney,~~ 266
~~correctional employee, community based correctional facility~~ 267
~~employee, youth services employee, firefighter, EMT,~~ 268
~~investigator of the bureau of criminal identification and~~ 269
~~investigation, or federal law enforcement officer~~ designated 270
public service worker; 271

(g) A photograph of a peace officer who holds a position 272
or has an assignment that may include undercover or plain 273
clothes positions or assignments as determined by the peace 274
officer's appointing authority. 275

(9) As used in divisions ~~division~~ (A) (7) and ~~(B) (9)~~ of 276
this section, ~~"peace~~; 277

"Peace officer" has the ~~same~~ meaning as defined in section 278
109.71 of the Revised Code and also includes the superintendent 279
and troopers of the state highway patrol; it does not include 280

the sheriff of a county or a supervisory employee who, in the 281
absence of the sheriff, is authorized to stand in for, exercise 282
the authority of, and perform the duties of the sheriff. 283

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 284
"correctional" Correctional employee" means any employee of the 285
department of rehabilitation and correction who in the course of 286
performing the employee's job duties has or has had contact with 287
inmates and persons under supervision. 288

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 289
"youth" Youth services employee" means any employee of the 290
department of youth services who in the course of performing the 291
employee's job duties has or has had contact with children 292
committed to the custody of the department of youth services. 293

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 294
"firefighter" Firefighter" means any regular, paid or 295
volunteer, member of a lawfully constituted fire department of a 296
municipal corporation, township, fire district, or village. 297

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 298
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 299
emergency medical services for a public emergency medical 300
service organization. "Emergency medical service organization," 301
"EMT-basic," "EMT-I," and "paramedic" have the ~~same~~ meanings as 302
defined in section 4765.01 of the Revised Code. 303

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 304
"investigator" Investigator of the bureau of criminal 305
identification and investigation" has the meaning defined in 306
section 2903.11 of the Revised Code. 307

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 308
"federal" Forensic mental health provider" means any employee of 309

a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, and reports to the probate court the respondent's mental condition.

"Regional psychiatric hospital employee" means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.

~~(8)~~ (10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that

person's parent, guardian, custodian, or emergency contact 339
person; 340

(b) The social security number, birth date, or 341
photographic image of a person under the age of eighteen; 342

(c) Any medical record, history, or information pertaining 343
to a person under the age of eighteen; 344

(d) Any additional information sought or required about a 345
person under the age of eighteen for the purpose of allowing 346
that person to participate in any recreational activity 347
conducted or sponsored by a public office or to use or obtain 348
admission privileges to any recreational facility owned or 349
operated by a public office. 350

~~(9)~~ (11) "Community control sanction" has the ~~same~~ meaning 351
as defined in section 2929.01 of the Revised Code. 352

~~(10)~~ (12) "Post-release control sanction" has the ~~same~~ 353
meaning as defined in section 2967.01 of the Revised Code. 354

~~(11)~~ (13) "Redaction" means obscuring or deleting any 355
information that is exempt from the duty to permit public 356
inspection or copying from an item that otherwise meets the 357
definition of a "record" in section 149.011 of the Revised Code. 358

~~(12)~~ (14) "Designee" and "elected official" have the ~~same~~ 359
meanings as defined in section 109.43 of the Revised Code. 360

(B) (1) Upon request by any person and subject to division 361
(B) (8) of this section, all public records responsive to the 362
request shall be promptly prepared and made available for 363
inspection to any person the requester at all reasonable times 364
during regular business hours. Subject to division (B) (8) of 365
this section, upon request by any person, a public office or 366

person responsible for public records shall make copies of the 367
requested public record available to the requester at cost and 368
within a reasonable period of time. If a public record contains 369
information that is exempt from the duty to permit public 370
inspection or to copy the public record, the public office or 371
the person responsible for the public record shall make 372
available all of the information within the public record that 373
is not exempt. When making that public record available for 374
public inspection or copying that public record, the public 375
office or the person responsible for the public record shall 376
notify the requester of any redaction or make the redaction 377
plainly visible. A redaction shall be deemed a denial of a 378
request to inspect or copy the redacted information, except if 379
federal or state law authorizes or requires a public office to 380
make the redaction. 381

(2) To facilitate broader access to public records, a 382
public office or the person responsible for public records shall 383
organize and maintain public records in a manner that they can 384
be made available for inspection or copying in accordance with 385
division (B) of this section. A public office also shall have 386
available a copy of its current records retention schedule at a 387
location readily available to the public. If a requester makes 388
an ambiguous or overly broad request or has difficulty in making 389
a request for copies or inspection of public records under this 390
section such that the public office or the person responsible 391
for the requested public record cannot reasonably identify what 392
public records are being requested, the public office or the 393
person responsible for the requested public record may deny the 394
request but shall provide the requester with an opportunity to 395
revise the request by informing the requester of the manner in 396
which records are maintained by the public office and accessed 397

in the ordinary course of the public office's or person's 398
duties. 399

(3) If a request is ultimately denied, in part or in 400
whole, the public office or the person responsible for the 401
requested public record shall provide the requester with an 402
explanation, including legal authority, setting forth why the 403
request was denied. If the initial request was provided in 404
writing, the explanation also shall be provided to the requester 405
in writing. The explanation shall not preclude the public office 406
or the person responsible for the requested public record from 407
relying upon additional reasons or legal authority in defending 408
an action commenced under division (C) of this section. 409

(4) Unless specifically required or authorized by state or 410
federal law or in accordance with division (B) of this section, 411
no public office or person responsible for public records may 412
limit or condition the availability of public records by 413
requiring disclosure of the requester's identity or the intended 414
use of the requested public record. Any requirement that the 415
requester disclose the requester's identity or the intended use 416
of the requested public record constitutes a denial of the 417
request. 418

(5) A public office or person responsible for public 419
records may ask a requester to make the request in writing, may 420
ask for the requester's identity, and may inquire about the 421
intended use of the information requested, but may do so only 422
after disclosing to the requester that a written request is not 423
mandatory and that the requester may decline to reveal the 424
requester's identity or the intended use and when a written 425
request or disclosure of the identity or intended use would 426
benefit the requester by enhancing the ability of the public 427

office or person responsible for public records to identify, 428
locate, or deliver the public records sought by the requester. 429

(6) If any person ~~chooses to obtain~~ requests a copy of a 430
public record in accordance with division (B) of this section, 431
the public office or person responsible for the public record 432
may require ~~that person~~ the requester to pay in advance the cost 433
involved in providing the copy of the public record in 434
accordance with the choice made by the ~~person seeking the copy~~ 435
requester under this division. The public office or the person 436
responsible for the public record shall permit ~~that person~~ the 437
requester to choose to have the public record duplicated upon 438
paper, upon the same medium upon which the public office or 439
person responsible for the public record keeps it, or upon any 440
other medium upon which the public office or person responsible 441
for the public record determines that it reasonably can be 442
duplicated as an integral part of the normal operations of the 443
public office or person responsible for the public record. When 444
the ~~person seeking the copy~~ requester makes a choice under this 445
division, the public office or person responsible for the public 446
record shall provide a copy of it in accordance with the choice 447
made by the ~~person seeking the copy~~ requester. Nothing in this 448
section requires a public office or person responsible for the 449
public record to allow the ~~person seeking~~ requester of a copy of 450
the public record to make the copies of the public record. 451

(7) (a) Upon a request made in accordance with division (B) 452
of this section and subject to division (B) (6) of this section, 453
a public office or person responsible for public records shall 454
transmit a copy of a public record to any person by United 455
States mail or by any other means of delivery or transmission 456
within a reasonable period of time after receiving the request 457
for the copy. The public office or person responsible for the 458

public record may require the person making the request to pay 459
in advance the cost of postage if the copy is transmitted by 460
United States mail or the cost of delivery if the copy is 461
transmitted other than by United States mail, and to pay in 462
advance the costs incurred for other supplies used in the 463
mailing, delivery, or transmission. 464

(b) Any public office may adopt a policy and procedures 465
that it will follow in transmitting, within a reasonable period 466
of time after receiving a request, copies of public records by 467
United States mail or by any other means of delivery or 468
transmission pursuant to division (B) (7) of this section. A 469
public office that adopts a policy and procedures under division 470
(B) (7) of this section shall comply with them in performing its 471
duties under that division. 472

(c) In any policy and procedures adopted under division 473
(B) (7) of this section: 474

(i) A public office may limit the number of records 475
requested by a person that the office will physically deliver by 476
United States mail or by another delivery service to ten per 477
month, unless the person certifies to the office in writing that 478
the person does not intend to use or forward the requested 479
records, or the information contained in them, for commercial 480
purposes; 481

(ii) A public office that chooses to provide some or all 482
of its public records on a web site that is fully accessible to 483
and searchable by members of the public at all times, other than 484
during acts of God outside the public office's control or 485
maintenance, and that charges no fee to search, access, 486
download, or otherwise receive records provided on the web site, 487
may limit to ten per month the number of records requested by a 488

person that the office will deliver in a digital format, unless 489
the requested records are not provided on the web site and 490
unless the person certifies to the office in writing that the 491
person does not intend to use or forward the requested records, 492
or the information contained in them, for commercial purposes. 493

(iii) For purposes of division (B) (7) of this section, 494
"commercial" shall be narrowly construed and does not include 495
reporting or gathering news, reporting or gathering information 496
to assist citizen oversight or understanding of the operation or 497
activities of government, or nonprofit educational research. 498

(8) A public office or person responsible for public 499
records is not required to permit a person who is incarcerated 500
pursuant to a criminal conviction or a juvenile adjudication to 501
inspect or to obtain a copy of any public record concerning a 502
criminal investigation or prosecution or concerning what would 503
be a criminal investigation or prosecution if the subject of the 504
investigation or prosecution were an adult, unless the request 505
to inspect or to obtain a copy of the record is for the purpose 506
of acquiring information that is subject to release as a public 507
record under this section and the judge who imposed the sentence 508
or made the adjudication with respect to the person, or the 509
judge's successor in office, finds that the information sought 510
in the public record is necessary to support what appears to be 511
a justiciable claim of the person. 512

(9) (a) Upon written request made and signed by a 513
~~journalist on or after December 16, 1999, a public office, or~~ 514
~~person responsible for public records, having custody of the~~ 515
~~records of the agency employing a specified peace officer,~~ 516
~~parole officer, probation officer, bailiff, prosecuting~~ 517
~~attorney, assistant prosecuting attorney, correctional employee,~~ 518

~~community based correctional facility employee, youth services-~~ 519
~~employee, firefighter, EMT, investigator of the bureau of~~ 520
~~criminal identification and investigation, or federal law~~ 521
~~enforcement officer~~ designated public service worker shall 522
disclose to the journalist the address of the actual personal 523
residence of the ~~peace officer, parole officer, probation-~~ 524
~~officer, bailiff, prosecuting attorney, assistant prosecuting~~ 525
~~attorney, correctional employee, community based correctional-~~ 526
~~facility employee, youth services employee, firefighter, EMT,-~~ 527
~~investigator of the bureau of criminal identification and~~ 528
~~investigation, or federal law enforcement officer~~ designated 529
public service worker and, if the ~~peace officer's, parole-~~ 530
~~officer's, probation officer's, bailiff's, prosecuting~~ 531
~~attorney's, assistant prosecuting attorney's, correctional~~ 532
~~employee's, community based correctional facility employee's,-~~ 533
~~youth services employee's, firefighter's, EMT's, investigator of~~ 534
~~the bureau of criminal identification and investigation's, or~~ 535
~~federal law enforcement officer's~~ designated public service 536
worker's spouse, former spouse, or child is employed by a public 537
office, the name and address of the employer of the ~~peace-~~ 538
~~officer's, parole officer's, probation officer's, bailiff's,-~~ 539
~~prosecuting attorney's, assistant prosecuting attorney's,-~~ 540
~~correctional employee's, community based correctional facility-~~ 541
~~employee's, youth services employee's, firefighter's, EMT's,-~~ 542
~~investigator of the bureau of criminal identification and~~ 543
~~investigation's, or federal law enforcement officer's~~ designated 544
public service worker's spouse, former spouse, or child. The 545
request shall include the journalist's name and title and the 546
name and address of the journalist's employer and shall state 547
that disclosure of the information sought would be in the public 548
interest. 549

(b) Division (B) (9) (a) of this section also applies to 550
journalist requests for customer information maintained by a 551
municipally owned or operated public utility, other than social 552
security numbers and any private financial information such as 553
credit reports, payment methods, credit card numbers, and bank 554
account information. 555

(c) As used in division (B) (9) of this section, 556
"journalist" means a person engaged in, connected with, or 557
employed by any news medium, including a newspaper, magazine, 558
press association, news agency, or wire service, a radio or 559
television station, or a similar medium, for the purpose of 560
gathering, processing, transmitting, compiling, editing, or 561
disseminating information for the general public. 562

(C) (1) If a person allegedly is aggrieved by the failure 563
of a public office or the person responsible for public records 564
to promptly prepare a public record and to make it available to 565
the person for inspection in accordance with division (B) of 566
this section or by any other failure of a public office or the 567
person responsible for public records to comply with an 568
obligation in accordance with division (B) of this section, the 569
person allegedly aggrieved may do only one of the following, and 570
not both: 571

(a) File a complaint with the clerk of the court of claims 572
or the clerk of the court of common pleas under section 2743.75 573
of the Revised Code; 574

(b) Commence a mandamus action to obtain a judgment that 575
orders the public office or the person responsible for the 576
public record to comply with division (B) of this section, that 577
awards court costs and reasonable attorney's fees to the person 578
that instituted the mandamus action, and, if applicable, that 579

includes an order fixing statutory damages under division (C) (2) 580
of this section. The mandamus action may be commenced in the 581
court of common pleas of the county in which division (B) of 582
this section allegedly was not complied with, in the supreme 583
court pursuant to its original jurisdiction under Section 2 of 584
Article IV, Ohio Constitution, or in the court of appeals for 585
the appellate district in which division (B) of this section 586
allegedly was not complied with pursuant to its original 587
jurisdiction under Section 3 of Article IV, Ohio Constitution. 588

(2) If a requester transmits a written request by hand 589
delivery or certified mail to inspect or receive copies of any 590
public record in a manner that fairly describes the public 591
record or class of public records to the public office or person 592
responsible for the requested public records, except as 593
otherwise provided in this section, the requester shall be 594
entitled to recover the amount of statutory damages set forth in 595
this division if a court determines that the public office or 596
the person responsible for public records failed to comply with 597
an obligation in accordance with division (B) of this section. 598

The amount of statutory damages shall be fixed at one 599
hundred dollars for each business day during which the public 600
office or person responsible for the requested public records 601
failed to comply with an obligation in accordance with division 602
(B) of this section, beginning with the day on which the 603
requester files a mandamus action to recover statutory damages, 604
up to a maximum of one thousand dollars. The award of statutory 605
damages shall not be construed as a penalty, but as compensation 606
for injury arising from lost use of the requested information. 607
The existence of this injury shall be conclusively presumed. The 608
award of statutory damages shall be in addition to all other 609
remedies authorized by this section. 610

The court may reduce an award of statutory damages or not 611
award statutory damages if the court determines both of the 612
following: 613

(a) That, based on the ordinary application of statutory 614
law and case law as it existed at the time of the conduct or 615
threatened conduct of the public office or person responsible 616
for the requested public records that allegedly constitutes a 617
failure to comply with an obligation in accordance with division 618
(B) of this section and that was the basis of the mandamus 619
action, a well-informed public office or person responsible for 620
the requested public records reasonably would believe that the 621
conduct or threatened conduct of the public office or person 622
responsible for the requested public records did not constitute 623
a failure to comply with an obligation in accordance with 624
division (B) of this section; 625

(b) That a well-informed public office or person 626
responsible for the requested public records reasonably would 627
believe that the conduct or threatened conduct of the public 628
office or person responsible for the requested public records 629
would serve the public policy that underlies the authority that 630
is asserted as permitting that conduct or threatened conduct. 631

(3) In a mandamus action filed under division (C)(1) of 632
this section, the following apply: 633

(a) (i) If the court orders the public office or the person 634
responsible for the public record to comply with division (B) of 635
this section, the court shall determine and award to the relator 636
all court costs, which shall be construed as remedial and not 637
punitive. 638

(ii) If the court makes a determination described in 639

division (C) (3) (b) (iii) of this section, the court shall 640
determine and award to the relator all court costs, which shall 641
be construed as remedial and not punitive. 642

(b) If the court renders a judgment that orders the public 643
office or the person responsible for the public record to comply 644
with division (B) of this section or if the court determines any 645
of the following, the court may award reasonable attorney's fees 646
to the relator, subject to ~~the provisions of~~ division (C) (4) of 647
this section: 648

(i) The public office or the person responsible for the 649
public records failed to respond affirmatively or negatively to 650
the public records request in accordance with the time allowed 651
under division (B) of this section. 652

(ii) The public office or the person responsible for the 653
public records promised to permit the relator to inspect or 654
receive copies of the public records requested within a 655
specified period of time but failed to fulfill that promise 656
within that specified period of time. 657

(iii) The public office or the person responsible for the 658
public records acted in bad faith when the office or person 659
voluntarily made the public records available to the relator for 660
the first time after the relator commenced the mandamus action, 661
but before the court issued any order concluding whether or not 662
the public office or person was required to comply with division 663
(B) of this section. No discovery may be conducted on the issue 664
of the alleged bad faith of the public office or person 665
responsible for the public records. This division shall not be 666
construed as creating a presumption that the public office or 667
the person responsible for the public records acted in bad faith 668
when the office or person voluntarily made the public records 669

available to the relator for the first time after the relator 670
commenced the mandamus action, but before the court issued any 671
order described in this division. 672

(c) The court shall not award attorney's fees to the 673
relator if the court determines both of the following: 674

(i) That, based on the ordinary application of statutory 675
law and case law as it existed at the time of the conduct or 676
threatened conduct of the public office or person responsible 677
for the requested public records that allegedly constitutes a 678
failure to comply with an obligation in accordance with division 679
(B) of this section and that was the basis of the mandamus 680
action, a well-informed public office or person responsible for 681
the requested public records reasonably would believe that the 682
conduct or threatened conduct of the public office or person 683
responsible for the requested public records did not constitute 684
a failure to comply with an obligation in accordance with 685
division (B) of this section; 686

(ii) That a well-informed public office or person 687
responsible for the requested public records reasonably would 688
believe that the conduct or threatened conduct of the public 689
office or person responsible for the requested public records 690
would serve the public policy that underlies the authority that 691
is asserted as permitting that conduct or threatened conduct. 692

(4) All of the following apply to any award of reasonable 693
attorney's fees awarded under division (C) (3) (b) of this 694
section: 695

(a) The fees shall be construed as remedial and not 696
punitive. 697

(b) The fees awarded shall not exceed the total of the 698

reasonable attorney's fees incurred before the public record was 699
made available to the relator and the fees described in division 700
(C) (4) (c) of this section. 701

(c) Reasonable attorney's fees shall include reasonable 702
fees incurred to produce proof of the reasonableness and amount 703
of the fees and to otherwise litigate entitlement to the fees. 704

(d) The court may reduce the amount of fees awarded if the 705
court determines that, given the factual circumstances involved 706
with the specific public records request, an alternative means 707
should have been pursued to more effectively and efficiently 708
resolve the dispute that was subject to the mandamus action 709
filed under division (C) (1) of this section. 710

(5) If the court does not issue a writ of mandamus under 711
division (C) of this section and the court determines at that 712
time that the bringing of the mandamus action was frivolous 713
conduct as defined in division (A) of section 2323.51 of the 714
Revised Code, the court may award to the public office all court 715
costs, expenses, and reasonable attorney's fees, as determined 716
by the court. 717

(D) Chapter 1347. of the Revised Code does not limit the 718
provisions of this section. 719

(E) (1) To ensure that all employees of public offices are 720
appropriately educated about a public office's obligations under 721
division (B) of this section, all elected officials or their 722
appropriate designees shall attend training approved by the 723
attorney general as provided in section 109.43 of the Revised 724
Code. In addition, all public offices shall adopt a public 725
records policy in compliance with this section for responding to 726
public records requests. In adopting a public records policy 727

under this division, a public office may obtain guidance from 728
the model public records policy developed and provided to the 729
public office by the attorney general under section 109.43 of 730
the Revised Code. Except as otherwise provided in this section, 731
the policy may not limit the number of public records that the 732
public office will make available to a single person, may not 733
limit the number of public records that it will make available 734
during a fixed period of time, and may not establish a fixed 735
period of time before it will respond to a request for 736
inspection or copying of public records, unless that period is 737
less than eight hours. 738

(2) The public office shall distribute the public records 739
policy adopted by the public office under division (E)(1) of 740
this section to the employee of the public office who is the 741
records custodian or records manager or otherwise has custody of 742
the records of that office. The public office shall require that 743
employee to acknowledge receipt of the copy of the public 744
records policy. The public office shall create a poster that 745
describes its public records policy and shall post the poster in 746
a conspicuous place in the public office and in all locations 747
where the public office has branch offices. The public office 748
may post its public records policy on the internet web site of 749
the public office if the public office maintains an internet web 750
site. A public office that has established a manual or handbook 751
of its general policies and procedures for all employees of the 752
public office shall include the public records policy of the 753
public office in the manual or handbook. 754

(F)(1) The bureau of motor vehicles may adopt rules 755
pursuant to Chapter 119. of the Revised Code to reasonably limit 756
the number of bulk commercial special extraction requests made 757
by a person for the same records or for updated records during a 758

calendar year. The rules may include provisions for charges to 759
be made for bulk commercial special extraction requests for the 760
actual cost of the bureau, plus special extraction costs, plus 761
ten per cent. The bureau may charge for expenses for redacting 762
information, the release of which is prohibited by law. 763

(2) As used in division (F) (1) of this section: 764

(a) "Actual cost" means the cost of depleted supplies, 765
records storage media costs, actual mailing and alternative 766
delivery costs, or other transmitting costs, and any direct 767
equipment operating and maintenance costs, including actual 768
costs paid to private contractors for copying services. 769

(b) "Bulk commercial special extraction request" means a 770
request for copies of a record for information in a format other 771
than the format already available, or information that cannot be 772
extracted without examination of all items in a records series, 773
class of records, or database by a person who intends to use or 774
forward the copies for surveys, marketing, solicitation, or 775
resale for commercial purposes. "Bulk commercial special 776
extraction request" does not include a request by a person who 777
gives assurance to the bureau that the person making the request 778
does not intend to use or forward the requested copies for 779
surveys, marketing, solicitation, or resale for commercial 780
purposes. 781

(c) "Commercial" means profit-seeking production, buying, 782
or selling of any good, service, or other product. 783

(d) "Special extraction costs" means the cost of the time 784
spent by the lowest paid employee competent to perform the task, 785
the actual amount paid to outside private contractors employed 786
by the bureau, or the actual cost incurred to create computer 787

programs to make the special extraction. "Special extraction 788
costs" include any charges paid to a public agency for computer 789
or records services. 790

(3) For purposes of divisions (F)(1) and (2) of this 791
section, "surveys, marketing, solicitation, or resale for 792
commercial purposes" shall be narrowly construed and does not 793
include reporting or gathering news, reporting or gathering 794
information to assist citizen oversight or understanding of the 795
operation or activities of government, or nonprofit educational 796
research. 797

(G) A request by a defendant, counsel of a defendant, or 798
any agent of a defendant in a criminal action that public 799
records related to that action be made available under this 800
section shall be considered a demand for discovery pursuant to 801
the Criminal Rules, except to the extent that the Criminal Rules 802
plainly indicate a contrary intent. The defendant, counsel of 803
the defendant, or agent of the defendant making a request under 804
this division shall serve a copy of the request on the 805
prosecuting attorney, director of law, or other chief legal 806
officer responsible for prosecuting the action. 807

Sec. 149.45. (A) As used in this section: 808

(1) "Personal information" means any of the following: 809

(a) An individual's social security number; 810

(b) An individual's state or federal tax identification 811
number; 812

(c) An individual's driver's license number or state 813
identification number; 814

(d) An individual's checking account number, savings 815

account number, credit card number, or debit card number; 816

(e) An individual's demand deposit account number, money 817
market account number, mutual fund account number, or any other 818
financial or medical account number. 819

(2) "Public record," "designated public service worker," 820
and "~~peace officer, parole officer, probation officer, bailiff,~~ 821
~~prosecuting attorney, assistant prosecuting attorney,~~ 822
~~correctional employee, youth services employee, firefighter,~~ 823
~~EMT, investigator of the bureau of criminal identification and~~ 824
~~investigation, or federal law enforcement officer~~ designated 825
public service worker residential and familial information" have 826
the ~~same~~ meanings as defined in section 149.43 of the Revised 827
Code. 828

(3) "Truncate" means to redact all but the last four 829
digits of an individual's social security number. 830

(B) (1) No public office or person responsible for a public 831
office's public records shall make available to the general 832
public on the internet any document that contains an 833
individual's social security number without otherwise redacting, 834
encrypting, or truncating the social security number. 835

(2) A public office or person responsible for a public 836
office's public records that prior to October 17, 2011, made 837
available to the general public on the internet any document 838
that contains an individual's social security number shall 839
redact, encrypt, or truncate the social security number from 840
that document. 841

(3) Divisions (B) (1) and (2) of this section do not apply 842
to documents that are only accessible through the internet with 843
a password. 844

(C) (1) An individual may request that a public office or a person responsible for a public office's public records redact personal information of that individual from any record made available to the general public on the internet. An individual who makes a request for redaction pursuant to this division shall make the request in writing on a form developed by the attorney general and shall specify the personal information to be redacted and provide any information that identifies the location of that personal information within a document that contains that personal information.

(2) Upon receiving a request for a redaction pursuant to division (C) (1) of this section, a public office or a person responsible for a public office's public records shall act within five business days in accordance with the request to redact the personal information of the individual from any record made available to the general public on the internet, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records shall verbally or in writing within five business days after receiving the written request explain to the individual why the redaction is impracticable.

(3) The attorney general shall develop a form to be used by an individual to request a redaction pursuant to division (C) (1) of this section. The form shall include a place to provide any information that identifies the location of the personal information to be redacted.

~~(D) (1) A peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and~~

~~investigation, or federal law enforcement officer designated~~ 875
~~public service worker~~ may request that a public office, other 876
than a county auditor, or a person responsible for the public 877
records of a public office, other than a county auditor, redact 878
the address of the ~~person making the request designated public~~ 879
~~service worker~~ from any record made available to the general 880
public on the internet that includes ~~peace officer, parole-~~ 881
~~officer, probation officer, bailiff, prosecuting attorney,~~ 882
~~assistant prosecuting attorney, correctional employee, youth-~~ 883
~~services employee, firefighter, EMT, investigator of the bureau-~~ 884
~~of criminal identification and investigation, or federal law-~~ 885
~~enforcement officer designated public service worker~~ residential 886
and familial information of the ~~person designated public service~~ 887
~~worker~~ making the request. A ~~person designated public service~~ 888
~~worker~~ who makes a request for a redaction pursuant to this 889
division shall make the request in writing and on a form 890
developed by the attorney general. 891

(2) Upon receiving a written request for a redaction 892
pursuant to division (D)(1) of this section, a public office, 893
other than a county auditor, or a person responsible for the 894
public records of a public office, other than a county auditor, 895
shall act within five business days in accordance with the 896
request to redact the address of the ~~peace officer, parole-~~ 897
~~officer, probation officer, bailiff, prosecuting attorney,~~ 898
~~assistant prosecuting attorney, correctional employee, youth-~~ 899
~~services employee, firefighter, EMT, investigator of the bureau-~~ 900
~~of criminal identification and investigation, or federal law-~~ 901
~~enforcement officer designated public service worker~~ making the 902
request from any record made available to the general public on 903
the internet that includes ~~peace officer, parole officer,~~ 904
~~probation officer, bailiff, prosecuting attorney, assistant-~~ 905

~~prosecuting attorney, correctional employee, youth services-~~ 906
~~employee, firefighter, EMT, investigator of the bureau of~~ 907
~~criminal identification and investigation, or federal law~~ 908
~~enforcement officer~~ designated public service worker residential 909
and familial information of the ~~person~~ designated public service 910
worker making the request, if practicable. If a redaction is not 911
practicable, the public office or person responsible for the 912
public office's public records shall verbally or in writing 913
within five business days after receiving the written request 914
explain to the ~~peace officer, parole officer, probation officer,~~ 915
~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 916
~~correctional employee, youth services employee, firefighter,~~ 917
~~EMT, investigator of the bureau of criminal identification and~~ 918
~~investigation, or federal law enforcement officer~~ designated 919
public service worker why the redaction is impracticable. 920

(3) Except as provided in this section and section 319.28 921
of the Revised Code, a public office, other than an employer of 922
a ~~peace officer, parole officer, probation officer, bailiff,~~ 923
~~prosecuting attorney, assistant prosecuting attorney,~~ 924
~~correctional employee, youth services employee, firefighter,~~ 925
~~EMT, investigator of the bureau of criminal identification and~~ 926
~~investigation, or federal law enforcement officer~~ designated 927
public service worker, or a person responsible for the public 928
records of the employer, is not required to redact the 929
residential and familial information of the ~~peace officer,~~ 930
~~parole officer, probation officer, bailiff, prosecuting~~ 931
~~attorney, assistant prosecuting attorney, correctional employee,~~ 932
~~youth services employee, firefighter, EMT, investigator of the~~ 933
~~bureau of criminal identification and investigation, or federal~~ 934
~~law enforcement officer~~ designated public service worker from 935
other records maintained by the public office. 936

(4) The attorney general shall develop a form to be used 937
by a ~~peace officer, parole officer, probation officer, bailiff,~~ 938
~~prosecuting attorney, assistant prosecuting attorney,~~ 939
~~correctional employee, youth services employee, firefighter,~~ 940
~~EMT, investigator of the bureau of criminal identification and~~ 941
~~investigation, or federal law enforcement officer designated~~ 942
public service worker to request a redaction pursuant to 943
division (D)(1) of this section. The form shall include a place 944
to provide any information that identifies the location of the 945
address of a ~~peace officer, parole officer, probation officer,~~ 946
~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 947
~~correctional employee, youth services employee, firefighter,~~ 948
~~EMT, investigator of the bureau of criminal identification and~~ 949
~~investigation, or federal law enforcement officer designated~~ 950
public service worker to be redacted. 951

(E)(1) If a public office or a person responsible for a 952
public office's public records becomes aware that an electronic 953
record of that public office that is made available to the 954
general public on the internet contains an individual's social 955
security number that was mistakenly not redacted, encrypted, or 956
truncated as required by division (B)(1) or (2) of this section, 957
the public office or person responsible for the public office's 958
public records shall redact, encrypt, or truncate the 959
individual's social security number within a reasonable period 960
of time. 961

(2) A public office or a person responsible for a public 962
office's public records is not liable in damages in a civil 963
action for any harm an individual allegedly sustains as a result 964
of the inclusion of that individual's personal information on 965
any record made available to the general public on the internet 966
or any harm a ~~peace officer, parole officer, probation officer,~~ 967

~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 968
~~correctional employee, youth services employee, firefighter,~~ 969
~~EMT, investigator of the bureau of criminal identification and~~ 970
~~investigation, or federal law enforcement officer designated~~ 971
~~public service worker~~ sustains as a result of the inclusion of 972
the designated public service worker's address of the peace 973
~~officer, parole officer, probation officer, bailiff, prosecuting~~ 974
~~attorney, assistant prosecuting attorney, correctional employee,~~ 975
~~youth services employee, firefighter, EMT, investigator of the~~ 976
~~bureau of criminal identification and investigation, or federal~~ 977
~~law enforcement officer~~ on any record made available to the 978
general public on the internet in violation of this section, 979
unless the public office or person responsible for the public 980
office's public records acted with malicious purpose, in bad 981
faith, or in a wanton or reckless manner or unless division (A) 982
(6) (a) or (c) of section 2744.03 of the Revised Code applies. 983

Section 2. That existing sections 149.43 and 149.45 of the 984
Revised Code are hereby repealed. 985

Section 3. Section 149.45 of the Revised Code is presented 986
in this act as a composite of the section as amended by both 987
Sub. H.B. 317 and Sub. H.B. 359 of the 132nd General Assembly. 988
The General Assembly, applying the principle stated in division 989
(B) of section 1.52 of the Revised Code that amendments are to 990
be harmonized if reasonably capable of simultaneous operation, 991
finds that the composite is the resulting version of the section 992
in effect prior to the effective date of the section as 993
presented in this act. 994