

As Introduced

132nd General Assembly

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H. B. No. 406

Representative Lanese

Cosponsors: Representatives Hughes, Riedel, Goodman, Kent, Ginter, Young

A BILL

To amend sections 149.43 and 149.45 of the Revised Code to include forensic evaluation examiners and mental health evaluation providers as individuals whose residential and familial information is exempt from disclosure under the Public Records Law, and whose addresses public offices, upon request, must redact from records available to the general public on the internet.

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

Section 1. That sections 149.43 and 149.45 of the Revised Code be amended to read as follows:

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

(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:	19
(a) Medical records;	20
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	21 22 23
(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;	24 25 26
(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;	27 28 29
(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;	30 31 32 33 34 35
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	36 37
(g) Trial preparation records;	38
(h) Confidential law enforcement investigatory records;	39
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	40 41
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	42 43
(k) Inmate records released by the department of rehabilitation and correction to the department of youth	44 45

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

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

(t) Records provided to and statements made by the 82
executive director of a public children services agency or a 83
prosecuting attorney acting pursuant to section 5153.171 of the 84
Revised Code other than the information released under that 85
section; 86

(u) Test materials, examinations, or evaluation tools used 87
in an examination for licensure as a nursing home administrator 88
that the board of executives of long-term services and supports 89
administers under section 4751.04 of the Revised Code or 90
contracts under that section with a private or government entity 91
to administer; 92

(v) Records the release of which is prohibited by state or 93
federal law; 94

(w) Proprietary information of or relating to any person 95
that is submitted to or compiled by the Ohio venture capital 96
authority created under section 150.01 of the Revised Code; 97

(x) Financial statements and data any person submits for 98
any purpose to the Ohio housing finance agency or the 99
controlling board in connection with applying for, receiving, or 100
accounting for financial assistance from the agency, and 101
information that identifies any individual who benefits directly 102

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

meaning defined in section 111.41 of the Revised Code.	132
(ff) Orders for active military service of an individual	133
serving or with previous service in the armed forces of the	134
United States, including a reserve component, or the Ohio	135
organized militia, except that, such order becomes a public	136
record on the day that is fifteen years after the published date	137
or effective date of the call to order.	138
(2) "Confidential law enforcement investigatory record"	139
means any record that pertains to a law enforcement matter of a	140
criminal, quasi-criminal, civil, or administrative nature, but	141
only to the extent that the release of the record would create a	142
high probability of disclosure of any of the following:	143
(a) The identity of a suspect who has not been charged	144
with the offense to which the record pertains, or of an	145
information source or witness to whom confidentiality has been	146
reasonably promised;	147
(b) Information provided by an information source or	148
witness to whom confidentiality has been reasonably promised,	149
which information would reasonably tend to disclose the source's	150
or witness's identity;	151
(c) Specific confidential investigatory techniques or	152
procedures or specific investigatory work product;	153
(d) Information that would endanger the life or physical	154
safety of law enforcement personnel, a crime victim, a witness,	155
or a confidential information source.	156
(3) "Medical record" means any document or combination of	157
documents, except births, deaths, and the fact of admission to	158
or discharge from a hospital, that pertains to the medical	159
history, diagnosis, prognosis, or medical condition of a patient	160

and that is generated and maintained in the process of medical 161
treatment. 162

(4) "Trial preparation record" means any record that 163
contains information that is specifically compiled in reasonable 164
anticipation of, or in defense of, a civil or criminal action or 165
proceeding, including the independent thought processes and 166
personal trial preparation of an attorney. 167

(5) "Intellectual property record" means a record, other 168
than a financial or administrative record, that is produced or 169
collected by or for faculty or staff of a state institution of 170
higher learning in the conduct of or as a result of study or 171
research on an educational, commercial, scientific, artistic, 172
technical, or scholarly issue, regardless of whether the study 173
or research was sponsored by the institution alone or in 174
conjunction with a governmental body or private concern, and 175
that has not been publicly released, published, or patented. 176

(6) "Donor profile record" means all records about donors 177
or potential donors to a public institution of higher education 178
except the names and reported addresses of the actual donors and 179
the date, amount, and conditions of the actual donation. 180

(7) "~~Peace~~ Designated public service worker" means a peace 181
officer, parole officer, probation officer, bailiff, prosecuting 182
attorney, assistant prosecuting attorney, correctional employee, 183
community-based correctional facility employee, youth services 184
employee, firefighter, EMT, investigator of the bureau of 185
criminal identification and investigation, forensic evaluation 186
examiner, mental health evaluation provider, or federal law 187
enforcement officer. 188

(8) "Designated public service worker residential and 189

familial information" means any information that discloses any 190
of the following about a ~~peace officer, parole officer,~~ 191
~~probation officer, bailiff, prosecuting attorney, assistant~~ 192
~~prosecuting attorney, correctional employee, community-based~~ 193
~~correctional facility employee, youth services employee,~~ 194
~~firefighter, EMT, investigator of the bureau of criminal~~ 195
~~identification and investigation, or federal law enforcement~~ 196
~~officer~~ designated public service worker: 197

(a) The address of the actual personal residence of a 198
~~peace officer, parole officer, probation officer, bailiff,~~ 199
~~assistant~~ designated public service worker, other than a 200
~~prosecuting attorney, correctional employee, community-based~~ 201
~~correctional facility employee, youth services employee,~~ 202
~~firefighter, EMT, an investigator of the bureau of criminal~~ 203
~~identification and investigation, or federal law enforcement~~ 204
~~officer,~~ except for the state or political subdivision in which 205
the ~~peace officer, parole officer, probation officer, bailiff,~~ 206
~~assistant~~ designated public service worker, other than a 207
~~prosecuting attorney, correctional employee, community-based~~ 208
~~correctional facility employee, youth services employee,~~ 209
~~firefighter, EMT, investigator of the bureau of criminal~~ 210
~~identification and investigation, or federal law enforcement~~ 211
~~officer~~ resides; 212

(b) Information compiled from referral to or participation 213
in an employee assistance program; 214

(c) The social security number, the residential telephone 215
number, any bank account, debit card, charge card, or credit 216
card number, or the emergency telephone number of, or any 217
medical information pertaining to, a ~~peace officer, parole~~ 218
~~officer, probation officer, bailiff, prosecuting attorney,~~ 219

~~assistant prosecuting attorney, correctional employee,~~ 220
~~community-based correctional facility employee, youth services-~~ 221
~~employee, firefighter, EMT, investigator of the bureau of~~ 222
~~criminal identification and investigation, or federal law~~ 223
~~enforcement officer~~ designated public service worker; 224

(d) The name of any beneficiary of employment benefits, 225
including, but not limited to, life insurance benefits, provided 226
to a ~~peace officer, parole officer, probation officer, bailiff,~~ 227
~~prosecuting attorney, assistant prosecuting attorney,~~ 228
~~correctional employee, community-based correctional facility-~~ 229
~~employee, youth services employee, firefighter, EMT,~~ 230
~~investigator of the bureau of criminal identification and~~ 231
~~investigation, or federal law enforcement officer~~ designated 232
public service worker by the ~~peace officer's, parole officer's,~~ 233
~~probation officer's, bailiff's, prosecuting attorney's,~~ 234
~~assistant prosecuting attorney's, correctional employee's,~~ 235
~~community-based correctional facility employee's, youth services-~~ 236
~~employee's, firefighter's, EMT's, investigator of the bureau of~~ 237
~~criminal identification and investigation's, or federal law~~ 238
~~enforcement officer's~~ designated public service worker's 239
employer; 240

(e) The identity and amount of any charitable or 241
employment benefit deduction made by the ~~peace officer's, parole-~~ 242
~~officer's, probation officer's, bailiff's, prosecuting~~ 243
~~attorney's, assistant prosecuting attorney's, correctional-~~ 244
~~employee's, community-based correctional facility employee's,~~ 245
~~youth services employee's, firefighter's, EMT's, investigator of~~ 246
~~the bureau of criminal identification and investigation's, or~~ 247
~~federal law enforcement officer's~~ designated public service 248
worker's employer from the ~~peace officer's, parole officer's,~~ 249
~~probation officer's, bailiff's, prosecuting attorney's,~~ 250

~~assistant prosecuting attorney's, correctional employee's,~~ 251
~~community-based correctional facility employee's, youth services~~ 252
~~employee's, firefighter's, EMT's, investigator of the bureau of~~ 253
~~criminal identification and investigation's, or federal law~~ 254
~~enforcement officer's~~ designated public service worker's 255
compensation, unless the amount of the deduction is required by 256
state or federal law; 257

(f) The name, the residential address, the name of the 258
employer, the address of the employer, the social security 259
number, the residential telephone number, any bank account, 260
debit card, charge card, or credit card number, or the emergency 261
telephone number of the spouse, a former spouse, or any child of 262
a ~~peace officer, parole officer, probation officer, bailiff,~~ 263
~~prosecuting attorney, assistant prosecuting attorney,~~ 264
~~correctional employee, community-based correctional facility~~ 265
~~employee, youth services employee, firefighter, EMT,~~ 266
~~investigator of the bureau of criminal identification and~~ 267
~~investigation, or federal law enforcement officer~~ designated 268
public service worker; 269

(g) A photograph of a peace officer who holds a position 270
or has an assignment that may include undercover or plain 271
clothes positions or assignments as determined by the peace 272
officer's appointing authority. 273

(9) As used in divisions ~~division~~ (A) (7) and (B) (9) of 274
this section, ~~"peace~~; 275

"Peace officer" has the ~~same~~ meaning as defined in section 276
109.71 of the Revised Code and also includes the superintendent 277
and troopers of the state highway patrol; it does not include 278
the sheriff of a county or a supervisory employee who, in the 279
absence of the sheriff, is authorized to stand in for, exercise 280

the authority of, and perform the duties of the sheriff. 281

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 282
"correctional" Correctional employee" means any employee of the 283
department of rehabilitation and correction who in the course of 284
performing the employee's job duties has or has had contact with 285
inmates and persons under supervision. 286

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 287
"youth" Youth services employee" means any employee of the 288
department of youth services who in the course of performing the 289
employee's job duties has or has had contact with children 290
committed to the custody of the department of youth services. 291

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 292
"firefighter" Firefighter" means any regular, paid or 293
volunteer, member of a lawfully constituted fire department of a 294
municipal corporation, township, fire district, or village. 295

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 296
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 297
emergency medical services for a public emergency medical 298
service organization. "Emergency medical service organization," 299
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 300
defined in section 4765.01 of the Revised Code. 301

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 302
"investigator" Investigator of the bureau of criminal 303
identification and investigation" has the meaning defined in 304
section 2903.11 of the Revised Code. 305

~~As used in divisions (A) (7) and (B) (9) of this section,~~ 306
"federal" Forensic evaluation examiner" means an individual 307
providing a forensic evaluation service under rule 5122-29-07 of 308
the Administrative Code. 309

"Mental health evaluation provider" means an individual 310
who, under Chapter 5122. of the Revised Code, examines a 311
respondent who is alleged to be a mentally ill person subject to 312
court order, as defined in section 5122.01 of the Revised Code, 313
and reports to the probate court the respondent's mental 314
condition. 315

"Federal law enforcement officer" has the meaning defined 316
in section 9.88 of the Revised Code. 317

~~(8)~~(10) "Information pertaining to the recreational 318
activities of a person under the age of eighteen" means 319
information that is kept in the ordinary course of business by a 320
public office, that pertains to the recreational activities of a 321
person under the age of eighteen years, and that discloses any 322
of the following: 323

(a) The address or telephone number of a person under the 324
age of eighteen or the address or telephone number of that 325
person's parent, guardian, custodian, or emergency contact 326
person; 327

(b) The social security number, birth date, or 328
photographic image of a person under the age of eighteen; 329

(c) Any medical record, history, or information pertaining 330
to a person under the age of eighteen; 331

(d) Any additional information sought or required about a 332
person under the age of eighteen for the purpose of allowing 333
that person to participate in any recreational activity 334
conducted or sponsored by a public office or to use or obtain 335
admission privileges to any recreational facility owned or 336
operated by a public office. 337

~~(9)~~(11) "Community control sanction" has the ~~same~~ meaning 338

as defined in section 2929.01 of the Revised Code. 339

~~(10)~~ ~~(12)~~ "Post-release control sanction" has the ~~same~~ 340
meaning as defined in section 2967.01 of the Revised Code. 341

~~(11)~~ ~~(13)~~ "Redaction" means obscuring or deleting any 342
information that is exempt from the duty to permit public 343
inspection or copying from an item that otherwise meets the 344
definition of a "record" in section 149.011 of the Revised Code. 345

~~(12)~~ ~~(14)~~ "Designee" and "elected official" have the ~~same~~ 346
meanings as defined in section 109.43 of the Revised Code. 347

(B) (1) Upon request by any person and subject to division 348
(B) (8) of this section, all public records responsive to the 349
request shall be promptly prepared and made available for 350
inspection to ~~any person~~ the requester at all reasonable times 351
during regular business hours. Subject to division (B) (8) of 352
this section, upon request by any person, a public office or 353
person responsible for public records shall make copies of the 354
requested public record available to the requester at cost and 355
within a reasonable period of time. If a public record contains 356
information that is exempt from the duty to permit public 357
inspection or to copy the public record, the public office or 358
the person responsible for the public record shall make 359
available all of the information within the public record that 360
is not exempt. When making that public record available for 361
public inspection or copying that public record, the public 362
office or the person responsible for the public record shall 363
notify the requester of any redaction or make the redaction 364
plainly visible. A redaction shall be deemed a denial of a 365
request to inspect or copy the redacted information, except if 366
federal or state law authorizes or requires a public office to 367
make the redaction. 368

(2) To facilitate broader access to public records, a 369
public office or the person responsible for public records shall 370
organize and maintain public records in a manner that they can 371
be made available for inspection or copying in accordance with 372
division (B) of this section. A public office also shall have 373
available a copy of its current records retention schedule at a 374
location readily available to the public. If a requester makes 375
an ambiguous or overly broad request or has difficulty in making 376
a request for copies or inspection of public records under this 377
section such that the public office or the person responsible 378
for the requested public record cannot reasonably identify what 379
public records are being requested, the public office or the 380
person responsible for the requested public record may deny the 381
request but shall provide the requester with an opportunity to 382
revise the request by informing the requester of the manner in 383
which records are maintained by the public office and accessed 384
in the ordinary course of the public office's or person's 385
duties. 386

(3) If a request is ultimately denied, in part or in 387
whole, the public office or the person responsible for the 388
requested public record shall provide the requester with an 389
explanation, including legal authority, setting forth why the 390
request was denied. If the initial request was provided in 391
writing, the explanation also shall be provided to the requester 392
in writing. The explanation shall not preclude the public office 393
or the person responsible for the requested public record from 394
relying upon additional reasons or legal authority in defending 395
an action commenced under division (C) of this section. 396

(4) Unless specifically required or authorized by state or 397
federal law or in accordance with division (B) of this section, 398
no public office or person responsible for public records may 399

limit or condition the availability of public records by 400
requiring disclosure of the requester's identity or the intended 401
use of the requested public record. Any requirement that the 402
requester disclose the requester's identity or the intended use 403
of the requested public record constitutes a denial of the 404
request. 405

(5) A public office or person responsible for public 406
records may ask a requester to make the request in writing, may 407
ask for the requester's identity, and may inquire about the 408
intended use of the information requested, but may do so only 409
after disclosing to the requester that a written request is not 410
mandatory and that the requester may decline to reveal the 411
requester's identity or the intended use and when a written 412
request or disclosure of the identity or intended use would 413
benefit the requester by enhancing the ability of the public 414
office or person responsible for public records to identify, 415
locate, or deliver the public records sought by the requester. 416

(6) If any person ~~chooses to obtain requests~~ a copy of a 417
public record in accordance with division (B) of this section, 418
the public office or person responsible for the public record 419
may require ~~that person~~ the requester to pay in advance the cost 420
involved in providing the copy of the public record in 421
accordance with the choice made by the ~~person seeking the copy~~ 422
requester under this division. The public office or the person 423
responsible for the public record shall permit ~~that person~~ the 424
requester to choose to have the public record duplicated upon 425
paper, upon the same medium upon which the public office or 426
person responsible for the public record keeps it, or upon any 427
other medium upon which the public office or person responsible 428
for the public record determines that it reasonably can be 429
duplicated as an integral part of the normal operations of the 430

public office or person responsible for the public record. When 431
the ~~person seeking the copy~~ requester makes a choice under this 432
division, the public office or person responsible for the public 433
record shall provide a copy of it in accordance with the choice 434
made by the ~~person seeking the copy~~ requester. Nothing in this 435
section requires a public office or person responsible for the 436
public record to allow the ~~person seeking~~ requester of a copy of 437
the public record to make the copies of the public record. 438

(7) (a) Upon a request made in accordance with division (B) 439
of this section and subject to division (B) (6) of this section, 440
a public office or person responsible for public records shall 441
transmit a copy of a public record to any person by United 442
States mail or by any other means of delivery or transmission 443
within a reasonable period of time after receiving the request 444
for the copy. The public office or person responsible for the 445
public record may require the person making the request to pay 446
in advance the cost of postage if the copy is transmitted by 447
United States mail or the cost of delivery if the copy is 448
transmitted other than by United States mail, and to pay in 449
advance the costs incurred for other supplies used in the 450
mailing, delivery, or transmission. 451

(b) Any public office may adopt a policy and procedures 452
that it will follow in transmitting, within a reasonable period 453
of time after receiving a request, copies of public records by 454
United States mail or by any other means of delivery or 455
transmission pursuant to division (B) (7) of this section. A 456
public office that adopts a policy and procedures under division 457
(B) (7) of this section shall comply with them in performing its 458
duties under that division. 459

(c) In any policy and procedures adopted under division 460

(B) (7) of this section: 461

(i) A public office may limit the number of records 462
requested by a person that the office will physically deliver by 463
United States mail or by another delivery service to ten per 464
month, unless the person certifies to the office in writing that 465
the person does not intend to use or forward the requested 466
records, or the information contained in them, for commercial 467
purposes; 468

(ii) A public office that chooses to provide some or all 469
of its public records on a web site that is fully accessible to 470
and searchable by members of the public at all times, other than 471
during acts of God outside the public office's control or 472
maintenance, and that charges no fee to search, access, 473
download, or otherwise receive records provided on the web site, 474
may limit to ten per month the number of records requested by a 475
person that the office will deliver in a digital format, unless 476
the requested records are not provided on the web site and 477
unless the person certifies to the office in writing that the 478
person does not intend to use or forward the requested records, 479
or the information contained in them, for commercial purposes. 480

(iii) For purposes of division (B) (7) of this section, 481
"commercial" shall be narrowly construed and does not include 482
reporting or gathering news, reporting or gathering information 483
to assist citizen oversight or understanding of the operation or 484
activities of government, or nonprofit educational research. 485

(8) A public office or person responsible for public 486
records is not required to permit a person who is incarcerated 487
pursuant to a criminal conviction or a juvenile adjudication to 488
inspect or to obtain a copy of any public record concerning a 489
criminal investigation or prosecution or concerning what would 490

be a criminal investigation or prosecution if the subject of the 491
investigation or prosecution were an adult, unless the request 492
to inspect or to obtain a copy of the record is for the purpose 493
of acquiring information that is subject to release as a public 494
record under this section and the judge who imposed the sentence 495
or made the adjudication with respect to the person, or the 496
judge's successor in office, finds that the information sought 497
in the public record is necessary to support what appears to be 498
a justiciable claim of the person. 499

(9) (a) Upon written request made and signed by a 500
journalist ~~on or after December 16, 1999,~~ a public office, or 501
person responsible for public records, having custody of the 502
records of the agency employing a specified ~~peace officer,~~ 503
~~parole officer, probation officer, bailiff, prosecuting~~ 504
~~attorney, assistant prosecuting attorney, correctional employee,~~ 505
~~community based correctional facility employee, youth services~~ 506
~~employee, firefighter, EMT, investigator of the bureau of~~ 507
~~criminal identification and investigation, or federal law~~ 508
~~enforcement officer~~ designated public service worker shall 509
disclose to the journalist the address of the actual personal 510
residence of the ~~peace officer, parole officer, probation~~ 511
~~officer, bailiff, prosecuting attorney, assistant prosecuting~~ 512
~~attorney, correctional employee, community based correctional~~ 513
~~facility employee, youth services employee, firefighter, EMT,~~ 514
~~investigator of the bureau of criminal identification and~~ 515
~~investigation, or federal law enforcement officer~~ designated 516
public service worker and, if the ~~peace officer's, parole~~ 517
~~officer's, probation officer's, bailiff's, prosecuting~~ 518
~~attorney's, assistant prosecuting attorney's, correctional~~ 519
~~employee's, community based correctional facility employee's,~~ 520
~~youth services employee's, firefighter's, EMT's, investigator of~~ 521

~~the bureau of criminal identification and investigation's, or~~ 522
~~federal law enforcement officer's designated public service~~ 523
~~worker's spouse, former spouse, or child is employed by a public~~ 524
office, the name and address of the employer of the ~~peace-~~ 525
~~officer's, parole officer's, probation officer's, bailiff's,~~ 526
~~prosecuting attorney's, assistant prosecuting attorney's,~~ 527
~~correctional employee's, community based correctional facility-~~ 528
~~employee's, youth services employee's, firefighter's, EMT's,~~ 529
~~investigator of the bureau of criminal identification and~~ 530
~~investigation's, or federal law enforcement officer's designated~~ 531
public service worker's spouse, former spouse, or child. 532
The 533
request shall include the journalist's name and title and the 534
name and address of the journalist's employer and shall state 535
that disclosure of the information sought would be in the public 536
interest.

(b) Division (B) (9) (a) of this section also applies to 537
journalist requests for customer information maintained by a 538
municipally owned or operated public utility, other than social 539
security numbers and any private financial information such as 540
credit reports, payment methods, credit card numbers, and bank 541
account information. 542

(c) As used in division (B) (9) of this section, 543
"journalist" means a person engaged in, connected with, or 544
employed by any news medium, including a newspaper, magazine, 545
press association, news agency, or wire service, a radio or 546
television station, or a similar medium, for the purpose of 547
gathering, processing, transmitting, compiling, editing, or 548
disseminating information for the general public. 549

(C) (1) If a person allegedly is aggrieved by the failure 550
of a public office or the person responsible for public records 551

to promptly prepare a public record and to make it available to 552
the person for inspection in accordance with division (B) of 553
this section or by any other failure of a public office or the 554
person responsible for public records to comply with an 555
obligation in accordance with division (B) of this section, the 556
person allegedly aggrieved may do only one of the following, and 557
not both: 558

(a) File a complaint with the clerk of the court of claims 559
or the clerk of the court of common pleas under section 2743.75 560
of the Revised Code; 561

(b) Commence a mandamus action to obtain a judgment that 562
orders the public office or the person responsible for the 563
public record to comply with division (B) of this section, that 564
awards court costs and reasonable attorney's fees to the person 565
that instituted the mandamus action, and, if applicable, that 566
includes an order fixing statutory damages under division (C) (2) 567
of this section. The mandamus action may be commenced in the 568
court of common pleas of the county in which division (B) of 569
this section allegedly was not complied with, in the supreme 570
court pursuant to its original jurisdiction under Section 2 of 571
Article IV, Ohio Constitution, or in the court of appeals for 572
the appellate district in which division (B) of this section 573
allegedly was not complied with pursuant to its original 574
jurisdiction under Section 3 of Article IV, Ohio Constitution. 575

(2) If a requester transmits a written request by hand 576
delivery or certified mail to inspect or receive copies of any 577
public record in a manner that fairly describes the public 578
record or class of public records to the public office or person 579
responsible for the requested public records, except as 580
otherwise provided in this section, the requester shall be 581

entitled to recover the amount of statutory damages set forth in 582
this division if a court determines that the public office or 583
the person responsible for public records failed to comply with 584
an obligation in accordance with division (B) of this section. 585

The amount of statutory damages shall be fixed at one 586
hundred dollars for each business day during which the public 587
office or person responsible for the requested public records 588
failed to comply with an obligation in accordance with division 589
(B) of this section, beginning with the day on which the 590
requester files a mandamus action to recover statutory damages, 591
up to a maximum of one thousand dollars. The award of statutory 592
damages shall not be construed as a penalty, but as compensation 593
for injury arising from lost use of the requested information. 594
The existence of this injury shall be conclusively presumed. The 595
award of statutory damages shall be in addition to all other 596
remedies authorized by this section. 597

The court may reduce an award of statutory damages or not 598
award statutory damages if the court determines both of the 599
following: 600

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

division (B) of this section; 612

(b) That a well-informed public office or person 613
responsible for the requested public records reasonably would 614
believe that the conduct or threatened conduct of the public 615
office or person responsible for the requested public records 616
would serve the public policy that underlies the authority that 617
is asserted as permitting that conduct or threatened conduct. 618

(3) In a mandamus action filed under division (C) (1) of 619
this section, the following apply: 620

(a) (i) If the court orders the public office or the person 621
responsible for the public record to comply with division (B) of 622
this section, the court shall determine and award to the relator 623
all court costs, which shall be construed as remedial and not 624
punitive. 625

(ii) If the court makes a determination described in 626
division (C) (3) (b) (iii) of this section, the court shall 627
determine and award to the relator all court costs, which shall 628
be construed as remedial and not punitive. 629

(b) If the court renders a judgment that orders the public 630
office or the person responsible for the public record to comply 631
with division (B) of this section or if the court determines any 632
of the following, the court may award reasonable attorney's fees 633
to the relator, subject to ~~the provisions of~~ division (C) (4) of 634
this section: 635

(i) The public office or the person responsible for the 636
public records failed to respond affirmatively or negatively to 637
the public records request in accordance with the time allowed 638
under division (B) of this section. 639

(ii) The public office or the person responsible for the 640

public records promised to permit the relator to inspect or 641
receive copies of the public records requested within a 642
specified period of time but failed to fulfill that promise 643
within that specified period of time. 644

(iii) The public office or the person responsible for the 645
public records acted in bad faith when the office or person 646
voluntarily made the public records available to the relator for 647
the first time after the relator commenced the mandamus action, 648
but before the court issued any order concluding whether or not 649
the public office or person was required to comply with division 650
(B) of this section. No discovery may be conducted on the issue 651
of the alleged bad faith of the public office or person 652
responsible for the public records. This division shall not be 653
construed as creating a presumption that the public office or 654
the person responsible for the public records acted in bad faith 655
when the office or person voluntarily made the public records 656
available to the relator for the first time after the relator 657
commenced the mandamus action, but before the court issued any 658
order described in this division. 659

(c) The court shall not award attorney's fees to the 660
relator if the court determines both of the following: 661

(i) That, based on the ordinary application of statutory 662
law and case law as it existed at the time of the conduct or 663
threatened conduct of the public office or person responsible 664
for the requested public records that allegedly constitutes a 665
failure to comply with an obligation in accordance with division 666
(B) of this section and that was the basis of the mandamus 667
action, a well-informed public office or person responsible for 668
the requested public records reasonably would believe that the 669
conduct or threatened conduct of the public office or person 670

responsible for the requested public records did not constitute 671
a failure to comply with an obligation in accordance with 672
division (B) of this section; 673

(ii) That a well-informed public office or person 674
responsible for the requested public records reasonably would 675
believe that the conduct or threatened conduct of the public 676
office or person responsible for the requested public records 677
would serve the public policy that underlies the authority that 678
is asserted as permitting that conduct or threatened conduct. 679

(4) All of the following apply to any award of reasonable 680
attorney's fees awarded under division (C) (3) (b) of this 681
section: 682

(a) The fees shall be construed as remedial and not 683
punitive. 684

(b) The fees awarded shall not exceed the total of the 685
reasonable attorney's fees incurred before the public record was 686
made available to the relator and the fees described in division 687
(C) (4) (c) of this section. 688

(c) Reasonable attorney's fees shall include reasonable 689
fees incurred to produce proof of the reasonableness and amount 690
of the fees and to otherwise litigate entitlement to the fees. 691

(d) The court may reduce the amount of fees awarded if the 692
court determines that, given the factual circumstances involved 693
with the specific public records request, an alternative means 694
should have been pursued to more effectively and efficiently 695
resolve the dispute that was subject to the mandamus action 696
filed under division (C) (1) of this section. 697

(5) If the court does not issue a writ of mandamus under 698
division (C) of this section and the court determines at that 699

time that the bringing of the mandamus action was frivolous 700
conduct as defined in division (A) of section 2323.51 of the 701
Revised Code, the court may award to the public office all court 702
costs, expenses, and reasonable attorney's fees, as determined 703
by the court. 704

(D) Chapter 1347. of the Revised Code does not limit the 705
provisions of this section. 706

(E) (1) To ensure that all employees of public offices are 707
appropriately educated about a public office's obligations under 708
division (B) of this section, all elected officials or their 709
appropriate designees shall attend training approved by the 710
attorney general as provided in section 109.43 of the Revised 711
Code. In addition, all public offices shall adopt a public 712
records policy in compliance with this section for responding to 713
public records requests. In adopting a public records policy 714
under this division, a public office may obtain guidance from 715
the model public records policy developed and provided to the 716
public office by the attorney general under section 109.43 of 717
the Revised Code. Except as otherwise provided in this section, 718
the policy may not limit the number of public records that the 719
public office will make available to a single person, may not 720
limit the number of public records that it will make available 721
during a fixed period of time, and may not establish a fixed 722
period of time before it will respond to a request for 723
inspection or copying of public records, unless that period is 724
less than eight hours. 725

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

the records of that office. The public office shall require that 730
employee to acknowledge receipt of the copy of the public 731
records policy. The public office shall create a poster that 732
describes its public records policy and shall post the poster in 733
a conspicuous place in the public office and in all locations 734
where the public office has branch offices. The public office 735
may post its public records policy on the internet web site of 736
the public office if the public office maintains an internet web 737
site. A public office that has established a manual or handbook 738
of its general policies and procedures for all employees of the 739
public office shall include the public records policy of the 740
public office in the manual or handbook. 741

(F) (1) The bureau of motor vehicles may adopt rules 742
pursuant to Chapter 119. of the Revised Code to reasonably limit 743
the number of bulk commercial special extraction requests made 744
by a person for the same records or for updated records during a 745
calendar year. The rules may include provisions for charges to 746
be made for bulk commercial special extraction requests for the 747
actual cost of the bureau, plus special extraction costs, plus 748
ten per cent. The bureau may charge for expenses for redacting 749
information, the release of which is prohibited by law. 750

(2) As used in division (F) (1) of this section: 751

(a) "Actual cost" means the cost of depleted supplies, 752
records storage media costs, actual mailing and alternative 753
delivery costs, or other transmitting costs, and any direct 754
equipment operating and maintenance costs, including actual 755
costs paid to private contractors for copying services. 756

(b) "Bulk commercial special extraction request" means a 757
request for copies of a record for information in a format other 758
than the format already available, or information that cannot be 759

extracted without examination of all items in a records series, 760
class of records, or database by a person who intends to use or 761
forward the copies for surveys, marketing, solicitation, or 762
resale for commercial purposes. "Bulk commercial special 763
extraction request" does not include a request by a person who 764
gives assurance to the bureau that the person making the request 765
does not intend to use or forward the requested copies for 766
surveys, marketing, solicitation, or resale for commercial 767
purposes. 768

(c) "Commercial" means profit-seeking production, buying, 769
or selling of any good, service, or other product. 770

(d) "Special extraction costs" means the cost of the time 771
spent by the lowest paid employee competent to perform the task, 772
the actual amount paid to outside private contractors employed 773
by the bureau, or the actual cost incurred to create computer 774
programs to make the special extraction. "Special extraction 775
costs" include any charges paid to a public agency for computer 776
or records services. 777

(3) For purposes of divisions (F) (1) and (2) of this 778
section, "surveys, marketing, solicitation, or resale for 779
commercial purposes" shall be narrowly construed and does not 780
include reporting or gathering news, reporting or gathering 781
information to assist citizen oversight or understanding of the 782
operation or activities of government, or nonprofit educational 783
research. 784

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

plainly indicate a contrary intent. The defendant, counsel of 790
the defendant, or agent of the defendant making a request under 791
this division shall serve a copy of the request on the 792
prosecuting attorney, director of law, or other chief legal 793
officer responsible for prosecuting the action. 794

Sec. 149.45. (A) As used in this section: 795

(1) "Personal information" means any of the following: 796

(a) An individual's social security number; 797

(b) An individual's state or federal tax identification 798
number; 799

(c) An individual's driver's license number or state 800
identification number; 801

(d) An individual's checking account number, savings 802
account number, credit card number, or debit card number; 803

(e) An individual's demand deposit account number, money 804
market account number, mutual fund account number, or any other 805
financial or medical account number. 806

(2) "Public record," "designated public service worker," 807
and ~~"peace officer, parole officer, probation officer, bailiff,~~ 808
~~prosecuting attorney, assistant prosecuting attorney,~~ 809
~~correctional employee, youth services employee, firefighter,~~ 810
~~EMT, investigator of the bureau of criminal identification and~~ 811
~~investigation, or federal law enforcement officer designated~~ 812
public service worker residential and familial information" have 813
the ~~same~~ meanings as defined in section 149.43 of the Revised 814
Code. 815

(3) "Truncate" means to redact all but the last four 816
digits of an individual's social security number. 817

(B) (1) No public office or person responsible for a public office's public records shall make available to the general public on the internet any document that contains an individual's social security number without otherwise redacting, encrypting, or truncating the social security number.

(2) A public office or person responsible for a public office's public records that prior to October 17, 2011, made available to the general public on the internet any document that contains an individual's social security number shall redact, encrypt, or truncate the social security number from that document.

(3) Divisions (B) (1) and (2) of this section do not apply to documents that are only accessible through the internet with a password.

(C) (1) An individual may request that a public office or a person responsible for a public office's public records redact personal information of that individual from any record made available to the general public on the internet. An individual who makes a request for redaction pursuant to this division shall make the request in writing on a form developed by the attorney general and shall specify the personal information to be redacted and provide any information that identifies the location of that personal information within a document that contains that personal information.

(2) Upon receiving a request for a redaction pursuant to division (C) (1) of this section, a public office or a person responsible for a public office's public records shall act within five business days in accordance with the request to redact the personal information of the individual from any record made available to the general public on the internet, if

practicable. If a redaction is not practicable, the public 848
office or person responsible for the public office's public 849
records shall verbally or in writing within five business days 850
after receiving the written request explain to the individual 851
why the redaction is impracticable. 852

(3) The attorney general shall develop a form to be used 853
by an individual to request a redaction pursuant to division (C) 854
(1) of this section. The form shall include a place to provide 855
any information that identifies the location of the personal 856
information to be redacted. 857

(D) (1) A ~~peace officer, parole officer, probation officer,~~ 858
~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 859
~~correctional employee, youth services employee, firefighter,~~ 860
~~EMT, investigator of the bureau of criminal identification and~~ 861
~~investigation, or federal law enforcement officer~~ designated 862
public service worker may request that a public office, other 863
than a county auditor, or a person responsible for the public 864
records of a public office, other than a county auditor, redact 865
the address of the ~~person making the request~~ designated public 866
service worker from any record made available to the general 867
public on the internet that includes ~~peace officer, parole~~ 868
~~officer, probation officer, bailiff, prosecuting attorney,~~ 869
~~assistant prosecuting attorney, correctional employee, youth~~ 870
~~services employee, firefighter, EMT, investigator of the bureau~~ 871
~~of criminal identification and investigation, or federal law~~ 872
~~enforcement officer~~ designated public service worker residential 873
and familial information of the ~~person~~ designated public service 874
worker making the request. A ~~person~~ designated public service 875
worker who makes a request for a redaction pursuant to this 876
division shall make the request in writing and on a form 877
developed by the attorney general. 878

(2) Upon receiving a written request for a redaction 879
pursuant to division (D)(1) of this section, a public office, 880
other than a county auditor, or a person responsible for the 881
public records of a public office, other than a county auditor, 882
shall act within five business days in accordance with the 883
request to redact the address of the ~~peace officer, parole-~~ 884
~~officer, probation officer, bailiff, prosecuting attorney,~~ 885
~~assistant prosecuting attorney, correctional employee, youth-~~ 886
~~services employee, firefighter, EMT, investigator of the bureau-~~ 887
~~of criminal identification and investigation, or federal law-~~ 888
~~enforcement officer~~ designated public service worker making the 889
request from any record made available to the general public on 890
the internet that includes ~~peace officer, parole officer,~~ 891
~~probation officer, bailiff, prosecuting attorney, assistant-~~ 892
~~prosecuting attorney, correctional employee, youth services-~~ 893
~~employee, firefighter, EMT, investigator of the bureau of-~~ 894
~~criminal identification and investigation, or federal law-~~ 895
~~enforcement officer~~ designated public service worker residential 896
and familial information of the ~~person~~ designated public service 897
worker making the request, if practicable. If a redaction is not 898
practicable, the public office or person responsible for the 899
public office's public records shall verbally or in writing 900
within five business days after receiving the written request 901
explain to the ~~peace officer, parole officer, probation officer,~~ 902
~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 903
~~correctional employee, youth services employee, firefighter,~~ 904
~~EMT, investigator of the bureau of criminal identification and-~~ 905
~~investigation, or federal law enforcement officer~~ designated 906
public service worker why the redaction is impracticable. 907

(3) Except as provided in this section and section 319.28 908
of the Revised Code, a public office, other than an employer of 909

a ~~peace officer, parole officer, probation officer, bailiff,~~ 910
~~prosecuting attorney, assistant prosecuting attorney,~~ 911
~~correctional employee, youth services employee, firefighter,~~ 912
~~EMT, investigator of the bureau of criminal identification and~~ 913
~~investigation, or federal law enforcement officer designated~~ 914
public service worker, or a person responsible for the public 915
records of the employer, is not required to redact the 916
residential and familial information of the ~~peace officer,~~ 917
~~parole officer, probation officer, bailiff, prosecuting~~ 918
~~attorney, assistant prosecuting attorney, correctional employee,~~ 919
~~youth services employee, firefighter, EMT, investigator of the~~ 920
~~bureau of criminal identification and investigation, or federal~~ 921
~~law enforcement officer designated public service worker from~~ 922
other records maintained by the public office. 923

(4) The attorney general shall develop a form to be used 924
by a ~~peace officer, parole officer, probation officer, bailiff,~~ 925
~~prosecuting attorney, assistant prosecuting attorney,~~ 926
~~correctional employee, youth services employee, firefighter,~~ 927
~~EMT, investigator of the bureau of criminal identification and~~ 928
~~investigation, or federal law enforcement officer designated~~ 929
public service worker to request a redaction pursuant to 930
division (D)(1) of this section. The form shall include a place 931
to provide any information that identifies the location of the 932
address of a ~~peace officer, parole officer, probation officer,~~ 933
~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 934
~~correctional employee, youth services employee, firefighter,~~ 935
~~EMT, investigator of the bureau of criminal identification and~~ 936
~~investigation, or federal law enforcement officer designated~~ 937
public service worker to be redacted. 938

(E)(1) If a public office or a person responsible for a 939
public office's public records becomes aware that an electronic 940

record of that public office that is made available to the 941
general public on the internet contains an individual's social 942
security number that was mistakenly not redacted, encrypted, or 943
truncated as required by division (B) (1) or (2) of this section, 944
the public office or person responsible for the public office's 945
public records shall redact, encrypt, or truncate the 946
individual's social security number within a reasonable period 947
of time. 948

(2) A public office or a person responsible for a public 949
office's public records is not liable in damages in a civil 950
action for any harm an individual allegedly sustains as a result 951
of the inclusion of that individual's personal information on 952
any record made available to the general public on the internet 953
or any harm a ~~peace officer, parole officer, probation officer,~~ 954
~~bailiff, prosecuting attorney, assistant prosecuting attorney,~~ 955
~~correctional employee, youth services employee, firefighter,~~ 956
~~EMT, investigator of the bureau of criminal identification and~~ 957
~~investigation, or federal law enforcement officer designated~~ 958
public service worker sustains as a result of the inclusion of 959
the designated public service worker's address of the ~~peace~~ 960
~~officer, parole officer, probation officer, bailiff, prosecuting~~ 961
~~attorney, assistant prosecuting attorney, correctional employee,~~ 962
~~youth services employee, firefighter, EMT, investigator of the~~ 963
~~bureau of criminal identification and investigation, or federal~~ 964
~~law enforcement officer~~ on any record made available to the 965
general public on the internet in violation of this section, 966
unless the public office or person responsible for the public 967
office's public records acted with malicious purpose, in bad 968
faith, or in a wanton or reckless manner or unless division (A) 969
(6) (a) or (c) of section 2744.03 of the Revised Code applies. 970

Section 2. That existing sections 149.43 and 149.45 of the 971

Revised Code are hereby repealed. 972

Section 3. Section 149.45 of the Revised Code is presented 973
in this act as a composite of the section as amended by both 974
Sub. H.B. 317 and Sub. H.B. 359 of the 132nd General Assembly. 975
The General Assembly, applying the principle stated in division 976
(B) of section 1.52 of the Revised Code that amendments are to 977
be harmonized if reasonably capable of simultaneous operation, 978
finds that the composite is the resulting version of the section 979
in effect prior to the effective date of the section as 980
presented in this act. 981