

As Introduced

135th General Assembly

Regular Session

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S. B. No. 173

Senators DeMora, Gavarone

Cosponsors: Senators Craig, Ingram, Smith, Sykes, Antonio, Hicks-Hudson

A BILL

To amend section 149.43 of the Revised Code to 1
specify that election officials are designated 2
public service workers for purposes of the 3
public records law. 4

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

Section 1. That section 149.43 of the Revised Code be 5
amended to read as follows: 6

Sec. 149.43. (A) As used in this section: 7

(1) "Public record" means records kept by any public 8
office, including, but not limited to, state, county, city, 9
village, township, and school district units, and records 10
pertaining to the delivery of educational services by an 11
alternative school in this state kept by the nonprofit or for- 12
profit entity operating the alternative school pursuant to 13
section 3313.533 of the Revised Code. "Public record" does not 14
mean any of the following: 15

(a) Medical records; 16

(b) Records pertaining to probation and parole 17

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; 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; and any real property confidentiality notice filed under section 111.431 of the Revised Code and the information described in division (C) of that section. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.	113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129
(ff) Orders for active military service of an individual	130

serving or with previous service in the armed forces of the 131
United States, including a reserve component, or the Ohio 132
organized militia, except that, such order becomes a public 133
record on the day that is fifteen years after the published date 134
or effective date of the call to order; 135

(gg) The name, address, contact information, or other 136
personal information of an individual who is less than eighteen 137
years of age that is included in any record related to a traffic 138
accident involving a school vehicle in which the individual was 139
an occupant at the time of the accident; 140

(hh) Protected health information, as defined in 45 C.F.R. 141
160.103, that is in a claim for payment for a health care 142
product, service, or procedure, as well as any other health 143
claims data in another document that reveals the identity of an 144
individual who is the subject of the data or could be used to 145
reveal that individual's identity; 146

(ii) Any depiction by photograph, film, videotape, or 147
printed or digital image under either of the following 148
circumstances: 149

(i) The depiction is that of a victim of an offense the 150
release of which would be, to a reasonable person of ordinary 151
sensibilities, an offensive and objectionable intrusion into the 152
victim's expectation of bodily privacy and integrity. 153

(ii) The depiction captures or depicts the victim of a 154
sexually oriented offense, as defined in section 2950.01 of the 155
Revised Code, at the actual occurrence of that offense. 156

(jj) Restricted portions of a body-worn camera or 157
dashboard camera recording; 158

(kk) In the case of a fetal-infant mortality review board 159

acting under sections 3707.70 to 3707.77 of the Revised Code, 160
records, documents, reports, or other information presented to 161
the board or a person abstracting such materials on the board's 162
behalf, statements made by review board members during board 163
meetings, all work products of the board, and data submitted by 164
the board to the department of health or a national infant death 165
review database, other than the report prepared pursuant to 166
section 3707.77 of the Revised Code. 167

(ll) Records, documents, reports, or other information 168
presented to the pregnancy-associated mortality review board 169
established under section 3738.01 of the Revised Code, 170
statements made by board members during board meetings, all work 171
products of the board, and data submitted by the board to the 172
department of health, other than the biennial reports prepared 173
under section 3738.08 of the Revised Code; 174

(mm) Except as otherwise provided in division (A) (1) (oo) 175
of this section, telephone numbers for a victim, as defined in 176
section 2930.01 of the Revised Code or a witness to a crime that 177
are listed on any law enforcement record or report. 178

(nn) A preneed funeral contract, as defined in section 179
4717.01 of the Revised Code, and contract terms and personally 180
identifying information of a preneed funeral contract, that is 181
contained in a report submitted by or for a funeral home to the 182
board of embalmers and funeral directors under division (C) of 183
section 4717.13, division (J) of section 4717.31, or section 184
4717.41 of the Revised Code. 185

(oo) Telephone numbers for a party to a motor vehicle 186
accident subject to the requirements of section 5502.11 of the 187
Revised Code that are listed on any law enforcement record or 188
report, except that the telephone numbers described in this 189

division are not excluded from the definition of "public record" 190
under this division on and after the thirtieth day after the 191
occurrence of the motor vehicle accident. 192

(pp) Records pertaining to individuals who complete 193
training under section 5502.703 of the Revised Code to be 194
permitted by a school district board of education or governing 195
body of a community school established under Chapter 3314. of 196
the Revised Code, a STEM school established under Chapter 3326. 197
of the Revised Code, or a chartered nonpublic school to convey 198
deadly weapons or dangerous ordnance into a school safety zone; 199

(qq) Records, documents, reports, or other information 200
presented to a domestic violence fatality review board 201
established under section 307.651 of the Revised Code, 202
statements made by board members during board meetings, all work 203
products of the board, and data submitted by the board to the 204
department of health, other than a report prepared pursuant to 205
section 307.656 of the Revised Code; 206

(rr) Records, documents, and information the release of 207
which is prohibited under sections 2930.04 and 2930.07 of the 208
Revised Code; 209

(ss) Records of an existing qualified nonprofit 210
corporation that creates a special improvement district under 211
Chapter 1710. of the Revised Code that do not pertain to a 212
purpose for which the district is created. 213

A record that is not a public record under division (A) (1) 214
of this section and that, under law, is permanently retained 215
becomes a public record on the day that is seventy-five years 216
after the day on which the record was created, except for any 217
record protected by the attorney-client privilege, a trial 218

preparation record as defined in this section, a statement 219
prohibiting the release of identifying information signed under 220
section 3107.083 of the Revised Code, a denial of release form 221
filed pursuant to section 3107.46 of the Revised Code, or any 222
record that is exempt from release or disclosure under section 223
149.433 of the Revised Code. If the record is a birth 224
certificate and a biological parent's name redaction request 225
form has been accepted under section 3107.391 of the Revised 226
Code, the name of that parent shall be redacted from the birth 227
certificate before it is released under this paragraph. If any 228
other section of the Revised Code establishes a time period for 229
disclosure of a record that conflicts with the time period 230
specified in this section, the time period in the other section 231
prevails. 232

(2) "Confidential law enforcement investigatory record" 233
means any record that pertains to a law enforcement matter of a 234
criminal, quasi-criminal, civil, or administrative nature, but 235
only to the extent that the release of the record would create a 236
high probability of disclosure of any of the following: 237

(a) The identity of a suspect who has not been charged 238
with the offense to which the record pertains, or of an 239
information source or witness to whom confidentiality has been 240
reasonably promised; 241

(b) Information provided by an information source or 242
witness to whom confidentiality has been reasonably promised, 243
which information would reasonably tend to disclose the source's 244
or witness's identity; 245

(c) Specific confidential investigatory techniques or 246
procedures or specific investigatory work product; 247

(d) Information that would endanger the life or physical 248
safety of law enforcement personnel, a crime victim, a witness, 249
or a confidential information source. 250

(3) "Medical record" means any document or combination of 251
documents, except births, deaths, and the fact of admission to 252
or discharge from a hospital, that pertains to the medical 253
history, diagnosis, prognosis, or medical condition of a patient 254
and that is generated and maintained in the process of medical 255
treatment. 256

(4) "Trial preparation record" means any record that 257
contains information that is specifically compiled in reasonable 258
anticipation of, or in defense of, a civil or criminal action or 259
proceeding, including the independent thought processes and 260
personal trial preparation of an attorney. 261

(5) "Intellectual property record" means a record, other 262
than a financial or administrative record, that is produced or 263
collected by or for faculty or staff of a state institution of 264
higher learning in the conduct of or as a result of study or 265
research on an educational, commercial, scientific, artistic, 266
technical, or scholarly issue, regardless of whether the study 267
or research was sponsored by the institution alone or in 268
conjunction with a governmental body or private concern, and 269
that has not been publicly released, published, or patented. 270

(6) "Donor profile record" means all records about donors 271
or potential donors to a public institution of higher education 272
except the names and reported addresses of the actual donors and 273
the date, amount, and conditions of the actual donation. 274

(7) "Designated public service worker" means a peace 275
officer, parole officer, probation officer, bailiff, prosecuting 276

attorney, assistant prosecuting attorney, correctional employee, 277
county or multicounty corrections officer, community-based 278
correctional facility employee, designated Ohio national guard 279
member, protective services worker, youth services employee, 280
firefighter, EMT, medical director or member of a cooperating 281
physician advisory board of an emergency medical service 282
organization, state board of pharmacy employee, investigator of 283
the bureau of criminal identification and investigation, 284
emergency service telecommunicator, forensic mental health 285
provider, mental health evaluation provider, regional 286
psychiatric hospital employee, judge, magistrate, ~~or~~ federal law 287
enforcement officer, or election official. 288

(8) "Designated public service worker residential and 289
familial information" means any information that discloses any 290
of the following about a designated public service worker: 291

(a) The address of the actual personal residence of a 292
designated public service worker, except for the following 293
information: 294

(i) The address of the actual personal residence of a 295
prosecuting attorney or judge; and 296

(ii) The state or political subdivision in which a 297
designated public service worker resides. 298

(b) Information compiled from referral to or participation 299
in an employee assistance program; 300

(c) The social security number, the residential telephone 301
number, any bank account, debit card, charge card, or credit 302
card number, or the emergency telephone number of, or any 303
medical information pertaining to, a designated public service 304
worker; 305

(d) The name of any beneficiary of employment benefits, 306
including, but not limited to, life insurance benefits, provided 307
to a designated public service worker by the designated public 308
service worker's employer; 309

(e) The identity and amount of any charitable or 310
employment benefit deduction made by the designated public 311
service worker's employer from the designated public service 312
worker's compensation, unless the amount of the deduction is 313
required by state or federal law; 314

(f) The name, the residential address, the name of the 315
employer, the address of the employer, the social security 316
number, the residential telephone number, any bank account, 317
debit card, charge card, or credit card number, or the emergency 318
telephone number of the spouse, a former spouse, or any child of 319
a designated public service worker; 320

(g) A photograph of a peace officer who holds a position 321
or has an assignment that may include undercover or plain 322
clothes positions or assignments as determined by the peace 323
officer's appointing authority. 324

(9) As used in divisions (A) (7) and (15) to (17) of this 325
section: 326

"Peace officer" has the meaning defined in section 109.71 327
of the Revised Code and also includes the superintendent and 328
troopers of the state highway patrol; it does not include the 329
sheriff of a county or a supervisory employee who, in the 330
absence of the sheriff, is authorized to stand in for, exercise 331
the authority of, and perform the duties of the sheriff. 332

"Correctional employee" means any employee of the 333
department of rehabilitation and correction who in the course of 334

performing the employee's job duties has or has had contact with 335
inmates and persons under supervision. 336

"County or multicounty corrections officer" means any 337
corrections officer employed by any county or multicounty 338
correctional facility. 339

"Designated Ohio national guard member" means a member of 340
the Ohio national guard who is participating in duties related 341
to remotely piloted aircraft, including, but not limited to, 342
pilots, sensor operators, and mission intelligence personnel, 343
duties related to special forces operations, or duties related 344
to cybersecurity, and is designated by the adjutant general as a 345
designated public service worker for those purposes. 346

"Protective services worker" means any employee of a 347
county agency who is responsible for child protective services, 348
child support services, or adult protective services. 349

"Youth services employee" means any employee of the 350
department of youth services who in the course of performing the 351
employee's job duties has or has had contact with children 352
committed to the custody of the department of youth services. 353

"Firefighter" means any regular, paid or volunteer, member 354
of a lawfully constituted fire department of a municipal 355
corporation, township, fire district, or village. 356

"EMT" means EMTs-basic, EMTs-I, and paramedics that 357
provide emergency medical services for a public emergency 358
medical service organization. "Emergency medical service 359
organization," "EMT-basic," "EMT-I," and "paramedic" have the 360
meanings defined in section 4765.01 of the Revised Code. 361

"Investigator of the bureau of criminal identification and 362
investigation" has the meaning defined in section 2903.11 of the 363

Revised Code.	364
"Emergency service telecommunicator" means an individual	365
employed by an emergency service provider as defined under	366
section 128.01 of the Revised Code, whose primary responsibility	367
is to be an operator for the receipt or processing of calls for	368
emergency services made by telephone, radio, or other electronic	369
means.	370
"Forensic mental health provider" means any employee of a	371
community mental health service provider or local alcohol, drug	372
addiction, and mental health services board who, in the course	373
of the employee's duties, has contact with persons committed to	374
a local alcohol, drug addiction, and mental health services	375
board by a court order pursuant to section 2945.38, 2945.39,	376
2945.40, or 2945.402 of the Revised Code.	377
"Mental health evaluation provider" means an individual	378
who, under Chapter 5122. of the Revised Code, examines a	379
respondent who is alleged to be a mentally ill person subject to	380
court order, as defined in section 5122.01 of the Revised Code,	381
and reports to the probate court the respondent's mental	382
condition.	383
"Regional psychiatric hospital employee" means any	384
employee of the department of mental health and addiction	385
services who, in the course of performing the employee's duties,	386
has contact with patients committed to the department of mental	387
health and addiction services by a court order pursuant to	388
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised	389
Code.	390
"Federal law enforcement officer" has the meaning defined	391
in section 9.88 of the Revised Code.	392

<u>"Election official" has the same meaning as in section</u>	393
<u>3501.01 of the Revised Code.</u>	394
(10) "Information pertaining to the recreational	395
activities of a person under the age of eighteen" means	396
information that is kept in the ordinary course of business by a	397
public office, that pertains to the recreational activities of a	398
person under the age of eighteen years, and that discloses any	399
of the following:	400
(a) The address or telephone number of a person under the	401
age of eighteen or the address or telephone number of that	402
person's parent, guardian, custodian, or emergency contact	403
person;	404
(b) The social security number, birth date, or	405
photographic image of a person under the age of eighteen;	406
(c) Any medical record, history, or information pertaining	407
to a person under the age of eighteen;	408
(d) Any additional information sought or required about a	409
person under the age of eighteen for the purpose of allowing	410
that person to participate in any recreational activity	411
conducted or sponsored by a public office or to use or obtain	412
admission privileges to any recreational facility owned or	413
operated by a public office.	414
(11) "Community control sanction" has the meaning defined	415
in section 2929.01 of the Revised Code.	416
(12) "Post-release control sanction" has the meaning	417
defined in section 2967.01 of the Revised Code.	418
(13) "Redaction" means obscuring or deleting any	419
information that is exempt from the duty to permit public	420

inspection or copying from an item that otherwise meets the 421
definition of a "record" in section 149.011 of the Revised Code. 422

(14) "Designee," "elected official," and "future official" 423
have the meanings defined in section 109.43 of the Revised Code. 424

(15) "Body-worn camera" means a visual and audio recording 425
device worn on the person of a correctional employee, youth 426
services employee, or peace officer while the correctional 427
employee, youth services employee, or peace officer is engaged 428
in the performance of official duties. 429

(16) "Dashboard camera" means a visual and audio recording 430
device mounted on a peace officer's vehicle or vessel that is 431
used while the peace officer is engaged in the performance of 432
the peace officer's duties. 433

(17) "Restricted portions of a body-worn camera or 434
dashboard camera recording" means any visual or audio portion of 435
a body-worn camera or dashboard camera recording that shows, 436
communicates, or discloses any of the following: 437

(a) The image or identity of a child or information that 438
could lead to the identification of a child who is a primary 439
subject of the recording when the department of rehabilitation 440
and correction, department of youth services, or the law 441
enforcement agency knows or has reason to know the person is a 442
child based on the department's or law enforcement agency's 443
records or the content of the recording; 444

(b) The death of a person or a deceased person's body, 445
unless the death was caused by a correctional employee, youth 446
services employee, or peace officer or, subject to division (H) 447
(1) of this section, the consent of the decedent's executor or 448
administrator has been obtained; 449

(c) The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the decedent's executor or administrator has been obtained;

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

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

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

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

(h) A person's nude body, unless, subject to division (H)	480
(l) of this section, the person's consent has been obtained;	481
(i) Protected health information, the identity of a person	482
in a health care facility who is not the subject of a	483
correctional, youth services, or law enforcement encounter, or	484
any other information in a health care facility that could	485
identify a person who is not the subject of a correctional,	486
youth services, or law enforcement encounter;	487
(j) Information that could identify the alleged victim of	488
a sex offense, menacing by stalking, or domestic violence;	489
(k) Information, that does not constitute a confidential	490
law enforcement investigatory record, that could identify a	491
person who provides sensitive or confidential information to the	492
department of rehabilitation and correction, the department of	493
youth services, or a law enforcement agency when the disclosure	494
of the person's identity or the information provided could	495
reasonably be expected to threaten or endanger the safety or	496
property of the person or another person;	497
(l) Personal information of a person who is not arrested,	498
cited, charged, or issued a written warning by a peace officer;	499
(m) Proprietary correctional, youth services, or police	500
contingency plans or tactics that are intended to prevent crime	501
and maintain public order and safety;	502
(n) A personal conversation unrelated to work between	503
correctional employees, youth services employees, or peace	504
officers or between a correctional employee, youth services	505
employee, or peace officer and an employee of a law enforcement	506
agency;	507
(o) A conversation between a correctional employee, youth	508

services employee, or peace officer and a member of the public 509
that does not concern correctional, youth services, or law 510
enforcement activities; 511

(p) The interior of a residence, unless the interior of a 512
residence is the location of an adversarial encounter with, or a 513
use of force by, a correctional employee, youth services 514
employee, or peace officer; 515

(q) Any portion of the interior of a private business that 516
is not open to the public, unless an adversarial encounter with, 517
or a use of force by, a correctional employee, youth services 518
employee, or peace officer occurs in that location. 519

As used in division (A) (17) of this section: 520

"Grievous bodily harm" has the same meaning as in section 521
5924.120 of the Revised Code. 522

"Health care facility" has the same meaning as in section 523
1337.11 of the Revised Code. 524

"Protected health information" has the same meaning as in 525
45 C.F.R. 160.103. 526

"Law enforcement agency" means a government entity that 527
employs peace officers to perform law enforcement duties. 528

"Personal information" means any government-issued 529
identification number, date of birth, address, financial 530
information, or criminal justice information from the law 531
enforcement automated data system or similar databases. 532

"Sex offense" has the same meaning as in section 2907.10 533
of the Revised Code. 534

"Firefighter," "paramedic," and "first responder" have the 535

same meanings as in section 4765.01 of the Revised Code. 536

(B) (1) Upon request by any person and subject to division 537
(B) (8) of this section, all public records responsive to the 538
request shall be promptly prepared and made available for 539
inspection to the requester at all reasonable times during 540
regular business hours. Subject to division (B) (8) of this 541
section, upon request by any person, a public office or person 542
responsible for public records shall make copies of the 543
requested public record available to the requester at cost and 544
within a reasonable period of time. If a public record contains 545
information that is exempt from the duty to permit public 546
inspection or to copy the public record, the public office or 547
the person responsible for the public record shall make 548
available all of the information within the public record that 549
is not exempt. When making that public record available for 550
public inspection or copying that public record, the public 551
office or the person responsible for the public record shall 552
notify the requester of any redaction or make the redaction 553
plainly visible. A redaction shall be deemed a denial of a 554
request to inspect or copy the redacted information, except if 555
federal or state law authorizes or requires a public office to 556
make the redaction. When the auditor of state receives a request 557
to inspect or to make a copy of a record that was provided to 558
the auditor of state for purposes of an audit, but the original 559
public office has asserted to the auditor of state that the 560
record is not a public record, the auditor of state may handle 561
the requests by directing the requestor to the original public 562
office that provided the record to the auditor of state. 563

(2) To facilitate broader access to public records, a 564
public office or the person responsible for public records shall 565
organize and maintain public records in a manner that they can 566

be made available for inspection or copying in accordance with 567
division (B) of this section. A public office also shall have 568
available a copy of its current records retention schedule at a 569
location readily available to the public. If a requester makes 570
an ambiguous or overly broad request or has difficulty in making 571
a request for copies or inspection of public records under this 572
section such that the public office or the person responsible 573
for the requested public record cannot reasonably identify what 574
public records are being requested, the public office or the 575
person responsible for the requested public record may deny the 576
request but shall provide the requester with an opportunity to 577
revise the request by informing the requester of the manner in 578
which records are maintained by the public office and accessed 579
in the ordinary course of the public office's or person's 580
duties. 581

(3) If a request is ultimately denied, in part or in 582
whole, the public office or the person responsible for the 583
requested public record shall provide the requester with an 584
explanation, including legal authority, setting forth why the 585
request was denied. If the initial request was provided in 586
writing, the explanation also shall be provided to the requester 587
in writing. The explanation shall not preclude the public office 588
or the person responsible for the requested public record from 589
relying upon additional reasons or legal authority in defending 590
an action commenced under division (C) of this section. 591

(4) Unless specifically required or authorized by state or 592
federal law or in accordance with division (B) of this section, 593
no public office or person responsible for public records may 594
limit or condition the availability of public records by 595
requiring disclosure of the requester's identity or the intended 596
use of the requested public record. Any requirement that the 597

requester disclose the requester's identity or the intended use 598
of the requested public record constitutes a denial of the 599
request. 600

(5) A public office or person responsible for public 601
records may ask a requester to make the request in writing, may 602
ask for the requester's identity, and may inquire about the 603
intended use of the information requested, but may do so only 604
after disclosing to the requester that a written request is not 605
mandatory, that the requester may decline to reveal the 606
requester's identity or the intended use, and when a written 607
request or disclosure of the identity or intended use would 608
benefit the requester by enhancing the ability of the public 609
office or person responsible for public records to identify, 610
locate, or deliver the public records sought by the requester. 611

(6) If any person requests a copy of a public record in 612
accordance with division (B) of this section, the public office 613
or person responsible for the public record may require the 614
requester to pay in advance the cost involved in providing the 615
copy of the public record in accordance with the choice made by 616
the requester under this division. The public office or the 617
person responsible for the public record shall permit the 618
requester to choose to have the public record duplicated upon 619
paper, upon the same medium upon which the public office or 620
person responsible for the public record keeps it, or upon any 621
other medium upon which the public office or person responsible 622
for the public record determines that it reasonably can be 623
duplicated as an integral part of the normal operations of the 624
public office or person responsible for the public record. When 625
the requester makes a choice under this division, the public 626
office or person responsible for the public record shall provide 627
a copy of it in accordance with the choice made by the 628

requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

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

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

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

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per

month, unless the person certifies to the office in writing that 659
the person does not intend to use or forward the requested 660
records, or the information contained in them, for commercial 661
purposes; 662

(ii) A public office that chooses to provide some or all 663
of its public records on a web site that is fully accessible to 664
and searchable by members of the public at all times, other than 665
during acts of God outside the public office's control or 666
maintenance, and that charges no fee to search, access, 667
download, or otherwise receive records provided on the web site, 668
may limit to ten per month the number of records requested by a 669
person that the office will deliver in a digital format, unless 670
the requested records are not provided on the web site and 671
unless the person certifies to the office in writing that the 672
person does not intend to use or forward the requested records, 673
or the information contained in them, for commercial purposes. 674

(iii) For purposes of division (B) (7) of this section, 675
"commercial" shall be narrowly construed and does not include 676
reporting or gathering news, reporting or gathering information 677
to assist citizen oversight or understanding of the operation or 678
activities of government, or nonprofit educational research. 679

(8) A public office or person responsible for public 680
records is not required to permit a person who is incarcerated 681
pursuant to a criminal conviction or a juvenile adjudication to 682
inspect or to obtain a copy of any public record concerning a 683
criminal investigation or prosecution or concerning what would 684
be a criminal investigation or prosecution if the subject of the 685
investigation or prosecution were an adult, unless the request 686
to inspect or to obtain a copy of the record is for the purpose 687
of acquiring information that is subject to release as a public 688

record under this section and the judge who imposed the sentence 689
or made the adjudication with respect to the person, or the 690
judge's successor in office, finds that the information sought 691
in the public record is necessary to support what appears to be 692
a justiciable claim of the person. 693

(9) (a) Upon written request made and signed by a 694
journalist, a public office, or person responsible for public 695
records, having custody of the records of the agency employing a 696
specified designated public service worker shall disclose to the 697
journalist the address of the actual personal residence of the 698
designated public service worker and, if the designated public 699
service worker's spouse, former spouse, or child is employed by 700
a public office, the name and address of the employer of the 701
designated public service worker's spouse, former spouse, or 702
child. The request shall include the journalist's name and title 703
and the name and address of the journalist's employer and shall 704
state that disclosure of the information sought would be in the 705
public interest. 706

(b) Division (B) (9) (a) of this section also applies to 707
journalist requests for: 708

(i) Customer information maintained by a municipally owned 709
or operated public utility, other than social security numbers 710
and any private financial information such as credit reports, 711
payment methods, credit card numbers, and bank account 712
information; 713

(ii) Information about minors involved in a school vehicle 714
accident as provided in division (A) (1) (gg) of this section, 715
other than personal information as defined in section 149.45 of 716
the Revised Code. 717

(c) As used in division (B) (9) of this section, 718
"journalist" means a person engaged in, connected with, or 719
employed by any news medium, including a newspaper, magazine, 720
press association, news agency, or wire service, a radio or 721
television station, or a similar medium, for the purpose of 722
gathering, processing, transmitting, compiling, editing, or 723
disseminating information for the general public. 724

(10) Upon a request made by a victim, victim's attorney, 725
or victim's representative, as that term is used in section 726
2930.02 of the Revised Code, a public office or person 727
responsible for public records shall transmit a copy of a 728
depiction of the victim as described in division (A) (1) (ii) of 729
this section to the victim, victim's attorney, or victim's 730
representative. 731

(C) (1) If a person allegedly is aggrieved by the failure 732
of a public office or the person responsible for public records 733
to promptly prepare a public record and to make it available to 734
the person for inspection in accordance with division (B) of 735
this section or by any other failure of a public office or the 736
person responsible for public records to comply with an 737
obligation in accordance with division (B) of this section, the 738
person allegedly aggrieved may do only one of the following, and 739
not both: 740

(a) File a complaint with the clerk of the court of claims 741
or the clerk of the court of common pleas under section 2743.75 742
of the Revised Code; 743

(b) Commence a mandamus action to obtain a judgment that 744
orders the public office or the person responsible for the 745
public record to comply with division (B) of this section, that 746
awards court costs and reasonable attorney's fees to the person 747

that instituted the mandamus action, and, if applicable, that 748
includes an order fixing statutory damages under division (C) (2) 749
of this section. The mandamus action may be commenced in the 750
court of common pleas of the county in which division (B) of 751
this section allegedly was not complied with, in the supreme 752
court pursuant to its original jurisdiction under Section 2 of 753
Article IV, Ohio Constitution, or in the court of appeals for 754
the appellate district in which division (B) of this section 755
allegedly was not complied with pursuant to its original 756
jurisdiction under Section 3 of Article IV, Ohio Constitution. 757

(2) If a requester transmits a written request by hand 758
delivery, electronic submission, or certified mail to inspect or 759
receive copies of any public record in a manner that fairly 760
describes the public record or class of public records to the 761
public office or person responsible for the requested public 762
records, except as otherwise provided in this section, the 763
requester shall be entitled to recover the amount of statutory 764
damages set forth in this division if a court determines that 765
the public office or the person responsible for public records 766
failed to comply with an obligation in accordance with division 767
(B) of this section. 768

The amount of statutory damages shall be fixed at one 769
hundred dollars for each business day during which the public 770
office or person responsible for the requested public records 771
failed to comply with an obligation in accordance with division 772
(B) of this section, beginning with the day on which the 773
requester files a mandamus action to recover statutory damages, 774
up to a maximum of one thousand dollars. The award of statutory 775
damages shall not be construed as a penalty, but as compensation 776
for injury arising from lost use of the requested information. 777
The existence of this injury shall be conclusively presumed. The 778

award of statutory damages shall be in addition to all other 779
remedies authorized by this section. 780

The court may reduce an award of statutory damages or not 781
award statutory damages if the court determines both of the 782
following: 783

(a) That, based on the ordinary application of statutory 784
law and case law as it existed at the time of the conduct or 785
threatened conduct of the public office or person responsible 786
for the requested public records that allegedly constitutes a 787
failure to comply with an obligation in accordance with division 788
(B) of this section and that was the basis of the mandamus 789
action, a well-informed public office or person responsible for 790
the requested public records reasonably would believe that the 791
conduct or threatened conduct of the public office or person 792
responsible for the requested public records did not constitute 793
a failure to comply with an obligation in accordance with 794
division (B) of this section; 795

(b) That a well-informed public office or person 796
responsible for the requested public records reasonably would 797
believe that the conduct or threatened conduct of the public 798
office or person responsible for the requested public records 799
would serve the public policy that underlies the authority that 800
is asserted as permitting that conduct or threatened conduct. 801

(3) In a mandamus action filed under division (C) (1) of 802
this section, the following apply: 803

(a) (i) If the court orders the public office or the person 804
responsible for the public record to comply with division (B) of 805
this section, the court shall determine and award to the relator 806
all court costs, which shall be construed as remedial and not 807

punitive. 808

(ii) If the court makes a determination described in 809
division (C) (3) (b) (iii) of this section, the court shall 810
determine and award to the relator all court costs, which shall 811
be construed as remedial and not punitive. 812

(b) If the court renders a judgment that orders the public 813
office or the person responsible for the public record to comply 814
with division (B) of this section or if the court determines any 815
of the following, the court may award reasonable attorney's fees 816
to the relator, subject to division (C) (4) of this section: 817

(i) The public office or the person responsible for the 818
public records failed to respond affirmatively or negatively to 819
the public records request in accordance with the time allowed 820
under division (B) of this section. 821

(ii) The public office or the person responsible for the 822
public records promised to permit the relator to inspect or 823
receive copies of the public records requested within a 824
specified period of time but failed to fulfill that promise 825
within that specified period of time. 826

(iii) The public office or the person responsible for the 827
public records acted in bad faith when the office or person 828
voluntarily made the public records available to the relator for 829
the first time after the relator commenced the mandamus action, 830
but before the court issued any order concluding whether or not 831
the public office or person was required to comply with division 832
(B) of this section. No discovery may be conducted on the issue 833
of the alleged bad faith of the public office or person 834
responsible for the public records. This division shall not be 835
construed as creating a presumption that the public office or 836

the person responsible for the public records acted in bad faith 837
when the office or person voluntarily made the public records 838
available to the relator for the first time after the relator 839
commenced the mandamus action, but before the court issued any 840
order described in this division. 841

(c) The court shall not award attorney's fees to the 842
relator if the court determines both of the following: 843

(i) That, based on the ordinary application of statutory 844
law and case law as it existed at the time of the conduct or 845
threatened conduct of the public office or person responsible 846
for the requested public records that allegedly constitutes a 847
failure to comply with an obligation in accordance with division 848
(B) of this section and that was the basis of the mandamus 849
action, a well-informed public office or person responsible for 850
the requested public records reasonably would believe that the 851
conduct or threatened conduct of the public office or person 852
responsible for the requested public records did not constitute 853
a failure to comply with an obligation in accordance with 854
division (B) of this section; 855

(ii) That a well-informed public office or person 856
responsible for the requested public records reasonably would 857
believe that the conduct or threatened conduct of the public 858
office or person responsible for the requested public records 859
would serve the public policy that underlies the authority that 860
is asserted as permitting that conduct or threatened conduct. 861

(4) All of the following apply to any award of reasonable 862
attorney's fees awarded under division (C) (3) (b) of this 863
section: 864

(a) The fees shall be construed as remedial and not 865

punitive. 866

(b) The fees awarded shall not exceed the total of the 867
reasonable attorney's fees incurred before the public record was 868
made available to the relator and the fees described in division 869
(C) (4) (c) of this section. 870

(c) Reasonable attorney's fees shall include reasonable 871
fees incurred to produce proof of the reasonableness and amount 872
of the fees and to otherwise litigate entitlement to the fees. 873

(d) The court may reduce the amount of fees awarded if the 874
court determines that, given the factual circumstances involved 875
with the specific public records request, an alternative means 876
should have been pursued to more effectively and efficiently 877
resolve the dispute that was subject to the mandamus action 878
filed under division (C) (1) of this section. 879

(5) If the court does not issue a writ of mandamus under 880
division (C) of this section and the court determines at that 881
time that the bringing of the mandamus action was frivolous 882
conduct as defined in division (A) of section 2323.51 of the 883
Revised Code, the court may award to the public office all court 884
costs, expenses, and reasonable attorney's fees, as determined 885
by the court. 886

(D) Chapter 1347. of the Revised Code does not limit the 887
provisions of this section. 888

(E) (1) To ensure that all employees of public offices are 889
appropriately educated about a public office's obligations under 890
division (B) of this section, all elected officials or their 891
appropriate designees shall attend training approved by the 892
attorney general as provided in section 109.43 of the Revised 893
Code. A future official may satisfy the requirements of this 894

division by attending the training before taking office, 895
provided that the future official may not send a designee in the 896
future official's place. 897

(2) All public offices shall adopt a public records policy 898
in compliance with this section for responding to public records 899
requests. In adopting a public records policy under this 900
division, a public office may obtain guidance from the model 901
public records policy developed and provided to the public 902
office by the attorney general under section 109.43 of the 903
Revised Code. Except as otherwise provided in this section, the 904
policy may not limit the number of public records that the 905
public office will make available to a single person, may not 906
limit the number of public records that it will make available 907
during a fixed period of time, and may not establish a fixed 908
period of time before it will respond to a request for 909
inspection or copying of public records, unless that period is 910
less than eight hours. 911

The public office shall distribute the public records 912
policy adopted by the public office under this division to the 913
employee of the public office who is the records custodian or 914
records manager or otherwise has custody of the records of that 915
office. The public office shall require that employee to 916
acknowledge receipt of the copy of the public records policy. 917
The public office shall create a poster that describes its 918
public records policy and shall post the poster in a conspicuous 919
place in the public office and in all locations where the public 920
office has branch offices. The public office may post its public 921
records policy on the internet web site of the public office if 922
the public office maintains an internet web site. A public 923
office that has established a manual or handbook of its general 924
policies and procedures for all employees of the public office 925

shall include the public records policy of the public office in 926
the manual or handbook. 927

(F) (1) The bureau of motor vehicles may adopt rules 928
pursuant to Chapter 119. of the Revised Code to reasonably limit 929
the number of bulk commercial special extraction requests made 930
by a person for the same records or for updated records during a 931
calendar year. The rules may include provisions for charges to 932
be made for bulk commercial special extraction requests for the 933
actual cost of the bureau, plus special extraction costs, plus 934
ten per cent. The bureau may charge for expenses for redacting 935
information, the release of which is prohibited by law. 936

(2) As used in division (F) (1) of this section: 937

(a) "Actual cost" means the cost of depleted supplies, 938
records storage media costs, actual mailing and alternative 939
delivery costs, or other transmitting costs, and any direct 940
equipment operating and maintenance costs, including actual 941
costs paid to private contractors for copying services. 942

(b) "Bulk commercial special extraction request" means a 943
request for copies of a record for information in a format other 944
than the format already available, or information that cannot be 945
extracted without examination of all items in a records series, 946
class of records, or database by a person who intends to use or 947
forward the copies for surveys, marketing, solicitation, or 948
resale for commercial purposes. "Bulk commercial special 949
extraction request" does not include a request by a person who 950
gives assurance to the bureau that the person making the request 951
does not intend to use or forward the requested copies for 952
surveys, marketing, solicitation, or resale for commercial 953
purposes. 954

(c) "Commercial" means profit-seeking production, buying, 955
or selling of any good, service, or other product. 956

(d) "Special extraction costs" means the cost of the time 957
spent by the lowest paid employee competent to perform the task, 958
the actual amount paid to outside private contractors employed 959
by the bureau, or the actual cost incurred to create computer 960
programs to make the special extraction. "Special extraction 961
costs" include any charges paid to a public agency for computer 962
or records services. 963

(3) For purposes of divisions (F) (1) and (2) of this 964
section, "surveys, marketing, solicitation, or resale for 965
commercial purposes" shall be narrowly construed and does not 966
include reporting or gathering news, reporting or gathering 967
information to assist citizen oversight or understanding of the 968
operation or activities of government, or nonprofit educational 969
research. 970

(G) A request by a defendant, counsel of a defendant, or 971
any agent of a defendant in a criminal action that public 972
records related to that action be made available under this 973
section shall be considered a demand for discovery pursuant to 974
the Criminal Rules, except to the extent that the Criminal Rules 975
plainly indicate a contrary intent. The defendant, counsel of 976
the defendant, or agent of the defendant making a request under 977
this division shall serve a copy of the request on the 978
prosecuting attorney, director of law, or other chief legal 979
officer responsible for prosecuting the action. 980

(H) (1) Any portion of a body-worn camera or dashboard 981
camera recording described in divisions (A) (17) (b) to (h) of 982
this section may be released by consent of the subject of the 983
recording or a representative of that person, as specified in 984

those divisions, only if either of the following applies: 985

(a) The recording will not be used in connection with any 986
probable or pending criminal proceedings; 987

(b) The recording has been used in connection with a 988
criminal proceeding that was dismissed or for which a judgment 989
has been entered pursuant to Rule 32 of the Rules of Criminal 990
Procedure, and will not be used again in connection with any 991
probable or pending criminal proceedings. 992

(2) If a public office denies a request to release a 993
restricted portion of a body-worn camera or dashboard camera 994
recording, as defined in division (A)(17) of this section, any 995
person may file a mandamus action pursuant to this section or a 996
complaint with the clerk of the court of claims pursuant to 997
section 2743.75 of the Revised Code, requesting the court to 998
order the release of all or portions of the recording. If the 999
court considering the request determines that the filing 1000
articulates by clear and convincing evidence that the public 1001
interest in the recording substantially outweighs privacy 1002
interests and other interests asserted to deny release, the 1003
court shall order the public office to release the recording. 1004

Section 2. That existing section 149.43 of the Revised 1005
Code is hereby repealed. 1006