

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 8**

**Representatives Hambley, Rezabek**

**Cosponsors: Representatives Brenner, Thompson, Koehler, Riedel, Dean,  
Blessing, Goodman**

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**A BILL**

To amend section 149.43 of the Revised Code to 1  
exempt from the Public Records Law certain 2  
information concerning a minor that is included 3  
in a record related to a traffic accident 4  
involving a school vehicle in which the minor 5  
was an occupant at the time of the accident. 6

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

**Section 1.** That section 149.43 of the Revised Code be 7  
amended to read as follows: 8

**Sec. 149.43.** (A) As used in this section: 9

(1) "Public record" means records kept by any public 10  
office, including, but not limited to, state, county, city, 11  
village, township, and school district units, and records 12  
pertaining to the delivery of educational services by an 13  
alternative school in this state kept by the nonprofit or for- 14  
profit entity operating the alternative school pursuant to 15  
section 3313.533 of the Revised Code. "Public record" does not 16  
mean any of the following: 17

(a) Medical records;	18
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	19 20 21
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	22 23 24
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	25 26 27
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	28 29 30 31 32 33
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	34 35
(g) Trial preparation records;	36
(h) Confidential law enforcement investigatory records;	37
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	38 39
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	40 41
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of	42 43 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	68 69 70 71 72

board members during meetings of the board or by persons	73
participating in the director's review, and all work products of	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 section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	103 104 105
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	106 107 108
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	109 110 111
(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code <del>;</del> ;	112 113 114
(dd) Personal information, as defined in section 149.45 of the Revised Code <del>;</del> ;	115 116
(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record, and records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.	117 118 119 120 121 122 123 124 125 126 127 128 129 130

<u>(ff) The name, address, contact information, or other</u>	131
<u>personal information of an individual who is less than eighteen</u>	132
<u>years of age that is included in any record related to a traffic</u>	133
<u>accident involving a school vehicle in which the individual was</u>	134
<u>an occupant at the time of the accident.</u>	135
(2) "Confidential law enforcement investigatory record"	136
means any record that pertains to a law enforcement matter of a	137
criminal, quasi-criminal, civil, or administrative nature, but	138
only to the extent that the release of the record would create a	139
high probability of disclosure of any of the following:	140
(a) The identity of a suspect who has not been charged	141
with the offense to which the record pertains, or of an	142
information source or witness to whom confidentiality has been	143
reasonably promised;	144
(b) Information provided by an information source or	145
witness to whom confidentiality has been reasonably promised,	146
which information would reasonably tend to disclose the source's	147
or witness's identity;	148
(c) Specific confidential investigatory techniques or	149
procedures or specific investigatory work product;	150
(d) Information that would endanger the life or physical	151
safety of law enforcement personnel, a crime victim, a witness,	152
or a confidential information source.	153
(3) "Medical record" means any document or combination of	154
documents, except births, deaths, and the fact of admission to	155
or discharge from a hospital, that pertains to the medical	156
history, diagnosis, prognosis, or medical condition of a patient	157
and that is generated and maintained in the process of medical	158
treatment.	159

(4) "Trial preparation record" means any record that 160  
contains information that is specifically compiled in reasonable 161  
anticipation of, or in defense of, a civil or criminal action or 162  
proceeding, including the independent thought processes and 163  
personal trial preparation of an attorney. 164

(5) "Intellectual property record" means a record, other 165  
than a financial or administrative record, that is produced or 166  
collected by or for faculty or staff of a state institution of 167  
higher learning in the conduct of or as a result of study or 168  
research on an educational, commercial, scientific, artistic, 169  
technical, or scholarly issue, regardless of whether the study 170  
or research was sponsored by the institution alone or in 171  
conjunction with a governmental body or private concern, and 172  
that has not been publicly released, published, or patented. 173

(6) "Donor profile record" means all records about donors 174  
or potential donors to a public institution of higher education 175  
except the names and reported addresses of the actual donors and 176  
the date, amount, and conditions of the actual donation. 177

(7) "Peace officer, parole officer, probation officer, 178  
bailiff, prosecuting attorney, assistant prosecuting attorney, 179  
correctional employee, community-based correctional facility 180  
employee, youth services employee, firefighter, EMT, 181  
investigator of the bureau of criminal identification and 182  
investigation, or federal law enforcement officer residential 183  
and familial information" means any information that discloses 184  
any of the following about a peace officer, parole officer, 185  
probation officer, bailiff, prosecuting attorney, assistant 186  
prosecuting attorney, correctional employee, community-based 187  
correctional facility employee, youth services employee, 188  
firefighter, EMT, investigator of the bureau of criminal 189

identification and investigation, or federal law enforcement officer:	190
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(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 employee, firefighter, EMT, an investigator of the bureau of criminal identification and investigation, or federal law enforcement officer, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, 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 resides;	192
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(b) Information compiled from referral to or participation in an employee assistance program;	205
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(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a 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;	207
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(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff,	217
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prosecuting attorney, assistant prosecuting attorney, 220  
correctional employee, community-based correctional facility 221  
employee, youth services employee, firefighter, EMT, 222  
investigator of the bureau of criminal identification and 223  
investigation, or federal law enforcement officer by the peace 224  
officer's, parole officer's, probation officer's, bailiff's, 225  
prosecuting attorney's, assistant prosecuting attorney's, 226  
correctional employee's, community-based correctional facility 227  
employee's, youth services employee's, firefighter's, EMT's, 228  
investigator of the bureau of criminal identification and 229  
investigation's, or federal law enforcement officer's employer; 230

(e) The identity and amount of any charitable or 231  
employment benefit deduction made by the peace officer's, parole 232  
officer's, probation officer's, bailiff's, prosecuting 233  
attorney's, assistant prosecuting attorney's, correctional 234  
employee's, community-based correctional facility employee's, 235  
youth services employee's, firefighter's, EMT's, investigator of 236  
the bureau of criminal identification and investigation's, or 237  
federal law enforcement officer's employer from the peace 238  
officer's, parole officer's, probation officer's, bailiff's, 239  
prosecuting attorney's, assistant prosecuting attorney's, 240  
correctional employee's, community-based correctional facility 241  
employee's, youth services employee's, firefighter's, EMT's, 242  
investigator of the bureau of criminal identification and 243  
investigation's, or federal law enforcement officer's 244  
compensation unless the amount of the deduction is required by 245  
state or federal law; 246

(f) The name, the residential address, the name of the 247  
employer, the address of the employer, the social security 248  
number, the residential telephone number, any bank account, 249  
debit card, charge card, or credit card number, or the emergency 250

telephone number of the spouse, a former spouse, or any child of 251  
a peace officer, parole officer, probation officer, bailiff, 252  
prosecuting attorney, assistant prosecuting attorney, 253  
correctional employee, community-based correctional facility 254  
employee, youth services employee, firefighter, EMT, 255  
investigator of the bureau of criminal identification and 256  
investigation, or federal law enforcement officer; 257

(g) A photograph of a peace officer who holds a position 258  
or has an assignment that may include undercover or plain 259  
clothes positions or assignments as determined by the peace 260  
officer's appointing authority. 261

As used in divisions (A) (7) and (B) (9) of this section, 262  
"peace officer" has the same meaning as in section 109.71 of the 263  
Revised Code and also includes the superintendent and troopers 264  
of the state highway patrol; it does not include the sheriff of 265  
a county or a supervisory employee who, in the absence of the 266  
sheriff, is authorized to stand in for, exercise the authority 267  
of, and perform the duties of the sheriff. 268

As used in divisions (A) (7) and (B) (9) of this section, 269  
"correctional employee" means any employee of the department of 270  
rehabilitation and correction who in the course of performing 271  
the employee's job duties has or has had contact with inmates 272  
and persons under supervision. 273

As used in divisions (A) (7) and (B) (9) of this section, 274  
"youth services employee" means any employee of the department 275  
of youth services who in the course of performing the employee's 276  
job duties has or has had contact with children committed to the 277  
custody of the department of youth services. 278

As used in divisions (A) (7) and (B) (9) of this section, 279

"firefighter" means any regular, paid or volunteer, member of a 280  
lawfully constituted fire department of a municipal corporation, 281  
township, fire district, or village. 282

As used in divisions (A)(7) and (B)(9) of this section, 283  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 284  
emergency medical services for a public emergency medical 285  
service organization. "Emergency medical service organization," 286  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 287  
in section 4765.01 of the Revised Code. 288

As used in divisions (A)(7) and (B)(9) of this section, 289  
"investigator of the bureau of criminal identification and 290  
investigation" has the meaning defined in section 2903.11 of the 291  
Revised Code. 292

As used in divisions (A)(7) and (B)(9) of this section, 293  
"federal law enforcement officer" has the meaning defined in 294  
section 9.88 of the Revised Code. 295

(8) "Information pertaining to the recreational activities 296  
of a person under the age of eighteen" means information that is 297  
kept in the ordinary course of business by a public office, that 298  
pertains to the recreational activities of a person under the 299  
age of eighteen years, and that discloses any of the following: 300

(a) The address or telephone number of a person under the 301  
age of eighteen or the address or telephone number of that 302  
person's parent, guardian, custodian, or emergency contact 303  
person; 304

(b) The social security number, birth date, or 305  
photographic image of a person under the age of eighteen; 306

(c) Any medical record, history, or information pertaining 307  
to a person under the age of eighteen; 308

(d) Any additional information sought or required about a 309  
person under the age of eighteen for the purpose of allowing 310  
that person to participate in any recreational activity 311  
conducted or sponsored by a public office or to use or obtain 312  
admission privileges to any recreational facility owned or 313  
operated by a public office. 314

(9) "Community control sanction" has the same meaning as 315  
in section 2929.01 of the Revised Code. 316

(10) "Post-release control sanction" has the same meaning 317  
as in section 2967.01 of the Revised Code. 318

(11) "Redaction" means obscuring or deleting any 319  
information that is exempt from the duty to permit public 320  
inspection or copying from an item that otherwise meets the 321  
definition of a "record" in section 149.011 of the Revised Code. 322

(12) "Designee" and "elected official" have the same 323  
meanings as in section 109.43 of the Revised Code. 324

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

public inspection or copying that public record, the public 338  
office or the person responsible for the public record shall 339  
notify the requester of any redaction or make the redaction 340  
plainly visible. A redaction shall be deemed a denial of a 341  
request to inspect or copy the redacted information, except if 342  
federal or state law authorizes or requires a public office to 343  
make the redaction. 344

(2) To facilitate broader access to public records, a 345  
public office or the person responsible for public records shall 346  
organize and maintain public records in a manner that they can 347  
be made available for inspection or copying in accordance with 348  
division (B) of this section. A public office also shall have 349  
available a copy of its current records retention schedule at a 350  
location readily available to the public. If a requester makes 351  
an ambiguous or overly broad request or has difficulty in making 352  
a request for copies or inspection of public records under this 353  
section such that the public office or the person responsible 354  
for the requested public record cannot reasonably identify what 355  
public records are being requested, the public office or the 356  
person responsible for the requested public record may deny the 357  
request but shall provide the requester with an opportunity to 358  
revise the request by informing the requester of the manner in 359  
which records are maintained by the public office and accessed 360  
in the ordinary course of the public office's or person's 361  
duties. 362

(3) If a request is ultimately denied, in part or in 363  
whole, the public office or the person responsible for the 364  
requested public record shall provide the requester with an 365  
explanation, including legal authority, setting forth why the 366  
request was denied. If the initial request was provided in 367  
writing, the explanation also shall be provided to the requester 368

in writing. The explanation shall not preclude the public office 369  
or the person responsible for the requested public record from 370  
relying upon additional reasons or legal authority in defending 371  
an action commenced under division (C) of this section. 372

(4) Unless specifically required or authorized by state or 373  
federal law or in accordance with division (B) of this section, 374  
no public office or person responsible for public records may 375  
limit or condition the availability of public records by 376  
requiring disclosure of the requester's identity or the intended 377  
use of the requested public record. Any requirement that the 378  
requester disclose the requester's identity or the intended use 379  
of the requested public record constitutes a denial of the 380  
request. 381

(5) A public office or person responsible for public 382  
records may ask a requester to make the request in writing, may 383  
ask for the requester's identity, and may inquire about the 384  
intended use of the information requested, but may do so only 385  
after disclosing to the requester that a written request is not 386  
mandatory and that the requester may decline to reveal the 387  
requester's identity or the intended use and when a written 388  
request or disclosure of the identity or intended use would 389  
benefit the requester by enhancing the ability of the public 390  
office or person responsible for public records to identify, 391  
locate, or deliver the public records sought by the requester. 392

(6) If any person chooses to obtain a copy of a public 393  
record in accordance with division (B) of this section, the 394  
public office or person responsible for the public record may 395  
require that person to pay in advance the cost involved in 396  
providing the copy of the public record in accordance with the 397  
choice made by the person seeking the copy under this division. 398

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 reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

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

(b) Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by

United States mail or by any other means of delivery or 430  
transmission pursuant to division (B) (7) of this section. A 431  
public office that adopts a policy and procedures under division 432  
(B) (7) of this section shall comply with them in performing its 433  
duties under that division. 434

(c) In any policy and procedures adopted under division 435  
(B) (7) of this section: 436

(i) A public office may limit the number of records 437  
requested by a person that the office will physically deliver by 438  
United States mail or by another delivery service to ten per 439  
month, unless the person certifies to the office in writing that 440  
the person does not intend to use or forward the requested 441  
records, or the information contained in them, for commercial 442  
purposes; 443

(ii) A public office that chooses to provide some or all 444  
of its public records on a web site that is fully accessible to 445  
and searchable by members of the public at all times, other than 446  
during acts of God outside the public office's control or 447  
maintenance, and that charges no fee to search, access, 448  
download, or otherwise receive records provided on the web site, 449  
may limit to ten per month the number of records requested by a 450  
person that the office will deliver in a digital format, unless 451  
the requested records are not provided on the web site and 452  
unless the person certifies to the office in writing that the 453  
person does not intend to use or forward the requested records, 454  
or the information contained in them, for commercial purposes. 455

(iii) For purposes of division (B) (7) of this section, 456  
"commercial" shall be narrowly construed and does not include 457  
reporting or gathering news, reporting or gathering information 458  
to assist citizen oversight or understanding of the operation or 459



activities of government, or nonprofit educational research. 460

(8) A public office or person responsible for public 461  
records is not required to permit a person who is incarcerated 462  
pursuant to a criminal conviction or a juvenile adjudication to 463  
inspect or to obtain a copy of any public record concerning a 464  
criminal investigation or prosecution or concerning what would 465  
be a criminal investigation or prosecution if the subject of the 466  
investigation or prosecution were an adult, unless the request 467  
to inspect or to obtain a copy of the record is for the purpose 468  
of acquiring information that is subject to release as a public 469  
record under this section and the judge who imposed the sentence 470  
or made the adjudication with respect to the person, or the 471  
judge's successor in office, finds that the information sought 472  
in the public record is necessary to support what appears to be 473  
a justiciable claim of the person. 474

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

enforcement officer and, if the peace officer's, parole 491  
officer's, probation officer's, bailiff's, prosecuting 492  
attorney's, assistant prosecuting attorney's, correctional 493  
employee's, community-based correctional facility employee's, 494  
youth services employee's, firefighter's, EMT's, investigator of 495  
the bureau of criminal identification and investigation's, or 496  
federal law enforcement officer's spouse, former spouse, or 497  
child is employed by a public office, the name and address of 498  
the employer of the peace officer's, parole officer's, probation 499  
officer's, bailiff's, prosecuting attorney's, assistant 500  
prosecuting attorney's, correctional employee's, community-based 501  
correctional facility employee's, youth services employee's, 502  
firefighter's, EMT's, investigator of the bureau of criminal 503  
identification and investigation's, or federal law enforcement 504  
officer's spouse, former spouse, or child. The request shall 505  
include the journalist's name and title and the name and address 506  
of the journalist's employer and shall state that disclosure of 507  
the information sought would be in the public interest. 508

(b) Division (B) (9) (a) of this section also applies to 509  
journalist requests for customer information maintained by a 510  
municipally owned or operated public utility, other than social 511  
security numbers and any private financial information such as 512  
credit reports, payment methods, credit card numbers, and bank 513  
account information. 514

(c) As used in division (B) (9) of this section, 515  
"journalist" means a person engaged in, connected with, or 516  
employed by any news medium, including a newspaper, magazine, 517  
press association, news agency, or wire service, a radio or 518  
television station, or a similar medium, for the purpose of 519  
gathering, processing, transmitting, compiling, editing, or 520  
disseminating information for the general public. 521

(C) (1) If a person allegedly is aggrieved by the failure 522  
of a public office or the person responsible for public records 523  
to promptly prepare a public record and to make it available to 524  
the person for inspection in accordance with division (B) of 525  
this section or by any other failure of a public office or the 526  
person responsible for public records to comply with an 527  
obligation in accordance with division (B) of this section, the 528  
person allegedly aggrieved may do only one of the following, and 529  
not both: 530

(a) File a complaint with the clerk of the court of claims 531  
or the clerk of the court of common pleas under section 2743.75 532  
of the Revised Code; 533

(b) Commence a mandamus action to obtain a judgment that 534  
orders the public office or the person responsible for the 535  
public record to comply with division (B) of this section, that 536  
awards court costs and reasonable attorney's fees to the person 537  
that instituted the mandamus action, and, if applicable, that 538  
includes an order fixing statutory damages under division (C) (2) 539  
of this section. The mandamus action may be commenced in the 540  
court of common pleas of the county in which division (B) of 541  
this section allegedly was not complied with, in the supreme 542  
court pursuant to its original jurisdiction under Section 2 of 543  
Article IV, Ohio Constitution, or in the court of appeals for 544  
the appellate district in which division (B) of this section 545  
allegedly was not complied with pursuant to its original 546  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 547

(2) If a requester transmits a written request by hand 548  
delivery or certified mail to inspect or receive copies of any 549  
public record in a manner that fairly describes the public 550  
record or class of public records to the public office or person 551

responsible for the requested public records, except as 552  
otherwise provided in this section, the requester shall be 553  
entitled to recover the amount of statutory damages set forth in 554  
this division if a court determines that the public office or 555  
the person responsible for public records failed to comply with 556  
an obligation in accordance with division (B) of this section. 557

The amount of statutory damages shall be fixed at one 558  
hundred dollars for each business day during which the public 559  
office or person responsible for the requested public records 560  
failed to comply with an obligation in accordance with division 561  
(B) of this section, beginning with the day on which the 562  
requester files a mandamus action to recover statutory damages, 563  
up to a maximum of one thousand dollars. The award of statutory 564  
damages shall not be construed as a penalty, but as compensation 565  
for injury arising from lost use of the requested information. 566  
The existence of this injury shall be conclusively presumed. The 567  
award of statutory damages shall be in addition to all other 568  
remedies authorized by this section. 569

The court may reduce an award of statutory damages or not 570  
award statutory damages if the court determines both of the 571  
following: 572

(a) That, based on the ordinary application of statutory 573  
law and case law as it existed at the time of the conduct or 574  
threatened conduct of the public office or person responsible 575  
for the requested public records that allegedly constitutes a 576  
failure to comply with an obligation in accordance with division 577  
(B) of this section and that was the basis of the mandamus 578  
action, a well-informed public office or person responsible for 579  
the requested public records reasonably would believe that the 580  
conduct or threatened conduct of the public office or person 581

responsible for the requested public records did not constitute 582  
a failure to comply with an obligation in accordance with 583  
division (B) of this section; 584

(b) That a well-informed public office or person 585  
responsible for the requested public records reasonably would 586  
believe that the conduct or threatened conduct of the public 587  
office or person responsible for the requested public records 588  
would serve the public policy that underlies the authority that 589  
is asserted as permitting that conduct or threatened conduct. 590

(3) In a mandamus action filed under division (C) (1) of 591  
this section, the following apply: 592

(a) (i) If the court orders the public office or the person 593  
responsible for the public record to comply with division (B) of 594  
this section, the court shall determine and award to the relator 595  
all court costs, which shall be construed as remedial and not 596  
punitive. 597

(ii) If the court makes a determination described in 598  
division (C) (3) (b) (iii) of this section, the court shall 599  
determine and award to the relator all court costs, which shall 600  
be construed as remedial and not punitive. 601

(b) If the court renders a judgment that orders the public 602  
office or the person responsible for the public record to comply 603  
with division (B) of this section or if the court determines any 604  
of the following, the court may award reasonable attorney's fees 605  
to the relator, subject to the provisions of division (C) (4) of 606  
this section: 607

(i) The public office or the person responsible for the 608  
public records failed to respond affirmatively or negatively to 609  
the public records request in accordance with the time allowed 610

under division (B) of this section. 611

(ii) The public office or the person responsible for the 612  
public records promised to permit the relator to inspect or 613  
receive copies of the public records requested within a 614  
specified period of time but failed to fulfill that promise 615  
within that specified period of time. 616

(iii) The public office or the person responsible for the 617  
public records acted in bad faith when the office or person 618  
voluntarily made the public records available to the relator for 619  
the first time after the relator commenced the mandamus action, 620  
but before the court issued any order concluding whether or not 621  
the public office or person was required to comply with division 622  
(B) of this section. No discovery may be conducted on the issue 623  
of the alleged bad faith of the public office or person 624  
responsible for the public records. This division shall not be 625  
construed as creating a presumption that the public office or 626  
the person responsible for the public records acted in bad faith 627  
when the office or person voluntarily made the public records 628  
available to the relator for the first time after the relator 629  
commenced the mandamus action, but before the court issued any 630  
order described in this division. 631

(c) The court shall not award attorney's fees to the 632  
relator if the court determines both of the following: 633

(i) That, based on the ordinary application of statutory 634  
law and case law as it existed at the time of the conduct or 635  
threatened conduct of the public office or person responsible 636  
for the requested public records that allegedly constitutes a 637  
failure to comply with an obligation in accordance with division 638  
(B) of this section and that was the basis of the mandamus 639  
action, a well-informed public office or person responsible for 640

the requested public records reasonably would believe that the 641  
conduct or threatened conduct of the public office or person 642  
responsible for the requested public records did not constitute 643  
a failure to comply with an obligation in accordance with 644  
division (B) of this section; 645

(ii) That a well-informed public office or person 646  
responsible for the requested public records reasonably would 647  
believe that the conduct or threatened conduct of the public 648  
office or person responsible for the requested public records 649  
would serve the public policy that underlies the authority that 650  
is asserted as permitting that conduct or threatened conduct. 651

(4) All of the following apply to any award of reasonable 652  
attorney's fees awarded under division (C) (3) (b) of this 653  
section: 654

(a) The fees shall be construed as remedial and not 655  
punitive. 656

(b) The fees awarded shall not exceed the total of the 657  
reasonable attorney's fees incurred before the public record was 658  
made available to the relator and the fees described in division 659  
(C) (4) (c) of this section. 660

(c) Reasonable attorney's fees shall include reasonable 661  
fees incurred to produce proof of the reasonableness and amount 662  
of the fees and to otherwise litigate entitlement to the fees. 663

(d) The court may reduce the amount of fees awarded if the 664  
court determines that, given the factual circumstances involved 665  
with the specific public records request, an alternative means 666  
should have been pursued to more effectively and efficiently 667  
resolve the dispute that was subject to the mandamus action 668  
filed under division (C) (1) of this section. 669

(5) If the court does not issue a writ of mandamus under 670  
division (C) of this section and the court determines at that 671  
time that the bringing of the mandamus action was frivolous 672  
conduct as defined in division (A) of section 2323.51 of the 673  
Revised Code, the court may award to the public office all court 674  
costs, expenses, and reasonable attorney's fees, as determined 675  
by the court. 676

(D) Chapter 1347. of the Revised Code does not limit the 677  
provisions of this section. 678

(E) (1) To ensure that all employees of public offices are 679  
appropriately educated about a public office's obligations under 680  
division (B) of this section, all elected officials or their 681  
appropriate designees shall attend training approved by the 682  
attorney general as provided in section 109.43 of the Revised 683  
Code. In addition, all public offices shall adopt a public 684  
records policy in compliance with this section for responding to 685  
public records requests. In adopting a public records policy 686  
under this division, a public office may obtain guidance from 687  
the model public records policy developed and provided to the 688  
public office by the attorney general under section 109.43 of 689  
the Revised Code. Except as otherwise provided in this section, 690  
the policy may not limit the number of public records that the 691  
public office will make available to a single person, may not 692  
limit the number of public records that it will make available 693  
during a fixed period of time, and may not establish a fixed 694  
period of time before it will respond to a request for 695  
inspection or copying of public records, unless that period is 696  
less than eight hours. 697

(2) The public office shall distribute the public records 698  
policy adopted by the public office under division (E) (1) of 699



this section to the employee of the public office who is the 700  
records custodian or records manager or otherwise has custody of 701  
the records of that office. The public office shall require that 702  
employee to acknowledge receipt of the copy of the public 703  
records policy. The public office shall create a poster that 704  
describes its public records policy and shall post the poster in 705  
a conspicuous place in the public office and in all locations 706  
where the public office has branch offices. The public office 707  
may post its public records policy on the internet web site of 708  
the public office if the public office maintains an internet web 709  
site. A public office that has established a manual or handbook 710  
of its general policies and procedures for all employees of the 711  
public office shall include the public records policy of the 712  
public office in the manual or handbook. 713

(F) (1) The bureau of motor vehicles may adopt rules 714  
pursuant to Chapter 119. of the Revised Code to reasonably limit 715  
the number of bulk commercial special extraction requests made 716  
by a person for the same records or for updated records during a 717  
calendar year. The rules may include provisions for charges to 718  
be made for bulk commercial special extraction requests for the 719  
actual cost of the bureau, plus special extraction costs, plus 720  
ten per cent. The bureau may charge for expenses for redacting 721  
information, the release of which is prohibited by law. 722

(2) As used in division (F) (1) of this section: 723

(a) "Actual cost" means the cost of depleted supplies, 724  
records storage media costs, actual mailing and alternative 725  
delivery costs, or other transmitting costs, and any direct 726  
equipment operating and maintenance costs, including actual 727  
costs paid to private contractors for copying services. 728

(b) "Bulk commercial special extraction request" means a 729

request for copies of a record for information in a format other 730  
than the format already available, or information that cannot be 731  
extracted without examination of all items in a records series, 732  
class of records, or database by a person who intends to use or 733  
forward the copies for surveys, marketing, solicitation, or 734  
resale for commercial purposes. "Bulk commercial special 735  
extraction request" does not include a request by a person who 736  
gives assurance to the bureau that the person making the request 737  
does not intend to use or forward the requested copies for 738  
surveys, marketing, solicitation, or resale for commercial 739  
purposes. 740

(c) "Commercial" means profit-seeking production, buying, 741  
or selling of any good, service, or other product. 742

(d) "Special extraction costs" means the cost of the time 743  
spent by the lowest paid employee competent to perform the task, 744  
the actual amount paid to outside private contractors employed 745  
by the bureau, or the actual cost incurred to create computer 746  
programs to make the special extraction. "Special extraction 747  
costs" include any charges paid to a public agency for computer 748  
or records services. 749

(3) For purposes of divisions (F) (1) and (2) of this 750  
section, "surveys, marketing, solicitation, or resale for 751  
commercial purposes" shall be narrowly construed and does not 752  
include reporting or gathering news, reporting or gathering 753  
information to assist citizen oversight or understanding of the 754  
operation or activities of government, or nonprofit educational 755  
research. 756

(G) A request by a defendant, counsel of a defendant, or 757  
any agent of a defendant in a criminal action that public 758  
records related to that action be made available under this 759

section shall be considered a demand for discovery pursuant to 760  
the Criminal Rules, except to the extent that the Criminal Rules 761  
plainly indicate a contrary intent. The defendant, counsel of 762  
the defendant, or agent of the defendant making a request under 763  
this division shall serve a copy of the request on the 764  
prosecuting attorney, director of law, or other chief legal 765  
officer responsible for prosecuting the action. 766

**Section 2.** That existing section 149.43 of the Revised 767  
Code is hereby repealed. 768

**Section 3.** Section 149.43 of the Revised Code is presented 769  
in this act as a composite of the section as amended by Sub. 770  
H.B. 317, Sub. H.B. 359, and Sub. S.B. 321, all of the 131st 771  
General Assembly. The General Assembly, applying the principle 772  
stated in division (B) of section 1.52 of the Revised Code that 773  
amendments are to be harmonized if reasonably capable of 774  
simultaneous operation, finds that the composite is the 775  
resulting version of the section in effect prior to the 776  
effective date of the section as presented in this act. 777