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**Ohio House State and Local Government Committee
House Bill 139—Public Records Disclosure Exemptions
Testimony of Dennis R. Hetzel
President & Executive Director / Ohio News Media Association
February 14th, 2018**

On behalf of the members of the Ohio News Media Association, which represents newspaper and digital news outlets across the state, I thank committee members for this opportunity to express support for House Bill 139, sponsored by Representatives Candice Keller and Rick Perales.

HB 139 is a significant, needed improvement that brings uniformity to practices across Ohio and would allow historians, researchers, journalists, archivists and everyday citizens to access records critical to their personal histories, family histories and the histories of their communities and our state. This bill is consistent with the strong presumption of openness that is attached to all public records under Ohio law. Current practices are not.

As you know, HB 139 would allow certain records to be made available to the public after 100 years. These are records that are currently exempt from disclosure but are required to be permanently retained by a governmental entity. It's interesting to note that even this standard is more restrictive than many federal records including census information and files created by intelligence agencies.

Census records, for example, are open after 72 years. Records maintained by the CIA and other intelligence agencies are kept confidential for 25 years and then are reviewed and many are made public – as was the case just last year regarding the JFK assassination some 54 years after the event. Many other records held by the federal government that are exempt from disclosure are available after 50 years. Information cannot remain classified indefinitely.

We conducted some spot checks and found other states have less restrictive standards. For example, the default period for access in Kentucky is 50 years for those records in the custody of libraries and



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archives. Oregon has a 25-year standard that goes up to 75 years in some situations. Indiana also has a 75-year standard.

With this in mind, we would suggest that the committee consider lessening the time frame so that the “default” for availability is less than 100 years. We also pose the devil’s advocate question if the two exemptions in the bill - records related to attorney-client privilege or trial preparation records - must remain secret forever. In the context of historical research, it is easy to imagine circumstances in which historians’ access to these records would be critical to understanding an important case or public-policy decision.

We would propose a 75-year standard for closure of all records with a provision for a court proceeding in which a plaintiff could argue for a longer closure in unusual circumstances. We also would propose a court procedure at the 50-year mark in which a plaintiff could argue that the public interest outweighed any continued secrecy.

Finally, I must add a personal note. Bills such as these resonate with me, because I am a 65-year-old adoptee. Although I know some of the answers to my questions, there remains a big hole in my life story and the history my children and their children are entitled to know. Since I am originally from Chicago, this bill would not help me or my family personally, but I certainly relate to Rep. Keller’s testimony about the importance of this ruling to help families get the closure they deserve in adoption situations.

Thank you for your consideration. We would look forward to working with all parties if there is interest in improving this good legislation.