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Representative Perales

Cosponsors: Representatives Butler, Hackett, Henne, Johnson, T., O'Brien, M., O'Brien, S., Landis, Retherford, Rezabek, Schaffer, Terhar, Hambley, Amstutz, Anielski, Antonio, Arndt, Baker, Barnes, Bishoff, Bocchieri, Boose, Boyce, Boyd, Brenner, Brown, Buchy, Burkley, Celebrezze, Conditt, Craig, Cupp, Derickson, Dever, Dovilla, Driehaus, Fedor, Ginter, Green, Grossman, Hagan, Hall, Hayes, Hill, Huffman, Johnson, G., Koehler, Kunze, LaTourette, Leland, Lepore-Hagan, Maag, Manning, McClain, McColley, Patterson, Ramos, Reece, Roegner, Rogers, Ruhl, Ryan, Scherer, Schuring, Sears, Sheehy, Slaby, Sprague, Strahorn, Sweeney, Sykes, Thompson, Young

Senators Uecker, LaRose

A BILL

To amend sections 149.43 and 5903.02 of the Revised Code to specify that an order for active military service or other documentation regarding the call to order of an individual in the Armed Forces of the United States or the Ohio organized militia is not a public record for a period of time and to extend employment and reemployment protection to a person who is a member of another state's national guard or organized militia and who is employed in Ohio.

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

Section 1. That sections 149.43 and 5903.02 of the Revised Code be amended to read as follows:

Sec. 149.43. (A) As used in this section:	13
(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:	14 15 16 17 18 19 20 21
(a) Medical records;	22
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	23 24 25
(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;	26 27 28
(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;	29 30 31
(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;	32 33 34 35 36 37
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	38 39
(g) Trial preparation records;	40

(h) Confidential law enforcement investigatory records;	41
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	42 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	65 66 67 68

section 1333.61 of the Revised Code;	69
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	70 71
(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 participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	72 73 74 75 76 77 78 79 80 81 82 83
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	84 85 86 87 88
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;	89 90 91 92 93 94
(v) Records the release of which is prohibited by state or federal law;	95 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	100
any purpose to the Ohio housing finance agency or the	101
controlling board in connection with applying for, receiving, or	102
accounting for financial assistance from the agency, and	103
information that identifies any individual who benefits directly	104
or indirectly from financial assistance from the agency;	105
(y) Records listed in section 5101.29 of the Revised Code;	106
(z) Discharges recorded with a county recorder under	107
section 317.24 of the Revised Code, as specified in division (B)	108
(2) of that section;	109
(aa) Usage information including names and addresses of	110
specific residential and commercial customers of a municipally	111
owned or operated public utility;	112
(bb) Records described in division (C) of section 187.04	113
of the Revised Code that are not designated to be made available	114
to the public as provided in that division;	115
(cc) Information and records that are made confidential,	116
privileged, and not subject to disclosure under divisions (B)	117
and (C) of section 2949.221 of the Revised Code;	118
(dd) Personal information, as defined in section 149.45 of	119
the Revised Code;	120
(ee) The confidential name, address, and other personally	121
identifiable information of a program participant in the address	122
confidentiality program established under sections 111.41 to	123
111.47 of the Revised Code, including the contents of any	124
application for absent voter's ballots, absent voter's ballot	125

identification envelope statement of voter, or provisional 126
ballot affirmation completed by a program participant who has a 127
confidential voter registration record, and records or portions 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) Orders for active military service or other 135
documentation regarding the call to order of an individual 136
serving or with previous service in the armed forces of the 137
United States, including a reserve component, or the Ohio 138
organized militia, except that, such order or other 139
documentation regarding a call to order becomes a public record 140
on the day that is fifteen years after the published date or 141
effective date of the call to order. 142

(2) "Confidential law enforcement investigatory record" 143
means any record that pertains to a law enforcement matter of a 144
criminal, quasi-criminal, civil, or administrative nature, but 145
only to the extent that the release of the record would create a 146
high probability of disclosure of any of the following: 147

(a) The identity of a suspect who has not been charged 148
with the offense to which the record pertains, or of an 149
information source or witness to whom confidentiality has been 150
reasonably promised; 151

(b) Information provided by an information source or 152
witness to whom confidentiality has been reasonably promised, 153
which information would reasonably tend to disclose the source's 154
or witness's identity; 155

(c) Specific confidential investigatory techniques or	156
procedures or specific investigatory work product;	157
(d) Information that would endanger the life or physical	158
safety of law enforcement personnel, a crime victim, a witness,	159
or a confidential information source.	160
(3) "Medical record" means any document or combination of	161
documents, except births, deaths, and the fact of admission to	162
or discharge from a hospital, that pertains to the medical	163
history, diagnosis, prognosis, or medical condition of a patient	164
and that is generated and maintained in the process of medical	165
treatment.	166
(4) "Trial preparation record" means any record that	167
contains information that is specifically compiled in reasonable	168
anticipation of, or in defense of, a civil or criminal action or	169
proceeding, including the independent thought processes and	170
personal trial preparation of an attorney.	171
(5) "Intellectual property record" means a record, other	172
than a financial or administrative record, that is produced or	173
collected by or for faculty or staff of a state institution of	174
higher learning in the conduct of or as a result of study or	175
research on an educational, commercial, scientific, artistic,	176
technical, or scholarly issue, regardless of whether the study	177
or research was sponsored by the institution alone or in	178
conjunction with a governmental body or private concern, and	179
that has not been publicly released, published, or patented.	180
(6) "Donor profile record" means all records about donors	181
or potential donors to a public institution of higher education	182
except the names and reported addresses of the actual donors and	183
the date, amount, and conditions of the actual donation.	184

(7) "Peace officer, parole officer, probation officer, 185
bailiff, prosecuting attorney, assistant prosecuting attorney, 186
correctional employee, community-based correctional facility 187
employee, youth services employee, firefighter, EMT, 188
investigator of the bureau of criminal identification and 189
investigation, or federal law enforcement officer residential 190
and familial information" means any information that discloses 191
any of the following about a peace officer, parole officer, 192
probation officer, bailiff, prosecuting attorney, assistant 193
prosecuting attorney, correctional employee, community-based 194
correctional facility employee, youth services employee, 195
firefighter, EMT, investigator of the bureau of criminal 196
identification and investigation, or federal law enforcement 197
officer: 198

(a) The address of the actual personal residence of a 199
peace officer, parole officer, probation officer, bailiff, 200
assistant prosecuting attorney, correctional employee, 201
community-based correctional facility employee, youth services 202
employee, firefighter, EMT, an investigator of the bureau of 203
criminal identification and investigation, or federal law 204
enforcement officer, except for the state or political 205
subdivision in which the peace officer, parole officer, 206
probation officer, bailiff, assistant prosecuting attorney, 207
correctional employee, community-based correctional facility 208
employee, youth services employee, firefighter, EMT, 209
investigator of the bureau of criminal identification and 210
investigation, or federal law enforcement officer resides; 211

(b) Information compiled from referral to or participation 212
in an employee assistance program; 213

(c) The social security number, the residential telephone 214

number, any bank account, debit card, charge card, or credit 215
card number, or the emergency telephone number of, or any 216
medical information pertaining to, a peace officer, parole 217
officer, probation officer, bailiff, prosecuting attorney, 218
assistant prosecuting attorney, correctional employee, 219
community-based correctional facility employee, youth services 220
employee, firefighter, EMT, investigator of the bureau of 221
criminal identification and investigation, or federal law 222
enforcement officer; 223

(d) The name of any beneficiary of employment benefits, 224
including, but not limited to, life insurance benefits, provided 225
to a peace officer, parole officer, probation officer, bailiff, 226
prosecuting attorney, assistant prosecuting attorney, 227
correctional employee, community-based correctional facility 228
employee, youth services employee, firefighter, EMT, 229
investigator of the bureau of criminal identification and 230
investigation, or federal law enforcement officer by the peace 231
officer's, parole officer's, probation officer's, bailiff's, 232
prosecuting attorney's, assistant prosecuting attorney's, 233
correctional employee's, community-based correctional facility 234
employee's, youth services employee's, firefighter's, EMT's, 235
investigator of the bureau of criminal identification and 236
investigation's, or federal law enforcement officer's employer; 237

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

officer's, parole officer's, probation officer's, bailiff's, 246
prosecuting attorney's, assistant prosecuting attorney's, 247
correctional employee's, community-based correctional facility 248
employee's, youth services employee's, firefighter's, EMT's, 249
investigator of the bureau of criminal identification and 250
investigation's, or federal law enforcement officer's 251
compensation unless the amount of the deduction is required by 252
state or federal law; 253

(f) The name, the residential address, the name of the 254
employer, the address of the employer, the social security 255
number, the residential telephone number, any bank account, 256
debit card, charge card, or credit card number, or the emergency 257
telephone number of the spouse, a former spouse, or any child of 258
a peace officer, parole officer, probation officer, bailiff, 259
prosecuting attorney, assistant prosecuting attorney, 260
correctional employee, community-based correctional facility 261
employee, youth services employee, firefighter, EMT, 262
investigator of the bureau of criminal identification and 263
investigation, or federal law enforcement officer; 264

(g) A photograph of a peace officer who holds a position 265
or has an assignment that may include undercover or plain 266
clothes positions or assignments as determined by the peace 267
officer's appointing authority. 268

As used in divisions (A) (7) and (B) (9) of this section, 269
"peace officer" has the same meaning as in section 109.71 of the 270
Revised Code and also includes the superintendent and troopers 271
of the state highway patrol; it does not include the sheriff of 272
a county or a supervisory employee who, in the absence of the 273
sheriff, is authorized to stand in for, exercise the authority 274
of, and perform the duties of the sheriff. 275

As used in divisions (A) (7) and (B) (9) of this section, 276
"correctional employee" means any employee of the department of 277
rehabilitation and correction who in the course of performing 278
the employee's job duties has or has had contact with inmates 279
and persons under supervision. 280

As used in divisions (A) (7) and (B) (9) of this section, 281
"youth services employee" means any employee of the department 282
of youth services who in the course of performing the employee's 283
job duties has or has had contact with children committed to the 284
custody of the department of youth services. 285

As used in divisions (A) (7) and (B) (9) of this section, 286
"firefighter" means any regular, paid or volunteer, member of a 287
lawfully constituted fire department of a municipal corporation, 288
township, fire district, or village. 289

As used in divisions (A) (7) and (B) (9) of this section, 290
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 291
emergency medical services for a public emergency medical 292
service organization. "Emergency medical service organization," 293
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 294
in section 4765.01 of the Revised Code. 295

As used in divisions (A) (7) and (B) (9) of this section, 296
"investigator of the bureau of criminal identification and 297
investigation" has the meaning defined in section 2903.11 of the 298
Revised Code. 299

As used in divisions (A) (7) and (B) (9) of this section, 300
"federal law enforcement officer" has the meaning defined in 301
section 9.88 of the Revised Code. 302

(8) "Information pertaining to the recreational activities 303
of a person under the age of eighteen" means information that is 304

kept in the ordinary course of business by a public office, that 305
pertains to the recreational activities of a person under the 306
age of eighteen years, and that discloses any of the following: 307

(a) The address or telephone number of a person under the 308
age of eighteen or the address or telephone number of that 309
person's parent, guardian, custodian, or emergency contact 310
person; 311

(b) The social security number, birth date, or 312
photographic image of a person under the age of eighteen; 313

(c) Any medical record, history, or information pertaining 314
to a person under the age of eighteen; 315

(d) Any additional information sought or required about a 316
person under the age of eighteen for the purpose of allowing 317
that person to participate in any recreational activity 318
conducted or sponsored by a public office or to use or obtain 319
admission privileges to any recreational facility owned or 320
operated by a public office. 321

(9) "Community control sanction" has the same meaning as 322
in section 2929.01 of the Revised Code. 323

(10) "Post-release control sanction" has the same meaning 324
as in section 2967.01 of the Revised Code. 325

(11) "Redaction" means obscuring or deleting any 326
information that is exempt from the duty to permit public 327
inspection or copying from an item that otherwise meets the 328
definition of a "record" in section 149.011 of the Revised Code. 329

(12) "Designee" and "elected official" have the same 330
meanings as in section 109.43 of the Revised Code. 331

(B) (1) Upon request and subject to division (B) (8) of this 332

section, all public records responsive to the request shall be 333
promptly prepared and made available for inspection to any 334
person at all reasonable times during regular business hours. 335
Subject to division (B) (8) of this section, upon request, a 336
public office or person responsible for public records shall 337
make copies of the requested public record available at cost and 338
within a reasonable period of time. If a public record contains 339
information that is exempt from the duty to permit public 340
inspection or to copy the public record, the public office or 341
the person responsible for the public record shall make 342
available all of the information within the public record that 343
is not exempt. When making that public record available for 344
public inspection or copying that public record, the public 345
office or the person responsible for the public record shall 346
notify the requester of any redaction or make the redaction 347
plainly visible. A redaction shall be deemed a denial of a 348
request to inspect or copy the redacted information, except if 349
federal or state law authorizes or requires a public office to 350
make the redaction. 351

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

person responsible for the requested public record may deny the 364
request but shall provide the requester with an opportunity to 365
revise the request by informing the requester of the manner in 366
which records are maintained by the public office and accessed 367
in the ordinary course of the public office's or person's 368
duties. 369

(3) If a request is ultimately denied, in part or in 370
whole, the public office or the person responsible for the 371
requested public record shall provide the requester with an 372
explanation, including legal authority, setting forth why the 373
request was denied. If the initial request was provided in 374
writing, the explanation also shall be provided to the requester 375
in writing. The explanation shall not preclude the public office 376
or the person responsible for the requested public record from 377
relying upon additional reasons or legal authority in defending 378
an action commenced under division (C) of this section. 379

(4) Unless specifically required or authorized by state or 380
federal law or in accordance with division (B) of this section, 381
no public office or person responsible for public records may 382
limit or condition the availability of public records by 383
requiring disclosure of the requester's identity or the intended 384
use of the requested public record. Any requirement that the 385
requester disclose the requester's identity or the intended use 386
of the requested public record constitutes a denial of the 387
request. 388

(5) A public office or person responsible for public 389
records may ask a requester to make the request in writing, may 390
ask for the requester's identity, and may inquire about the 391
intended use of the information requested, but may do so only 392
after disclosing to the requester that a written request is not 393

mandatory and that the requester may decline to reveal the 394
requester's identity or the intended use and when a written 395
request or disclosure of the identity or intended use would 396
benefit the requester by enhancing the ability of the public 397
office or person responsible for public records to identify, 398
locate, or deliver the public records sought by the requester. 399

(6) If any person chooses to obtain a copy of a public 400
record in accordance with division (B) of this section, the 401
public office or person responsible for the public record may 402
require that person to pay in advance the cost involved in 403
providing the copy of the public record in accordance with the 404
choice made by the person seeking the copy under this division. 405
The public office or the person responsible for the public 406
record shall permit that person to choose to have the public 407
record duplicated upon paper, upon the same medium upon which 408
the public office or person responsible for the public record 409
keeps it, or upon any other medium upon which the public office 410
or person responsible for the public record determines that it 411
reasonably can be duplicated as an integral part of the normal 412
operations of the public office or person responsible for the 413
public record. When the person seeking the copy makes a choice 414
under this division, the public office or person responsible for 415
the public record shall provide a copy of it in accordance with 416
the choice made by the person seeking the copy. Nothing in this 417
section requires a public office or person responsible for the 418
public record to allow the person seeking a copy of the public 419
record to make the copies of the public record. 420

(7) (a) Upon a request made in accordance with division (B) 421
of this section and subject to division (B) (6) of this section, 422
a public office or person responsible for public records shall 423
transmit a copy of a public record to any person by United 424

States mail or by any other means of delivery or transmission 425
within a reasonable period of time after receiving the request 426
for the copy. The public office or person responsible for the 427
public record may require the person making the request to pay 428
in advance the cost of postage if the copy is transmitted by 429
United States mail or the cost of delivery if the copy is 430
transmitted other than by United States mail, and to pay in 431
advance the costs incurred for other supplies used in the 432
mailing, delivery, or transmission. 433

(b) Any public office may adopt a policy and procedures 434
that it will follow in transmitting, within a reasonable period 435
of time after receiving a request, copies of public records by 436
United States mail or by any other means of delivery or 437
transmission pursuant to division (B) (7) of this section. A 438
public office that adopts a policy and procedures under division 439
(B) (7) of this section shall comply with them in performing its 440
duties under that division. 441

(c) In any policy and procedures adopted under division 442
(B) (7) of this section: 443

(i) A public office may limit the number of records 444
requested by a person that the office will physically deliver by 445
United States mail or by another delivery service to ten per 446
month, unless the person certifies to the office in writing that 447
the person does not intend to use or forward the requested 448
records, or the information contained in them, for commercial 449
purposes; 450

(ii) A public office that chooses to provide some or all 451
of its public records on a web site that is fully accessible to 452
and searchable by members of the public at all times, other than 453
during acts of God outside the public office's control or 454

maintenance, and that charges no fee to search, access, 455
download, or otherwise receive records provided on the web site, 456
may limit to ten per month the number of records requested by a 457
person that the office will deliver in a digital format, unless 458
the requested records are not provided on the web site and 459
unless the person certifies to the office in writing that the 460
person does not intend to use or forward the requested records, 461
or the information contained in them, for commercial purposes. 462

(iii) For purposes of division (B)(7) of this section, 463
"commercial" shall be narrowly construed and does not include 464
reporting or gathering news, reporting or gathering information 465
to assist citizen oversight or understanding of the operation or 466
activities of government, or nonprofit educational research. 467

(8) A public office or person responsible for public 468
records is not required to permit a person who is incarcerated 469
pursuant to a criminal conviction or a juvenile adjudication to 470
inspect or to obtain a copy of any public record concerning a 471
criminal investigation or prosecution or concerning what would 472
be a criminal investigation or prosecution if the subject of the 473
investigation or prosecution were an adult, unless the request 474
to inspect or to obtain a copy of the record is for the purpose 475
of acquiring information that is subject to release as a public 476
record under this section and the judge who imposed the sentence 477
or made the adjudication with respect to the person, or the 478
judge's successor in office, finds that the information sought 479
in the public record is necessary to support what appears to be 480
a justiciable claim of the person. 481

(9) (a) Upon written request made and signed by a 482
journalist on or after December 16, 1999, a public office, or 483
person responsible for public records, having custody of the 484

records of the agency employing a specified peace officer, 485
parole officer, probation officer, bailiff, prosecuting 486
attorney, assistant prosecuting attorney, correctional employee, 487
community-based correctional facility employee, youth services 488
employee, firefighter, EMT, investigator of the bureau of 489
criminal identification and investigation, or federal law 490
enforcement officer shall disclose to the journalist the address 491
of the actual personal residence of the peace officer, parole 492
officer, probation officer, bailiff, prosecuting attorney, 493
assistant prosecuting attorney, correctional employee, 494
community-based correctional facility employee, youth services 495
employee, firefighter, EMT, investigator of the bureau of 496
criminal identification and investigation, or federal law 497
enforcement officer and, if the peace officer's, parole 498
officer's, probation officer's, bailiff's, prosecuting 499
attorney's, assistant prosecuting attorney's, correctional 500
employee's, community-based correctional facility employee's, 501
youth services employee's, firefighter's, EMT's, investigator of 502
the bureau of criminal identification and investigation's, or 503
federal law enforcement officer's spouse, former spouse, or 504
child is employed by a public office, the name and address of 505
the employer of the peace officer's, parole officer's, probation 506
officer's, bailiff's, prosecuting attorney's, assistant 507
prosecuting attorney's, correctional employee's, community-based 508
correctional facility employee's, youth services employee's, 509
firefighter's, EMT's, investigator of the bureau of criminal 510
identification and investigation's, or federal law enforcement 511
officer's spouse, former spouse, or child. The request shall 512
include the journalist's name and title and the name and address 513
of the journalist's employer and shall state that disclosure of 514
the information sought would be in the public interest. 515

(b) Division (B) (9) (a) of this section also applies to 516
journalist requests for customer information maintained by a 517
municipally owned or operated public utility, other than social 518
security numbers and any private financial information such as 519
credit reports, payment methods, credit card numbers, and bank 520
account information. 521

(c) As used in division (B) (9) of this section, 522
"journalist" means a person engaged in, connected with, or 523
employed by any news medium, including a newspaper, magazine, 524
press association, news agency, or wire service, a radio or 525
television station, or a similar medium, for the purpose of 526
gathering, processing, transmitting, compiling, editing, or 527
disseminating information for the general public. 528

(C) (1) If a person allegedly is aggrieved by the failure 529
of a public office or the person responsible for public records 530
to promptly prepare a public record and to make it available to 531
the person for inspection in accordance with division (B) of 532
this section or by any other failure of a public office or the 533
person responsible for public records to comply with an 534
obligation in accordance with division (B) of this section, the 535
person allegedly aggrieved may do only one of the following, and 536
not both: 537

(a) File a complaint with the clerk of the court of claims 538
or the clerk of the court of common pleas under section 2743.75 539
of the Revised Code; 540

(b) Commence a mandamus action to obtain a judgment that 541
orders the public office or the person responsible for the 542
public record to comply with division (B) of this section, that 543
awards court costs and reasonable attorney's fees to the person 544
that instituted the mandamus action, and, if applicable, that 545

includes an order fixing statutory damages under division (C) (2) 546
of this section. The mandamus action may be commenced in the 547
court of common pleas of the county in which division (B) of 548
this section allegedly was not complied with, in the supreme 549
court pursuant to its original jurisdiction under Section 2 of 550
Article IV, Ohio Constitution, or in the court of appeals for 551
the appellate district in which division (B) of this section 552
allegedly was not complied with pursuant to its original 553
jurisdiction under Section 3 of Article IV, Ohio Constitution. 554

(2) If a requester transmits a written request by hand 555
delivery or certified mail to inspect or receive copies of any 556
public record in a manner that fairly describes the public 557
record or class of public records to the public office or person 558
responsible for the requested public records, except as 559
otherwise provided in this section, the requester shall be 560
entitled to recover the amount of statutory damages set forth in 561
this division if a court determines that the public office or 562
the person responsible for public records failed to comply with 563
an obligation in accordance with division (B) of this section. 564

The amount of statutory damages shall be fixed at one 565
hundred dollars for each business day during which the public 566
office or person responsible for the requested public records 567
failed to comply with an obligation in accordance with division 568
(B) of this section, beginning with the day on which the 569
requester files a mandamus action to recover statutory damages, 570
up to a maximum of one thousand dollars. The award of statutory 571
damages shall not be construed as a penalty, but as compensation 572
for injury arising from lost use of the requested information. 573
The existence of this injury shall be conclusively presumed. The 574
award of statutory damages shall be in addition to all other 575
remedies authorized by this section. 576

The court may reduce an award of statutory damages or not 577
award statutory damages if the court determines both of the 578
following: 579

(a) That, based on the ordinary application of statutory 580
law and case law as it existed at the time of the conduct or 581
threatened conduct of the public office or person responsible 582
for the requested public records that allegedly constitutes a 583
failure to comply with an obligation in accordance with division 584
(B) of this section and that was the basis of the mandamus 585
action, a well-informed public office or person responsible for 586
the requested public records reasonably would believe that the 587
conduct or threatened conduct of the public office or person 588
responsible for the requested public records did not constitute 589
a failure to comply with an obligation in accordance with 590
division (B) of this section; 591

(b) That a well-informed public office or person 592
responsible for the requested public records reasonably would 593
believe that the conduct or threatened conduct of the public 594
office or person responsible for the requested public records 595
would serve the public policy that underlies the authority that 596
is asserted as permitting that conduct or threatened conduct. 597

(3) In a mandamus action filed under division (C) (1) of 598
this section, the following apply: 599

(a) (i) If the court orders the public office or the person 600
responsible for the public record to comply with division (B) of 601
this section, the court shall determine and award to the relator 602
all court costs, which shall be construed as remedial and not 603
punitive. 604

(ii) If the court makes a determination described in 605

division (C) (3) (b) (iii) of this section, the court shall 606
determine and award to the relator all court costs, which shall 607
be construed as remedial and not punitive. 608

(b) If the court renders a judgment that orders the public 609
office or the person responsible for the public record to comply 610
with division (B) of this section or if the court determines any 611
of the following, the court may award reasonable attorney's fees 612
to the relator, subject to the provisions of division (C) (4) of 613
this section: 614

(i) The public office or the person responsible for the 615
public records failed to respond affirmatively or negatively to 616
the public records request in accordance with the time allowed 617
under division (B) of this section. 618

(ii) The public office or the person responsible for the 619
public records promised to permit the relator to inspect or 620
receive copies of the public records requested within a 621
specified period of time but failed to fulfill that promise 622
within that specified period of time. 623

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

available to the relator for the first time after the relator 636
commenced the mandamus action, but before the court issued any 637
order described in this division. 638

(c) The court shall not award attorney's fees to the 639
relator if the court determines both of the following: 640

(i) That, based on the ordinary application of statutory 641
law and case law as it existed at the time of the conduct or 642
threatened conduct of the public office or person responsible 643
for the requested public records that allegedly constitutes a 644
failure to comply with an obligation in accordance with division 645
(B) of this section and that was the basis of the mandamus 646
action, a well-informed public office or person responsible for 647
the requested public records reasonably would believe that the 648
conduct or threatened conduct of the public office or person 649
responsible for the requested public records did not constitute 650
a failure to comply with an obligation in accordance with 651
division (B) of this section; 652

(ii) That a well-informed public office or person 653
responsible for the requested public records reasonably would 654
believe that the conduct or threatened conduct of the public 655
office or person responsible for the requested public records 656
would serve the public policy that underlies the authority that 657
is asserted as permitting that conduct or threatened conduct. 658

(4) All of the following apply to any award of reasonable 659
attorney's fees awarded under division (C) (3) (b) of this 660
section: 661

(a) The fees shall be construed as remedial and not 662
punitive. 663

(b) The fees awarded shall not exceed the total of the 664

reasonable attorney's fees incurred before the public record was 665
made available to the relator and the fees described in division 666
(C) (4) (c) of this section. 667

(c) Reasonable attorney's fees shall include reasonable 668
fees incurred to produce proof of the reasonableness and amount 669
of the fees and to otherwise litigate entitlement to the fees. 670

(d) The court may reduce the amount of fees awarded if the 671
court determines that, given the factual circumstances involved 672
with the specific public records request, an alternative means 673
should have been pursued to more effectively and efficiently 674
resolve the dispute that was subject to the mandamus action 675
filed under division (C) (1) of this section. 676

(5) If the court does not issue a writ of mandamus under 677
division (C) of this section and the court determines at that 678
time that the bringing of the mandamus action was frivolous 679
conduct as defined in division (A) of section 2323.51 of the 680
Revised Code, the court may award to the public office all court 681
costs, expenses, and reasonable attorney's fees, as determined 682
by the court. 683

(D) Chapter 1347. of the Revised Code does not limit the 684
provisions of this section. 685

(E) (1) To ensure that all employees of public offices are 686
appropriately educated about a public office's obligations under 687
division (B) of this section, all elected officials or their 688
appropriate designees shall attend training approved by the 689
attorney general as provided in section 109.43 of the Revised 690
Code. In addition, all public offices shall adopt a public 691
records policy in compliance with this section for responding to 692
public records requests. In adopting a public records policy 693

under this division, a public office may obtain guidance from 694
the model public records policy developed and provided to the 695
public office by the attorney general under section 109.43 of 696
the Revised Code. Except as otherwise provided in this section, 697
the policy may not limit the number of public records that the 698
public office will make available to a single person, may not 699
limit the number of public records that it will make available 700
during a fixed period of time, and may not establish a fixed 701
period of time before it will respond to a request for 702
inspection or copying of public records, unless that period is 703
less than eight hours. 704

(2) The public office shall distribute the public records 705
policy adopted by the public office under division (E)(1) of 706
this section to the employee of the public office who is the 707
records custodian or records manager or otherwise has custody of 708
the records of that office. The public office shall require that 709
employee to acknowledge receipt of the copy of the public 710
records policy. The public office shall create a poster that 711
describes its public records policy and shall post the poster in 712
a conspicuous place in the public office and in all locations 713
where the public office has branch offices. The public office 714
may post its public records policy on the internet web site of 715
the public office if the public office maintains an internet web 716
site. A public office that has established a manual or handbook 717
of its general policies and procedures for all employees of the 718
public office shall include the public records policy of the 719
public office in the manual or handbook. 720

(F)(1) The bureau of motor vehicles may adopt rules 721
pursuant to Chapter 119. of the Revised Code to reasonably limit 722
the number of bulk commercial special extraction requests made 723
by a person for the same records or for updated records during a 724

calendar year. The rules may include provisions for charges to 725
be made for bulk commercial special extraction requests for the 726
actual cost of the bureau, plus special extraction costs, plus 727
ten per cent. The bureau may charge for expenses for redacting 728
information, the release of which is prohibited by law. 729

(2) As used in division (F) (1) of this section: 730

(a) "Actual cost" means the cost of depleted supplies, 731
records storage media costs, actual mailing and alternative 732
delivery costs, or other transmitting costs, and any direct 733
equipment operating and maintenance costs, including actual 734
costs paid to private contractors for copying services. 735

(b) "Bulk commercial special extraction request" means a 736
request for copies of a record for information in a format other 737
than the format already available, or information that cannot be 738
extracted without examination of all items in a records series, 739
class of records, or database by a person who intends to use or 740
forward the copies for surveys, marketing, solicitation, or 741
resale for commercial purposes. "Bulk commercial special 742
extraction request" does not include a request by a person who 743
gives assurance to the bureau that the person making the request 744
does not intend to use or forward the requested copies for 745
surveys, marketing, solicitation, or resale for commercial 746
purposes. 747

(c) "Commercial" means profit-seeking production, buying, 748
or selling of any good, service, or other product. 749

(d) "Special extraction costs" means the cost of the time 750
spent by the lowest paid employee competent to perform the task, 751
the actual amount paid to outside private contractors employed 752
by the bureau, or the actual cost incurred to create computer 753

programs to make the special extraction. "Special extraction 754
costs" include any charges paid to a public agency for computer 755
or records services. 756

(3) For purposes of divisions (F)(1) and (2) of this 757
section, "surveys, marketing, solicitation, or resale for 758
commercial purposes" shall be narrowly construed and does not 759
include reporting or gathering news, reporting or gathering 760
information to assist citizen oversight or understanding of the 761
operation or activities of government, or nonprofit educational 762
research. 763

(G) A request by a defendant, counsel of a defendant, or 764
any agent of a defendant in a criminal action that public 765
records related to that action be made available under this 766
section shall be considered a demand for discovery pursuant to 767
the Criminal Rules, except to the extent that the Criminal Rules 768
plainly indicate a contrary intent. The defendant, counsel of 769
the defendant, or agent of the defendant making a request under 770
this division shall serve a copy of the request on the 771
prosecuting attorney, director of law, or other chief legal 772
officer responsible for prosecuting the action. 773

Sec. 5903.02. (A) As used in this section, ~~"uniformed ;~~ 774

(1) "Uniformed services" and "service in the uniformed 775
services" have the same meanings as in the "Uniformed Services 776
Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 777
38 U.S.C.A. 4303. 778

(2) "Organized militia of another state" means the 779
national guard of any state, territory, or district other than 780
Ohio or any military or naval force recognized under the laws of 781
a state, district, or territory other than Ohio. 782

(B) Any person whose absence from a position of employment 783
is necessitated by reason of service in the uniformed services 784
~~or~~, in the Ohio organized militia, or in the organized militia 785
of another state has the same reinstatement and reemployment 786
rights in this state that a person has under the "Uniformed 787
Services Employment and Reemployment Rights Act of 1994." A 788
person who is denied a reinstatement or reemployment right 789
pursuant to this section has a cause of action for the same 790
remedies as a person has under the "Uniformed Services 791
Employment and Reemployment Rights Act of 1994." The court of 792
common pleas, notwithstanding any sum limitation established by 793
decision of a board of county commissioners pursuant to section 794
2305.01 of the Revised Code, shall have exclusive original 795
jurisdiction for such actions, unless the defendant is the 796
state, in which case the court of claims shall have exclusive 797
original jurisdiction pursuant to division (C) of this section. 798

(C) A person who seeks reinstatement or reemployment 799
rights with the state, pursuant to this section, may bring an 800
action in the court of claims pursuant to this section or 801
section 4323 of the "Uniformed Services Employment and 802
Reemployment Rights Act of 1994." 803

(D) In any action or proceeding to enforce a provision of 804
this section, the court shall require the defendant to pay the 805
court costs if the plaintiff is the prevailing party in the 806
action or proceeding. If the plaintiff is not the prevailing 807
party, the court may use its discretion in allocating court 808
costs among the parties to the action. 809

(E) In any action or proceeding to enforce a provision of 810
this section the court may award to a plaintiff who prevails in 811
such action or proceeding reasonable attorney's fees, expert 812

witness fees, and other litigation expenses. If the plaintiff 813
does not receive a favorable judgment from the court in that 814
action, the court shall not require the plaintiff to reimburse 815
the state or the defendant for attorney's fees. 816

(F) The director of administrative services shall adopt 817
rules in accordance with Chapter 119. of the Revised Code for 818
the implementation of this chapter with respect to persons in 819
public service. 820

(G) A person is not entitled to a remedy in a state action 821
under division (B) or (C) of this section if the person has 822
received a remedy based on the same facts under the "Uniformed 823
Services Employment and Reemployment Rights Act of 1994." If a 824
person has received a remedy in a state action under division 825
(B) or (C) of this section and then receives a remedy based on 826
the same facts under the "Uniformed Services Employment and 827
Reemployment Rights Act of 1994," the person shall reimburse the 828
judgment debtor the value of the federal remedy or the state 829
remedy whichever is less. 830

Section 2. That existing sections 149.43 and 5903.02 of 831
the Revised Code are hereby repealed. 832

Section 3. Section 149.43 of the Revised Code is presented 833
in this act as a composite of the section as amended by Sub. 834
H.B. 317, Sub. H.B. 359, and Sub. S.B. 321, all of the 131st 835
General Assembly. The General Assembly, applying the principle 836
stated in division (B) of section 1.52 of the Revised Code that 837
amendments are to be harmonized if reasonably capable of 838
simultaneous operation, finds that the composite is the 839
resulting version of the section in effect prior to the 840
effective date of the section as presented in this act. 841