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Representatives Hambley, Rezabek

Cosponsors: Representatives Brenner, Thompson, Koehler, Riedel, Dean, Blessing, Goodman, Anielski, Antonio, Arndt, Barnes, Boccieri, Boyd, Conditt, Dever, Edwards, Faber, Fedor, Galonski, Gavarone, Green, Greenspan, Holmes, Householder, Ingram, Kick, Landis, Leland, Manning, O'Brien, Patmon, Patterson, Patton, Pelanda, Perales, Ramos, Reineke, Rogers, Ryan, Schaffer, Slaby, Smith, K., Stein, Sweeney, West, Young

A BILL

To amend section 149.43 and to enact section 1
149.436 of the Revised Code to exempt from the 2
Public Records Law certain information 3
concerning a minor that is included in a record 4
related to a traffic accident involving a school 5
vehicle in which the minor was an occupant at 6
the time of the accident and to allow the parent 7
or guardian of the minor to request a record of 8
the accident containing the exempted 9
information. 10

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

Section 1. That section 149.43 be amended and section 11
149.436 of the Revised Code be enacted to read as follows: 12

Sec. 149.43. (A) As used in this section: 13

(1) "Public record" means records kept by any public 14

office, including, but not limited to, state, county, city, 15
village, township, and school district units, and records 16
pertaining to the delivery of educational services by an 17
alternative school in this state kept by the nonprofit or for- 18
profit entity operating the alternative school pursuant to 19
section 3313.533 of the Revised Code. "Public record" does not 20
mean any of the following: 21

(a) Medical records; 22

(b) Records pertaining to probation and parole proceedings 23
or to proceedings related to the imposition of community control 24
sanctions and post-release control sanctions; 25

(c) Records pertaining to actions under section 2151.85 26
and division (C) of section 2919.121 of the Revised Code and to 27
appeals of actions arising under those sections; 28

(d) Records pertaining to adoption proceedings, including 29
the contents of an adoption file maintained by the department of 30
health under sections 3705.12 to 3705.124 of the Revised Code; 31

(e) Information in a record contained in the putative 32
father registry established by section 3107.062 of the Revised 33
Code, regardless of whether the information is held by the 34
department of job and family services or, pursuant to section 35
3111.69 of the Revised Code, the office of child support in the 36
department or a child support enforcement agency; 37

(f) Records specified in division (A) of section 3107.52 38
of the Revised Code; 39

(g) Trial preparation records; 40

(h) Confidential law enforcement investigatory records; 41

(i) Records containing information that is confidential 42

under section 2710.03 or 4112.05 of the Revised Code;	43
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	44 45
(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 section 5120.21 of the Revised Code;	46 47 48 49
(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;	50 51 52 53
(m) Intellectual property records;	54
(n) Donor profile records;	55
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	56 57
(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;	58 59 60 61 62 63 64
(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;	65 66 67 68 69
(r) Information pertaining to the recreational activities	70

of a person under the age of eighteen; 71

(s) In the case of a child fatality review board acting 72
under sections 307.621 to 307.629 of the Revised Code or a 73
review conducted pursuant to guidelines established by the 74
director of health under section 3701.70 of the Revised Code, 75
records provided to the board or director, statements made by 76
board members during meetings of the board or by persons 77
participating in the director's review, and all work products of 78
the board or director, and in the case of a child fatality 79
review board, child fatality review data submitted by the board 80
to the department of health or a national child death review 81
database, other than the report prepared pursuant to division 82
(A) of section 307.626 of the Revised Code; 83

(t) Records provided to and statements made by the 84
executive director of a public children services agency or a 85
prosecuting attorney acting pursuant to section 5153.171 of the 86
Revised Code other than the information released under that 87
section; 88

(u) Test materials, examinations, or evaluation tools used 89
in an examination for licensure as a nursing home administrator 90
that the board of executives of long-term services and supports 91
administers under section 4751.04 of the Revised Code or 92
contracts under that section with a private or government entity 93
to administer; 94

(v) Records the release of which is prohibited by state or 95
federal law; 96

(w) Proprietary information of or relating to any person 97
that is submitted to or compiled by the Ohio venture capital 98
authority created under section 150.01 of the Revised Code; 99

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;	100 101 102 103 104 105
(y) Records listed in section 5101.29 of the Revised Code;	106
(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	107 108 109
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	110 111 112
(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;	113 114 115
(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 ; ;	116 117 118
(dd) Personal information, as defined in section 149.45 of the Revised Code ; ;	119 120
(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	121 122 123 124 125 126 127 128

of records pertaining to that program that identify the number 129
of program participants that reside within a precinct, ward, 130
township, municipal corporation, county, or any other geographic 131
area smaller than the state. As used in this division, 132
"confidential address" and "program participant" have the 133
meaning defined in section 111.41 of the Revised Code. 134

(ff) The name, address, contact information, or other 135
personal information of an individual who is less than eighteen 136
years of age that is included in any record related to a traffic 137
accident involving a school vehicle in which the individual was 138
an occupant at the time of the accident. 139

(2) "Confidential law enforcement investigatory record" 140
means any record that pertains to a law enforcement matter of a 141
criminal, quasi-criminal, civil, or administrative nature, but 142
only to the extent that the release of the record would create a 143
high probability of disclosure of any of the following: 144

(a) The identity of a suspect who has not been charged 145
with the offense to which the record pertains, or of an 146
information source or witness to whom confidentiality has been 147
reasonably promised; 148

(b) Information provided by an information source or 149
witness to whom confidentiality has been reasonably promised, 150
which information would reasonably tend to disclose the source's 151
or witness's identity; 152

(c) Specific confidential investigatory techniques or 153
procedures or specific investigatory work product; 154

(d) Information that would endanger the life or physical 155
safety of law enforcement personnel, a crime victim, a witness, 156
or a confidential information source. 157

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

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

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

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

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential

and familial information" means any information that discloses 188
any of the following about a peace officer, parole officer, 189
probation officer, bailiff, prosecuting attorney, assistant 190
prosecuting attorney, correctional employee, community-based 191
correctional facility employee, youth services employee, 192
firefighter, EMT, investigator of the bureau of criminal 193
identification and investigation, or federal law enforcement 194
officer: 195

(a) The address of the actual personal residence of a 196
peace officer, parole officer, probation officer, bailiff, 197
assistant prosecuting attorney, correctional employee, 198
community-based correctional facility employee, youth services 199
employee, firefighter, EMT, an investigator of the bureau of 200
criminal identification and investigation, or federal law 201
enforcement officer, except for the state or political 202
subdivision in which the peace officer, parole officer, 203
probation officer, bailiff, assistant prosecuting attorney, 204
correctional employee, community-based correctional facility 205
employee, youth services employee, firefighter, EMT, 206
investigator of the bureau of criminal identification and 207
investigation, or federal law enforcement officer resides; 208

(b) Information compiled from referral to or participation 209
in an employee assistance program; 210

(c) The social security number, the residential telephone 211
number, any bank account, debit card, charge card, or credit 212
card number, or the emergency telephone number of, or any 213
medical information pertaining to, a peace officer, parole 214
officer, probation officer, bailiff, prosecuting attorney, 215
assistant prosecuting attorney, correctional employee, 216
community-based correctional facility employee, youth services 217

employee, firefighter, EMT, investigator of the bureau of 218
criminal identification and investigation, or federal law 219
enforcement officer; 220

(d) The name of any beneficiary of employment benefits, 221
including, but not limited to, life insurance benefits, provided 222
to a peace officer, parole officer, probation officer, bailiff, 223
prosecuting attorney, assistant prosecuting attorney, 224
correctional employee, community-based correctional facility 225
employee, youth services employee, firefighter, EMT, 226
investigator of the bureau of criminal identification and 227
investigation, or federal law enforcement officer by the peace 228
officer's, parole officer's, probation officer's, bailiff's, 229
prosecuting attorney's, assistant prosecuting attorney's, 230
correctional employee's, community-based correctional facility 231
employee's, youth services employee's, firefighter's, EMT's, 232
investigator of the bureau of criminal identification and 233
investigation's, or federal law enforcement officer's employer; 234

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

compensation unless the amount of the deduction is required by 249
state or federal law; 250

(f) The name, the residential address, the name of the 251
employer, the address of the employer, the social security 252
number, the residential telephone number, any bank account, 253
debit card, charge card, or credit card number, or the emergency 254
telephone number of the spouse, a former spouse, or any child of 255
a peace officer, parole officer, probation officer, bailiff, 256
prosecuting attorney, assistant prosecuting attorney, 257
correctional employee, community-based correctional facility 258
employee, youth services employee, firefighter, EMT, 259
investigator of the bureau of criminal identification and 260
investigation, or federal law enforcement officer; 261

(g) A photograph of a peace officer who holds a position 262
or has an assignment that may include undercover or plain 263
clothes positions or assignments as determined by the peace 264
officer's appointing authority. 265

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

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

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

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

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

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

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

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

(a) The address or telephone number of a person under the 305
age of eighteen or the address or telephone number of that 306

person's parent, guardian, custodian, or emergency contact	307
person;	308
(b) The social security number, birth date, or	309
photographic image of a person under the age of eighteen;	310
(c) Any medical record, history, or information pertaining	311
to a person under the age of eighteen;	312
(d) Any additional information sought or required about a	313
person under the age of eighteen for the purpose of allowing	314
that person to participate in any recreational activity	315
conducted or sponsored by a public office or to use or obtain	316
admission privileges to any recreational facility owned or	317
operated by a public office.	318
(9) "Community control sanction" has the same meaning as	319
in section 2929.01 of the Revised Code.	320
(10) "Post-release control sanction" has the same meaning	321
as in section 2967.01 of the Revised Code.	322
(11) "Redaction" means obscuring or deleting any	323
information that is exempt from the duty to permit public	324
inspection or copying from an item that otherwise meets the	325
definition of a "record" in section 149.011 of the Revised Code.	326
(12) "Designee" and "elected official" have the same	327
meanings as in section 109.43 of the Revised Code.	328
(B) (1) Upon request and subject to division (B) (8) of this	329
section, all public records responsive to the request shall be	330
promptly prepared and made available for inspection to any	331
person at all reasonable times during regular business hours.	332
Subject to division (B) (8) of this section, upon request, a	333
public office or person responsible for public records shall	334

make copies of the requested public record available at cost and 335
within a reasonable period of time. If a public record contains 336
information that is exempt from the duty to permit public 337
inspection or to copy the public record, the public office or 338
the person responsible for the public record shall make 339
available all of the information within the public record that 340
is not exempt. When making that public record available for 341
public inspection or copying that public record, the public 342
office or the person responsible for the public record shall 343
notify the requester of any redaction or make the redaction 344
plainly visible. A redaction shall be deemed a denial of a 345
request to inspect or copy the redacted information, except if 346
federal or state law authorizes or requires a public office to 347
make the redaction. 348

(2) To facilitate broader access to public records, a 349
public office or the person responsible for public records shall 350
organize and maintain public records in a manner that they can 351
be made available for inspection or copying in accordance with 352
division (B) of this section. A public office also shall have 353
available a copy of its current records retention schedule at a 354
location readily available to the public. If a requester makes 355
an ambiguous or overly broad request or has difficulty in making 356
a request for copies or inspection of public records under this 357
section such that the public office or the person responsible 358
for the requested public record cannot reasonably identify what 359
public records are being requested, the public office or the 360
person responsible for the requested public record may deny the 361
request but shall provide the requester with an opportunity to 362
revise the request by informing the requester of the manner in 363
which records are maintained by the public office and accessed 364
in the ordinary course of the public office's or person's 365

duties. 366

(3) If a request is ultimately denied, in part or in 367
whole, the public office or the person responsible for the 368
requested public record shall provide the requester with an 369
explanation, including legal authority, setting forth why the 370
request was denied. If the initial request was provided in 371
writing, the explanation also shall be provided to the requester 372
in writing. The explanation shall not preclude the public office 373
or the person responsible for the requested public record from 374
relying upon additional reasons or legal authority in defending 375
an action commenced under division (C) of this section. 376

(4) Unless specifically required or authorized by state or 377
federal law or in accordance with division (B) of this section, 378
no public office or person responsible for public records may 379
limit or condition the availability of public records by 380
requiring disclosure of the requester's identity or the intended 381
use of the requested public record. Any requirement that the 382
requester disclose the requester's identity or the intended use 383
of the requested public record constitutes a denial of the 384
request. 385

(5) A public office or person responsible for public 386
records may ask a requester to make the request in writing, may 387
ask for the requester's identity, and may inquire about the 388
intended use of the information requested, but may do so only 389
after disclosing to the requester that a written request is not 390
mandatory and that the requester may decline to reveal the 391
requester's identity or the intended use and when a written 392
request or disclosure of the identity or intended use would 393
benefit the requester by enhancing the ability of the public 394
office or person responsible for public records to identify, 395

locate, or deliver the public records sought by the requester. 396

(6) If any person chooses to obtain a copy of a public 397
record in accordance with division (B) of this section, the 398
public office or person responsible for the public record may 399
require that person to pay in advance the cost involved in 400
providing the copy of the public record in accordance with the 401
choice made by the person seeking the copy under this division. 402
The public office or the person responsible for the public 403
record shall permit that person to choose to have the public 404
record duplicated upon paper, upon the same medium upon which 405
the public office or person responsible for the public record 406
keeps it, or upon any other medium upon which the public office 407
or person responsible for the public record determines that it 408
reasonably can be duplicated as an integral part of the normal 409
operations of the public office or person responsible for the 410
public record. When the person seeking the copy makes a choice 411
under this division, the public office or person responsible for 412
the public record shall provide a copy of it in accordance with 413
the choice made by the person seeking the copy. Nothing in this 414
section requires a public office or person responsible for the 415
public record to allow the person seeking a copy of the public 416
record to make the copies of the public record. 417

(7) (a) Upon a request made in accordance with division (B) 418
of this section and subject to division (B) (6) of this section, 419
a public office or person responsible for public records shall 420
transmit a copy of a public record to any person by United 421
States mail or by any other means of delivery or transmission 422
within a reasonable period of time after receiving the request 423
for the copy. The public office or person responsible for the 424
public record may require the person making the request to pay 425
in advance the cost of postage if the copy is transmitted by 426

United States mail or the cost of delivery if the copy is 427
transmitted other than by United States mail, and to pay in 428
advance the costs incurred for other supplies used in the 429
mailing, delivery, or transmission. 430

(b) Any public office may adopt a policy and procedures 431
that it will follow in transmitting, within a reasonable period 432
of time after receiving a request, copies of public records by 433
United States mail or by any other means of delivery or 434
transmission pursuant to division (B) (7) of this section. A 435
public office that adopts a policy and procedures under division 436
(B) (7) of this section shall comply with them in performing its 437
duties under that division. 438

(c) In any policy and procedures adopted under division 439
(B) (7) of this section: 440

(i) A public office may limit the number of records 441
requested by a person that the office will physically deliver by 442
United States mail or by another delivery service to ten per 443
month, unless the person certifies to the office in writing that 444
the person does not intend to use or forward the requested 445
records, or the information contained in them, for commercial 446
purposes; 447

(ii) A public office that chooses to provide some or all 448
of its public records on a web site that is fully accessible to 449
and searchable by members of the public at all times, other than 450
during acts of God outside the public office's control or 451
maintenance, and that charges no fee to search, access, 452
download, or otherwise receive records provided on the web site, 453
may limit to ten per month the number of records requested by a 454
person that the office will deliver in a digital format, unless 455
the requested records are not provided on the web site and 456

unless the person certifies to the office in writing that the 457
person does not intend to use or forward the requested records, 458
or the information contained in them, for commercial purposes. 459

(iii) For purposes of division (B)(7) of this section, 460
"commercial" shall be narrowly construed and does not include 461
reporting or gathering news, reporting or gathering information 462
to assist citizen oversight or understanding of the operation or 463
activities of government, or nonprofit educational research. 464

(8) A public office or person responsible for public 465
records is not required to permit a person who is incarcerated 466
pursuant to a criminal conviction or a juvenile adjudication to 467
inspect or to obtain a copy of any public record concerning a 468
criminal investigation or prosecution or concerning what would 469
be a criminal investigation or prosecution if the subject of the 470
investigation or prosecution were an adult, unless the request 471
to inspect or to obtain a copy of the record is for the purpose 472
of acquiring information that is subject to release as a public 473
record under this section and the judge who imposed the sentence 474
or made the adjudication with respect to the person, or the 475
judge's successor in office, finds that the information sought 476
in the public record is necessary to support what appears to be 477
a justiciable claim of the person. 478

(9) (a) Upon written request made and signed by a 479
journalist on or after December 16, 1999, a public office, or 480
person responsible for public records, having custody of the 481
records of the agency employing a specified peace officer, 482
parole officer, probation officer, bailiff, prosecuting 483
attorney, assistant prosecuting attorney, correctional employee, 484
community-based correctional facility employee, youth services 485
employee, firefighter, EMT, investigator of the bureau of 486

criminal identification and investigation, or federal law 487
enforcement officer shall disclose to the journalist the address 488
of the actual personal residence of the peace officer, parole 489
officer, probation officer, bailiff, prosecuting attorney, 490
assistant prosecuting attorney, correctional employee, 491
community-based correctional facility employee, youth services 492
employee, firefighter, EMT, investigator of the bureau of 493
criminal identification and investigation, or federal law 494
enforcement officer and, if the peace officer's, parole 495
officer's, probation officer's, bailiff's, prosecuting 496
attorney's, assistant prosecuting attorney's, correctional 497
employee's, community-based correctional facility employee's, 498
youth services employee's, firefighter's, EMT's, investigator of 499
the bureau of criminal identification and investigation's, or 500
federal law enforcement officer's spouse, former spouse, or 501
child is employed by a public office, the name and address of 502
the employer of the peace officer's, parole officer's, probation 503
officer's, bailiff's, prosecuting attorney's, assistant 504
prosecuting attorney's, correctional employee's, community-based 505
correctional facility employee's, youth services employee's, 506
firefighter's, EMT's, investigator of the bureau of criminal 507
identification and investigation's, or federal law enforcement 508
officer's spouse, former spouse, or child. The request shall 509
include the journalist's name and title and the name and address 510
of the journalist's employer and shall state that disclosure of 511
the information sought would be in the public interest. 512

(b) Division (B) (9) (a) of this section also applies to 513
journalist requests for customer information maintained by a 514
municipally owned or operated public utility, other than social 515
security numbers and any private financial information such as 516
credit reports, payment methods, credit card numbers, and bank 517

account information. 518

(c) As used in division (B) (9) of this section, 519
"journalist" means a person engaged in, connected with, or 520
employed by any news medium, including a newspaper, magazine, 521
press association, news agency, or wire service, a radio or 522
television station, or a similar medium, for the purpose of 523
gathering, processing, transmitting, compiling, editing, or 524
disseminating information for the general public. 525

(C) (1) If a person allegedly is aggrieved by the failure 526
of a public office or the person responsible for public records 527
to promptly prepare a public record and to make it available to 528
the person for inspection in accordance with division (B) of 529
this section or by any other failure of a public office or the 530
person responsible for public records to comply with an 531
obligation in accordance with division (B) of this section, the 532
person allegedly aggrieved may do only one of the following, and 533
not both: 534

(a) File a complaint with the clerk of the court of claims 535
or the clerk of the court of common pleas under section 2743.75 536
of the Revised Code; 537

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

Article IV, Ohio Constitution, or in the court of appeals for 548
the appellate district in which division (B) of this section 549
allegedly was not complied with pursuant to its original 550
jurisdiction under Section 3 of Article IV, Ohio Constitution. 551

(2) If a requester transmits a written request by hand 552
delivery or certified mail to inspect or receive copies of any 553
public record in a manner that fairly describes the public 554
record or class of public records to the public office or person 555
responsible for the requested public records, except as 556
otherwise provided in this section, the requester shall be 557
entitled to recover the amount of statutory damages set forth in 558
this division if a court determines that the public office or 559
the person responsible for public records failed to comply with 560
an obligation in accordance with division (B) of this section. 561

The amount of statutory damages shall be fixed at one 562
hundred dollars for each business day during which the public 563
office or person responsible for the requested public records 564
failed to comply with an obligation in accordance with division 565
(B) of this section, beginning with the day on which the 566
requester files a mandamus action to recover statutory damages, 567
up to a maximum of one thousand dollars. The award of statutory 568
damages shall not be construed as a penalty, but as compensation 569
for injury arising from lost use of the requested information. 570
The existence of this injury shall be conclusively presumed. The 571
award of statutory damages shall be in addition to all other 572
remedies authorized by this section. 573

The court may reduce an award of statutory damages or not 574
award statutory damages if the court determines both of the 575
following: 576

(a) That, based on the ordinary application of statutory 577

law and case law as it existed at the time of the conduct or 578
threatened conduct of the public office or person responsible 579
for the requested public records that allegedly constitutes a 580
failure to comply with an obligation in accordance with division 581
(B) of this section and that was the basis of the mandamus 582
action, a well-informed public office or person responsible for 583
the requested public records reasonably would believe that the 584
conduct or threatened conduct of the public office or person 585
responsible for the requested public records did not constitute 586
a failure to comply with an obligation in accordance with 587
division (B) of this section; 588

(b) That a well-informed public office or person 589
responsible for the requested public records reasonably would 590
believe that the conduct or threatened conduct of the public 591
office or person responsible for the requested public records 592
would serve the public policy that underlies the authority that 593
is asserted as permitting that conduct or threatened conduct. 594

(3) In a mandamus action filed under division (C) (1) of 595
this section, the following apply: 596

(a) (i) If the court orders the public office or the person 597
responsible for the public record to comply with division (B) of 598
this section, the court shall determine and award to the relator 599
all court costs, which shall be construed as remedial and not 600
punitive. 601

(ii) If the court makes a determination described in 602
division (C) (3) (b) (iii) of this section, the court shall 603
determine and award to the relator all court costs, which shall 604
be construed as remedial and not punitive. 605

(b) If the court renders a judgment that orders the public 606

office or the person responsible for the public record to comply 607
with division (B) of this section or if the court determines any 608
of the following, the court may award reasonable attorney's fees 609
to the relator, subject to the provisions of division (C) (4) of 610
this section: 611

(i) The public office or the person responsible for the 612
public records failed to respond affirmatively or negatively to 613
the public records request in accordance with the time allowed 614
under division (B) of this section. 615

(ii) The public office or the person responsible for the 616
public records promised to permit the relator to inspect or 617
receive copies of the public records requested within a 618
specified period of time but failed to fulfill that promise 619
within that specified period of time. 620

(iii) The public office or the person responsible for the 621
public records acted in bad faith when the office or person 622
voluntarily made the public records available to the relator for 623
the first time after the relator commenced the mandamus action, 624
but before the court issued any order concluding whether or not 625
the public office or person was required to comply with division 626
(B) of this section. No discovery may be conducted on the issue 627
of the alleged bad faith of the public office or person 628
responsible for the public records. This division shall not be 629
construed as creating a presumption that the public office or 630
the person responsible for the public records acted in bad faith 631
when the office or person voluntarily made the public records 632
available to the relator for the first time after the relator 633
commenced the mandamus action, but before the court issued any 634
order described in this division. 635

(c) The court shall not award attorney's fees to the 636

relator if the court determines both of the following: 637

(i) That, based on the ordinary application of statutory 638
law and case law as it existed at the time of the conduct or 639
threatened conduct of the public office or person responsible 640
for the requested public records that allegedly constitutes a 641
failure to comply with an obligation in accordance with division 642
(B) of this section and that was the basis of the mandamus 643
action, a well-informed public office or person responsible for 644
the requested public records reasonably would believe that the 645
conduct or threatened conduct of the public office or person 646
responsible for the requested public records did not constitute 647
a failure to comply with an obligation in accordance with 648
division (B) of this section; 649

(ii) That a well-informed public office or person 650
responsible for the requested public records reasonably would 651
believe that the conduct or threatened conduct of the public 652
office or person responsible for the requested public records 653
would serve the public policy that underlies the authority that 654
is asserted as permitting that conduct or threatened conduct. 655

(4) All of the following apply to any award of reasonable 656
attorney's fees awarded under division (C) (3) (b) of this 657
section: 658

(a) The fees shall be construed as remedial and not 659
punitive. 660

(b) The fees awarded shall not exceed the total of the 661
reasonable attorney's fees incurred before the public record was 662
made available to the relator and the fees described in division 663
(C) (4) (c) of this section. 664

(c) Reasonable attorney's fees shall include reasonable 665

fees incurred to produce proof of the reasonableness and amount 666
of the fees and to otherwise litigate entitlement to the fees. 667

(d) The court may reduce the amount of fees awarded if the 668
court determines that, given the factual circumstances involved 669
with the specific public records request, an alternative means 670
should have been pursued to more effectively and efficiently 671
resolve the dispute that was subject to the mandamus action 672
filed under division (C) (1) of this section. 673

(5) If the court does not issue a writ of mandamus under 674
division (C) of this section and the court determines at that 675
time that the bringing of the mandamus action was frivolous 676
conduct as defined in division (A) of section 2323.51 of the 677
Revised Code, the court may award to the public office all court 678
costs, expenses, and reasonable attorney's fees, as determined 679
by the court. 680

(D) Chapter 1347. of the Revised Code does not limit the 681
provisions of this section. 682

(E) (1) To ensure that all employees of public offices are 683
appropriately educated about a public office's obligations under 684
division (B) of this section, all elected officials or their 685
appropriate designees shall attend training approved by the 686
attorney general as provided in section 109.43 of the Revised 687
Code. In addition, all public offices shall adopt a public 688
records policy in compliance with this section for responding to 689
public records requests. In adopting a public records policy 690
under this division, a public office may obtain guidance from 691
the model public records policy developed and provided to the 692
public office by the attorney general under section 109.43 of 693
the Revised Code. Except as otherwise provided in this section, 694
the policy may not limit the number of public records that the 695

public office will make available to a single person, may not 696
limit the number of public records that it will make available 697
during a fixed period of time, and may not establish a fixed 698
period of time before it will respond to a request for 699
inspection or copying of public records, unless that period is 700
less than eight hours. 701

(2) The public office shall distribute the public records 702
policy adopted by the public office under division (E)(1) of 703
this section to the employee of the public office who is the 704
records custodian or records manager or otherwise has custody of 705
the records of that office. The public office shall require that 706
employee to acknowledge receipt of the copy of the public 707
records policy. The public office shall create a poster that 708
describes its public records policy and shall post the poster in 709
a conspicuous place in the public office and in all locations 710
where the public office has branch offices. The public office 711
may post its public records policy on the internet web site of 712
the public office if the public office maintains an internet web 713
site. A public office that has established a manual or handbook 714
of its general policies and procedures for all employees of the 715
public office shall include the public records policy of the 716
public office in the manual or handbook. 717

(F)(1) The bureau of motor vehicles may adopt rules 718
pursuant to Chapter 119. of the Revised Code to reasonably limit 719
the number of bulk commercial special extraction requests made 720
by a person for the same records or for updated records during a 721
calendar year. The rules may include provisions for charges to 722
be made for bulk commercial special extraction requests for the 723
actual cost of the bureau, plus special extraction costs, plus 724
ten per cent. The bureau may charge for expenses for redacting 725
information, the release of which is prohibited by law. 726

- (2) As used in division (F) (1) of this section: 727
- (a) "Actual cost" means the cost of depleted supplies, 728
records storage media costs, actual mailing and alternative 729
delivery costs, or other transmitting costs, and any direct 730
equipment operating and maintenance costs, including actual 731
costs paid to private contractors for copying services. 732
- (b) "Bulk commercial special extraction request" means a 733
request for copies of a record for information in a format other 734
than the format already available, or information that cannot be 735
extracted without examination of all items in a records series, 736
class of records, or database by a person who intends to use or 737
forward the copies for surveys, marketing, solicitation, or 738
resale for commercial purposes. "Bulk commercial special 739
extraction request" does not include a request by a person who 740
gives assurance to the bureau that the person making the request 741
does not intend to use or forward the requested copies for 742
surveys, marketing, solicitation, or resale for commercial 743
purposes. 744
- (c) "Commercial" means profit-seeking production, buying, 745
or selling of any good, service, or other product. 746
- (d) "Special extraction costs" means the cost of the time 747
spent by the lowest paid employee competent to perform the task, 748
the actual amount paid to outside private contractors employed 749
by the bureau, or the actual cost incurred to create computer 750
programs to make the special extraction. "Special extraction 751
costs" include any charges paid to a public agency for computer 752
or records services. 753
- (3) For purposes of divisions (F) (1) and (2) of this 754
section, "surveys, marketing, solicitation, or resale for 755

commercial purposes" shall be narrowly construed and does not 756
include reporting or gathering news, reporting or gathering 757
information to assist citizen oversight or understanding of the 758
operation or activities of government, or nonprofit educational 759
research. 760

(G) A request by a defendant, counsel of a defendant, or 761
any agent of a defendant in a criminal action that public 762
records related to that action be made available under this 763
section shall be considered a demand for discovery pursuant to 764
the Criminal Rules, except to the extent that the Criminal Rules 765
plainly indicate a contrary intent. The defendant, counsel of 766
the defendant, or agent of the defendant making a request under 767
this division shall serve a copy of the request on the 768
prosecuting attorney, director of law, or other chief legal 769
officer responsible for prosecuting the action. 770

Sec. 149.436. Notwithstanding division (A)(1)(ff) of section 771
149.43 of the Revised Code, upon written request made and signed by 772
the parent or guardian of an individual who is less than eighteen 773
years of age and was an occupant of a school vehicle involved in a 774
traffic accident, a public office or person responsible for public 775
records, having custody of any record related to the traffic 776
accident containing the personal information of the individual, 777
shall transmit a copy of that record to the recipient identified in 778
the request. 779

The written request shall identify the individual on whose 780
behalf the record is requested and the person to whom the record 781
shall be transmitted. The record shall be transmitted only to 782
the person identified in the written request as the recipient of 783
the record. 784

A public office or person responsible for records 785

responding to a request under this section shall redact any 786
personal information contained in the record of any individual 787
less than eighteen years of age who is not the subject of the 788
request, before providing the record to the recipient. 789

Section 2. That existing section 149.43 of the Revised 790
Code is hereby repealed. 791

Section 3. Section 149.43 of the Revised Code is presented 792
in this act as a composite of the section as amended by Sub. 793
H.B. 317, Sub. H.B. 359, and Sub. S.B. 321, all of the 131st 794
General Assembly. The General Assembly, applying the principle 795
stated in division (B) of section 1.52 of the Revised Code that 796
amendments are to be harmonized if reasonably capable of 797
simultaneous operation, finds that the composite is the 798
resulting version of the section in effect prior to the 799
effective date of the section as presented in this act. 800