

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 593

Representative Ramos

Cosponsors: Representatives West, Antonio, Brenner, Riedel

A BILL

To amend section 149.43 and to enact section 1
149.436 of the Revised Code to provide that 2
portions of a peace officer's dashboard camera 3
recordings that show an officer being killed or 4
suffering grievous bodily harm in the line of 5
duty are not public records and generally are 6
confidential and may not be released. 7

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

Section 1. That section 149.43 be amended and section 8
149.436 of the Revised Code be enacted to read as follows: 9

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

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

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

section 5120.21 of the Revised Code;	46
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	47 48 49 50
(m) Intellectual property records;	51
(n) Donor profile records;	52
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	53 54
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;	55 56 57 58 59 60 61
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	62 63 64 65 66
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	67 68
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by	69 70 71 72 73

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

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

(ff) Orders for active military service of an individual 132
serving or with previous service in the armed forces of the 133
United States, including a reserve component, or the Ohio 134
organized militia, except that, such order becomes a public 135
record on the day that is fifteen years after the published date 136
or effective date of the call to order. 137

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

As used in divisions (A) (7) and (B) (9) of this section, 272
"correctional employee" means any employee of the department of 273
rehabilitation and correction who in the course of performing 274
the employee's job duties has or has had contact with inmates 275
and persons under supervision. 276

As used in divisions (A) (7) and (B) (9) of this section, 277
"youth services employee" means any employee of the department 278
of youth services who in the course of performing the employee's 279
job duties has or has had contact with children committed to the 280
custody of the department of youth services. 281

As used in divisions (A) (7) and (B) (9) of this section, 282
"firefighter" means any regular, paid or volunteer, member of a 283
lawfully constituted fire department of a municipal corporation, 284
township, fire district, or village. 285

As used in divisions (A) (7) and (B) (9) of this section, 286
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 287
emergency medical services for a public emergency medical 288
service organization. "Emergency medical service organization," 289
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 290
in section 4765.01 of the Revised Code. 291

As used in divisions (A) (7) and (B) (9) of this section, 292
"investigator of the bureau of criminal identification and 293
investigation" has the meaning defined in section 2903.11 of the 294
Revised Code. 295

As used in divisions (A) (7) and (B) (9) of this section, 296
"federal law enforcement officer" has the meaning defined in 297
section 9.88 of the Revised Code. 298

(8) "Information pertaining to the recreational activities 299
of a person under the age of eighteen" means information that is 300
kept in the ordinary course of business by a public office, that 301
pertains to the recreational activities of a person under the 302
age of eighteen years, and that discloses any of the following: 303

(a) The address or telephone number of a person under the 304
age of eighteen or the address or telephone number of that 305
person's parent, guardian, custodian, or emergency contact 306
person; 307

(b) The social security number, birth date, or 308
photographic image of a person under the age of eighteen; 309

(c) Any medical record, history, or information pertaining 310

to a person under the age of eighteen; 311

(d) Any additional information sought or required about a 312
person under the age of eighteen for the purpose of allowing 313
that person to participate in any recreational activity 314
conducted or sponsored by a public office or to use or obtain 315
admission privileges to any recreational facility owned or 316
operated by a public office. 317

(9) "Community control sanction" has the same meaning as 318
in section 2929.01 of the Revised Code. 319

(10) "Post-release control sanction" has the same meaning 320
as in section 2967.01 of the Revised Code. 321

(11) "Redaction" means obscuring or deleting any 322
information that is exempt from the duty to permit public 323
inspection or copying from an item that otherwise meets the 324
definition of a "record" in section 149.011 of the Revised Code. 325

(12) "Designee" and "elected official" have the same 326
meanings as in section 109.43 of the Revised Code. 327

(13) "Dashboard camera" means a visual system, or a visual 328
and audio system, mounted on a patrol vehicle or vessel used by 329
a peace officer, as defined in section 109.71 of the Revised 330
Code, while the officer is engaged in the performance of the 331
officer's duties. 332

(14) "Dashboard camera recording" means a visual or audio 333
recording obtained by a dashboard camera while the vehicle or 334
vessel on which the camera is mounted is being used by a peace 335
officer, as defined in section 109.71 of the Revised Code, while 336
the officer is engaged in the performance of the officer's 337
duties. 338

(15) "Restricted portion of a dashboard camera recording" 339
means any visual or audio portion of a dashboard camera 340
recording that shows, communicates, or discloses any of the 341
following with respect to a peace officer, as defined in section 342
109.71 of the Revised Code: 343

(a) The death of a peace officer occurring while the 344
officer was engaged in the performance of official duties, 345
unless the consent of the officer's executor or administrator 346
has been obtained; 347

(b) Grievous bodily harm, as defined in section 5924.120 348
of the Revised Code, to a peace officer occurring while the 349
officer was engaged in the performance of official duties, 350
unless the consent of the officer has been obtained. 351

(B) (1) Upon request and subject to division (B) (8) of this 352
section, all public records responsive to the request shall be 353
promptly prepared and made available for inspection to any 354
person at all reasonable times during regular business hours. 355
Subject to division (B) (8) of this section, upon request, a 356
public office or person responsible for public records shall 357
make copies of the requested public record available at cost and 358
within a reasonable period of time. If a public record contains 359
information that is exempt from the duty to permit public 360
inspection or to copy the public record, the public office or 361
the person responsible for the public record shall make 362
available all of the information within the public record that 363
is not exempt. When making that public record available for 364
public inspection or copying that public record, the public 365
office or the person responsible for the public record shall 366
notify the requester of any redaction or make the redaction 367
plainly visible. A redaction shall be deemed a denial of a 368

request to inspect or copy the redacted information, except if 369
federal or state law authorizes or requires a public office to 370
make the redaction. 371

(2) To facilitate broader access to public records, a 372
public office or the person responsible for public records shall 373
organize and maintain public records in a manner that they can 374
be made available for inspection or copying in accordance with 375
division (B) of this section. A public office also shall have 376
available a copy of its current records retention schedule at a 377
location readily available to the public. If a requester makes 378
an ambiguous or overly broad request or has difficulty in making 379
a request for copies or inspection of public records under this 380
section such that the public office or the person responsible 381
for the requested public record cannot reasonably identify what 382
public records are being requested, the public office or the 383
person responsible for the requested public record may deny the 384
request but shall provide the requester with an opportunity to 385
revise the request by informing the requester of the manner in 386
which records are maintained by the public office and accessed 387
in the ordinary course of the public office's or person's 388
duties. 389

(3) If a request is ultimately denied, in part or in 390
whole, the public office or the person responsible for the 391
requested public record shall provide the requester with an 392
explanation, including legal authority, setting forth why the 393
request was denied. If the initial request was provided in 394
writing, the explanation also shall be provided to the requester 395
in writing. The explanation shall not preclude the public office 396
or the person responsible for the requested public record from 397
relying upon additional reasons or legal authority in defending 398
an action commenced under division (C) of this section. 399

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

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

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

or person responsible for the public record determines that it 431
reasonably can be duplicated as an integral part of the normal 432
operations of the public office or person responsible for the 433
public record. When the person seeking the copy makes a choice 434
under this division, the public office or person responsible for 435
the public record shall provide a copy of it in accordance with 436
the choice made by the person seeking the copy. Nothing in this 437
section requires a public office or person responsible for the 438
public record to allow the person seeking a copy of the public 439
record to make the copies of the public record. 440

(7) (a) Upon a request made in accordance with division (B) 441
of this section and subject to division (B) (6) of this section, 442
a public office or person responsible for public records shall 443
transmit a copy of a public record to any person by United 444
States mail or by any other means of delivery or transmission 445
within a reasonable period of time after receiving the request 446
for the copy. The public office or person responsible for the 447
public record may require the person making the request to pay 448
in advance the cost of postage if the copy is transmitted by 449
United States mail or the cost of delivery if the copy is 450
transmitted other than by United States mail, and to pay in 451
advance the costs incurred for other supplies used in the 452
mailing, delivery, or transmission. 453

(b) Any public office may adopt a policy and procedures 454
that it will follow in transmitting, within a reasonable period 455
of time after receiving a request, copies of public records by 456
United States mail or by any other means of delivery or 457
transmission pursuant to division (B) (7) of this section. A 458
public office that adopts a policy and procedures under division 459
(B) (7) of this section shall comply with them in performing its 460
duties under that division. 461

(c) In any policy and procedures adopted under division 462
(B) (7) of this section: 463

(i) A public office may limit the number of records 464
requested by a person that the office will physically deliver by 465
United States mail or by another delivery service to ten per 466
month, unless the person certifies to the office in writing that 467
the person does not intend to use or forward the requested 468
records, or the information contained in them, for commercial 469
purposes; 470

(ii) A public office that chooses to provide some or all 471
of its public records on a web site that is fully accessible to 472
and searchable by members of the public at all times, other than 473
during acts of God outside the public office's control or 474
maintenance, and that charges no fee to search, access, 475
download, or otherwise receive records provided on the web site, 476
may limit to ten per month the number of records requested by a 477
person that the office will deliver in a digital format, unless 478
the requested records are not provided on the web site and 479
unless the person certifies to the office in writing that the 480
person does not intend to use or forward the requested records, 481
or the information contained in them, for commercial purposes. 482

(iii) For purposes of division (B) (7) of this section, 483
"commercial" shall be narrowly construed and does not include 484
reporting or gathering news, reporting or gathering information 485
to assist citizen oversight or understanding of the operation or 486
activities of government, or nonprofit educational research. 487

(8) A public office or person responsible for public 488
records is not required to permit a person who is incarcerated 489
pursuant to a criminal conviction or a juvenile adjudication to 490
inspect or to obtain a copy of any public record concerning a 491

criminal investigation or prosecution or concerning what would 492
be a criminal investigation or prosecution if the subject of the 493
investigation or prosecution were an adult, unless the request 494
to inspect or to obtain a copy of the record is for the purpose 495
of acquiring information that is subject to release as a public 496
record under this section and the judge who imposed the sentence 497
or made the adjudication with respect to the person, or the 498
judge's successor in office, finds that the information sought 499
in the public record is necessary to support what appears to be 500
a justiciable claim of the person. 501

(9) (a) Upon written request made and signed by a 502
journalist on or after December 16, 1999, a public office, or 503
person responsible for public records, having custody of the 504
records of the agency employing a specified peace officer, 505
parole officer, probation officer, bailiff, prosecuting 506
attorney, assistant prosecuting attorney, correctional employee, 507
community-based correctional facility employee, youth services 508
employee, firefighter, EMT, investigator of the bureau of 509
criminal identification and investigation, or federal law 510
enforcement officer shall disclose to the journalist the address 511
of the actual personal residence of the peace officer, parole 512
officer, probation officer, bailiff, prosecuting attorney, 513
assistant prosecuting attorney, correctional employee, 514
community-based correctional facility employee, youth services 515
employee, firefighter, EMT, investigator of the bureau of 516
criminal identification and investigation, or federal law 517
enforcement officer and, if the peace officer's, parole 518
officer's, probation officer's, bailiff's, prosecuting 519
attorney's, assistant prosecuting attorney's, correctional 520
employee's, community-based correctional facility employee's, 521
youth services employee's, firefighter's, EMT's, investigator of 522

the bureau of criminal identification and investigation's, or 523
federal law enforcement officer's spouse, former spouse, or 524
child is employed by a public office, the name and address of 525
the employer of the peace officer's, parole officer's, probation 526
officer's, bailiff's, prosecuting attorney's, assistant 527
prosecuting attorney's, correctional employee's, community-based 528
correctional facility employee's, youth services employee's, 529
firefighter's, EMT's, investigator of the bureau of criminal 530
identification and investigation's, or federal law enforcement 531
officer's spouse, former spouse, or child. The request shall 532
include the journalist's name and title and the name and address 533
of the journalist's employer and shall state that disclosure of 534
the information sought would be in the public interest. 535

(b) Division (B) (9) (a) of this section also applies to 536
journalist requests for customer information maintained by a 537
municipally owned or operated public utility, other than social 538
security numbers and any private financial information such as 539
credit reports, payment methods, credit card numbers, and bank 540
account information. 541

(c) As used in division (B) (9) of this section, 542
"journalist" means a person engaged in, connected with, or 543
employed by any news medium, including a newspaper, magazine, 544
press association, news agency, or wire service, a radio or 545
television station, or a similar medium, for the purpose of 546
gathering, processing, transmitting, compiling, editing, or 547
disseminating information for the general public. 548

(C) (1) If a person allegedly is aggrieved by the failure 549
of a public office or the person responsible for public records 550
to promptly prepare a public record and to make it available to 551
the person for inspection in accordance with division (B) of 552

this section or by any other failure of a public office or the 553
person responsible for public records to comply with an 554
obligation in accordance with division (B) of this section, the 555
person allegedly aggrieved may do only one of the following, and 556
not both: 557

(a) File a complaint with the clerk of the court of claims 558
or the clerk of the court of common pleas under section 2743.75 559
of the Revised Code; 560

(b) Commence a mandamus action to obtain a judgment that 561
orders the public office or the person responsible for the 562
public record to comply with division (B) of this section, that 563
awards court costs and reasonable attorney's fees to the person 564
that instituted the mandamus action, and, if applicable, that 565
includes an order fixing statutory damages under division (C) (2) 566
of this section. The mandamus action may be commenced in the 567
court of common pleas of the county in which division (B) of 568
this section allegedly was not complied with, in the supreme 569
court pursuant to its original jurisdiction under Section 2 of 570
Article IV, Ohio Constitution, or in the court of appeals for 571
the appellate district in which division (B) of this section 572
allegedly was not complied with pursuant to its original 573
jurisdiction under Section 3 of Article IV, Ohio Constitution. 574

(2) If a requester transmits a written request by hand 575
delivery or certified mail to inspect or receive copies of any 576
public record in a manner that fairly describes the public 577
record or class of public records to the public office or person 578
responsible for the requested public records, except as 579
otherwise provided in this section, the requester shall be 580
entitled to recover the amount of statutory damages set forth in 581
this division if a court determines that the public office or 582

the person responsible for public records failed to comply with 583
an obligation in accordance with division (B) of this section. 584

The amount of statutory damages shall be fixed at one 585
hundred dollars for each business day during which the public 586
office or person responsible for the requested public records 587
failed to comply with an obligation in accordance with division 588
(B) of this section, beginning with the day on which the 589
requester files a mandamus action to recover statutory damages, 590
up to a maximum of one thousand dollars. The award of statutory 591
damages shall not be construed as a penalty, but as compensation 592
for injury arising from lost use of the requested information. 593
The existence of this injury shall be conclusively presumed. The 594
award of statutory damages shall be in addition to all other 595
remedies authorized by this section. 596

The court may reduce an award of statutory damages or not 597
award statutory damages if the court determines both of the 598
following: 599

(a) That, based on the ordinary application of statutory 600
law and case law as it existed at the time of the conduct or 601
threatened conduct of the public office or person responsible 602
for the requested public records that allegedly constitutes a 603
failure to comply with an obligation in accordance with division 604
(B) of this section and that was the basis of the mandamus 605
action, a well-informed public office or person responsible for 606
the requested public records reasonably would believe that the 607
conduct or threatened conduct of the public office or person 608
responsible for the requested public records did not constitute 609
a failure to comply with an obligation in accordance with 610
division (B) of this section; 611

(b) That a well-informed public office or person 612

responsible for the requested public records reasonably would 613
believe that the conduct or threatened conduct of the public 614
office or person responsible for the requested public records 615
would serve the public policy that underlies the authority that 616
is asserted as permitting that conduct or threatened conduct. 617

(3) In a mandamus action filed under division (C)(1) of 618
this section, the following apply: 619

(a) (i) If the court orders the public office or the person 620
responsible for the public record to comply with division (B) of 621
this section, the court shall determine and award to the relator 622
all court costs, which shall be construed as remedial and not 623
punitive. 624

(ii) If the court makes a determination described in 625
division (C)(3)(b)(iii) of this section, the court shall 626
determine and award to the relator all court costs, which shall 627
be construed as remedial and not punitive. 628

(b) If the court renders a judgment that orders the public 629
office or the person responsible for the public record to comply 630
with division (B) of this section or if the court determines any 631
of the following, the court may award reasonable attorney's fees 632
to the relator, subject to the provisions of division (C)(4) of 633
this section: 634

(i) The public office or the person responsible for the 635
public records failed to respond affirmatively or negatively to 636
the public records request in accordance with the time allowed 637
under division (B) of this section. 638

(ii) The public office or the person responsible for the 639
public records promised to permit the relator to inspect or 640
receive copies of the public records requested within a 641

specified period of time but failed to fulfill that promise 642
within that specified period of time. 643

(iii) The public office or the person responsible for the 644
public records acted in bad faith when the office or person 645
voluntarily made the public records available to the relator for 646
the first time after the relator commenced the mandamus action, 647
but before the court issued any order concluding whether or not 648
the public office or person was required to comply with division 649
(B) of this section. No discovery may be conducted on the issue 650
of the alleged bad faith of the public office or person 651
responsible for the public records. This division shall not be 652
construed as creating a presumption that the public office or 653
the person responsible for the public records acted in bad faith 654
when the office or person voluntarily made the public records 655
available to the relator for the first time after the relator 656
commenced the mandamus action, but before the court issued any 657
order described in this division. 658

(c) The court shall not award attorney's fees to the 659
relator if the court determines both of the following: 660

(i) That, based on the ordinary application of statutory 661
law and case law as it existed at the time of the conduct or 662
threatened conduct of the public office or person responsible 663
for the requested public records that allegedly constitutes a 664
failure to comply with an obligation in accordance with division 665
(B) of this section and that was the basis of the mandamus 666
action, a well-informed public office or person responsible for 667
the requested public records reasonably would believe that the 668
conduct or threatened conduct of the public office or person 669
responsible for the requested public records did not constitute 670
a failure to comply with an obligation in accordance with 671

division (B) of this section; 672

(ii) That a well-informed public office or person 673
responsible for the requested public records reasonably would 674
believe that the conduct or threatened conduct of the public 675
office or person responsible for the requested public records 676
would serve the public policy that underlies the authority that 677
is asserted as permitting that conduct or threatened conduct. 678

(4) All of the following apply to any award of reasonable 679
attorney's fees awarded under division (C) (3) (b) of this 680
section: 681

(a) The fees shall be construed as remedial and not 682
punitive. 683

(b) The fees awarded shall not exceed the total of the 684
reasonable attorney's fees incurred before the public record was 685
made available to the relator and the fees described in division 686
(C) (4) (c) of this section. 687

(c) Reasonable attorney's fees shall include reasonable 688
fees incurred to produce proof of the reasonableness and amount 689
of the fees and to otherwise litigate entitlement to the fees. 690

(d) The court may reduce the amount of fees awarded if the 691
court determines that, given the factual circumstances involved 692
with the specific public records request, an alternative means 693
should have been pursued to more effectively and efficiently 694
resolve the dispute that was subject to the mandamus action 695
filed under division (C) (1) of this section. 696

(5) If the court does not issue a writ of mandamus under 697
division (C) of this section and the court determines at that 698
time that the bringing of the mandamus action was frivolous 699
conduct as defined in division (A) of section 2323.51 of the 700

Revised Code, the court may award to the public office all court 701
costs, expenses, and reasonable attorney's fees, as determined 702
by the court. 703

(D) Chapter 1347. of the Revised Code does not limit the 704
provisions of this section. 705

(E) (1) To ensure that all employees of public offices are 706
appropriately educated about a public office's obligations under 707
division (B) of this section, all elected officials or their 708
appropriate designees shall attend training approved by the 709
attorney general as provided in section 109.43 of the Revised 710
Code. In addition, all public offices shall adopt a public 711
records policy in compliance with this section for responding to 712
public records requests. In adopting a public records policy 713
under this division, a public office may obtain guidance from 714
the model public records policy developed and provided to the 715
public office by the attorney general under section 109.43 of 716
the Revised Code. Except as otherwise provided in this section, 717
the policy may not limit the number of public records that the 718
public office will make available to a single person, may not 719
limit the number of public records that it will make available 720
during a fixed period of time, and may not establish a fixed 721
period of time before it will respond to a request for 722
inspection or copying of public records, unless that period is 723
less than eight hours. 724

(2) The public office shall distribute the public records 725
policy adopted by the public office under division (E) (1) of 726
this section to the employee of the public office who is the 727
records custodian or records manager or otherwise has custody of 728
the records of that office. The public office shall require that 729
employee to acknowledge receipt of the copy of the public 730

records policy. The public office shall create a poster that 731
describes its public records policy and shall post the poster in 732
a conspicuous place in the public office and in all locations 733
where the public office has branch offices. The public office 734
may post its public records policy on the internet web site of 735
the public office if the public office maintains an internet web 736
site. A public office that has established a manual or handbook 737
of its general policies and procedures for all employees of the 738
public office shall include the public records policy of the 739
public office in the manual or handbook. 740

(F) (1) The bureau of motor vehicles may adopt rules 741
pursuant to Chapter 119. of the Revised Code to reasonably limit 742
the number of bulk commercial special extraction requests made 743
by a person for the same records or for updated records during a 744
calendar year. The rules may include provisions for charges to 745
be made for bulk commercial special extraction requests for the 746
actual cost of the bureau, plus special extraction costs, plus 747
ten per cent. The bureau may charge for expenses for redacting 748
information, the release of which is prohibited by law. 749

(2) As used in division (F) (1) of this section: 750

(a) "Actual cost" means the cost of depleted supplies, 751
records storage media costs, actual mailing and alternative 752
delivery costs, or other transmitting costs, and any direct 753
equipment operating and maintenance costs, including actual 754
costs paid to private contractors for copying services. 755

(b) "Bulk commercial special extraction request" means a 756
request for copies of a record for information in a format other 757
than the format already available, or information that cannot be 758
extracted without examination of all items in a records series, 759
class of records, or database by a person who intends to use or 760

forward the copies for surveys, marketing, solicitation, or 761
resale for commercial purposes. "Bulk commercial special 762
extraction request" does not include a request by a person who 763
gives assurance to the bureau that the person making the request 764
does not intend to use or forward the requested copies for 765
surveys, marketing, solicitation, or resale for commercial 766
purposes. 767

(c) "Commercial" means profit-seeking production, buying, 768
or selling of any good, service, or other product. 769

(d) "Special extraction costs" means the cost of the time 770
spent by the lowest paid employee competent to perform the task, 771
the actual amount paid to outside private contractors employed 772
by the bureau, or the actual cost incurred to create computer 773
programs to make the special extraction. "Special extraction 774
costs" include any charges paid to a public agency for computer 775
or records services. 776

(3) For purposes of divisions (F) (1) and (2) of this 777
section, "surveys, marketing, solicitation, or resale for 778
commercial purposes" shall be narrowly construed and does not 779
include reporting or gathering news, reporting or gathering 780
information to assist citizen oversight or understanding of the 781
operation or activities of government, or nonprofit educational 782
research. 783

(G) A request by a defendant, counsel of a defendant, or 784
any agent of a defendant in a criminal action that public 785
records related to that action be made available under this 786
section shall be considered a demand for discovery pursuant to 787
the Criminal Rules, except to the extent that the Criminal Rules 788
plainly indicate a contrary intent. The defendant, counsel of 789
the defendant, or agent of the defendant making a request under 790

this division shall serve a copy of the request on the 791
prosecuting attorney, director of law, or other chief legal 792
officer responsible for prosecuting the action. 793

(H) (1) If a public office denies a request to release a 794
restricted portion of a dashboard camera recording, as defined 795
in division (A) (15) of this section, any person may file a 796
mandamus action in the supreme court, pursuant to the court's 797
original jurisdiction under Section 2 of Article IV, Ohio 798
Constitution, requesting the court to order the release of the 799
restricted portion of the recording for one or more of the 800
following reasons: 801

(a) The peace officer whose death or grievous bodily harm 802
is shown, communicated, or disclosed in the restricted portion 803
of the dashboard camera recording was engaged in illegal conduct 804
at the time of, or immediately preceding, the act that caused 805
the death or harm and that act was related to, or occurred as a 806
result of, that illegal conduct. 807

(b) The public interest in the restricted portion of the 808
dashboard camera recording substantially outweighs privacy 809
interests and other interests of the peace officer whose death 810
or grievous bodily harm is shown, communicated, or disclosed in 811
the restricted portion or that officer's family, executor, or 812
administrator. 813

(c) The restricted portion of the recording is relevant to 814
and needed for use in a court proceeding, administrative 815
proceeding, or disciplinary proceeding. 816

(2) If a person files a mandamus action as described in 817
division (H) (1) of this section and if the court determines that 818
one or more criterion specified in division (H) (1) (a), (b), or 819

(c) of this section applies, the court shall issue a writ of 820
mandamus ordering the public office to release the restricted 821
portion of the dashboard camera recording. Upon the issuance of 822
such an order, the confidentiality provisions of section 149.436 823
of the Revised Code do not apply with respect to the restricted 824
portion of the dashboard camera recording covered by the order 825
that is in the possession of the public office and the public 826
office shall release to the person the restricted portion of the 827
dashboard camera recording. 828

Sec. 149.436. (A) As used in this section: 829

(1) "Peace officer" has the same meaning as in section 830
109.71 of the Revised Code. 831

(2) "Restricted portion of a dashboard camera recording" 832
has the same meaning as in section 149.43 of the Revised Code. 833

(B) Except as provided in division (C) of this section, a 834
public office shall not release any restricted portion of a 835
dashboard camera recording. 836

(C) Division (B) of this section does not prohibit the 837
release of a restricted portion of a dashboard camera recording 838
if any of the following apply: 839

(1) The restricted portion of the dashboard camera 840
recording shows, communicates, or discloses the death of a peace 841
officer and the officer's executor or administrator consents to 842
the release. 843

(2) The restricted portion of the dashboard camera 844
recording shows, communicates, or discloses the occurrence of 845
grievous bodily harm to a peace officer and the officer consents 846
to the release. 847

(3) The person requesting the release of the restricted 848
portion of the recording has obtained a court order under 849
division (H) of section 149.43 of the Revised Code requiring the 850
release. 851

Section 2. That existing section 149.43 of the Revised 852
Code is hereby repealed. 853