

**As Introduced**

**131st General Assembly**

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**H. B. No. 423**

**Representative Perales**

**Cosponsors: Representatives Butler, Hackett, Henne, Johnson, T., O'Brien, M.,  
O'Brien, S., Landis, Retherford, Rezabek, Schaffer, Terhar**

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**A BILL**

To amend section 149.43 of the Revised Code to 1  
specify that an order for active military 2  
service or other documentation regarding the 3  
call to order of an individual in the Armed 4  
Forces of the United States or the Ohio 5  
organized militia is not a public record. 6

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

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

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

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

(a) Medical records;	18
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	19 20 21
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	22 23 24
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	25 26 27
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	28 29 30 31 32 33
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	34 35
(g) Trial preparation records;	36
(h) Confidential law enforcement investigatory records;	37
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	38 39
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	40 41
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of	42 43 44

section 5120.21 of the Revised Code;	45
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	46 47 48 49
(m) Intellectual property records;	50
(n) Donor profile records;	51
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	52 53
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	54 55 56 57 58 59
(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;	60 61 62 63 64
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	65 66
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons	67 68 69 70 71 72

participating in the director's review, and all work products of	73
the board or director, and in the case of a child fatality	74
review board, child fatality review data submitted by the board	75
to the department of health or a national child death review	76
database, other than the report prepared pursuant to division	77
(A) of section 307.626 of the Revised Code;	78
(t) Records provided to and statements made by the	79
executive director of a public children services agency or a	80
prosecuting attorney acting pursuant to section 5153.171 of the	81
Revised Code other than the information released under that	82
section;	83
(u) Test materials, examinations, or evaluation tools used	84
in an examination for licensure as a nursing home administrator	85
that the board of executives of long-term services and supports	86
administers under section 4751.04 of the Revised Code or	87
contracts under that section with a private or government entity	88
to administer;	89
(v) Records the release of which is prohibited by state or	90
federal law;	91
(w) Proprietary information of or relating to any person	92
that is submitted to or compiled by the Ohio venture capital	93
authority created under section 150.01 of the Revised Code;	94
(x) Financial statements and data any person submits for	95
any purpose to the Ohio housing finance agency or the	96
controlling board in connection with applying for, receiving, or	97
accounting for financial assistance from the agency, and	98
information that identifies any individual who benefits directly	99
or indirectly from financial assistance from the agency;	100
(y) Records listed in section 5101.29 of the Revised Code;	101

(z) Discharges recorded with a county recorder under 102  
section 317.24 of the Revised Code, as specified in division (B) 103  
(2) of that section; 104

(aa) Usage information including names and addresses of 105  
specific residential and commercial customers of a municipally 106  
owned or operated public utility; 107

(bb) Records described in division (C) of section 187.04 108  
of the Revised Code that are not designated to be made available 109  
to the public as provided in that division; 110

(cc) Information and records that are made confidential, 111  
privileged, and not subject to disclosure under divisions (B) 112  
and (C) of section 2949.221 of the Revised Code; 113

(dd) Orders for active military service or other 114  
documentation regarding the call to order of an individual 115  
serving or with previous service in the armed forces of the 116  
United States, including a reserve component, or the Ohio 117  
organized militia. 118

(2) "Confidential law enforcement investigatory record" 119  
means any record that pertains to a law enforcement matter of a 120  
criminal, quasi-criminal, civil, or administrative nature, but 121  
only to the extent that the release of the record would create a 122  
high probability of disclosure of any of the following: 123

(a) The identity of a suspect who has not been charged 124  
with the offense to which the record pertains, or of an 125  
information source or witness to whom confidentiality has been 126  
reasonably promised; 127

(b) Information provided by an information source or 128  
witness to whom confidentiality has been reasonably promised, 129  
which information would reasonably tend to disclose the source's 130

or witness's identity;	131
(c) Specific confidential investigatory techniques or	132
procedures or specific investigatory work product;	133
(d) Information that would endanger the life or physical	134
safety of law enforcement personnel, a crime victim, a witness,	135
or a confidential information source.	136
(3) "Medical record" means any document or combination of	137
documents, except births, deaths, and the fact of admission to	138
or discharge from a hospital, that pertains to the medical	139
history, diagnosis, prognosis, or medical condition of a patient	140
and that is generated and maintained in the process of medical	141
treatment.	142
(4) "Trial preparation record" means any record that	143
contains information that is specifically compiled in reasonable	144
anticipation of, or in defense of, a civil or criminal action or	145
proceeding, including the independent thought processes and	146
personal trial preparation of an attorney.	147
(5) "Intellectual property record" means a record, other	148
than a financial or administrative record, that is produced or	149
collected by or for faculty or staff of a state institution of	150
higher learning in the conduct of or as a result of study or	151
research on an educational, commercial, scientific, artistic,	152
technical, or scholarly issue, regardless of whether the study	153
or research was sponsored by the institution alone or in	154
conjunction with a governmental body or private concern, and	155
that has not been publicly released, published, or patented.	156
(6) "Donor profile record" means all records about donors	157
or potential donors to a public institution of higher education	158
except the names and reported addresses of the actual donors and	159

the date, amount, and conditions of the actual donation. 160

(7) "Peace officer, parole officer, probation officer, 161  
bailiff, prosecuting attorney, assistant prosecuting attorney, 162  
correctional employee, community-based correctional facility 163  
employee, youth services employee, firefighter, EMT, or 164  
investigator of the bureau of criminal identification and 165  
investigation residential and familial information" means any 166  
information that discloses any of the following about a peace 167  
officer, parole officer, probation officer, bailiff, prosecuting 168  
attorney, assistant prosecuting attorney, correctional employee, 169  
community-based correctional facility employee, youth services 170  
employee, firefighter, EMT, or investigator of the bureau of 171  
criminal identification and investigation: 172

(a) The address of the actual personal residence of a 173  
peace officer, parole officer, probation officer, bailiff, 174  
assistant prosecuting attorney, correctional employee, 175  
community-based correctional facility employee, youth services 176  
employee, firefighter, EMT, or an investigator of the bureau of 177  
criminal identification and investigation, except for the state 178  
or political subdivision in which the peace officer, parole 179  
officer, probation officer, bailiff, assistant prosecuting 180  
attorney, correctional employee, community-based correctional 181  
facility employee, youth services employee, firefighter, EMT, or 182  
investigator of the bureau of criminal identification and 183  
investigation resides; 184

(b) Information compiled from referral to or participation 185  
in an employee assistance program; 186

(c) The social security number, the residential telephone 187  
number, any bank account, debit card, charge card, or credit 188  
card number, or the emergency telephone number of, or any 189

medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal

identification and investigation's compensation unless the 221  
amount of the deduction is required by state or federal law; 222

(f) The name, the residential address, the name of the 223  
employer, the address of the employer, the social security 224  
number, the residential telephone number, any bank account, 225  
debit card, charge card, or credit card number, or the emergency 226  
telephone number of the spouse, a former spouse, or any child of 227  
a peace officer, parole officer, probation officer, bailiff, 228  
prosecuting attorney, assistant prosecuting attorney, 229  
correctional employee, community-based correctional facility 230  
employee, youth services employee, firefighter, EMT, or 231  
investigator of the bureau of criminal identification and 232  
investigation; 233

(g) A photograph of a peace officer who holds a position 234  
or has an assignment that may include undercover or plain 235  
clothes positions or assignments as determined by the peace 236  
officer's appointing authority. 237

As used in divisions (A) (7) and (B) (9) of this section, 238  
"peace officer" has the same meaning as in section 109.71 of the 239  
Revised Code and also includes the superintendent and troopers 240  
of the state highway patrol; it does not include the sheriff of 241  
a county or a supervisory employee who, in the absence of the 242  
sheriff, is authorized to stand in for, exercise the authority 243  
of, and perform the duties of the sheriff. 244

As used in divisions (A) (7) and (B) (9) of this section, 245  
"correctional employee" means any employee of the department of 246  
rehabilitation and correction who in the course of performing 247  
the employee's job duties has or has had contact with inmates 248  
and persons under supervision. 249

As used in divisions (A) (7) and (B) (9) of this section, 250  
"youth services employee" means any employee of the department 251  
of youth services who in the course of performing the employee's 252  
job duties has or has had contact with children committed to the 253  
custody of the department of youth services. 254

As used in divisions (A) (7) and (B) (9) of this section, 255  
"firefighter" means any regular, paid or volunteer, member of a 256  
lawfully constituted fire department of a municipal corporation, 257  
township, fire district, or village. 258

As used in divisions (A) (7) and (B) (9) of this section, 259  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 260  
emergency medical services for a public emergency medical 261  
service organization. "Emergency medical service organization," 262  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 263  
in section 4765.01 of the Revised Code. 264

As used in divisions (A) (7) and (B) (9) of this section, 265  
"investigator of the bureau of criminal identification and 266  
investigation" has the meaning defined in section 2903.11 of the 267  
Revised Code. 268

(8) "Information pertaining to the recreational activities 269  
of a person under the age of eighteen" means information that is 270  
kept in the ordinary course of business by a public office, that 271  
pertains to the recreational activities of a person under the 272  
age of eighteen years, and that discloses any of the following: 273

(a) The address or telephone number of a person under the 274  
age of eighteen or the address or telephone number of that 275  
person's parent, guardian, custodian, or emergency contact 276  
person; 277

(b) The social security number, birth date, or 278

photographic image of a person under the age of eighteen;	279
(c) Any medical record, history, or information pertaining to a person under the age of eighteen;	280 281
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	282 283 284 285 286 287
(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	288 289
(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	290 291
(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.	292 293 294 295
(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.	296 297
(B) (1) Upon request and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B) (8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or	298 299 300 301 302 303 304 305 306 307

the person responsible for the public record shall make 308  
available all of the information within the public record that 309  
is not exempt. When making that public record available for 310  
public inspection or copying that public record, the public 311  
office or the person responsible for the public record shall 312  
notify the requester of any redaction or make the redaction 313  
plainly visible. A redaction shall be deemed a denial of a 314  
request to inspect or copy the redacted information, except if 315  
federal or state law authorizes or requires a public office to 316  
make the redaction. 317

(2) To facilitate broader access to public records, a 318  
public office or the person responsible for public records shall 319  
organize and maintain public records in a manner that they can 320  
be made available for inspection or copying in accordance with 321  
division (B) of this section. A public office also shall have 322  
available a copy of its current records retention schedule at a 323  
location readily available to the public. If a requester makes 324  
an ambiguous or overly broad request or has difficulty in making 325  
a request for copies or inspection of public records under this 326  
section such that the public office or the person responsible 327  
for the requested public record cannot reasonably identify what 328  
public records are being requested, the public office or the 329  
person responsible for the requested public record may deny the 330  
request but shall provide the requester with an opportunity to 331  
revise the request by informing the requester of the manner in 332  
which records are maintained by the public office and accessed 333  
in the ordinary course of the public office's or person's 334  
duties. 335

(3) If a request is ultimately denied, in part or in 336  
whole, the public office or the person responsible for the 337  
requested public record shall provide the requester with an 338

explanation, including legal authority, setting forth why the 339  
request was denied. If the initial request was provided in 340  
writing, the explanation also shall be provided to the requester 341  
in writing. The explanation shall not preclude the public office 342  
or the person responsible for the requested public record from 343  
relying upon additional reasons or legal authority in defending 344  
an action commenced under division (C) of this section. 345

(4) Unless specifically required or authorized by state or 346  
federal law or in accordance with division (B) of this section, 347  
no public office or person responsible for public records may 348  
limit or condition the availability of public records by 349  
requiring disclosure of the requester's identity or the intended 350  
use of the requested public record. Any requirement that the 351  
requester disclose the requestor's identity or the intended use 352  
of the requested public record constitutes a denial of the 353  
request. 354

(5) A public office or person responsible for public 355  
records may ask a requester to make the request in writing, may 356  
ask for the requester's identity, and may inquire about the 357  
intended use of the information requested, but may do so only 358  
after disclosing to the requester that a written request is not 359  
mandatory and that the requester may decline to reveal the 360  
requester's identity or the intended use and when a written 361  
request or disclosure of the identity or intended use would 362  
benefit the requester by enhancing the ability of the public 363  
office or person responsible for public records to identify, 364  
locate, or deliver the public records sought by the requester. 365

(6) If any person chooses to obtain a copy of a public 366  
record in accordance with division (B) of this section, the 367  
public office or person responsible for the public record may 368

require that person to pay in advance the cost involved in 369  
providing the copy of the public record in accordance with the 370  
choice made by the person seeking the copy under this division. 371  
The public office or the person responsible for the public 372  
record shall permit that person to choose to have the public 373  
record duplicated upon paper, upon the same medium upon which 374  
the public office or person responsible for the public record 375  
keeps it, or upon any other medium upon which the public office 376  
or person responsible for the public record determines that it 377  
reasonably can be duplicated as an integral part of the normal 378  
operations of the public office or person responsible for the 379  
public record. When the person seeking the copy makes a choice 380  
under this division, the public office or person responsible for 381  
the public record shall provide a copy of it in accordance with 382  
the choice made by the person seeking the copy. Nothing in this 383  
section requires a public office or person responsible for the 384  
public record to allow the person seeking a copy of the public 385  
record to make the copies of the public record. 386

(7) Upon a request made in accordance with division (B) of 387  
this section and subject to division (B)(6) of this section, a 388  
public office or person responsible for public records shall 389  
transmit a copy of a public record to any person by United 390  
States mail or by any other means of delivery or transmission 391  
within a reasonable period of time after receiving the request 392  
for the copy. The public office or person responsible for the 393  
public record may require the person making the request to pay 394  
in advance the cost of postage if the copy is transmitted by 395  
United States mail or the cost of delivery if the copy is 396  
transmitted other than by United States mail, and to pay in 397  
advance the costs incurred for other supplies used in the 398  
mailing, delivery, or transmission. 399

Any public office may adopt a policy and procedures that 400  
it will follow in transmitting, within a reasonable period of 401  
time after receiving a request, copies of public records by 402  
United States mail or by any other means of delivery or 403  
transmission pursuant to this division. A public office that 404  
adopts a policy and procedures under this division shall comply 405  
with them in performing its duties under this division. 406

In any policy and procedures adopted under this division, 407  
a public office may limit the number of records requested by a 408  
person that the office will transmit by United States mail to 409  
ten per month, unless the person certifies to the office in 410  
writing that the person does not intend to use or forward the 411  
requested records, or the information contained in them, for 412  
commercial purposes. For purposes of this division, "commercial" 413  
shall be narrowly construed and does not include reporting or 414  
gathering news, reporting or gathering information to assist 415  
citizen oversight or understanding of the operation or 416  
activities of government, or nonprofit educational research. 417

(8) A public office or person responsible for public 418  
records is not required to permit a person who is incarcerated 419  
pursuant to a criminal conviction or a juvenile adjudication to 420  
inspect or to obtain a copy of any public record concerning a 421  
criminal investigation or prosecution or concerning what would 422  
be a criminal investigation or prosecution if the subject of the 423  
investigation or prosecution were an adult, unless the request 424  
to inspect or to obtain a copy of the record is for the purpose 425  
of acquiring information that is subject to release as a public 426  
record under this section and the judge who imposed the sentence 427  
or made the adjudication with respect to the person, or the 428  
judge's successor in office, finds that the information sought 429  
in the public record is necessary to support what appears to be 430

a justiciable claim of the person. 431

(9) (a) Upon written request made and signed by a 432  
journalist on or after December 16, 1999, a public office, or 433  
person responsible for public records, having custody of the 434  
records of the agency employing a specified peace officer, 435  
parole officer, probation officer, bailiff, prosecuting 436  
attorney, assistant prosecuting attorney, correctional employee, 437  
community-based correctional facility employee, youth services 438  
employee, firefighter, EMT, or investigator of the bureau of 439  
criminal identification and investigation shall disclose to the 440  
journalist the address of the actual personal residence of the 441  
peace officer, parole officer, probation officer, bailiff, 442  
prosecuting attorney, assistant prosecuting attorney, 443  
correctional employee, community-based correctional facility 444  
employee, youth services employee, firefighter, EMT, or 445  
investigator of the bureau of criminal identification and 446  
investigation and, if the peace officer's, parole officer's, 447  
probation officer's, bailiff's, prosecuting attorney's, 448  
assistant prosecuting attorney's, correctional employee's, 449  
community-based correctional facility employee's, youth services 450  
employee's, firefighter's, EMT's, or investigator of the bureau 451  
of criminal identification and investigation's spouse, former 452  
spouse, or child is employed by a public office, the name and 453  
address of the employer of the peace officer's, parole 454  
officer's, probation officer's, bailiff's, prosecuting 455  
attorney's, assistant prosecuting attorney's, correctional 456  
employee's, community-based correctional facility employee's, 457  
youth services employee's, firefighter's, EMT's, or investigator 458  
of the bureau of criminal identification and investigation's 459  
spouse, former spouse, or child. The request shall include the 460  
journalist's name and title and the name and address of the 461

journalist's employer and shall state that disclosure of the 462  
information sought would be in the public interest. 463

(b) Division (B) (9) (a) of this section also applies to 464  
journalist requests for customer information maintained by a 465  
municipally owned or operated public utility, other than social 466  
security numbers and any private financial information such as 467  
credit reports, payment methods, credit card numbers, and bank 468  
account information. 469

(c) As used in division (B) (9) of this section, 470  
"journalist" means a person engaged in, connected with, or 471  
employed by any news medium, including a newspaper, magazine, 472  
press association, news agency, or wire service, a radio or 473  
television station, or a similar medium, for the purpose of 474  
gathering, processing, transmitting, compiling, editing, or 475  
disseminating information for the general public. 476

(C) (1) If a person allegedly is aggrieved by the failure 477  
of a public office or the person responsible for public records 478  
to promptly prepare a public record and to make it available to 479  
the person for inspection in accordance with division (B) of 480  
this section or by any other failure of a public office or the 481  
person responsible for public records to comply with an 482  
obligation in accordance with division (B) of this section, the 483  
person allegedly aggrieved may commence a mandamus action to 484  
obtain a judgment that orders the public office or the person 485  
responsible for the public record to comply with division (B) of 486  
this section, that awards court costs and reasonable attorney's 487  
fees to the person that instituted the mandamus action, and, if 488  
applicable, that includes an order fixing statutory damages 489  
under division (C) (1) of this section. The mandamus action may 490  
be commenced in the court of common pleas of the county in which 491

division (B) of this section allegedly was not complied with, in 492  
the supreme court pursuant to its original jurisdiction under 493  
Section 2 of Article IV, Ohio Constitution, or in the court of 494  
appeals for the appellate district in which division (B) of this 495  
section allegedly was not complied with pursuant to its original 496  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 497

If a requestor transmits a written request by hand 498  
delivery or certified mail to inspect or receive copies of any 499  
public record in a manner that fairly describes the public 500  
record or class of public records to the public office or person 501  
responsible for the requested public records, except as 502  
otherwise provided in this section, the requestor shall be 503  
entitled to recover the amount of statutory damages set forth in 504  
this division if a court determines that the public office or 505  
the person responsible for public records failed to comply with 506  
an obligation in accordance with division (B) of this section. 507

The amount of statutory damages shall be fixed at one 508  
hundred dollars for each business day during which the public 509  
office or person responsible for the requested public records 510  
failed to comply with an obligation in accordance with division 511  
(B) of this section, beginning with the day on which the 512  
requester files a mandamus action to recover statutory damages, 513  
up to a maximum of one thousand dollars. The award of statutory 514  
damages shall not be construed as a penalty, but as compensation 515  
for injury arising from lost use of the requested information. 516  
The existence of this injury shall be conclusively presumed. The 517  
award of statutory damages shall be in addition to all other 518  
remedies authorized by this section. 519

The court may reduce an award of statutory damages or not 520  
award statutory damages if the court determines both of the 521

following: 522

(a) That, based on the ordinary application of statutory 523  
law and case law as it existed at the time of the conduct or 524  
threatened conduct of the public office or person responsible 525  
for the requested public records that allegedly constitutes a 526  
failure to comply with an obligation in accordance with division 527  
(B) of this section and that was the basis of the mandamus 528  
action, a well-informed public office or person responsible for 529  
the requested public records reasonably would believe that the 530  
conduct or threatened conduct of the public office or person 531  
responsible for the requested public records did not constitute 532  
a failure to comply with an obligation in accordance with 533  
division (B) of this section; 534

(b) That a well-informed public office or person 535  
responsible for the requested public records reasonably would 536  
believe that the conduct or threatened conduct of the public 537  
office or person responsible for the requested public records 538  
would serve the public policy that underlies the authority that 539  
is asserted as permitting that conduct or threatened conduct. 540

(2) (a) If the court issues a writ of mandamus that orders 541  
the public office or the person responsible for the public 542  
record to comply with division (B) of this section and 543  
determines that the circumstances described in division (C) (1) 544  
of this section exist, the court shall determine and award to 545  
the relator all court costs. 546

(b) If the court renders a judgment that orders the public 547  
office or the person responsible for the public record to comply 548  
with division (B) of this section, the court may award 549  
reasonable attorney's fees subject to reduction as described in 550  
division (C) (2) (c) of this section. The court shall award 551

reasonable attorney's fees, subject to reduction as described in 552  
division (C) (2) (c) of this section when either of the following 553  
applies: 554

(i) The public office or the person responsible for the 555  
public records failed to respond affirmatively or negatively to 556  
the public records request in accordance with the time allowed 557  
under division (B) of this section. 558

(ii) The public office or the person responsible for the 559  
public records promised to permit the relator to inspect or 560  
receive copies of the public records requested within a 561  
specified period of time but failed to fulfill that promise 562  
within that specified period of time. 563

(c) Court costs and reasonable attorney's fees awarded 564  
under this section shall be construed as remedial and not 565  
punitive. Reasonable attorney's fees shall include reasonable 566  
fees incurred to produce proof of the reasonableness and amount 567  
of the fees and to otherwise litigate entitlement to the fees. 568  
The court may reduce an award of attorney's fees to the relator 569  
or not award attorney's fees to the relator if the court 570  
determines both of the following: 571

(i) That, based on the ordinary application of statutory 572  
law and case law as it existed at the time of the conduct or 573  
threatened conduct of the public office or person responsible 574  
for the requested public records that allegedly constitutes a 575  
failure to comply with an obligation in accordance with division 576  
(B) of this section and that was the basis of the mandamus 577  
action, a well-informed public office or person responsible for 578  
the requested public records reasonably would believe that the 579  
conduct or threatened conduct of the public office or person 580  
responsible for the requested public records did not constitute 581

a failure to comply with an obligation in accordance with 582  
division (B) of this section; 583

(ii) That a well-informed public office or person 584  
responsible for the requested public records reasonably would 585  
believe that the conduct or threatened conduct of the public 586  
office or person responsible for the requested public records as 587  
described in division (C) (2) (c) (i) of this section would serve 588  
the public policy that underlies the authority that is asserted 589  
as permitting that conduct or threatened conduct. 590

(D) Chapter 1347. of the Revised Code does not limit the 591  
provisions of this section. 592

(E) (1) To ensure that all employees of public offices are 593  
appropriately educated about a public office's obligations under 594  
division (B) of this section, all elected officials or their 595  
appropriate designees shall attend training approved by the 596  
attorney general as provided in section 109.43 of the Revised 597  
Code. In addition, all public offices shall adopt a public 598  
records policy in compliance with this section for responding to 599  
public records requests. In adopting a public records policy 600  
under this division, a public office may obtain guidance from 601  
the model public records policy developed and provided to the 602  
public office by the attorney general under section 109.43 of 603  
the Revised Code. Except as otherwise provided in this section, 604  
the policy may not limit the number of public records that the 605  
public office will make available to a single person, may not 606  
limit the number of public records that it will make available 607  
during a fixed period of time, and may not establish a fixed 608  
period of time before it will respond to a request for 609  
inspection or copying of public records, unless that period is 610  
less than eight hours. 611

(2) The public office shall distribute the public records 612  
policy adopted by the public office under division (E)(1) of 613  
this section to the employee of the public office who is the 614  
records custodian or records manager or otherwise has custody of 615  
the records of that office. The public office shall require that 616  
employee to acknowledge receipt of the copy of the public 617  
records policy. The public office shall create a poster that 618  
describes its public records policy and shall post the poster in 619  
a conspicuous place in the public office and in all locations 620  
where the public office has branch offices. The public office 621  
may post its public records policy on the internet web site of 622  
the public office if the public office maintains an internet web 623  
site. A public office that has established a manual or handbook 624  
of its general policies and procedures for all employees of the 625  
public office shall include the public records policy of the 626  
public office in the manual or handbook. 627

(F)(1) The bureau of motor vehicles may adopt rules 628  
pursuant to Chapter 119. of the Revised Code to reasonably limit 629  
the number of bulk commercial special extraction requests made 630  
by a person for the same records or for updated records during a 631  
calendar year. The rules may include provisions for charges to 632  
be made for bulk commercial special extraction requests for the 633  
actual cost of the bureau, plus special extraction costs, plus 634  
ten per cent. The bureau may charge for expenses for redacting 635  
information, the release of which is prohibited by law. 636

(2) As used in division (F)(1) of this section: 637

(a) "Actual cost" means the cost of depleted supplies, 638  
records storage media costs, actual mailing and alternative 639  
delivery costs, or other transmitting costs, and any direct 640  
equipment operating and maintenance costs, including actual 641

costs paid to private contractors for copying services. 642

(b) "Bulk commercial special extraction request" means a 643  
request for copies of a record for information in a format other 644  
than the format already available, or information that cannot be 645  
extracted without examination of all items in a records series, 646  
class of records, or database by a person who intends to use or 647  
forward the copies for surveys, marketing, solicitation, or 648  
resale for commercial purposes. "Bulk commercial special 649  
extraction request" does not include a request by a person who 650  
gives assurance to the bureau that the person making the request 651  
does not intend to use or forward the requested copies for 652  
surveys, marketing, solicitation, or resale for commercial 653  
purposes. 654

(c) "Commercial" means profit-seeking production, buying, 655  
or selling of any good, service, or other product. 656

(d) "Special extraction costs" means the cost of the time 657  
spent by the lowest paid employee competent to perform the task, 658  
the actual amount paid to outside private contractors employed 659  
by the bureau, or the actual cost incurred to create computer 660  
programs to make the special extraction. "Special extraction 661  
costs" include any charges paid to a public agency for computer 662  
or records services. 663

(3) For purposes of divisions (F) (1) and (2) of this 664  
section, "surveys, marketing, solicitation, or resale for 665  
commercial purposes" shall be narrowly construed and does not 666  
include reporting or gathering news, reporting or gathering 667  
information to assist citizen oversight or understanding of the 668  
operation or activities of government, or nonprofit educational 669  
research. 670

**Section 2.** That existing section 149.43 of the Revised Code is hereby repealed. 671  
672