

As Introduced

131st General Assembly

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S. B. No. 362

Senator Hughes

Cosponsors: Senators Cafaro, Yuko, Patton

A BILL

To amend sections 149.43 and 4501.271 of the 1
Revised Code to exempt certain personal 2
information of former and retired peace officers 3
from public records requests and to allow such 4
officers to use a former business address on 5
their driver's licenses and motor vehicle 6
registrations. 7

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

Section 1. That sections 149.43 and 4501.271 of the 8
Revised Code be amended to read as follows: 9

Sec. 149.43. (A) As used in this section: 10

(1) "Public record" means records kept by any public 11
office, including, but not limited to, state, county, city, 12
village, township, and school district units, and records 13
pertaining to the delivery of educational services by an 14
alternative school in this state kept by the nonprofit or for- 15
profit entity operating the alternative school pursuant to 16
section 3313.533 of the Revised Code. "Public record" does not 17
mean any of the following: 18

(a) Medical records;	19
(b) Records pertaining to probation and parole proceedings	20
or to proceedings related to the imposition of community control	21
sanctions and post-release control sanctions;	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) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;	55 56 57 58 59 60 61
(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;	62 63 64 65 66
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	67 68
(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	69 70 71 72 73

board members during meetings of the board or by persons	74
participating in the director's review, and all work products of	75
the board or director, and in the case of a child fatality	76
review board, child fatality review data submitted by the board	77
to the department of health or a national child death review	78
database, other than the report prepared pursuant to division	79
(A) of section 307.626 of the Revised Code;	80
(t) Records provided to and statements made by the	81
executive director of a public children services agency or a	82
prosecuting attorney acting pursuant to section 5153.171 of the	83
Revised Code other than the information released under that	84
section;	85
(u) Test materials, examinations, or evaluation tools used	86
in an examination for licensure as a nursing home administrator	87
that the board of executives of long-term services and supports	88
administers under section 4751.04 of the Revised Code or	89
contracts under that section with a private or government entity	90
to administer;	91
(v) Records the release of which is prohibited by state or	92
federal law;	93
(w) Proprietary information of or relating to any person	94
that is submitted to or compiled by the Ohio venture capital	95
authority created under section 150.01 of the Revised Code;	96
(x) Financial statements and data any person submits for	97
any purpose to the Ohio housing finance agency or the	98
controlling board in connection with applying for, receiving, or	99
accounting for financial assistance from the agency, and	100
information that identifies any individual who benefits directly	101
or indirectly from financial assistance from the agency;	102

(y) Records listed in section 5101.29 of the Revised Code;	103
(z) Discharges recorded with a county recorder under	104
section 317.24 of the Revised Code, as specified in division (B)	105
(2) of that section;	106
(aa) Usage information including names and addresses of	107
specific residential and commercial customers of a municipally	108
owned or operated public utility;	109
(bb) Records described in division (C) of section 187.04	110
of the Revised Code that are not designated to be made available	111
to the public as provided in that division;	112
(cc) Information and records that are made confidential,	113
privileged, and not subject to disclosure under divisions (B)	114
and (C) of section 2949.221 of the Revised Code ;	115
(dd) Personal information, as defined in section 149.45 of	116
the Revised Code ;	117
(ee) The confidential name, address, and other personally	118
identifiable information of a program participant in the address	119
confidentiality program established under sections 111.41 to	120
111.47 of the Revised Code, including the contents of any	121
application for absent voter's ballots, absent voter's ballot	122
identification envelope statement of voter, or provisional	123
ballot affirmation completed by a program participant who has a	124
confidential voter registration record, and records or portions	125
of records pertaining to that program that identify the number	126
of program participants that reside within a precinct, ward,	127
township, municipal corporation, county, or any other geographic	128
area smaller than the state. As used in this division,	129
"confidential address" and "program participant" have the	130
meaning defined in section 111.41 of the Revised Code.	131

(2) "Confidential law enforcement investigatory record"	132
means any record that pertains to a law enforcement matter of a	133
criminal, quasi-criminal, civil, or administrative nature, but	134
only to the extent that the release of the record would create a	135
high probability of disclosure of any of the following:	136
(a) The identity of a suspect who has not been charged	137
with the offense to which the record pertains, or of an	138
information source or witness to whom confidentiality has been	139
reasonably promised;	140
(b) Information provided by an information source or	141
witness to whom confidentiality has been reasonably promised,	142
which information would reasonably tend to disclose the source's	143
or witness's identity;	144
(c) Specific confidential investigatory techniques or	145
procedures or specific investigatory work product;	146
(d) Information that would endanger the life or physical	147
safety of law enforcement personnel, a crime victim, a witness,	148
or a confidential information source.	149
(3) "Medical record" means any document or combination of	150
documents, except births, deaths, and the fact of admission to	151
or discharge from a hospital, that pertains to the medical	152
history, diagnosis, prognosis, or medical condition of a patient	153
and that is generated and maintained in the process of medical	154
treatment.	155
(4) "Trial preparation record" means any record that	156
contains information that is specifically compiled in reasonable	157
anticipation of, or in defense of, a civil or criminal action or	158
proceeding, including the independent thought processes and	159
personal trial preparation of an attorney.	160

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

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

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer:

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee,

community-based correctional facility employee, youth services	191
employee, firefighter, EMT, an investigator of the bureau of	192
criminal identification and investigation, or federal law	193
enforcement officer, except for the state or political	194
subdivision in which the peace officer, parole officer,	195
probation officer, bailiff, assistant prosecuting attorney,	196
correctional employee, community-based correctional facility	197
employee, youth services employee, firefighter, EMT,	198
investigator of the bureau of criminal identification and	199
investigation, or federal law enforcement officer resides;	200
(b) Information compiled from referral to or participation	201
in an employee assistance program;	202
(c) The social security number, the residential telephone	203
number, any bank account, debit card, charge card, or credit	204
card number, or the emergency telephone number of, or any	205
medical information pertaining to, a peace officer, parole	206
officer, probation officer, bailiff, prosecuting attorney,	207
assistant prosecuting attorney, correctional employee,	208
community-based correctional facility employee, youth services	209
employee, firefighter, EMT, investigator of the bureau of	210
criminal identification and investigation, or federal law	211
enforcement officer;	212
(d) The name of any beneficiary of employment benefits,	213
including, but not limited to, life insurance benefits, provided	214
to a peace officer, parole officer, probation officer, bailiff,	215
prosecuting attorney, assistant prosecuting attorney,	216
correctional employee, community-based correctional facility	217
employee, youth services employee, firefighter, EMT,	218
investigator of the bureau of criminal identification and	219
investigation, or federal law enforcement officer by the peace	220

officer's, parole officer's, probation officer's, bailiff's, 221
prosecuting attorney's, assistant prosecuting attorney's, 222
correctional employee's, community-based correctional facility 223
employee's, youth services employee's, firefighter's, EMT's, 224
investigator of the bureau of criminal identification and 225
investigation's, or federal law enforcement officer's employer; 226

(e) The identity and amount of any charitable or 227
employment benefit deduction made by the peace officer's, parole 228
officer's, probation officer's, bailiff's, prosecuting 229
attorney's, assistant prosecuting attorney's, correctional 230
employee's, community-based correctional facility employee's, 231
youth services employee's, firefighter's, EMT's, investigator of 232
the bureau of criminal identification and investigation's, or 233
federal law enforcement officer's employer from the peace 234
officer's, parole officer's, probation officer's, bailiff's, 235
prosecuting attorney's, assistant prosecuting attorney's, 236
correctional employee's, community-based correctional facility 237
employee's, youth services employee's, firefighter's, EMT's, 238
investigator of the bureau of criminal identification and 239
investigation's, or federal law enforcement officer's 240
compensation unless the amount of the deduction is required by 241
state or federal law; 242

(f) The name, the residential address, the name of the 243
employer, the address of the employer, the social security 244
number, the residential telephone number, any bank account, 245
debit card, charge card, or credit card number, or the emergency 246
telephone number of the spouse, a former spouse, or any child of 247
a peace officer, parole officer, probation officer, bailiff, 248
prosecuting attorney, assistant prosecuting attorney, 249
correctional employee, community-based correctional facility 250
employee, youth services employee, firefighter, EMT, 251

investigator of the bureau of criminal identification and 252
investigation, or federal law enforcement officer; 253

(g) A photograph of a peace officer who holds a position 254
or has an assignment that may include undercover or plain 255
clothes positions or assignments as determined by the peace 256
officer's appointing authority. 257

As used in divisions (A) (7) and (B) (9) of this section, 258
"peace officer" has the same meaning as in section 109.71 of the 259
Revised Code and also includes the superintendent and troopers 260
of the state highway patrol and all former and retired peace 261
officers; it does not include the sheriff of a county or a 262
supervisory employee who, in the absence of the sheriff, is 263
authorized to stand in for, exercise the authority of, and 264
perform the duties of the sheriff. 265

As used in divisions (A) (7) and (B) (9) of this section, 266
"correctional employee" means any employee of the department of 267
rehabilitation and correction who in the course of performing 268
the employee's job duties has or has had contact with inmates 269
and persons under supervision. 270

As used in divisions (A) (7) and (B) (9) of this section, 271
"youth services employee" means any employee of the department 272
of youth services who in the course of performing the employee's 273
job duties has or has had contact with children committed to the 274
custody of the department of youth services. 275

As used in divisions (A) (7) and (B) (9) of this section, 276
"firefighter" means any regular, paid or volunteer, member of a 277
lawfully constituted fire department of a municipal corporation, 278
township, fire district, or village. 279

As used in divisions (A) (7) and (B) (9) of this section, 280

"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 281
emergency medical services for a public emergency medical 282
service organization. "Emergency medical service organization," 283
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 284
in section 4765.01 of the Revised Code. 285

As used in divisions (A) (7) and (B) (9) of this section, 286
"investigator of the bureau of criminal identification and 287
investigation" has the meaning defined in section 2903.11 of the 288
Revised Code. 289

As used in divisions (A) (7) and (B) (9) of this section, 290
"federal law enforcement officer" has the meaning defined in 291
section 9.88 of the Revised Code. 292

(8) "Information pertaining to the recreational activities 293
of a person under the age of eighteen" means information that is 294
kept in the ordinary course of business by a public office, that 295
pertains to the recreational activities of a person under the 296
age of eighteen years, and that discloses any of the following: 297

(a) The address or telephone number of a person under the 298
age of eighteen or the address or telephone number of that 299
person's parent, guardian, custodian, or emergency contact 300
person; 301

(b) The social security number, birth date, or 302
photographic image of a person under the age of eighteen; 303

(c) Any medical record, history, or information pertaining 304
to a person under the age of eighteen; 305

(d) Any additional information sought or required about a 306
person under the age of eighteen for the purpose of allowing 307
that person to participate in any recreational activity 308
conducted or sponsored by a public office or to use or obtain 309

admission privileges to any recreational facility owned or 310
operated by a public office. 311

(9) "Community control sanction" has the same meaning as 312
in section 2929.01 of the Revised Code. 313

(10) "Post-release control sanction" has the same meaning 314
as in section 2967.01 of the Revised Code. 315

(11) "Redaction" means obscuring or deleting any 316
information that is exempt from the duty to permit public 317
inspection or copying from an item that otherwise meets the 318
definition of a "record" in section 149.011 of the Revised Code. 319

(12) "Designee" and "elected official" have the same 320
meanings as in section 109.43 of the Revised Code. 321

(B) (1) Upon request and subject to division (B) (8) of this 322
section, all public records responsive to the request shall be 323
promptly prepared and made available for inspection to any 324
person at all reasonable times during regular business hours. 325
Subject to division (B) (8) of this section, upon request, a 326
public office or person responsible for public records shall 327
make copies of the requested public record available at cost and 328
within a reasonable period of time. If a public record contains 329
information that is exempt from the duty to permit public 330
inspection or to copy the public record, the public office or 331
the person responsible for the public record shall make 332
available all of the information within the public record that 333
is not exempt. When making that public record available for 334
public inspection or copying that public record, the public 335
office or the person responsible for the public record shall 336
notify the requester of any redaction or make the redaction 337
plainly visible. A redaction shall be deemed a denial of a 338

request to inspect or copy the redacted information, except if 339
federal or state law authorizes or requires a public office to 340
make the redaction. 341

(2) To facilitate broader access to public records, a 342
public office or the person responsible for public records shall 343
organize and maintain public records in a manner that they can 344
be made available for inspection or copying in accordance with 345
division (B) of this section. A public office also shall have 346
available a copy of its current records retention schedule at a 347
location readily available to the public. If a requester makes 348
an ambiguous or overly broad request or has difficulty in making 349
a request for copies or inspection of public records under this 350
section such that the public office or the person responsible 351
for the requested public record cannot reasonably identify what 352
public records are being requested, the public office or the 353
person responsible for the requested public record may deny the 354
request but shall provide the requester with an opportunity to 355
revise the request by informing the requester of the manner in 356
which records are maintained by the public office and accessed 357
in the ordinary course of the public office's or person's 358
duties. 359

(3) If a request is ultimately denied, in part or in 360
whole, the public office or the person responsible for the 361
requested public record shall provide the requester with an 362
explanation, including legal authority, setting forth why the 363
request was denied. If the initial request was provided in 364
writing, the explanation also shall be provided to the requester 365
in writing. The explanation shall not preclude the public office 366
or the person responsible for the requested public record from 367
relying upon additional reasons or legal authority in defending 368
an action commenced under division (C) of this section. 369

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

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

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office

or person responsible for the public record determines that it 401
reasonably can be duplicated as an integral part of the normal 402
operations of the public office or person responsible for the 403
public record. When the person seeking the copy makes a choice 404
under this division, the public office or person responsible for 405
the public record shall provide a copy of it in accordance with 406
the choice made by the person seeking the copy. Nothing in this 407
section requires a public office or person responsible for the 408
public record to allow the person seeking a copy of the public 409
record to make the copies of the public record. 410

(7) (a) Upon a request made in accordance with division (B) 411
of this section and subject to division (B) (6) of this section, 412
a public office or person responsible for public records shall 413
transmit a copy of a public record to any person by United 414
States mail or by any other means of delivery or transmission 415
within a reasonable period of time after receiving the request 416
for the copy. The public office or person responsible for the 417
public record may require the person making the request to pay 418
in advance the cost of postage if the copy is transmitted by 419
United States mail or the cost of delivery if the copy is 420
transmitted other than by United States mail, and to pay in 421
advance the costs incurred for other supplies used in the 422
mailing, delivery, or transmission. 423

(b) Any public office may adopt a policy and procedures 424
that it will follow in transmitting, within a reasonable period 425
of time after receiving a request, copies of public records by 426
United States mail or by any other means of delivery or 427
transmission pursuant to division (B) (7) of this section. A 428
public office that adopts a policy and procedures under division 429
(B) (7) of this section shall comply with them in performing its 430
duties under that division. 431

(c) In any policy and procedures adopted under division 432
(B) (7) of this section: 433

(i) A public office may limit the number of records 434
requested by a person that the office will physically deliver by 435
United States mail or by another delivery service to ten per 436
month, unless the person certifies to the office in writing that 437
the person does not intend to use or forward the requested 438
records, or the information contained in them, for commercial 439
purposes; 440

(ii) A public office that chooses to provide some or all 441
of its public records on a web site that is fully accessible to 442
and searchable by members of the public at all times, other than 443
during acts of God outside the public office's control or 444
maintenance, and that charges no fee to search, access, 445
download, or otherwise receive records provided on the web site, 446
may limit to ten per month the number of records requested by a 447
person that the office will deliver in a digital format, unless 448
the requested records are not provided on the web site and 449
unless the person certifies to the office in writing that the 450
person does not intend to use or forward the requested records, 451
or the information contained in them, for commercial purposes. 452

(iii) For purposes of division (B) (7) of this section, 453
"commercial" shall be narrowly construed and does not include 454
reporting or gathering news, reporting or gathering information 455
to assist citizen oversight or understanding of the operation or 456
activities of government, or nonprofit educational research. 457

(8) A public office or person responsible for public 458
records is not required to permit a person who is incarcerated 459
pursuant to a criminal conviction or a juvenile adjudication to 460
inspect or to obtain a copy of any public record concerning a 461

criminal investigation or prosecution or concerning what would 462
be a criminal investigation or prosecution if the subject of the 463
investigation or prosecution were an adult, unless the request 464
to inspect or to obtain a copy of the record is for the purpose 465
of acquiring information that is subject to release as a public 466
record under this section and the judge who imposed the sentence 467
or made the adjudication with respect to the person, or the 468
judge's successor in office, finds that the information sought 469
in the public record is necessary to support what appears to be 470
a justiciable claim of the person. 471

(9) (a) Upon written request made and signed by a 472
journalist on or after December 16, 1999, a public office, or 473
person responsible for public records, having custody of the 474
records of the agency ~~employing that employs or employed a~~ 475
specified peace officer, or that employs a parole officer, 476
probation officer, bailiff, prosecuting attorney, assistant 477
prosecuting attorney, correctional employee, community-based 478
correctional facility employee, youth services employee, 479
firefighter, EMT, investigator of the bureau of criminal 480
identification and investigation, or federal law enforcement 481
officer shall disclose to the journalist the address of the 482
actual personal residence of the peace officer, parole officer, 483
probation officer, bailiff, prosecuting attorney, assistant 484
prosecuting attorney, correctional employee, community-based 485
correctional facility employee, youth services employee, 486
firefighter, EMT, investigator of the bureau of criminal 487
identification and investigation, or federal law enforcement 488
officer and, if the peace officer's, parole officer's, probation 489
officer's, bailiff's, prosecuting attorney's, assistant 490
prosecuting attorney's, correctional employee's, community-based 491
correctional facility employee's, youth services employee's, 492

firefighter's, EMT's, investigator of the bureau of criminal 493
identification and investigation's, or federal law enforcement 494
officer's spouse, former spouse, or child is employed by a 495
public office, the name and address of the employer of the peace 496
officer's, parole officer's, probation officer's, bailiff's, 497
prosecuting attorney's, assistant prosecuting attorney's, 498
correctional employee's, community-based correctional facility 499
employee's, youth services employee's, firefighter's, EMT's, 500
investigator of the bureau of criminal identification and 501
investigation's, or federal law enforcement officer's spouse, 502
former spouse, or child. The request shall include the 503
journalist's name and title and the name and address of the 504
journalist's employer and shall state that disclosure of the 505
information sought would be in the public interest. 506

(b) Division (B) (9) (a) of this section also applies to 507
journalist requests for customer information maintained by a 508
municipally owned or operated public utility, other than social 509
security numbers and any private financial information such as 510
credit reports, payment methods, credit card numbers, and bank 511
account information. 512

(c) As used in division (B) (9) of this section, 513
"journalist" means a person engaged in, connected with, or 514
employed by any news medium, including a newspaper, magazine, 515
press association, news agency, or wire service, a radio or 516
television station, or a similar medium, for the purpose of 517
gathering, processing, transmitting, compiling, editing, or 518
disseminating information for the general public. 519

(C) (1) If a person allegedly is aggrieved by the failure 520
of a public office or the person responsible for public records 521
to promptly prepare a public record and to make it available to 522

the person for inspection in accordance with division (B) of 523
this section or by any other failure of a public office or the 524
person responsible for public records to comply with an 525
obligation in accordance with division (B) of this section, the 526
person allegedly aggrieved may do only one of the following, and 527
not both: 528

(a) File a complaint with the clerk of the court of claims 529
or the clerk of the court of common pleas under section 2743.75 530
of the Revised Code; 531

(b) Commence a mandamus action to obtain a judgment that 532
orders the public office or the person responsible for the 533
public record to comply with division (B) of this section, that 534
awards court costs and reasonable attorney's fees to the person 535
that instituted the mandamus action, and, if applicable, that 536
includes an order fixing statutory damages under division (C) (2) 537
of this section. The mandamus action may be commenced in the 538
court of common pleas of the county in which division (B) of 539
this section allegedly was not complied with, in the supreme 540
court pursuant to its original jurisdiction under Section 2 of 541
Article IV, Ohio Constitution, or in the court of appeals for 542
the appellate district in which division (B) of this section 543
allegedly was not complied with pursuant to its original 544
jurisdiction under Section 3 of Article IV, Ohio Constitution. 545

(2) If a requester transmits a written request by hand 546
delivery or certified mail to inspect or receive copies of any 547
public record in a manner that fairly describes the public 548
record or class of public records to the public office or person 549
responsible for the requested public records, except as 550
otherwise provided in this section, the requester shall be 551
entitled to recover the amount of statutory damages set forth in 552

this division if a court determines that the public office or 553
the person responsible for public records failed to comply with 554
an obligation in accordance with division (B) of this section. 555

The amount of statutory damages shall be fixed at one 556
hundred dollars for each business day during which the public 557
office or person responsible for the requested public records 558
failed to comply with an obligation in accordance with division 559
(B) of this section, beginning with the day on which the 560
requester files a mandamus action to recover statutory damages, 561
up to a maximum of one thousand dollars. The award of statutory 562
damages shall not be construed as a penalty, but as compensation 563
for injury arising from lost use of the requested information. 564
The existence of this injury shall be conclusively presumed. The 565
award of statutory damages shall be in addition to all other 566
remedies authorized by this section. 567

The court may reduce an award of statutory damages or not 568
award statutory damages if the court determines both of the 569
following: 570

(a) That, based on the ordinary application of statutory 571
law and case law as it existed at the time of the conduct or 572
threatened conduct of the public office or person responsible 573
for the requested public records that allegedly constitutes a 574
failure to comply with an obligation in accordance with division 575
(B) of this section and that was the basis of the mandamus 576
action, a well-informed public office or person responsible for 577
the requested public records reasonably would believe that the 578
conduct or threatened conduct of the public office or person 579
responsible for the requested public records did not constitute 580
a failure to comply with an obligation in accordance with 581
division (B) of this section; 582

(b) That a well-informed public office or person 583
responsible for the requested public records reasonably would 584
believe that the conduct or threatened conduct of the public 585
office or person responsible for the requested public records 586
would serve the public policy that underlies the authority that 587
is asserted as permitting that conduct or threatened conduct. 588

(3) In a mandamus action filed under division (C) (1) of 589
this section, the following apply: 590

(a) (i) If the court orders the public office or the person 591
responsible for the public record to comply with division (B) of 592
this section, the court shall determine and award to the relator 593
all court costs, which shall be construed as remedial and not 594
punitive. 595

(ii) If the court makes a determination described in 596
division (C) (3) (b) (iii) of this section, the court shall 597
determine and award to the relator all court costs, which shall 598
be construed as remedial and not punitive. 599

(b) If the court renders a judgment that orders the public 600
office or the person responsible for the public record to comply 601
with division (B) of this section or if the court determines any 602
of the following, the court may award reasonable attorney's fees 603
to the relator, subject to the provisions of division (C) (4) of 604
this section: 605

(i) The public office or the person responsible for the 606
public records failed to respond affirmatively or negatively to 607
the public records request in accordance with the time allowed 608
under division (B) of this section. 609

(ii) The public office or the person responsible for the 610
public records promised to permit the relator to inspect or 611

receive copies of the public records requested within a 612
specified period of time but failed to fulfill that promise 613
within that specified period of time. 614

(iii) The public office or the person responsible for the 615
public records acted in bad faith when the office or person 616
voluntarily made the public records available to the relator for 617
the first time after the relator commenced the mandamus action, 618
but before the court issued any order concluding whether or not 619
the public office or person was required to comply with division 620
(B) of this section. No discovery may be conducted on the issue 621
of the alleged bad faith of the public office or person 622
responsible for the public records. This division shall not be 623
construed as creating a presumption that the public office or 624
the person responsible for the public records acted in bad faith 625
when the office or person voluntarily made the public records 626
available to the relator for the first time after the relator 627
commenced the mandamus action, but before the court issued any 628
order described in this division. 629

(c) The court shall not award attorney's fees to the 630
relator if the court determines both of the following: 631

(i) That, based on the ordinary application of statutory 632
law and case law as it existed at the time of the conduct or 633
threatened conduct of the public office or person responsible 634
for the requested public records that allegedly constitutes a 635
failure to comply with an obligation in accordance with division 636
(B) of this section and that was the basis of the mandamus 637
action, a well-informed public office or person responsible for 638
the requested public records reasonably would believe that the 639
conduct or threatened conduct of the public office or person 640
responsible for the requested public records did not constitute 641

a failure to comply with an obligation in accordance with 642
division (B) of this section; 643

(ii) That a well-informed public office or person 644
responsible for the requested public records reasonably would 645
believe that the conduct or threatened conduct of the public 646
office or person responsible for the requested public records 647
would serve the public policy that underlies the authority that 648
is asserted as permitting that conduct or threatened conduct. 649

(4) All of the following apply to any award of reasonable 650
attorney's fees awarded under division (C) (3) (b) of this 651
section: 652

(a) The fees shall be construed as remedial and not 653
punitive. 654

(b) The fees awarded shall not exceed the total of the 655
reasonable attorney's fees incurred before the public record was 656
made available to the relator and the fees described in division 657
(C) (4) (c) of this section. 658

(c) Reasonable attorney's fees shall include reasonable 659
fees incurred to produce proof of the reasonableness and amount 660
of the fees and to otherwise litigate entitlement to the fees. 661

(d) The court may reduce the amount of fees awarded if the 662
court determines that, given the factual circumstances involved 663
with the specific public records request, an alternative means 664
should have been pursued to more effectively and efficiently 665
resolve the dispute that was subject to the mandamus action 666
filed under division (C) (1) of this section. 667

(5) If the court does not issue a writ of mandamus under 668
division (C) of this section and the court determines at that 669
time that the bringing of the mandamus action was frivolous 670

conduct as defined in division (A) of section 2323.51 of the Revised Code, the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court.

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

(E) (1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E) (1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that

employee to acknowledge receipt of the copy of the public 701
records policy. The public office shall create a poster that 702
describes its public records policy and shall post the poster in 703
a conspicuous place in the public office and in all locations 704
where the public office has branch offices. The public office 705
may post its public records policy on the internet web site of 706
the public office if the public office maintains an internet web 707
site. A public office that has established a manual or handbook 708
of its general policies and procedures for all employees of the 709
public office shall include the public records policy of the 710
public office in the manual or handbook. 711

(F) (1) The bureau of motor vehicles may adopt rules 712
pursuant to Chapter 119. of the Revised Code to reasonably limit 713
the number of bulk commercial special extraction requests made 714
by a person for the same records or for updated records during a 715
calendar year. The rules may include provisions for charges to 716
be made for bulk commercial special extraction requests for the 717
actual cost of the bureau, plus special extraction costs, plus 718
ten per cent. The bureau may charge for expenses for redacting 719
information, the release of which is prohibited by law. 720

(2) As used in division (F) (1) of this section: 721

(a) "Actual cost" means the cost of depleted supplies, 722
records storage media costs, actual mailing and alternative 723
delivery costs, or other transmitting costs, and any direct 724
equipment operating and maintenance costs, including actual 725
costs paid to private contractors for copying services. 726

(b) "Bulk commercial special extraction request" means a 727
request for copies of a record for information in a format other 728
than the format already available, or information that cannot be 729
extracted without examination of all items in a records series, 730

class of records, or database by a person who intends to use or 731
forward the copies for surveys, marketing, solicitation, or 732
resale for commercial purposes. "Bulk commercial special 733
extraction request" does not include a request by a person who 734
gives assurance to the bureau that the person making the request 735
does not intend to use or forward the requested copies for 736
surveys, marketing, solicitation, or resale for commercial 737
purposes. 738

(c) "Commercial" means profit-seeking production, buying, 739
or selling of any good, service, or other product. 740

(d) "Special extraction costs" means the cost of the time 741
spent by the lowest paid employee competent to perform the task, 742
the actual amount paid to outside private contractors employed 743
by the bureau, or the actual cost incurred to create computer 744
programs to make the special extraction. "Special extraction 745
costs" include any charges paid to a public agency for computer 746
or records services. 747

(3) For purposes of divisions (F) (1) and (2) of this 748
section, "surveys, marketing, solicitation, or resale for 749
commercial purposes" shall be narrowly construed and does not 750
include reporting or gathering news, reporting or gathering 751
information to assist citizen oversight or understanding of the 752
operation or activities of government, or nonprofit educational 753
research. 754

(G) A request by a defendant, counsel of a defendant, or 755
any agent of a defendant in a criminal action that public 756
records related to that action be made available under this 757
section shall be considered a demand for discovery pursuant to 758
the Criminal Rules, except to the extent that the Criminal Rules 759
plainly indicate a contrary intent. The defendant, counsel of 760

the defendant, or agent of the defendant making a request under 761
this division shall serve a copy of the request on the 762
prosecuting attorney, director of law, or other chief legal 763
officer responsible for prosecuting the action. 764

Sec. 4501.271. (A) (1) A peace officer, former peace 765
officer, retired peace officer, correctional employee, or youth 766
services employee may file a written request with the bureau of 767
motor vehicles to do either or both of the following: 768

(a) Prohibit disclosure of the officer's or employee's 769
residence address as contained in motor vehicle records of the 770
bureau; 771

(b) Provide a current business address or, in the case of 772
a former or retired peace officer, provide a former business 773
address to be displayed on the officer's or employee's driver's 774
license or certificate of registration, or both. 775

(2) The officer or employee shall file the request 776
described in division (A) (1) of this section on a form provided 777
by the registrar of motor vehicles and shall provide any 778
documentary evidence verifying the person's status as a peace 779
officer, former peace officer, retired peace officer, 780
correctional employee, or youth services employee and the 781
officer's or employee's business address that the registrar 782
requires pursuant to division (G) of this section. 783

(B) (1) Except as provided in division (C) of this section, 784
if a peace officer, former peace officer, retired peace officer, 785
correctional employee, or youth services employee has filed a 786
request under division (A) of this section, neither the 787
registrar nor an employee or contractor of the bureau of motor 788
vehicles shall knowingly disclose the residence address of the 789

officer or employee that the bureau obtained in connection with 790
a motor vehicle record. 791

(2) In accordance with section 149.43 of the Revised Code, 792
the registrar or an employee or contractor of the bureau shall 793
make available for inspection or copying a motor vehicle record 794
of a peace officer, former peace officer, retired peace officer, 795
correctional employee, or youth services employee who has filed 796
a request under division (A) of this section if the record is a 797
public record under that section, but shall obliterate the 798
residence address of the officer or employee from the record 799
before making the record available for inspection or copying. 800
The business address of the officer or employee may be made 801
available in response to a valid request under section 149.43 of 802
the Revised Code. 803

(C) Notwithstanding division (B) (2) of section 4501.27 of 804
the Revised Code, the registrar or an employee or contractor of 805
the bureau may disclose the residence address of a peace 806
officer, former peace officer, retired peace officer, 807
correctional employee, or youth services employee who files a 808
request under division (A) of this section only in accordance 809
with division (B) (1) of section 4501.27 of the Revised Code or 810
pursuant to a court order. 811

(D) If a peace officer, former peace officer, retired 812
peace officer, correctional employee, or youth services employee 813
files a request under division (A) (1) (b) of this section, the 814
officer or employee shall still provide a residence address in 815
any application for a driver's license or license renewal and in 816
any application for a motor vehicle registration or registration 817
renewal. In accordance with sections 4503.101 and 4507.09 of the 818
Revised Code, an officer or employee shall notify the registrar 819

of any change in the officer's or employee's residence within 820
ten days after the change occurs. 821

(E) A certificate of registration issued to a peace 822
officer, correctional employee, or youth services employee who 823
files a request under division (A) (1) (b) of this section shall 824
display the business address of the officer or employee. A 825
certificate of registration issued to a former peace officer or 826
retired peace officer shall display the former business address 827
of the officer. Notwithstanding section 4507.13 of the Revised 828
Code, a driver's license issued to an officer or employee who 829
files a request under division (A) (1) (b) of this section shall 830
display the business address of the officer or employee or, in 831
the case of a former peace officer or retired peace officer, the 832
former business address of the officer. 833

(F) The registrar may utilize the residence address of a 834
peace officer, former peace officer, retired peace officer, 835
correctional employee, or youth services employee who files a 836
request under division (A) (1) (b) of this section in carrying out 837
the functions of the bureau of motor vehicles, including 838
determining the district of registration for any applicable 839
motor vehicle tax levied under Chapter 4504. of the Revised 840
Code, determining whether tailpipe emissions inspections are 841
required, and financial responsibility verification. 842

(G) The registrar shall adopt rules governing a request 843
for confidentiality of a peace officer's, former peace 844
officer's, retired peace officer's, correctional employee's, or 845
youth services employee's residence address or use of a business 846
address, including the documentary evidence required to verify 847
the person's status as a peace officer, former peace officer, 848
retired peace officer, correctional employee, or youth services 849

employee, the length of time that the request will be valid, 850
procedures for ensuring that the bureau of motor vehicles 851
receives notice of any change in a person's status as a peace 852
officer, correctional employee, or youth services employee, and 853
any other procedures the registrar considers necessary. The 854
rules of the registrar may require ~~an officer or a~~ correctional 855
or youth services employee to surrender any certificate of 856
registration and any driver's license bearing the business 857
address of the ~~officer or~~ employee and, upon payment of any 858
applicable fees, to receive a certificate of registration and 859
license bearing the ~~officer's or~~ employee's residence address, 860
whenever the ~~officer or~~ employee no longer is associated with 861
that business address. 862

(H) As used in this section: 863

(1) "Motor vehicle record" has the same meaning as in 864
section 4501.27 of the Revised Code. 865

(2) "Peace officer" means those persons described in 866
division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or 867
(15) of section 109.71 of the Revised Code, an officer, agent, 868
or employee of the state or any of its agencies, 869
instrumentalities, or political subdivisions, upon whom, by 870
statute, a duty to conserve the peace or to enforce all or 871
certain laws is imposed and the authority to arrest violators is 872
conferred, within the limits of that statutory duty and 873
authority, an investigator of the bureau of criminal 874
identification and investigation as defined in section 2903.11 875
of the Revised Code, the house sergeant at arms appointed under 876
division (B)(1) of section 101.311 of the Revised Code, any 877
assistant sergeant at arms appointed under division (C)(1) of 878
section 101.311 of the Revised Code, the senate sergeant at 879

arms, and an assistant senate sergeant at arms. "Peace officer" 880
includes state highway patrol troopers but does not include the 881
sheriff of a county or a supervisory employee who, in the 882
absence of the sheriff, is authorized to stand in for, exercise 883
the authority of, and perform the duties of the sheriff. 884

(3) "Correctional employee" and "youth services employee" 885
have the same meanings as in section 149.43 of the Revised Code. 886

Section 2. That existing sections 149.43 and 4501.271 of 887
the Revised Code are hereby repealed. 888

Section 3. Section 149.43 of the Revised Code is presented 889
in this act as a composite of the section as amended by Sub. 890
H.B. 317, Sub. H.B. 359, and Sub. S.B. 321, all of the 131st 891
General Assembly. The General Assembly, applying the principle 892
stated in division (B) of section 1.52 of the Revised Code that 893
amendments are to be harmonized if reasonably capable of 894
simultaneous operation, finds that the composite is the 895
resulting version of the section in effect prior to the 896
effective date of the section as presented in this act. 897