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Sub. H. B. No. 425

A BILL

To amend sections 149.43 and 149.433 of the Revised Code to provide that specified portions of peace officers' body-worn camera or dashboard camera recordings and the infrastructure record of a public school are not public records for purposes of the Public Records Law.

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

Section 1. That sections 149.43 and 149.433 of the Revised Code be amended to read as follows:

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

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

(a) Medical records;



(b) Records pertaining to probation and parole proceedings	19
or to proceedings related to the imposition of community control	20
sanctions and post-release control sanctions;	21
(c) Records pertaining to actions under section 2151.85	22
and division (C) of section 2919.121 of the Revised Code and to	23
appeals of actions arising under those sections;	24
(d) Records pertaining to adoption proceedings, including	25
the contents of an adoption file maintained by the department of	26
health under sections 3705.12 to 3705.124 of the Revised Code;	27
(e) Information in a record contained in the putative	28
father registry established by section 3107.062 of the Revised	29
Code, regardless of whether the information is held by the	30
department of job and family services or, pursuant to section	31
3111.69 of the Revised Code, the office of child support in the	32
department or a child support enforcement agency;	33
(f) Records specified in division (A) of section 3107.52	34
of the Revised Code;	35
(g) Trial preparation records;	36
(h) Confidential law enforcement investigatory records;	37
(i) Records containing information that is confidential	38
under section 2710.03 or 4112.05 of the Revised Code;	39
(j) DNA records stored in the DNA database pursuant to	40
section 109.573 of the Revised Code;	41
(k) Inmate records released by the department of	42
rehabilitation and correction to the department of youth	43
services or a court of record pursuant to division (E) of	44
section 5120.21 of the Revised Code;	45

(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;	46 47 48 49
(m) Intellectual property records;	50
(n) Donor profile records;	51
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	52 53
(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;	54 55 56 57 58 59 60
(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;	61 62 63 64 65
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	66 67
(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	68 69 70 71 72 73 74

the board or director, and in the case of a child fatality	75
review board, child fatality review data submitted by the board	76
to the department of health or a national child death review	77
database, other than the report prepared pursuant to division	78
(A) of section 307.626 of the Revised Code;	79
(t) Records provided to and statements made by the	80
executive director of a public children services agency or a	81
prosecuting attorney acting pursuant to section 5153.171 of the	82
Revised Code other than the information released under that	83
section;	84
(u) Test materials, examinations, or evaluation tools used	85
in an examination for licensure as a nursing home administrator	86
that the board of executives of long-term services and supports	87
administers under section 4751.04 of the Revised Code or	88
contracts under that section with a private or government entity	89
to administer;	90
(v) Records the release of which is prohibited by state or	91
federal law;	92
(w) Proprietary information of or relating to any person	93
that is submitted to or compiled by the Ohio venture capital	94
authority created under section 150.01 of the Revised Code;	95
(x) Financial statements and data any person submits for	96
any purpose to the Ohio housing finance agency or the	97
controlling board in connection with applying for, receiving, or	98
accounting for financial assistance from the agency, and	99
information that identifies any individual who benefits directly	100
or indirectly from financial assistance from the agency;	101
(y) Records listed in section 5101.29 of the Revised Code;	102
(z) Discharges recorded with a county recorder under	103

section 317.24 of the Revised Code, as specified in division (B)	104
(2) of that section;	105
(aa) Usage information including names and addresses of	106
specific residential and commercial customers of a municipally	107
owned or operated public utility;	108
(bb) Records described in division (C) of section 187.04	109
of the Revised Code that are not designated to be made available	110
to the public as provided in that division;	111
(cc) Information and records that are made confidential,	112
privileged, and not subject to disclosure under divisions (B)	113
and (C) of section 2949.221 of the Revised Code;	114
(dd) Personal information, as defined in section 149.45 of	115
the Revised Code;	116
(ee) The confidential name, address, and other personally	117
identifiable information of a program participant in the address	118
confidentiality program established under sections 111.41 to	119
111.47 of the Revised Code, including the contents of any	120
application for absent voter's ballots, absent voter's ballot	121
identification envelope statement of voter, or provisional	122
ballot affirmation completed by a program participant who has a	123
confidential voter registration record, and records or portions	124
of records pertaining to that program that identify the number	125
of program participants that reside within a precinct, ward,	126
township, municipal corporation, county, or any other geographic	127
area smaller than the state. As used in this division,	128
"confidential address" and "program participant" have the	129
meaning defined in section 111.41 of the Revised Code.	130
(ff) Orders for active military service of an individual	131
serving or with previous service in the armed forces of the	132

United States, including a reserve component, or the Ohio 133
organized militia, except that, such order becomes a public 134
record on the day that is fifteen years after the published date 135
or effective date of the call to order. 136

(gg) Restricted portions of a body-worn camera or 137
dashboard camera recording. 138

(2) "Confidential law enforcement investigatory record" 139
means any record that pertains to a law enforcement matter of a 140
criminal, quasi-criminal, civil, or administrative nature, but 141
only to the extent that the release of the record would create a 142
high probability of disclosure of any of the following: 143

(a) The identity of a suspect who has not been charged 144
with the offense to which the record pertains, or of an 145
information source or witness to whom confidentiality has been 146
reasonably promised; 147

(b) Information provided by an information source or 148
witness to whom confidentiality has been reasonably promised, 149
which information would reasonably tend to disclose the source's 150
or witness's identity; 151

(c) Specific confidential investigatory techniques or 152
procedures or specific investigatory work product; 153

(d) Information that would endanger the life or physical 154
safety of law enforcement personnel, a crime victim, a witness, 155
or a confidential information source. 156

(3) "Medical record" means any document or combination of 157
documents, except births, deaths, and the fact of admission to 158
or discharge from a hospital, that pertains to the medical 159
history, diagnosis, prognosis, or medical condition of a patient 160
and that is generated and maintained in the process of medical 161

treatment. 162

(4) "Trial preparation record" means any record that 163
contains information that is specifically compiled in reasonable 164
anticipation of, or in defense of, a civil or criminal action or 165
proceeding, including the independent thought processes and 166
personal trial preparation of an attorney. 167

(5) "Intellectual property record" means a record, other 168
than a financial or administrative record, that is produced or 169
collected by or for faculty or staff of a state institution of 170
higher learning in the conduct of or as a result of study or 171
research on an educational, commercial, scientific, artistic, 172
technical, or scholarly issue, regardless of whether the study 173
or research was sponsored by the institution alone or in 174
conjunction with a governmental body or private concern, and 175
that has not been publicly released, published, or patented. 176

(6) "Donor profile record" means all records about donors 177
or potential donors to a public institution of higher education 178
except the names and reported addresses of the actual donors and 179
the date, amount, and conditions of the actual donation. 180

(7) "Peace officer, parole officer, probation officer, 181
bailiff, prosecuting attorney, assistant prosecuting attorney, 182
correctional employee, community-based correctional facility 183
employee, youth services employee, firefighter, EMT, 184
investigator of the bureau of criminal identification and 185
investigation, or federal law enforcement officer residential 186
and familial information" means any information that discloses 187
any of the following about a peace officer, parole officer, 188
probation officer, bailiff, prosecuting attorney, assistant 189
prosecuting attorney, correctional employee, community-based 190
correctional facility employee, youth services employee, 191

firefighter, EMT, investigator of the bureau of criminal 192
identification and investigation, or federal law enforcement 193
officer: 194

(a) The address of the actual personal residence of a 195
peace officer, parole officer, probation officer, bailiff, 196
assistant prosecuting attorney, correctional employee, 197
community-based correctional facility employee, youth services 198
employee, firefighter, EMT, an investigator of the bureau of 199
criminal identification and investigation, or federal law 200
enforcement officer, except for the state or political 201
subdivision in which the peace officer, parole officer, 202
probation officer, bailiff, assistant prosecuting attorney, 203
correctional employee, community-based correctional facility 204
employee, youth services employee, firefighter, EMT, 205
investigator of the bureau of criminal identification and 206
investigation, or federal law enforcement officer resides; 207

(b) Information compiled from referral to or participation 208
in an employee assistance program; 209

(c) The social security number, the residential telephone 210
number, any bank account, debit card, charge card, or credit 211
card number, or the emergency telephone number of, or any 212
medical information pertaining to, a peace officer, parole 213
officer, probation officer, bailiff, prosecuting attorney, 214
assistant prosecuting attorney, correctional employee, 215
community-based correctional facility employee, youth services 216
employee, firefighter, EMT, investigator of the bureau of 217
criminal identification and investigation, or federal law 218
enforcement officer; 219

(d) The name of any beneficiary of employment benefits, 220
including, but not limited to, life insurance benefits, provided 221

to a peace officer, parole officer, probation officer, bailiff, 222
prosecuting attorney, assistant prosecuting attorney, 223
correctional employee, community-based correctional facility 224
employee, youth services employee, firefighter, EMT, 225
investigator of the bureau of criminal identification and 226
investigation, or federal law enforcement officer by the peace 227
officer's, parole officer's, probation officer's, bailiff's, 228
prosecuting attorney's, assistant prosecuting attorney's, 229
correctional employee's, community-based correctional facility 230
employee's, youth services employee's, firefighter's, EMT's, 231
investigator of the bureau of criminal identification and 232
investigation's, or federal law enforcement officer's employer; 233

(e) The identity and amount of any charitable or 234
employment benefit deduction made by the peace officer's, parole 235
officer's, probation officer's, bailiff's, prosecuting 236
attorney's, assistant prosecuting attorney's, correctional 237
employee's, community-based correctional facility employee's, 238
youth services employee's, firefighter's, EMT's, investigator of 239
the bureau of criminal identification and investigation's, or 240
federal law enforcement officer's employer from the peace 241
officer's, parole officer's, probation officer's, bailiff's, 242
prosecuting attorney's, assistant prosecuting attorney's, 243
correctional employee's, community-based correctional facility 244
employee's, youth services employee's, firefighter's, EMT's, 245
investigator of the bureau of criminal identification and 246
investigation's, or federal law enforcement officer's 247
compensation unless the amount of the deduction is required by 248
state or federal law; 249

(f) The name, the residential address, the name of the 250
employer, the address of the employer, the social security 251
number, the residential telephone number, any bank account, 252

debit card, charge card, or credit card number, or the emergency 253
telephone number of the spouse, a former spouse, or any child of 254
a peace officer, parole officer, probation officer, bailiff, 255
prosecuting attorney, assistant prosecuting attorney, 256
correctional employee, community-based correctional facility 257
employee, youth services employee, firefighter, EMT, 258
investigator of the bureau of criminal identification and 259
investigation, or federal law enforcement officer; 260

(g) A photograph of a peace officer who holds a position 261
or has an assignment that may include undercover or plain 262
clothes positions or assignments as determined by the peace 263
officer's appointing authority. 264

As used in divisions (A) (7), (A) (13) to (15), and (B) (9) 265
of this section, "peace officer" has the same meaning as in 266
section 109.71 of the Revised Code and also includes the 267
superintendent and troopers of the state highway patrol; it does 268
not include the sheriff of a county or a supervisory employee 269
who, in the absence of the sheriff, is authorized to stand in 270
for, exercise the authority of, and perform the duties of the 271
sheriff. 272

As used in divisions (A) (7) and (B) (9) of this section, 273
"correctional employee" means any employee of the department of 274
rehabilitation and correction who in the course of performing 275
the employee's job duties has or has had contact with inmates 276
and persons under supervision. 277

As used in divisions (A) (7) and (B) (9) of this section, 278
"youth services employee" means any employee of the department 279
of youth services who in the course of performing the employee's 280
job duties has or has had contact with children committed to the 281
custody of the department of youth services. 282

As used in divisions (A) (7) and (B) (9) of this section, 283
"firefighter" means any regular, paid or volunteer, member of a 284
lawfully constituted fire department of a municipal corporation, 285
township, fire district, or village. 286

As used in divisions (A) (7) and (B) (9) of this section, 287
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 288
emergency medical services for a public emergency medical 289
service organization. "Emergency medical service organization," 290
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 291
in section 4765.01 of the Revised Code. 292

As used in divisions (A) (7) and (B) (9) of this section, 293
"investigator of the bureau of criminal identification and 294
investigation" has the meaning defined in section 2903.11 of the 295
Revised Code. 296

As used in divisions (A) (7) and (B) (9) of this section, 297
"federal law enforcement officer" has the meaning defined in 298
section 9.88 of the Revised Code. 299

(8) "Information pertaining to the recreational activities 300
of a person under the age of eighteen" means information that is 301
kept in the ordinary course of business by a public office, that 302
pertains to the recreational activities of a person under the 303
age of eighteen years, and that discloses any of the following: 304

(a) The address or telephone number of a person under the 305
age of eighteen or the address or telephone number of that 306
person's parent, guardian, custodian, or emergency contact 307
person; 308

(b) The social security number, birth date, or 309
photographic image of a person under the age of eighteen; 310

(c) Any medical record, history, or information pertaining 311

to a person under the age of eighteen; 312

(d) Any additional information sought or required about a 313
person under the age of eighteen for the purpose of allowing 314
that person to participate in any recreational activity 315
conducted or sponsored by a public office or to use or obtain 316
admission privileges to any recreational facility owned or 317
operated by a public office. 318

(9) "Community control sanction" has the same meaning as 319
in section 2929.01 of the Revised Code. 320

(10) "Post-release control sanction" has the same meaning 321
as in section 2967.01 of the Revised Code. 322

(11) "Redaction" means obscuring or deleting any 323
information that is exempt from the duty to permit public 324
inspection or copying from an item that otherwise meets the 325
definition of a "record" in section 149.011 of the Revised Code. 326

(12) "Designee" and "elected official" have the same 327
meanings as in section 109.43 of the Revised Code. 328

(13) "Body-worn camera" means a visual and audio recording 329
device worn on the person of a peace officer while the peace 330
officer is engaged in the performance of the peace officer's 331
duties. 332

(14) "Dashboard camera" means a visual and audio recording 333
device mounted on a peace officer's vehicle or vessel that is 334
used while the peace officer is engaged in the performance of 335
the peace officer's duties. 336

(15) "Restricted portions of a body-worn camera or 337
dashboard camera recording" means any visual or audio portion of 338
a body-worn camera or dashboard camera recording that shows, 339

communicates, or discloses any of the following: 340

(a) The image or identity of a child or information that 341
could lead to the identification of a child who is a primary 342
subject of the recording when the law enforcement agency knows 343
or has reason to know the person is a child based on the law 344
enforcement agency's records or the content of the recording; 345

(b) The death of a person or a deceased person's body, 346
unless the death was caused by a peace officer or the consent of 347
the decedent's executor or administrator has been obtained and 348
the recording is not a confidential law enforcement 349
investigatory record; 350

(c) The death of a peace officer, firefighter, paramedic, 351
or other first responder, occurring while the decedent was 352
engaged in the performance of official duties, unless the 353
consent of the decedent's executor or administrator has been 354
obtained and the recording is not a confidential law enforcement 355
investigatory record; 356

(d) Grievous bodily harm, unless the injury was effected 357
by a peace officer or the consent of the injured person or the 358
injured person's guardian has been obtained and the recording is 359
not a confidential law enforcement investigatory record; 360

(e) An act of severe violence against a person that 361
results in serious physical harm to the person, unless the act 362
and injury was effected by a peace officer or the consent of the 363
injured person or the injured person's guardian has been 364
obtained and the recording is not a confidential law enforcement 365
investigatory record; 366

(f) Grievous bodily harm to a peace officer, firefighter, 367
paramedic, or other first responder, occurring while the injured 368

person was engaged in the performance of official duties, unless 369
the consent of the injured person or the injured person's 370
guardian has been obtained and the recording is not a 371
confidential law enforcement investigatory record; 372

(g) An act of severe violence resulting in serious 373
physical harm against a peace officer, firefighter, paramedic, 374
or other first responder, occurring while the injured person was 375
engaged in the performance of official duties, unless the 376
consent of the injured person or the injured person's guardian 377
has been obtained and the recording is not a confidential law 378
enforcement investigatory record; 379

(h) A person's nude body, unless the person's consent has 380
been obtained and the recording is not a confidential law 381
enforcement investigatory record; 382

(i) Protected health information, the identity of a person 383
in a health care facility who is not the subject of a law 384
enforcement encounter, or any other information in a health care 385
facility that could identify a person who is not the subject of 386
a law enforcement encounter; 387

(j) Information that could identify the alleged victim of 388
a sex offense, menacing by stalking, or domestic violence; 389

(k) Information, that does not constitute a confidential 390
law enforcement investigatory record, that could identify a 391
person who provides sensitive or confidential information to a 392
law enforcement agency when the disclosure of the person's 393
identity or the information provided could reasonably be 394
expected to threaten or endanger the safety or property of the 395
person or another person; 396

(l) Personal information of a person who is not arrested, 397

<u>cited, charged, or issued a written warning by a peace officer;</u>	398
<u>(m) Proprietary police contingency plans or tactics that</u>	399
<u>are intended to prevent crime and maintain public order and</u>	400
<u>safety;</u>	401
<u>(n) A personal conversation unrelated to work between</u>	402
<u>peace officers or between a peace officer and an employee of a</u>	403
<u>law enforcement agency;</u>	404
<u>(o) A conversation between a peace officer and a member of</u>	405
<u>the public that does not concern law enforcement activities;</u>	406
<u>(p) The interior of a residence, unless the interior of a</u>	407
<u>residence is the location of an adversarial encounter with, or a</u>	408
<u>use of force by, a peace officer;</u>	409
<u>(q) Any portion of the interior of a private business that</u>	410
<u>is not open to the public, unless an adversarial encounter with,</u>	411
<u>or a use of force by, a peace officer occurs in that location.</u>	412
<u>As used in division (A) (15) of this section:</u>	413
<u>"Grievous bodily harm" has the same meaning as in section</u>	414
<u>5924.120 of the Revised Code.</u>	415
<u>"Health care facility" has the same meaning as in section</u>	416
<u>1337.11 of the Revised Code.</u>	417
<u>"Protected health information" has the same meaning as in</u>	418
<u>45 C.F.R. 160.103.</u>	419
<u>"Law enforcement agency" has the same meaning as in</u>	420
<u>section 2925.61 of the Revised Code.</u>	421
<u>"Personal information" means any government-issued</u>	422
<u>identification number, date of birth, address, financial</u>	423
<u>information, or criminal justice information from the law</u>	424

enforcement automated data system or similar databases. 425

"Sex offense" has the same meaning as in section 2907.10 426
of the Revised Code. 427

"Firefighter," "paramedic," and "first responder" have the 428
same meanings as in section 4765.01 of the Revised Code. 429

(B) (1) Upon request and subject to division (B) (8) of this 430
section, all public records responsive to the request shall be 431
promptly prepared and made available for inspection to any 432
person at all reasonable times during regular business hours. 433
Subject to division (B) (8) of this section, upon request, a 434
public office or person responsible for public records shall 435
make copies of the requested public record available at cost and 436
within a reasonable period of time. If a public record contains 437
information that is exempt from the duty to permit public 438
inspection or to copy the public record, the public office or 439
the person responsible for the public record shall make 440
available all of the information within the public record that 441
is not exempt. When making that public record available for 442
public inspection or copying that public record, the public 443
office or the person responsible for the public record shall 444
notify the requester of any redaction or make the redaction 445
plainly visible. A redaction shall be deemed a denial of a 446
request to inspect or copy the redacted information, except if 447
federal or state law authorizes or requires a public office to 448
make the redaction. 449

(2) To facilitate broader access to public records, a 450
public office or the person responsible for public records shall 451
organize and maintain public records in a manner that they can 452
be made available for inspection or copying in accordance with 453
division (B) of this section. A public office also shall have 454

available a copy of its current records retention schedule at a 455
location readily available to the public. If a requester makes 456
an ambiguous or overly broad request or has difficulty in making 457
a request for copies or inspection of public records under this 458
section such that the public office or the person responsible 459
for the requested public record cannot reasonably identify what 460
public records are being requested, the public office or the 461
person responsible for the requested public record may deny the 462
request but shall provide the requester with an opportunity to 463
revise the request by informing the requester of the manner in 464
which records are maintained by the public office and accessed 465
in the ordinary course of the public office's or person's 466
duties. 467

(3) If a request is ultimately denied, in part or in 468
whole, the public office or the person responsible for the 469
requested public record shall provide the requester with an 470
explanation, including legal authority, setting forth why the 471
request was denied. If the initial request was provided in 472
writing, the explanation also shall be provided to the requester 473
in writing. The explanation shall not preclude the public office 474
or the person responsible for the requested public record from 475
relying upon additional reasons or legal authority in defending 476
an action commenced under division (C) of this section. 477

(4) Unless specifically required or authorized by state or 478
federal law or in accordance with division (B) of this section, 479
no public office or person responsible for public records may 480
limit or condition the availability of public records by 481
requiring disclosure of the requester's identity or the intended 482
use of the requested public record. Any requirement that the 483
requester disclose the requester's identity or the intended use 484
of the requested public record constitutes a denial of the 485

request. 486

(5) A public office or person responsible for public 487
records may ask a requester to make the request in writing, may 488
ask for the requester's identity, and may inquire about the 489
intended use of the information requested, but may do so only 490
after disclosing to the requester that a written request is not 491
mandatory and that the requester may decline to reveal the 492
requester's identity or the intended use and when a written 493
request or disclosure of the identity or intended use would 494
benefit the requester by enhancing the ability of the public 495
office or person responsible for public records to identify, 496
locate, or deliver the public records sought by the requester. 497

(6) If any person chooses to obtain a copy of a public 498
record in accordance with division (B) of this section, the 499
public office or person responsible for the public record may 500
require that person to pay in advance the cost involved in 501
providing the copy of the public record in accordance with the 502
choice made by the person seeking the copy under this division. 503
The public office or the person responsible for the public 504
record shall permit that person to choose to have the public 505
record duplicated upon paper, upon the same medium upon which 506
the public office or person responsible for the public record 507
keeps it, or upon any other medium upon which the public office 508
or person responsible for the public record determines that it 509
reasonably can be duplicated as an integral part of the normal 510
operations of the public office or person responsible for the 511
public record. When the person seeking the copy makes a choice 512
under this division, the public office or person responsible for 513
the public record shall provide a copy of it in accordance with 514
the choice made by the person seeking the copy. Nothing in this 515
section requires a public office or person responsible for the 516

public record to allow the person seeking a copy of the public 517
record to make the copies of the public record. 518

(7) (a) Upon a request made in accordance with division (B) 519
of this section and subject to division (B) (6) of this section, 520
a public office or person responsible for public records shall 521
transmit a copy of a public record to any person by United 522
States mail or by any other means of delivery or transmission 523
within a reasonable period of time after receiving the request 524
for the copy. The public office or person responsible for the 525
public record may require the person making the request to pay 526
in advance the cost of postage if the copy is transmitted by 527
United States mail or the cost of delivery if the copy is 528
transmitted other than by United States mail, and to pay in 529
advance the costs incurred for other supplies used in the 530
mailing, delivery, or transmission. 531

(b) Any public office may adopt a policy and procedures 532
that it will follow in transmitting, within a reasonable period 533
of time after receiving a request, copies of public records by 534
United States mail or by any other means of delivery or 535
transmission pursuant to division (B) (7) of this section. A 536
public office that adopts a policy and procedures under division 537
(B) (7) of this section shall comply with them in performing its 538
duties under that division. 539

(c) In any policy and procedures adopted under division 540
(B) (7) of this section: 541

(i) A public office may limit the number of records 542
requested by a person that the office will physically deliver by 543
United States mail or by another delivery service to ten per 544
month, unless the person certifies to the office in writing that 545
the person does not intend to use or forward the requested 546

records, or the information contained in them, for commercial 547
purposes; 548

(ii) A public office that chooses to provide some or all 549
of its public records on a web site that is fully accessible to 550
and searchable by members of the public at all times, other than 551
during acts of God outside the public office's control or 552
maintenance, and that charges no fee to search, access, 553
download, or otherwise receive records provided on the web site, 554
may limit to ten per month the number of records requested by a 555
person that the office will deliver in a digital format, unless 556
the requested records are not provided on the web site and 557
unless the person certifies to the office in writing that the 558
person does not intend to use or forward the requested records, 559
or the information contained in them, for commercial purposes. 560

(iii) For purposes of division (B)(7) of this section, 561
"commercial" shall be narrowly construed and does not include 562
reporting or gathering news, reporting or gathering information 563
to assist citizen oversight or understanding of the operation or 564
activities of government, or nonprofit educational research. 565

(8) A public office or person responsible for public 566
records is not required to permit a person who is incarcerated 567
pursuant to a criminal conviction or a juvenile adjudication to 568
inspect or to obtain a copy of any public record concerning a 569
criminal investigation or prosecution or concerning what would 570
be a criminal investigation or prosecution if the subject of the 571
investigation or prosecution were an adult, unless the request 572
to inspect or to obtain a copy of the record is for the purpose 573
of acquiring information that is subject to release as a public 574
record under this section and the judge who imposed the sentence 575
or made the adjudication with respect to the person, or the 576

judge's successor in office, finds that the information sought 577
in the public record is necessary to support what appears to be 578
a justiciable claim of the person. 579

(9) (a) Upon written request made and signed by a 580
journalist on or after December 16, 1999, a public office, or 581
person responsible for public records, having custody of the 582
records of the agency employing a specified peace officer, 583
parole officer, probation officer, bailiff, prosecuting 584
attorney, assistant prosecuting attorney, correctional employee, 585
community-based correctional facility employee, youth services 586
employee, firefighter, EMT, investigator of the bureau of 587
criminal identification and investigation, or federal law 588
enforcement officer shall disclose to the journalist the address 589
of the actual personal residence of the peace officer, parole 590
officer, probation officer, bailiff, prosecuting attorney, 591
assistant prosecuting attorney, correctional employee, 592
community-based correctional facility employee, youth services 593
employee, firefighter, EMT, investigator of the bureau of 594
criminal identification and investigation, or federal law 595
enforcement officer and, if the peace officer's, parole 596
officer's, probation officer's, bailiff's, prosecuting 597
attorney's, assistant prosecuting attorney's, correctional 598
employee's, community-based correctional facility employee's, 599
youth services employee's, firefighter's, EMT's, investigator of 600
the bureau of criminal identification and investigation's, or 601
federal law enforcement officer's spouse, former spouse, or 602
child is employed by a public office, the name and address of 603
the employer of the peace officer's, parole officer's, probation 604
officer's, bailiff's, prosecuting attorney's, assistant 605
prosecuting attorney's, correctional employee's, community-based 606
correctional facility employee's, youth services employee's, 607

firefighter's, EMT's, investigator of the bureau of criminal 608
identification and investigation's, or federal law enforcement 609
officer's spouse, former spouse, or child. The request shall 610
include the journalist's name and title and the name and address 611
of the journalist's employer and shall state that disclosure of 612
the information sought would be in the public interest. 613

(b) Division (B)(9)(a) of this section also applies to 614
journalist requests for customer information maintained by a 615
municipally owned or operated public utility, other than social 616
security numbers and any private financial information such as 617
credit reports, payment methods, credit card numbers, and bank 618
account information. 619

(c) As used in division (B)(9) of this section, 620
"journalist" means a person engaged in, connected with, or 621
employed by any news medium, including a newspaper, magazine, 622
press association, news agency, or wire service, a radio or 623
television station, or a similar medium, for the purpose of 624
gathering, processing, transmitting, compiling, editing, or 625
disseminating information for the general public. 626

(C)(1) If a person allegedly is aggrieved by the failure 627
of a public office or the person responsible for public records 628
to promptly prepare a public record and to make it available to 629
the person for inspection in accordance with division (B) of 630
this section or by any other failure of a public office or the 631
person responsible for public records to comply with an 632
obligation in accordance with division (B) of this section, the 633
person allegedly aggrieved may do only one of the following, and 634
not both: 635

(a) File a complaint with the clerk of the court of claims 636
or the clerk of the court of common pleas under section 2743.75 637

of the Revised Code; 638

(b) Commence a mandamus action to obtain a judgment that 639
orders the public office or the person responsible for the 640
public record to comply with division (B) of this section, that 641
awards court costs and reasonable attorney's fees to the person 642
that instituted the mandamus action, and, if applicable, that 643
includes an order fixing statutory damages under division (C) (2) 644
of this section. The mandamus action may be commenced in the 645
court of common pleas of the county in which division (B) of 646
this section allegedly was not complied with, in the supreme 647
court pursuant to its original jurisdiction under Section 2 of 648
Article IV, Ohio Constitution, or in the court of appeals for 649
the appellate district in which division (B) of this section 650
allegedly was not complied with pursuant to its original 651
jurisdiction under Section 3 of Article IV, Ohio Constitution. 652

(2) If a requester transmits a written request by hand 653
delivery or certified mail to inspect or receive copies of any 654
public record in a manner that fairly describes the public 655
record or class of public records to the public office or person 656
responsible for the requested public records, except as 657
otherwise provided in this section, the requester shall be 658
entitled to recover the amount of statutory damages set forth in 659
this division if a court determines that the public office or 660
the person responsible for public records failed to comply with 661
an obligation in accordance with division (B) of this section. 662

The amount of statutory damages shall be fixed at one 663
hundred dollars for each business day during which the public 664
office or person responsible for the requested public records 665
failed to comply with an obligation in accordance with division 666
(B) of this section, beginning with the day on which the 667

requester files a mandamus action to recover statutory damages, 668
up to a maximum of one thousand dollars. The award of statutory 669
damages shall not be construed as a penalty, but as compensation 670
for injury arising from lost use of the requested information. 671
The existence of this injury shall be conclusively presumed. The 672
award of statutory damages shall be in addition to all other 673
remedies authorized by this section. 674

The court may reduce an award of statutory damages or not 675
award statutory damages if the court determines both of the 676
following: 677

(a) That, based on the ordinary application of statutory 678
law and case law as it existed at the time of the conduct or 679
threatened conduct of the public office or person responsible 680
for the requested public records that allegedly constitutes a 681
failure to comply with an obligation in accordance with division 682
(B) of this section and that was the basis of the mandamus 683
action, a well-informed public office or person responsible for 684
the requested public records reasonably would believe that the 685
conduct or threatened conduct of the public office or person 686
responsible for the requested public records did not constitute 687
a failure to comply with an obligation in accordance with 688
division (B) of this section; 689

(b) That a well-informed public office or person 690
responsible for the requested public records reasonably would 691
believe that the conduct or threatened conduct of the public 692
office or person responsible for the requested public records 693
would serve the public policy that underlies the authority that 694
is asserted as permitting that conduct or threatened conduct. 695

(3) In a mandamus action filed under division (C) (1) of 696
this section, the following apply: 697

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

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

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

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

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

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

the public office or person was required to comply with division 727
(B) of this section. No discovery may be conducted on the issue 728
of the alleged bad faith of the public office or person 729
responsible for the public records. This division shall not be 730
construed as creating a presumption that the public office or 731
the person responsible for the public records acted in bad faith 732
when the office or person voluntarily made the public records 733
available to the relator for the first time after the relator 734
commenced the mandamus action, but before the court issued any 735
order described in this division. 736

(c) The court shall not award attorney's fees to the 737
relator if the court determines both of the following: 738

(i) That, based on the ordinary application of statutory 739
law and case law as it existed at the time of the conduct or 740
threatened conduct of the public office or person responsible 741
for the requested public records that allegedly constitutes a 742
failure to comply with an obligation in accordance with division 743
(B) of this section and that was the basis of the mandamus 744
action, a well-informed public office or person responsible for 745
the requested public records reasonably would believe that the 746
conduct or threatened conduct of the public office or person 747
responsible for the requested public records did not constitute 748
a failure to comply with an obligation in accordance with 749
division (B) of this section; 750

(ii) That a well-informed public office or person 751
responsible for the requested public records reasonably would 752
believe that the conduct or threatened conduct of the public 753
office or person responsible for the requested public records 754
would serve the public policy that underlies the authority that 755
is asserted as permitting that conduct or threatened conduct. 756

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

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

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

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

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

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

(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 786
appropriate designees shall attend training approved by the 787
attorney general as provided in section 109.43 of the Revised 788
Code. In addition, all public offices shall adopt a public 789
records policy in compliance with this section for responding to 790
public records requests. In adopting a public records policy 791
under this division, a public office may obtain guidance from 792
the model public records policy developed and provided to the 793
public office by the attorney general under section 109.43 of 794
the Revised Code. Except as otherwise provided in this section, 795
the policy may not limit the number of public records that the 796
public office will make available to a single person, may not 797
limit the number of public records that it will make available 798
during a fixed period of time, and may not establish a fixed 799
period of time before it will respond to a request for 800
inspection or copying of public records, unless that period is 801
less than eight hours. 802

(2) The public office shall distribute the public records 803
policy adopted by the public office under division (E)(1) of 804
this section to the employee of the public office who is the 805
records custodian or records manager or otherwise has custody of 806
the records of that office. The public office shall require that 807
employee to acknowledge receipt of the copy of the public 808
records policy. The public office shall create a poster that 809
describes its public records policy and shall post the poster in 810
a conspicuous place in the public office and in all locations 811
where the public office has branch offices. The public office 812
may post its public records policy on the internet web site of 813
the public office if the public office maintains an internet web 814
site. A public office that has established a manual or handbook 815
of its general policies and procedures for all employees of the 816

public office shall include the public records policy of the 817
public office in the manual or handbook. 818

(F) (1) The bureau of motor vehicles may adopt rules 819
pursuant to Chapter 119. of the Revised Code to reasonably limit 820
the number of bulk commercial special extraction requests made 821
by a person for the same records or for updated records during a 822
calendar year. The rules may include provisions for charges to 823
be made for bulk commercial special extraction requests for the 824
actual cost of the bureau, plus special extraction costs, plus 825
ten per cent. The bureau may charge for expenses for redacting 826
information, the release of which is prohibited by law. 827

(2) As used in division (F) (1) of this section: 828

(a) "Actual cost" means the cost of depleted supplies, 829
records storage media costs, actual mailing and alternative 830
delivery costs, or other transmitting costs, and any direct 831
equipment operating and maintenance costs, including actual 832
costs paid to private contractors for copying services. 833

(b) "Bulk commercial special extraction request" means a 834
request for copies of a record for information in a format other 835
than the format already available, or information that cannot be 836
extracted without examination of all items in a records series, 837
class of records, or database by a person who intends to use or 838
forward the copies for surveys, marketing, solicitation, or 839
resale for commercial purposes. "Bulk commercial special 840
extraction request" does not include a request by a person who 841
gives assurance to the bureau that the person making the request 842
does not intend to use or forward the requested copies for 843
surveys, marketing, solicitation, or resale for commercial 844
purposes. 845

(c) "Commercial" means profit-seeking production, buying, 846
or selling of any good, service, or other product. 847

(d) "Special extraction costs" means the cost of the time 848
spent by the lowest paid employee competent to perform the task, 849
the actual amount paid to outside private contractors employed 850
by the bureau, or the actual cost incurred to create computer 851
programs to make the special extraction. "Special extraction 852
costs" include any charges paid to a public agency for computer 853
or records services. 854

(3) For purposes of divisions (F) (1) and (2) of this 855
section, "surveys, marketing, solicitation, or resale for 856
commercial purposes" shall be narrowly construed and does not 857
include reporting or gathering news, reporting or gathering 858
information to assist citizen oversight or understanding of the 859
operation or activities of government, or nonprofit educational 860
research. 861

(G) A request by a defendant, counsel of a defendant, or 862
any agent of a defendant in a criminal action that public 863
records related to that action be made available under this 864
section shall be considered a demand for discovery pursuant to 865
the Criminal Rules, except to the extent that the Criminal Rules 866
plainly indicate a contrary intent. The defendant, counsel of 867
the defendant, or agent of the defendant making a request under 868
this division shall serve a copy of the request on the 869
prosecuting attorney, director of law, or other chief legal 870
officer responsible for prosecuting the action. 871

(H) If a public office denies a request to release a 872
restricted portion of a body-worn camera or dashboard camera 873
recording, as defined in division (A) (15) of this section, any 874
person may file a mandamus action pursuant to this section or a 875

complaint with the clerk of the court of claims pursuant to 876
section 2743.75 of the Revised Code, requesting the court to 877
order the release of all or portions of the recording. If the 878
court considering the request determines that the filing 879
articulates by clear and convincing evidence that the public 880
interest in the recording substantially outweighs privacy 881
interests and other interests asserted to deny release, the 882
court shall order the public office to release the recording. 883

Sec. 149.433. (A) As used in this section: 884

"Act of terrorism" has the same meaning as in section 885
2909.21 of the Revised Code. 886

"Express statement" means a written statement 887
substantially similar to the following: "This information is 888
voluntarily submitted to a public office in expectation of 889
protection from disclosure as provided by section 149.433 of the 890
Revised Code." 891

"Infrastructure record" means any record that discloses 892
the configuration of critical systems including, but not limited 893
to, communication, computer, electrical, mechanical, 894
ventilation, water, and plumbing systems, security codes, or the 895
infrastructure or structural configuration of a building. 896

"Infrastructure record" includes a risk assessment of 897
infrastructure performed by a state or local law enforcement 898
agency at the request of a property owner or manager. 899

"Infrastructure record" does not mean a simple floor plan 900
that discloses only the spatial relationship of components of 901
the building. 902

"Security record" means any of the following: 903

(1) Any record that contains information directly used for 904
protecting or maintaining the security of a public office 905
against attack, interference, or sabotage; 906

(2) Any record assembled, prepared, or maintained by a 907
public office or public body to prevent, mitigate, or respond to 908
acts of terrorism, including any of the following: 909

(a) Those portions of records containing specific and 910
unique vulnerability assessments or specific and unique response 911
plans either of which is intended to prevent or mitigate acts of 912
terrorism, and communication codes or deployment plans of law 913
enforcement or emergency response personnel; 914

(b) Specific intelligence information and specific 915
investigative records shared by federal and international law 916
enforcement agencies with state and local law enforcement and 917
public safety agencies; 918

(c) National security records classified under federal 919
executive order and not subject to public disclosure under 920
federal law that are shared by federal agencies, and other 921
records related to national security briefings to assist state 922
and local government with domestic preparedness for acts of 923
terrorism. 924

(3) An emergency management plan adopted pursuant to 925
section 3313.536 of the Revised Code. 926

(B) (1) A record kept by a public office that is a security 927
record is not a public record under section 149.43 of the 928
Revised Code and is not subject to mandatory release or 929
disclosure under that section. 930

(2) A record kept by a public office that is an 931
infrastructure record of a public office, public school, or a 932

chartered nonpublic school is not a public record under section 933
149.43 of the Revised Code and is not subject to mandatory 934
release or disclosure under that section. 935

(3) A record kept by a public office that is an 936
infrastructure record of a private entity may be exempted from 937
release or disclosure under division (C) of this section. 938

(C) A record prepared by, submitted to, or kept by a 939
public office that is an infrastructure record of a private 940
entity, which is submitted to the public office for use by the 941
public office, when accompanied by an express statement, is 942
exempt from release or disclosure under section 149.43 of the 943
Revised Code for a period of twenty-five years after its 944
creation if it is retained by the public office for that length 945
of time. 946

(D) Notwithstanding any other section of the Revised Code, 947
disclosure by a public office, public employee, chartered 948
nonpublic school, or chartered nonpublic school employee of a 949
security record or infrastructure record that is necessary for 950
construction, renovation, or remodeling work on any public 951
building or project or chartered nonpublic school does not 952
constitute public disclosure for purposes of waiving division 953
(B) of this section and does not result in that record becoming 954
a public record for purposes of section 149.43 of the Revised 955
Code. 956

Section 2. That existing sections 149.43 and 149.433 of 957
the Revised Code are hereby repealed. 958