

**As Reported by the House Civil Justice Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 41**

**Representatives Lanese, Liston**

**Cosponsors: Representatives Grendell, Galonski, Brown, Crossman**

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**A BILL**

To amend section 149.43 of the Revised Code to  
exempt certain mental health care providers'  
residential and familial information from  
disclosure under the Public Records Law.

**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, to proceedings related to the imposition of 18  
community control sanctions and post-release control sanctions, 19  
or to proceedings related to determinations under section 20  
2967.271 of the Revised Code regarding the release or maintained 21  
incarceration of an offender to whom that section applies; 22

(c) Records pertaining to actions under section 2151.85 23  
and division (C) of section 2919.121 of the Revised Code and to 24  
appeals of actions arising under those sections; 25

(d) Records pertaining to adoption proceedings, including 26  
the contents of an adoption file maintained by the department of 27  
health under sections 3705.12 to 3705.124 of the Revised Code; 28

(e) Information in a record contained in the putative 29  
father registry established by section 3107.062 of the Revised 30  
Code, regardless of whether the information is held by the 31  
department of job and family services or, pursuant to section 32  
3111.69 of the Revised Code, the office of child support in the 33  
department or a child support enforcement agency; 34

(f) Records specified in division (A) of section 3107.52 35  
of the Revised Code; 36

(g) Trial preparation records; 37

(h) Confidential law enforcement investigatory records; 38

(i) Records containing information that is confidential 39  
under section 2710.03 or 4112.05 of the Revised Code; 40

(j) DNA records stored in the DNA database pursuant to 41  
section 109.573 of the Revised Code; 42

(k) Inmate records released by the department of 43  
rehabilitation and correction to the department of youth 44  
services or a court of record pursuant to division (E) of 45

section 5120.21 of the Revised Code;	46
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	47 48 49 50
(m) Intellectual property records;	51
(n) Donor profile records;	52
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	53 54
(p) Designated public service worker residential and familial information;	55 56
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	57 58 59 60 61
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	62 63
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review	64 65 66 67 68 69 70 71 72 73

database, other than the report prepared pursuant to division	74
(A) of section 307.626 of the Revised Code;	75
(t) Records provided to and statements made by the	76
executive director of a public children services agency or a	77
prosecuting attorney acting pursuant to section 5153.171 of the	78
Revised Code other than the information released under that	79
section;	80
(u) Test materials, examinations, or evaluation tools used	81
in an examination for licensure as a nursing home administrator	82
that the board of executives of long-term services and supports	83
administers under section 4751.15 of the Revised Code or	84
contracts under that section with a private or government entity	85
to administer;	86
(v) Records the release of which is prohibited by state or	87
federal law;	88
(w) Proprietary information of or relating to any person	89
that is submitted to or compiled by the Ohio venture capital	90
authority created under section 150.01 of the Revised Code;	91
(x) Financial statements and data any person submits for	92
any purpose to the Ohio housing finance agency or the	93
controlling board in connection with applying for, receiving, or	94
accounting for financial assistance from the agency, and	95
information that identifies any individual who benefits directly	96
or indirectly from financial assistance from the agency;	97
(y) Records listed in section 5101.29 of the Revised Code;	98
(z) Discharges recorded with a county recorder under	99
section 317.24 of the Revised Code, as specified in division (B)	100
(2) of that section;	101

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	102 103 104
(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;	105 106 107
(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;	108 109 110
(dd) Personal information, as defined in section 149.45 of the Revised Code;	111 112
(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.	113 114 115 116 117 118 119 120 121 122 123 124 125 126
(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 organized militia, except that, such order becomes a public	127 128 129 130

record on the day that is fifteen years after the published date	131
or effective date of the call to order;	132
(gg) The name, address, contact information, or other	133
personal information of an individual who is less than eighteen	134
years of age that is included in any record related to a traffic	135
accident involving a school vehicle in which the individual was	136
an occupant at the time of the accident;	137
(hh) Protected health information, as defined in 45 C.F.R.	138
160.103, that is in a claim for payment for a health care	139
product, service, or procedure, as well as any other health	140
claims data in another document that reveals the identity of an	141
individual who is the subject of the data or could be used to	142
reveal that individual's identity;	143
(ii) Any depiction by photograph, film, videotape, or	144
printed or digital image under either of the following	145
circumstances:	146
(i) The depiction is that of a victim of an offense the	147
release of which would be, to a reasonable person of ordinary	148
sensibilities, an offensive and objectionable intrusion into the	149
victim's expectation of bodily privacy and integrity.	150
(ii) The depiction captures or depicts the victim of a	151
sexually oriented offense, as defined in section 2950.01 of the	152
Revised Code, at the actual occurrence of that offense.	153
(jj) Restricted portions of a body-worn camera or	154
dashboard camera recording;	155
(kk) In the case of a fetal-infant mortality review board	156
acting under sections 3707.70 to 3707.77 of the Revised Code,	157
records, documents, reports, or other information presented to	158
the board or a person abstracting such materials on the board's	159

behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section 3738.08 of the Revised Code;

(mm) Telephone numbers for a victim, as defined in section 2930.01 of the Revised Code, a witness to a crime, or a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report.

A record that is not a public record under division (A) (1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the Revised Code, or any record that is exempt from release or disclosure under section 149.433 of the Revised Code. If the record is a birth certificate and a biological parent's name redaction request form has been accepted under section 3107.391 of the Revised

Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

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

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

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

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

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

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



treatment.	219
(4) "Trial preparation record" means any record that	220
contains information that is specifically compiled in reasonable	221
anticipation of, or in defense of, a civil or criminal action or	222
proceeding, including the independent thought processes and	223
personal trial preparation of an attorney.	224
(5) "Intellectual property record" means a record, other	225
than a financial or administrative record, that is produced or	226
collected by or for faculty or staff of a state institution of	227
higher learning in the conduct of or as a result of study or	228
research on an educational, commercial, scientific, artistic,	229
technical, or scholarly issue, regardless of whether the study	230
or research was sponsored by the institution alone or in	231
conjunction with a governmental body or private concern, and	232
that has not been publicly released, published, or patented.	233
(6) "Donor profile record" means all records about donors	234
or potential donors to a public institution of higher education	235
except the names and reported addresses of the actual donors and	236
the date, amount, and conditions of the actual donation.	237
(7) "Designated public service worker" means a peace	238
officer, parole officer, probation officer, bailiff, prosecuting	239
attorney, assistant prosecuting attorney, correctional employee,	240
county or multicounty corrections officer, community-based	241
correctional facility employee, youth services employee,	242
firefighter, EMT, medical director or member of a cooperating	243
physician advisory board of an emergency medical service	244
organization, state board of pharmacy employee, investigator of	245
the bureau of criminal identification and investigation,	246
<u>forensic mental health provider, mental health evaluation</u>	247
<u>provider, regional psychiatric hospital employee, judge,</u>	248

magistrate, or federal law enforcement officer.	249
(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:	250 251 252
(a) The address of the actual personal residence of a designated public service worker, except for the following information:	253 254 255
(i) The address of the actual personal residence of a prosecuting attorney or judge; and	256 257
(ii) The state or political subdivision in which a designated public service worker resides.	258 259
(b) Information compiled from referral to or participation in an employee assistance program;	260 261
(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;	262 263 264 265 266
(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;	267 268 269 270
(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;	271 272 273 274 275
(f) The name, the residential address, the name of the	276

employer, the address of the employer, the social security 277  
number, the residential telephone number, any bank account, 278  
debit card, charge card, or credit card number, or the emergency 279  
telephone number of the spouse, a former spouse, or any child of 280  
a designated public service worker; 281

(g) A photograph of a peace officer who holds a position 282  
or has an assignment that may include undercover or plain 283  
clothes positions or assignments as determined by the peace 284  
officer's appointing authority. 285

(9) As used in divisions (A) (7) and (15) to (17) of this 286  
section: 287

"Peace officer" has the meaning defined in section 109.71 288  
of the Revised Code and also includes the superintendent and 289  
troopers of the state highway patrol; it does not include the 290  
sheriff of a county or a supervisory employee who, in the 291  
absence of the sheriff, is authorized to stand in for, exercise 292  
the authority of, and perform the duties of the sheriff. 293

"Correctional employee" means any employee of the 294  
department of rehabilitation and correction who in the course of 295  
performing the employee's job duties has or has had contact with 296  
inmates and persons under supervision. 297

"County or multicounty corrections officer" means any 298  
corrections officer employed by any county or multicounty 299  
correctional facility. 300

"Youth services employee" means any employee of the 301  
department of youth services who in the course of performing the 302  
employee's job duties has or has had contact with children 303  
committed to the custody of the department of youth services. 304

"Firefighter" means any regular, paid or volunteer, member 305

of a lawfully constituted fire department of a municipal 306  
corporation, township, fire district, or village. 307

"EMT" means EMTs-basic, EMTs-I, and paramedics that 308  
provide emergency medical services for a public emergency 309  
medical service organization. "Emergency medical service 310  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 311  
meanings defined in section 4765.01 of the Revised Code. 312

"Investigator of the bureau of criminal identification and 313  
investigation" has the meaning defined in section 2903.11 of the 314  
Revised Code. 315

"Forensic mental health provider" means any employee of a 316  
community mental health service provider or local alcohol, drug 317  
addiction, and mental health services board who, in the course 318  
of the employee's duties, has contact with persons committed to 319  
a local alcohol, drug addiction, and mental health services 320  
board by a court order pursuant to section 2945.38, 2945.39, 321  
2945.40, or 2945.402 of the Revised Code. 322

"Mental health evaluation provider" means an individual 323  
who, under Chapter 5122. of the Revised Code, examines a 324  
respondent who is alleged to be a mentally ill person subject to 325  
court order, as defined in section 5122.01 of the Revised Code, 326  
and reports to the probate court the respondent's mental 327  
condition. 328

"Regional psychiatric hospital employee" means any 329  
employee of the department of mental health and addiction 330  
services who, in the course of performing the employee's duties, 331  
has contact with patients committed to the department of mental 332  
health and addiction services by a court order pursuant to 333  
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 334

<u>Code.</u>	335
"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.	336 337
(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:	338 339 340 341 342 343
(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 person;	344 345 346 347
(b) The social security number, birth date, or photographic image of a person under the age of eighteen;	348 349
(c) Any medical record, history, or information pertaining to a person under the age of eighteen;	350 351
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	352 353 354 355 356 357
(11) "Community control sanction" has the meaning defined in section 2929.01 of the Revised Code.	358 359
(12) "Post-release control sanction" has the meaning defined in section 2967.01 of the Revised Code.	360 361
(13) "Redaction" means obscuring or deleting any	362

information that is exempt from the duty to permit public 363  
inspection or copying from an item that otherwise meets the 364  
definition of a "record" in section 149.011 of the Revised Code. 365

(14) "Designee," "elected official," and "future official" 366  
have the meanings defined in section 109.43 of the Revised Code. 367

(15) "Body-worn camera" means a visual and audio recording 368  
device worn on the person of a peace officer while the peace 369  
officer is engaged in the performance of the peace officer's 370  
duties. 371

(16) "Dashboard camera" means a visual and audio recording 372  
device mounted on a peace officer's vehicle or vessel that is 373  
used while the peace officer is engaged in the performance of 374  
the peace officer's duties. 375

(17) "Restricted portions of a body-worn camera or 376  
dashboard camera recording" means any visual or audio portion of 377  
a body-worn camera or dashboard camera recording that shows, 378  
communicates, or discloses any of the following: 379

(a) The image or identity of a child or information that 380  
could lead to the identification of a child who is a primary 381  
subject of the recording when the law enforcement agency knows 382  
or has reason to know the person is a child based on the law 383  
enforcement agency's records or the content of the recording; 384

(b) The death of a person or a deceased person's body, 385  
unless the death was caused by a peace officer or, subject to 386  
division (H)(1) of this section, the consent of the decedent's 387  
executor or administrator has been obtained; 388

(c) The death of a peace officer, firefighter, paramedic, 389  
or other first responder, occurring while the decedent was 390  
engaged in the performance of official duties, unless, subject 391

to division (H) (1) of this section, the consent of the 392  
decedent's executor or administrator has been obtained; 393

(d) Grievous bodily harm, unless the injury was effected 394  
by a peace officer or, subject to division (H) (1) of this 395  
section, the consent of the injured person or the injured 396  
person's guardian has been obtained; 397

(e) An act of severe violence against a person that 398  
results in serious physical harm to the person, unless the act 399  
and injury was effected by a peace officer or, subject to 400  
division (H) (1) of this section, the consent of the injured 401  
person or the injured person's guardian has been obtained; 402

(f) Grievous bodily harm to a peace officer, firefighter, 403  
paramedic, or other first responder, occurring while the injured 404  
person was engaged in the performance of official duties, 405  
unless, subject to division (H) (1) of this section, the consent 406  
of the injured person or the injured person's guardian has been 407  
obtained; 408

(g) An act of severe violence resulting in serious 409  
physical harm against a peace officer, firefighter, paramedic, 410  
or other first responder, occurring while the injured person was 411  
engaged in the performance of official duties, unless, subject 412  
to division (H) (1) of this section, the consent of the injured 413  
person or the injured person's guardian has been obtained; 414

(h) A person's nude body, unless, subject to division (H) 415  
(1) of this section, the person's consent has been obtained; 416

(i) Protected health information, the identity of a person 417  
in a health care facility who is not the subject of a law 418  
enforcement encounter, or any other information in a health care 419  
facility that could identify a person who is not the subject of 420

a law enforcement encounter;	421
(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;	422 423
(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;	424 425 426 427 428 429 430
(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;	431 432
(m) Proprietary police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;	433 434 435
(n) A personal conversation unrelated to work between peace officers or between a peace officer and an employee of a law enforcement agency;	436 437 438
(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;	439 440
(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a peace officer;	441 442 443
(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a peace officer occurs in that location.	444 445 446
As used in division (A) (17) of this section:	447



"Grievous bodily harm" has the same meaning as in section 448  
5924.120 of the Revised Code. 449

"Health care facility" has the same meaning as in section 450  
1337.11 of the Revised Code. 451

"Protected health information" has the same meaning as in 452  
45 C.F.R. 160.103. 453

"Law enforcement agency" has the same meaning as in 454  
section 2925.61 of the Revised Code. 455

"Personal information" means any government-issued 456  
identification number, date of birth, address, financial 457  
information, or criminal justice information from the law 458  
enforcement automated data system or similar databases. 459

"Sex offense" has the same meaning as in section 2907.10 460  
of the Revised Code. 461

"Firefighter," "paramedic," and "first responder" have the 462  
same meanings as in section 4765.01 of the Revised Code. 463

(B) (1) Upon request by any person and subject to division 464  
(B) (8) of this section, all public records responsive to the 465  
request shall be promptly prepared and made available for 466  
inspection to ~~any person~~ the requester at all reasonable times 467  
during regular business hours. Subject to division (B) (8) of 468  
this section, upon request by any person, a public office or 469  
person responsible for public records shall make copies of the 470  
requested public record available to the requester at cost and 471  
within a reasonable period of time. If a public record contains 472  
information that is exempt from the duty to permit public 473  
inspection or to copy the public record, the public office or 474  
the person responsible for the public record shall make 475  
available all of the information within the public record that 476

is not exempt. When making that public record available for 477  
public inspection or copying that public record, the public 478  
office or the person responsible for the public record shall 479  
notify the requester of any redaction or make the redaction 480  
plainly visible. A redaction shall be deemed a denial of a 481  
request to inspect or copy the redacted information, except if 482  
federal or state law authorizes or requires a public office to 483  
make the redaction. 484

(2) To facilitate broader access to public records, a 485  
public office or the person responsible for public records shall 486  
organize and maintain public records in a manner that they can 487  
be made available for inspection or copying in accordance with 488  
division (B) of this section. A public office also shall have 489  
available a copy of its current records retention schedule at a 490  
location readily available to the public. If a requester makes 491  
an ambiguous or overly broad request or has difficulty in making 492  
a request for copies or inspection of public records under this 493  
section such that the public office or the person responsible 494  
for the requested public record cannot reasonably identify what 495  
public records are being requested, the public office or the 496  
person responsible for the requested public record may deny the 497  
request but shall provide the requester with an opportunity to 498  
revise the request by informing the requester of the manner in 499  
which records are maintained by the public office and accessed 500  
in the ordinary course of the public office's or person's 501  
duties. 502

(3) If a request is ultimately denied, in part or in 503  
whole, the public office or the person responsible for the 504  
requested public record shall provide the requester with an 505  
explanation, including legal authority, setting forth why the 506  
request was denied. If the initial request was provided in 507

writing, the explanation also shall be provided to the requester 508  
in writing. The explanation shall not preclude the public office 509  
or the person responsible for the requested public record from 510  
relying upon additional reasons or legal authority in defending 511  
an action commenced under division (C) of this section. 512

(4) Unless specifically required or authorized by state or 513  
federal law or in accordance with division (B) of this section, 514  
no public office or person responsible for public records may 515  
limit or condition the availability of public records by 516  
requiring disclosure of the requester's identity or the intended 517  
use of the requested public record. Any requirement that the 518  
requester disclose the requester's identity or the intended use 519  
of the requested public record constitutes a denial of the 520  
request. 521

(5) A public office or person responsible for public 522  
records may ask a requester to make the request in writing, may 523  
ask for the requester's identity, and may inquire about the 524  
intended use of the information requested, but may do so only 525  
after disclosing to the requester that a written request is not 526  
mandatory, that the requester may decline to reveal the 527  
requester's identity or the intended use, and when a written 528  
request or disclosure of the identity or intended use would 529  
benefit the requester by enhancing the ability of the public 530  
office or person responsible for public records to identify, 531  
locate, or deliver the public records sought by the requester. 532

(6) If any person requests a copy of a public record in 533  
accordance with division (B) of this section, the public office 534  
or person responsible for the public record may require ~~that~~ 535  
~~person~~ the requester to pay in advance the cost involved in 536  
providing the copy of the public record in accordance with the 537

choice made by the ~~person requesting the copy requester~~ under 538  
this division. The public office or the person responsible for 539  
the public record shall permit ~~that person the requester~~ to 540  
choose to have the public record duplicated upon paper, upon the 541  
same medium upon which the public office or person responsible 542  
for the public record keeps it, or upon any other medium upon 543  
which the public office or person responsible for the public 544  
record determines that it reasonably can be duplicated as an 545  
integral part of the normal operations of the public office or 546  
person responsible for the public record. When the ~~person~~ 547  
~~requesting the copy requester~~ makes a choice under this 548  
division, the public office or person responsible for the public 549  
record shall provide a copy of it in accordance with the choice 550  
made by ~~that person the requester~~. Nothing in this section 551  
requires a public office or person responsible for the public 552  
record to allow the ~~person requesting requester of~~ a copy of the 553  
public record to make the copies of the public record. 554

(7) (a) Upon a request made in accordance with division (B) 555  
of this section and subject to division (B) (6) of this section, 556  
a public office or person responsible for public records shall 557  
transmit a copy of a public record to any person by United 558  
States mail or by any other means of delivery or transmission 559  
within a reasonable period of time after receiving the request 560  
for the copy. The public office or person responsible for the 561  
public record may require the person making the request to pay 562  
in advance the cost of postage if the copy is transmitted by 563  
United States mail or the cost of delivery if the copy is 564  
transmitted other than by United States mail, and to pay in 565  
advance the costs incurred for other supplies used in the 566  
mailing, delivery, or transmission. 567

(b) Any public office may adopt a policy and procedures 568

that it will follow in transmitting, within a reasonable period 569  
of time after receiving a request, copies of public records by 570  
United States mail or by any other means of delivery or 571  
transmission pursuant to division (B) (7) of this section. A 572  
public office that adopts a policy and procedures under division 573  
(B) (7) of this section shall comply with them in performing its 574  
duties under that division. 575

(c) In any policy and procedures adopted under division 576  
(B) (7) of this section: 577

(i) A public office may limit the number of records 578  
requested by a person that the office will physically deliver by 579  
United States mail or by another delivery service to ten per 580  
month, unless the person certifies to the office in writing that 581  
the person does not intend to use or forward the requested 582  
records, or the information contained in them, for commercial 583  
purposes; 584

(ii) A public office that chooses to provide some or all 585  
of its public records on a web site that is fully accessible to 586  
and searchable by members of the public at all times, other than 587  
during acts of God outside the public office's control or 588  
maintenance, and that charges no fee to search, access, 589  
download, or otherwise receive records provided on the web site, 590  
may limit to ten per month the number of records requested by a 591  
person that the office will deliver in a digital format, unless 592  
the requested records are not provided on the web site and 593  
unless the person certifies to the office in writing that the 594  
person does not intend to use or forward the requested records, 595  
or the information contained in them, for commercial purposes. 596

(iii) For purposes of division (B) (7) of this section, 597  
"commercial" shall be narrowly construed and does not include 598

reporting or gathering news, reporting or gathering information 599  
to assist citizen oversight or understanding of the operation or 600  
activities of government, or nonprofit educational research. 601

(8) A public office or person responsible for public 602  
records is not required to permit a person who is incarcerated 603  
pursuant to a criminal conviction or a juvenile adjudication to 604  
inspect or to obtain a copy of any public record concerning a 605  
criminal investigation or prosecution or concerning what would 606  
be a criminal investigation or prosecution if the subject of the 607  
investigation or prosecution were an adult, unless the request 608  
to inspect or to obtain a copy of the record is for the purpose 609  
of acquiring information that is subject to release as a public 610  
record under this section and the judge who imposed the sentence 611  
or made the adjudication with respect to the person, or the 612  
judge's successor in office, finds that the information sought 613  
in the public record is necessary to support what appears to be 614  
a justiciable claim of the person. 615

(9) (a) Upon written request made and signed by a 616  
journalist, a public office, or person responsible for public 617  
records, having custody of the records of the agency employing a 618  
specified designated public service worker shall disclose to the 619  
journalist the address of the actual personal residence of the 620  
designated public service worker and, if the designated public 621  
service worker's spouse, former spouse, or child is employed by 622  
a public office, the name and address of the employer of the 623  
designated public service worker's spouse, former spouse, or 624  
child. The request shall include the journalist's name and title 625  
and the name and address of the journalist's employer and shall 626  
state that disclosure of the information sought would be in the 627  
public interest. 628

(b) Division (B) (9) (a) of this section also applies to 629  
journalist requests for: 630

(i) Customer information maintained by a municipally owned 631  
or operated public utility, other than social security numbers 632  
and any private financial information such as credit reports, 633  
payment methods, credit card numbers, and bank account 634  
information; 635

(ii) Information about minors involved in a school vehicle 636  
accident as provided in division (A) (1) (gg) of this section, 637  
other than personal information as defined in section 149.45 of 638  
the Revised Code. 639

(c) As used in division (B) (9) of this section, 640  
"journalist" means a person engaged in, connected with, or 641  
employed by any news medium, including a newspaper, magazine, 642  
press association, news agency, or wire service, a radio or 643  
television station, or a similar medium, for the purpose of 644  
gathering, processing, transmitting, compiling, editing, or 645  
disseminating information for the general public. 646

(10) Upon a request made by a victim, victim's attorney, 647  
or victim's representative, as that term is used in section 648  
2930.02 of the Revised Code, a public office or person 649  
responsible for public records shall transmit a copy of a 650  
depiction of the victim as described in division ~~(A) (1) (gg)~~ (A) 651  
(1) (ii) of this section to the victim, victim's attorney, or 652  
victim's representative. 653

(C) (1) If a person allegedly is aggrieved by the failure 654  
of a public office or the person responsible for public records 655  
to promptly prepare a public record and to make it available to 656  
the person for inspection in accordance with division (B) of 657

this section or by any other failure of a public office or the 658  
person responsible for public records to comply with an 659  
obligation in accordance with division (B) of this section, the 660  
person allegedly aggrieved may do only one of the following, and 661  
not both: 662

(a) File a complaint with the clerk of the court of claims 663  
or the clerk of the court of common pleas under section 2743.75 664  
of the Revised Code; 665

(b) Commence a mandamus action to obtain a judgment that 666  
orders the public office or the person responsible for the 667  
public record to comply with division (B) of this section, that 668  
awards court costs and reasonable attorney's fees to the person 669  
that instituted the mandamus action, and, if applicable, that 670  
includes an order fixing statutory damages under division (C) (2) 671  
of this section. The mandamus action may be commenced in the 672  
court of common pleas of the county in which division (B) of 673  
this section allegedly was not complied with, in the supreme 674  
court pursuant to its original jurisdiction under Section 2 of 675  
Article IV, Ohio Constitution, or in the court of appeals for 676  
the appellate district in which division (B) of this section 677  
allegedly was not complied with pursuant to its original 678  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 679

(2) If a requester transmits a written request by hand 680  
delivery, electronic submission, or certified mail to inspect or 681  
receive copies of any public record in a manner that fairly 682  
describes the public record or class of public records to the 683  
public office or person responsible for the requested public 684  
records, except as otherwise provided in this section, the 685  
requester shall be entitled to recover the amount of statutory 686  
damages set forth in this division if a court determines that 687



the public office or the person responsible for public records 688  
failed to comply with an obligation in accordance with division 689  
(B) of this section. 690

The amount of statutory damages shall be fixed at one 691  
hundred dollars for each business day during which the public 692  
office or person responsible for the requested public records 693  
failed to comply with an obligation in accordance with division 694  
(B) of this section, beginning with the day on which the 695  
requester files a mandamus action to recover statutory damages, 696  
up to a maximum of one thousand dollars. The award of statutory 697  
damages shall not be construed as a penalty, but as compensation 698  
for injury arising from lost use of the requested information. 699  
The existence of this injury shall be conclusively presumed. The 700  
award of statutory damages shall be in addition to all other 701  
remedies authorized by this section. 702

The court may reduce an award of statutory damages or not 703  
award statutory damages if the court determines both of the 704  
following: 705

(a) That, based on the ordinary application of statutory 706  
law and case law as it existed at the time of the conduct or 707  
threatened conduct of the public office or person responsible 708  
for the requested public records that allegedly constitutes a 709  
failure to comply with an obligation in accordance with division 710  
(B) of this section and that was the basis of the mandamus 711  
action, a well-informed public office or person responsible for 712  
the requested public records reasonably would believe that the 713  
conduct or threatened conduct of the public office or person 714  
responsible for the requested public records did not constitute 715  
a failure to comply with an obligation in accordance with 716  
division (B) of this section; 717

(b) That a well-informed public office or person 718  
responsible for the requested public records reasonably would 719  
believe that the conduct or threatened conduct of the public 720  
office or person responsible for the requested public records 721  
would serve the public policy that underlies the authority that 722  
is asserted as permitting that conduct or threatened conduct. 723

(3) In a mandamus action filed under division (C) (1) of 724  
this section, the following apply: 725

(a) (i) If the court orders the public office or the person 726  
responsible for the public record to comply with division (B) of 727  
this section, the court shall determine and award to the relator 728  
all court costs, which shall be construed as remedial and not 729  
punitive. 730

(ii) If the court makes a determination described in 731  
division (C) (3) (b) (iii) of this section, the court shall 732  
determine and award to the relator all court costs, which shall 733  
be construed as remedial and not punitive. 734

(b) If the court renders a judgment that orders the public 735  
office or the person responsible for the public record to comply 736  
with division (B) of this section or if the court determines any 737  
of the following, the court may award reasonable attorney's fees 738  
to the relator, subject to division (C) (4) of this section: 739

(i) The public office or the person responsible for the 740  
public records failed to respond affirmatively or negatively to 741  
the public records request in accordance with the time allowed 742  
under division (B) of this section. 743

(ii) The public office or the person responsible for the 744  
public records promised to permit the relator to inspect or 745  
receive copies of the public records requested within a 746

specified period of time but failed to fulfill that promise 747  
within that specified period of time. 748

(iii) The public office or the person responsible for the 749  
public records acted in bad faith when the office or person 750  
voluntarily made the public records available to the relator for 751  
the first time after the relator commenced the mandamus action, 752  
but before the court issued any order concluding whether or not 753  
the public office or person was required to comply with division 754  
(B) of this section. No discovery may be conducted on the issue 755  
of the alleged bad faith of the public office or person 756  
responsible for the public records. This division shall not be 757  
construed as creating a presumption that the public office or 758  
the person responsible for the public records acted in bad faith 759  
when the office or person voluntarily made the public records 760  
available to the relator for the first time after the relator 761  
commenced the mandamus action, but before the court issued any 762  
order described in this division. 763

(c) The court shall not award attorney's fees to the 764  
relator if the court determines both of the following: 765

(i) That, based on the ordinary application of statutory 766  
law and case law as it existed at the time of the conduct or 767  
threatened conduct of the public office or person responsible 768  
for the requested public records that allegedly constitutes a 769  
failure to comply with an obligation in accordance with division 770  
(B) of this section and that was the basis of the mandamus 771  
action, a well-informed public office or person responsible for 772  
the requested public records reasonably would believe that the 773  
conduct or threatened conduct of the public office or person 774  
responsible for the requested public records did not constitute 775  
a failure to comply with an obligation in accordance with 776

division (B) of this section; 777

(ii) That a well-informed public office or person 778  
responsible for the requested public records reasonably would 779  
believe that the conduct or threatened conduct of the public 780  
office or person responsible for the requested public records 781  
would serve the public policy that underlies the authority that 782  
is asserted as permitting that conduct or threatened conduct. 783

(4) All of the following apply to any award of reasonable 784  
attorney's fees awarded under division (C) (3) (b) of this 785  
section: 786

(a) The fees shall be construed as remedial and not 787  
punitive. 788

(b) The fees awarded shall not exceed the total of the 789  
reasonable attorney's fees incurred before the public record was 790  
made available to the relator and the fees described in division 791  
(C) (4) (c) of this section. 792

(c) Reasonable attorney's fees shall include reasonable 793  
fees incurred to produce proof of the reasonableness and amount 794  
of the fees and to otherwise litigate entitlement to the fees. 795

(d) The court may reduce the amount of fees awarded if the 796  
court determines that, given the factual circumstances involved 797  
with the specific public records request, an alternative means 798  
should have been pursued to more effectively and efficiently 799  
resolve the dispute that was subject to the mandamus action 800  
filed under division (C) (1) of this section. 801

(5) If the court does not issue a writ of mandamus under 802  
division (C) of this section and the court determines at that 803  
time that the bringing of the mandamus action was frivolous 804  
conduct as defined in division (A) of section 2323.51 of the 805

Revised Code, the court may award to the public office all court 806  
costs, expenses, and reasonable attorney's fees, as determined 807  
by the court. 808

(D) Chapter 1347. of the Revised Code does not limit the 809  
provisions of this section. 810

(E) (1) To ensure that all employees of public offices are 811  
appropriately educated about a public office's obligations under 812  
division (B) of this section, all elected officials or their 813  
appropriate designees shall attend training approved by the 814  
attorney general as provided in section 109.43 of the Revised 815  
Code. A future official may satisfy the requirements of this 816  
division by attending the training before taking office, 817  
provided that the future official may not send a designee in the 818  
future official's place. 819

(2) All public offices shall adopt a public records policy 820  
in compliance with this section for responding to public records 821  
requests. In adopting a public records policy under this 822  
division, a public office may obtain guidance from the model 823  
public records policy developed and provided to the public 824  
office by the attorney general under section 109.43 of the 825  
Revised Code. Except as otherwise provided in this section, the 826  
policy may not limit the number of public records that the 827  
public office will make available to a single person, may not 828  
limit the number of public records that it will make available 829  
during a fixed period of time, and may not establish a fixed 830  
period of time before it will respond to a request for 831  
inspection or copying of public records, unless that period is 832  
less than eight hours. 833

The public office shall distribute the public records 834  
policy adopted by the public office under this division to the 835

employee of the public office who is the records custodian or 836  
records manager or otherwise has custody of the records of that 837  
office. The public office shall require that employee to 838  
acknowledge receipt of the copy of the public records policy. 839  
The public office shall create a poster that describes its 840  
public records policy and shall post the poster in a conspicuous 841  
place in the public office and in all locations where the public 842  
office has branch offices. The public office may post its public 843  
records policy on the internet web site of the public office if 844  
the public office maintains an internet web site. A public 845  
office that has established a manual or handbook of its general 846  
policies and procedures for all employees of the public office 847  
shall include the public records policy of the public office in 848  
the manual or handbook. 849

(F) (1) The bureau of motor vehicles may adopt rules 850  
pursuant to Chapter 119. of the Revised Code to reasonably limit 851  
the number of bulk commercial special extraction requests made 852  
by a person for the same records or for updated records during a 853  
calendar year. The rules may include provisions for charges to 854  
be made for bulk commercial special extraction requests for the 855  
actual cost of the bureau, plus special extraction costs, plus 856  
ten per cent. The bureau may charge for expenses for redacting 857  
information, the release of which is prohibited by law. 858

(2) As used in division (F) (1) of this section: 859

(a) "Actual cost" means the cost of depleted supplies, 860  
records storage media costs, actual mailing and alternative 861  
delivery costs, or other transmitting costs, and any direct 862  
equipment operating and maintenance costs, including actual 863  
costs paid to private contractors for copying services. 864

(b) "Bulk commercial special extraction request" means a 865

request for copies of a record for information in a format other 866  
than the format already available, or information that cannot be 867  
extracted without examination of all items in a records series, 868  
class of records, or database by a person who intends to use or 869  
forward the copies for surveys, marketing, solicitation, or 870  
resale for commercial purposes. "Bulk commercial special 871  
extraction request" does not include a request by a person who 872  
gives assurance to the bureau that the person making the request 873  
does not intend to use or forward the requested copies for 874  
surveys, marketing, solicitation, or resale for commercial 875  
purposes. 876

(c) "Commercial" means profit-seeking production, buying, 877  
or selling of any good, service, or other product. 878

(d) "Special extraction costs" means the cost of the time 879  
spent by the lowest paid employee competent to perform the task, 880  
the actual amount paid to outside private contractors employed 881  
by the bureau, or the actual cost incurred to create computer 882  
programs to make the special extraction. "Special extraction 883  
costs" include any charges paid to a public agency for computer 884  
or records services. 885

(3) For purposes of divisions (F) (1) and (2) of this 886  
section, "surveys, marketing, solicitation, or resale for 887  
commercial purposes" shall be narrowly construed and does not 888  
include reporting or gathering news, reporting or gathering 889  
information to assist citizen oversight or understanding of the 890  
operation or activities of government, or nonprofit educational 891  
research. 892

(G) A request by a defendant, counsel of a defendant, or 893  
any agent of a defendant in a criminal action that public 894  
records related to that action be made available under this 895

section shall be considered a demand for discovery pursuant to 896  
the Criminal Rules, except to the extent that the Criminal Rules 897  
plainly indicate a contrary intent. The defendant, counsel of 898  
the defendant, or agent of the defendant making a request under 899  
this division shall serve a copy of the request on the 900  
prosecuting attorney, director of law, or other chief legal 901  
officer responsible for prosecuting the action. 902

(H) (1) Any portion of a body-worn camera or dashboard 903  
camera recording described in divisions (A) (17) (b) to (h) of 904  
this section may be released by consent of the subject of the 905  
recording or a representative of that person, as specified in 906  
those divisions, only if either of the following applies: 907

(a) The recording will not be used in connection with any 908  
probable or pending criminal proceedings; 909

(b) The recording has been used in connection with a 910  
criminal proceeding that was dismissed or for which a judgment 911  
has been entered pursuant to Rule 32 of the Rules of Criminal 912  
Procedure, and will not be used again in connection with any 913  
probable or pending criminal proceedings. 914

(2) If a public office denies a request to release a 915  
restricted portion of a body-worn camera or dashboard camera 916  
recording, as defined in division (A) (17) of this section, any 917  
person may file a mandamus action pursuant to this section or a 918  
complaint with the clerk of the court of claims pursuant to 919  
section 2743.75 of the Revised Code, requesting the court to 920  
order the release of all or portions of the recording. If the 921  
court considering the request determines that the filing 922  
articulates by clear and convincing evidence that the public 923  
interest in the recording substantially outweighs privacy 924  
interests and other interests asserted to deny release, the 925



court shall order the public office to release the recording. 926

**Section 2.** That existing section 149.43 of the Revised 927  
Code is hereby repealed. 928