

**As Reported by the House Government Accountability and Oversight
Committee**

132nd General Assembly

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Sub. H. B. No. 425

Representatives Antani, Craig

Cosponsors: Representatives Becker, Seitz, Sheehy, Lang

A BILL

To amend sections 149.43 and 149.433 of the Revised Code to provide that specified portions of peace officers' body-worn camera or dashboard camera recordings and the infrastructure record of a public school are not public records for purposes of the Public Records Law. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 149.43 and 149.433 of the Revised Code be amended to read as follows: 7
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Sec. 149.43. (A) As used in this section: 9

(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: 10
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(a) Medical records;	18
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	19 20 21
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	22 23 24
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	25 26 27
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	28 29 30 31 32 33
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	34 35
(g) Trial preparation records;	36
(h) Confidential law enforcement investigatory records;	37
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	38 39
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	40 41
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of	42 43 44

section 5120.21 of the Revised Code;	45
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	46 47 48 49
(m) Intellectual property records;	50
(n) Donor profile records;	51
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	52 53
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;	54 55 56 57 58 59 60
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	61 62 63 64 65
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	66 67
(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	68 69 70 71 72

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

(y) Records listed in section 5101.29 of the Revised Code;	102
(z) Discharges recorded with a county recorder under	103
section 317.24 of the Revised Code, as specified in division (B)	104
(2) of that section;	105
(aa) Usage information including names and addresses of	106
specific residential and commercial customers of a municipally	107
owned or operated public utility;	108
(bb) Records described in division (C) of section 187.04	109
of the Revised Code that are not designated to be made available	110
to the public as provided in that division;	111
(cc) Information and records that are made confidential,	112
privileged, and not subject to disclosure under divisions (B)	113
and (C) of section 2949.221 of the Revised Code;	114
(dd) Personal information, as defined in section 149.45 of	115
the Revised Code;	116
(ee) The confidential name, address, and other personally	117
identifiable information of a program participant in the address	118
confidentiality program established under sections 111.41 to	119
111.47 of the Revised Code, including the contents of any	120
application for absent voter's ballots, absent voter's ballot	121
identification envelope statement of voter, or provisional	122
ballot affirmation completed by a program participant who has a	123
confidential voter registration record, and records or portions	124
of records pertaining to that program that identify the number	125
of program participants that reside within a precinct, ward,	126
township, municipal corporation, county, or any other geographic	127
area smaller than the state. As used in this division,	128
"confidential address" and "program participant" have the	129
meaning defined in section 111.41 of the Revised Code.	130

(ff) Orders for active military service of an individual 131
serving or with previous service in the armed forces of the 132
United States, including a reserve component, or the Ohio 133
organized militia, except that, such order becomes a public 134
record on the day that is fifteen years after the published date 135
or effective date of the call to order. 136

(gg) Restricted portions of a body-worn camera or 137
dashboard camera recording. 138

(2) "Confidential law enforcement investigatory record" 139
means any record that pertains to a law enforcement matter of a 140
criminal, quasi-criminal, civil, or administrative nature, but 141
only to the extent that the release of the record would create a 142
high probability of disclosure of any of the following: 143

(a) The identity of a suspect who has not been charged 144
with the offense to which the record pertains, or of an 145
information source or witness to whom confidentiality has been 146
reasonably promised; 147

(b) Information provided by an information source or 148
witness to whom confidentiality has been reasonably promised, 149
which information would reasonably tend to disclose the source's 150
or witness's identity; 151

(c) Specific confidential investigatory techniques or 152
procedures or specific investigatory work product; 153

(d) Information that would endanger the life or physical 154
safety of law enforcement personnel, a crime victim, a witness, 155
or a confidential information source. 156

(3) "Medical record" means any document or combination of 157
documents, except births, deaths, and the fact of admission to 158
or discharge from a hospital, that pertains to the medical 159

history, diagnosis, prognosis, or medical condition of a patient 160
and that is generated and maintained in the process of medical 161
treatment. 162

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

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

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

(7) "Peace officer, parole officer, probation officer, 181
bailiff, prosecuting attorney, assistant prosecuting attorney, 182
correctional employee, community-based correctional facility 183
employee, youth services employee, firefighter, EMT, 184
investigator of the bureau of criminal identification and 185
investigation, or federal law enforcement officer residential 186
and familial information" means any information that discloses 187
any of the following about a peace officer, parole officer, 188
probation officer, bailiff, prosecuting attorney, assistant 189

prosecuting attorney, correctional employee, community-based 190
correctional facility employee, youth services employee, 191
firefighter, EMT, investigator of the bureau of criminal 192
identification and investigation, or federal law enforcement 193
officer: 194

(a) The address of the actual personal residence of a 195
peace officer, parole officer, probation officer, bailiff, 196
assistant prosecuting attorney, correctional employee, 197
community-based correctional facility employee, youth services 198
employee, firefighter, EMT, an investigator of the bureau of 199
criminal identification and investigation, or federal law 200
enforcement officer, except for the state or political 201
subdivision in which the peace officer, parole officer, 202
probation officer, bailiff, assistant prosecuting attorney, 203
correctional employee, community-based correctional facility 204
employee, youth services employee, firefighter, EMT, 205
investigator of the bureau of criminal identification and 206
investigation, or federal law enforcement officer resides; 207

(b) Information compiled from referral to or participation 208
in an employee assistance program; 209

(c) The social security number, the residential telephone 210
number, any bank account, debit card, charge card, or credit 211
card number, or the emergency telephone number of, or any 212
medical information pertaining to, a peace officer, parole 213
officer, probation officer, bailiff, prosecuting attorney, 214
assistant prosecuting attorney, correctional employee, 215
community-based correctional facility employee, youth services 216
employee, firefighter, EMT, investigator of the bureau of 217
criminal identification and investigation, or federal law 218
enforcement officer; 219

(d) The name of any beneficiary of employment benefits, 220
including, but not limited to, life insurance benefits, provided 221
to a peace officer, parole officer, probation officer, bailiff, 222
prosecuting attorney, assistant prosecuting attorney, 223
correctional employee, community-based correctional facility 224
employee, youth services employee, firefighter, EMT, 225
investigator of the bureau of criminal identification and 226
investigation, or federal law enforcement officer by the peace 227
officer's, parole officer's, probation officer's, bailiff's, 228
prosecuting attorney's, assistant prosecuting attorney's, 229
correctional employee's, community-based correctional facility 230
employee's, youth services employee's, firefighter's, EMT's, 231
investigator of the bureau of criminal identification and 232
investigation's, or federal law enforcement officer's employer; 233

(e) The identity and amount of any charitable or 234
employment benefit deduction made by the peace officer's, parole 235
officer's, probation officer's, bailiff's, prosecuting 236
attorney's, assistant prosecuting attorney's, correctional 237
employee's, community-based correctional facility employee's, 238
youth services employee's, firefighter's, EMT's, investigator of 239
the bureau of criminal identification and investigation's, or 240
federal law enforcement officer's employer from the peace 241
officer's, parole officer's, probation officer's, bailiff's, 242
prosecuting attorney's, assistant prosecuting attorney's, 243
correctional employee's, community-based correctional facility 244
employee's, youth services employee's, firefighter's, EMT's, 245
investigator of the bureau of criminal identification and 246
investigation's, or federal law enforcement officer's 247
compensation unless the amount of the deduction is required by 248
state or federal law; 249

(f) The name, the residential address, the name of the 250

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

(g) A photograph of a peace officer who holds a position 261
or has an assignment that may include undercover or plain 262
clothes positions or assignments as determined by the peace 263
officer's appointing authority. 264

As used in divisions (A) (7), (A) (13) to (15), and (B) (9) 265
of this section, "peace officer" has the same meaning as in 266
section 109.71 of the Revised Code and also includes the 267
superintendent and troopers of the state highway patrol; it does 268
not include the sheriff of a county or a supervisory employee 269
who, in the absence of the sheriff, is authorized to stand in 270
for, exercise the authority of, and perform the duties of the 271
sheriff. 272

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

As used in divisions (A) (7) and (B) (9) of this section, 278
"youth services employee" means any employee of the department 279
of youth services who in the course of performing the employee's 280

job duties has or has had contact with children committed to the custody of the department of youth services.	281 282
As used in divisions (A) (7) and (B) (9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.	283 284 285 286
As used in divisions (A) (7) and (B) (9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.	287 288 289 290 291 292
As used in divisions (A) (7) and (B) (9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.	293 294 295 296
As used in divisions (A) (7) and (B) (9) of this section, "federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.	297 298 299
(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:	300 301 302 303 304
(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;	305 306 307 308
(b) The social security number, birth date, or	309

photographic image of a person under the age of eighteen;	310
(c) Any medical record, history, or information pertaining to a person under the age of eighteen;	311 312
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	313 314 315 316 317 318
(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	319 320
(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	321 322
(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.	323 324 325 326
(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.	327 328
<u>(13) "Body-worn camera" means a visual and audio recording device worn on the person of a peace officer while the peace officer is engaged in the performance of the peace officer's duties.</u>	329 330 331 332
<u>(14) "Dashboard camera" means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.</u>	333 334 335 336
<u>(15) "Restricted portions of a body-worn camera or</u>	337

dashboard camera recording" means any visual or audio portion of 338
a body-worn camera or dashboard camera recording that shows, 339
communicates, or discloses any of the following: 340

(a) The image or identity of a child or information that 341
could lead to the identification of a child who is a primary 342
subject of the recording when the law enforcement agency knows 343
or has reason to know the person is a child based on the law 344
enforcement agency's records or the content of the recording; 345

(b) The death of a person or a deceased person's body, 346
unless the death was caused by a peace officer or, subject to 347
division (H) (1) of this section, the consent of the decedent's 348
executor or administrator has been obtained; 349

(c) The death of a peace officer, firefighter, paramedic, 350
or other first responder, occurring while the decedent was 351
engaged in the performance of official duties, unless, subject 352
to division (H) (1) of this section, the consent of the 353
decedent's executor or administrator has been obtained; 354

(d) Grievous bodily harm, unless the injury was effected 355
by a peace officer or, subject to division (H) (1) of this 356
section, the consent of the injured person or the injured 357
person's guardian has been obtained; 358

(e) An act of severe violence against a person that 359
results in serious physical harm to the person, unless the act 360
and injury was effected by a peace officer or, subject to 361
division (H) (1) of this section, the consent of the injured 362
person or the injured person's guardian has been obtained; 363

(f) Grievous bodily harm to a peace officer, firefighter, 364
paramedic, or other first responder, occurring while the injured 365
person was engaged in the performance of official duties, 366

unless, subject to division (H) (1) of this section, the consent 367
of the injured person or the injured person's guardian has been 368
obtained; 369

(g) An act of severe violence resulting in serious 370
physical harm against a peace officer, firefighter, paramedic, 371
or other first responder, occurring while the injured person was 372
engaged in the performance of official duties, unless, subject 373
to division (H) (1) of this section, the consent of the injured 374
person or the injured person's guardian has been obtained; 375

(h) A person's nude body, unless, subject to division (H) 376
(1) of this section, the person's consent has been obtained; 377

(i) Protected health information, the identity of a person 378
in a health care facility who is not the subject of a law 379
enforcement encounter, or any other information in a health care 380
facility that could identify a person who is not the subject of 381
a law enforcement encounter; 382

(j) Information that could identify the alleged victim of 383
a sex offense, menacing by stalking, or domestic violence; 384

(k) Information, that does not constitute a confidential 385
law enforcement investigatory record, that could identify a 386
person who provides sensitive or confidential information to a 387
law enforcement agency when the disclosure of the person's 388
identity or the information provided could reasonably be 389
expected to threaten or endanger the safety or property of the 390
person or another person; 391

(l) Personal information of a person who is not arrested, 392
cited, charged, or issued a written warning by a peace officer; 393

(m) Proprietary police contingency plans or tactics that 394
are intended to prevent crime and maintain public order and 395

<u>safety;</u>	396
<u>(n) A personal conversation unrelated to work between</u>	397
<u>peace officers or between a peace officer and an employee of a</u>	398
<u>law enforcement agency;</u>	399
<u>(o) A conversation between a peace officer and a member of</u>	400
<u>the public that does not concern law enforcement activities;</u>	401
<u>(p) The interior of a residence, unless the interior of a</u>	402
<u>residence is the location of an adversarial encounter with, or a</u>	403
<u>use of force by, a peace officer;</u>	404
<u>(q) Any portion of the interior of a private business that</u>	405
<u>is not open to the public, unless an adversarial encounter with,</u>	406
<u>or a use of force by, a peace officer occurs in that location.</u>	407
<u>As used in division (A) (15) of this section:</u>	408
<u>"Grievous bodily harm" has the same meaning as in section</u>	409
<u>5924.120 of the Revised Code.</u>	410
<u>"Health care facility" has the same meaning as in section</u>	411
<u>1337.11 of the Revised Code.</u>	412
<u>"Protected health information" has the same meaning as in</u>	413
<u>45 C.F.R. 160.103.</u>	414
<u>"Law enforcement agency" has the same meaning as in</u>	415
<u>section 2925.61 of the Revised Code.</u>	416
<u>"Personal information" means any government-issued</u>	417
<u>identification number, date of birth, address, financial</u>	418
<u>information, or criminal justice information from the law</u>	419
<u>enforcement automated data system or similar databases.</u>	420
<u>"Sex offense" has the same meaning as in section 2907.10</u>	421
<u>of the Revised Code.</u>	422

"Firefighter," "paramedic," and "first responder" have the 423
same meanings as in section 4765.01 of the Revised Code. 424

(B) (1) Upon request and subject to division (B) (8) of this 425
section, all public records responsive to the request shall be 426
promptly prepared and made available for inspection to any 427
person at all reasonable times during regular business hours. 428
Subject to division (B) (8) of this section, upon request, a 429
public office or person responsible for public records shall 430
make copies of the requested public record available at cost and 431
within a reasonable period of time. If a public record contains 432
information that is exempt from the duty to permit public 433
inspection or to copy the public record, the public office or 434
the person responsible for the public record shall make 435
available all of the information within the public record that 436
is not exempt. When making that public record available for 437
public inspection or copying that public record, the public 438
office or the person responsible for the public record shall 439
notify the requester of any redaction or make the redaction 440
plainly visible. A redaction shall be deemed a denial of a 441
request to inspect or copy the redacted information, except if 442
federal or state law authorizes or requires a public office to 443
make the redaction. 444

(2) To facilitate broader access to public records, a 445
public office or the person responsible for public records shall 446
organize and maintain public records in a manner that they can 447
be made available for inspection or copying in accordance with 448
division (B) of this section. A public office also shall have 449
available a copy of its current records retention schedule at a 450
location readily available to the public. If a requester makes 451
an ambiguous or overly broad request or has difficulty in making 452
a request for copies or inspection of public records under this 453

section such that the public office or the person responsible 454
for the requested public record cannot reasonably identify what 455
public records are being requested, the public office or the 456
person responsible for the requested public record may deny the 457
request but shall provide the requester with an opportunity to 458
revise the request by informing the requester of the manner in 459
which records are maintained by the public office and accessed 460
in the ordinary course of the public office's or person's 461
duties. 462

(3) If a request is ultimately denied, in part or in 463
whole, the public office or the person responsible for the 464
requested public record shall provide the requester with an 465
explanation, including legal authority, setting forth why the 466
request was denied. If the initial request was provided in 467
writing, the explanation also shall be provided to the requester 468
in writing. The explanation shall not preclude the public office 469
or the person responsible for the requested public record from 470
relying upon additional reasons or legal authority in defending 471
an action commenced under division (C) of this section. 472

(4) Unless specifically required or authorized by state or 473
federal law or in accordance with division (B) of this section, 474
no public office or person responsible for public records may 475
limit or condition the availability of public records by 476
requiring disclosure of the requester's identity or the intended 477
use of the requested public record. Any requirement that the 478
requester disclose the requester's identity or the intended use 479
of the requested public record constitutes a denial of the 480
request. 481

(5) A public office or person responsible for public 482
records may ask a requester to make the request in writing, may 483

ask for the requester's identity, and may inquire about the 484
intended use of the information requested, but may do so only 485
after disclosing to the requester that a written request is not 486
mandatory and that the requester may decline to reveal the 487
requester's identity or the intended use and when a written 488
request or disclosure of the identity or intended use would 489
benefit the requester by enhancing the ability of the public 490
office or person responsible for public records to identify, 491
locate, or deliver the public records sought by the requester. 492

(6) If any person chooses to obtain a copy of a public 493
record in accordance with division (B) of this section, the 494
public office or person responsible for the public record may 495
require that person to pay in advance the cost involved in 496
providing the copy of the public record in accordance with the 497
choice made by the person seeking the copy under this division. 498
The public office or the person responsible for the public 499
record shall permit that person to choose to have the public 500
record duplicated upon paper, upon the same medium upon which 501
the public office or person responsible for the public record 502
keeps it, or upon any other medium upon which the public office 503
or person responsible for the public record determines that it 504
reasonably can be duplicated as an integral part of the normal 505
operations of the public office or person responsible for the 506
public record. When the person seeking the copy makes a choice 507
under this division, the public office or person responsible for 508
the public record shall provide a copy of it in accordance with 509
the choice made by the person seeking the copy. Nothing in this 510
section requires a public office or person responsible for the 511
public record to allow the person seeking a copy of the public 512
record to make the copies of the public record. 513

(7) (a) Upon a request made in accordance with division (B) 514

of this section and subject to division (B) (6) of this section, 515
a public office or person responsible for public records shall 516
transmit a copy of a public record to any person by United 517
States mail or by any other means of delivery or transmission 518
within a reasonable period of time after receiving the request 519
for the copy. The public office or person responsible for the 520
public record may require the person making the request to pay 521
in advance the cost of postage if the copy is transmitted by 522
United States mail or the cost of delivery if the copy is 523
transmitted other than by United States mail, and to pay in 524
advance the costs incurred for other supplies used in the 525
mailing, delivery, or transmission. 526

(b) Any public office may adopt a policy and procedures 527
that it will follow in transmitting, within a reasonable period 528
of time after receiving a request, copies of public records by 529
United States mail or by any other means of delivery or 530
transmission pursuant to division (B) (7) of this section. A 531
public office that adopts a policy and procedures under division 532
(B) (7) of this section shall comply with them in performing its 533
duties under that division. 534

(c) In any policy and procedures adopted under division 535
(B) (7) of this section: 536

(i) A public office may limit the number of records 537
requested by a person that the office will physically deliver by 538
United States mail or by another delivery service to ten per 539
month, unless the person certifies to the office in writing that 540
the person does not intend to use or forward the requested 541
records, or the information contained in them, for commercial 542
purposes; 543

(ii) A public office that chooses to provide some or all 544

of its public records on a web site that is fully accessible to 545
and searchable by members of the public at all times, other than 546
during acts of God outside the public office's control or 547
maintenance, and that charges no fee to search, access, 548
download, or otherwise receive records provided on the web site, 549
may limit to ten per month the number of records requested by a 550
person that the office will deliver in a digital format, unless 551
the requested records are not provided on the web site and 552
unless the person certifies to the office in writing that the 553
person does not intend to use or forward the requested records, 554
or the information contained in them, for commercial purposes. 555

(iii) For purposes of division (B)(7) of this section, 556
"commercial" shall be narrowly construed and does not include 557
reporting or gathering news, reporting or gathering information 558
to assist citizen oversight or understanding of the operation or 559
activities of government, or nonprofit educational research. 560

(8) A public office or person responsible for public 561
records is not required to permit a person who is incarcerated 562
pursuant to a criminal conviction or a juvenile adjudication to 563
inspect or to obtain a copy of any public record concerning a 564
criminal investigation or prosecution or concerning what would 565
be a criminal investigation or prosecution if the subject of the 566
investigation or prosecution were an adult, unless the request 567
to inspect or to obtain a copy of the record is for the purpose 568
of acquiring information that is subject to release as a public 569
record under this section and the judge who imposed the sentence 570
or made the adjudication with respect to the person, or the 571
judge's successor in office, finds that the information sought 572
in the public record is necessary to support what appears to be 573
a justiciable claim of the person. 574

(9) (a) Upon written request made and signed by a 575
journalist on or after December 16, 1999, a public office, or 576
person responsible for public records, having custody of the 577
records of the agency employing a specified peace officer, 578
parole officer, probation officer, bailiff, prosecuting 579
attorney, assistant prosecuting attorney, correctional employee, 580
community-based correctional facility employee, youth services 581
employee, firefighter, EMT, investigator of the bureau of 582
criminal identification and investigation, or federal law 583
enforcement officer shall disclose to the journalist the address 584
of the actual personal residence of the peace officer, parole 585
officer, probation officer, bailiff, prosecuting attorney, 586
assistant prosecuting attorney, correctional employee, 587
community-based correctional facility employee, youth services 588
employee, firefighter, EMT, investigator of the bureau of 589
criminal identification and investigation, or federal law 590
enforcement officer and, if the peace officer's, parole 591
officer's, probation officer's, bailiff's, prosecuting 592
attorney's, assistant prosecuting attorney's, correctional 593
employee's, community-based correctional facility employee's, 594
youth services employee's, firefighter's, EMT's, investigator of 595
the bureau of criminal identification and investigation's, or 596
federal law enforcement officer's spouse, former spouse, or 597
child is employed by a public office, the name and address of 598
the employer of the peace officer's, parole officer's, probation 599
officer's, bailiff's, prosecuting attorney's, assistant 600
prosecuting attorney's, correctional employee's, community-based 601
correctional facility employee's, youth services employee's, 602
firefighter's, EMT's, investigator of the bureau of criminal 603
identification and investigation's, or federal law enforcement 604
officer's spouse, former spouse, or child. The request shall 605
include the journalist's name and title and the name and address 606

of the journalist's employer and shall state that disclosure of 607
the information sought would be in the public interest. 608

(b) Division (B) (9) (a) of this section also applies to 609
journalist requests for customer information maintained by a 610
municipally owned or operated public utility, other than social 611
security numbers and any private financial information such as 612
credit reports, payment methods, credit card numbers, and bank 613
account information. 614

(c) As used in division (B) (9) of this section, 615
"journalist" means a person engaged in, connected with, or 616
employed by any news medium, including a newspaper, magazine, 617
press association, news agency, or wire service, a radio or 618
television station, or a similar medium, for the purpose of 619
gathering, processing, transmitting, compiling, editing, or 620
disseminating information for the general public. 621

(C) (1) If a person allegedly is aggrieved by the failure 622
of a public office or the person responsible for public records 623
to promptly prepare a public record and to make it available to 624
the person for inspection in accordance with division (B) of 625
this section or by any other failure of a public office or the 626
person responsible for public records to comply with an 627
obligation in accordance with division (B) of this section, the 628
person allegedly aggrieved may do only one of the following, and 629
not both: 630

(a) File a complaint with the clerk of the court of claims 631
or the clerk of the court of common pleas under section 2743.75 632
of the Revised Code; 633

(b) Commence a mandamus action to obtain a judgment that 634
orders the public office or the person responsible for the 635

public record to comply with division (B) of this section, that 636
awards court costs and reasonable attorney's fees to the person 637
that instituted the mandamus action, and, if applicable, that 638
includes an order fixing statutory damages under division (C) (2) 639
of this section. The mandamus action may be commenced in the 640
court of common pleas of the county in which division (B) of 641
this section allegedly was not complied with, in the supreme 642
court pursuant to its original jurisdiction under Section 2 of 643
Article IV, Ohio Constitution, or in the court of appeals for 644
the appellate district in which division (B) of this section 645
allegedly was not complied with pursuant to its original 646
jurisdiction under Section 3 of Article IV, Ohio Constitution. 647

(2) If a requester transmits a written request by hand 648
delivery or certified mail to inspect or receive copies of any 649
public record in a manner that fairly describes the public 650
record or class of public records to the public office or person 651
responsible for the requested public records, except as 652
otherwise provided in this section, the requester shall be 653
entitled to recover the amount of statutory damages set forth in 654
this division if a court determines that the public office or 655
the person responsible for public records failed to comply with 656
an obligation in accordance with division (B) of this section. 657

The amount of statutory damages shall be fixed at one 658
hundred dollars for each business day during which the public 659
office or person responsible for the requested public records 660
failed to comply with an obligation in accordance with division 661
(B) of this section, beginning with the day on which the 662
requester files a mandamus action to recover statutory damages, 663
up to a maximum of one thousand dollars. The award of statutory 664
damages shall not be construed as a penalty, but as compensation 665
for injury arising from lost use of the requested information. 666

The existence of this injury shall be conclusively presumed. The 667
award of statutory damages shall be in addition to all other 668
remedies authorized by this section. 669

The court may reduce an award of statutory damages or not 670
award statutory damages if the court determines both of the 671
following: 672

(a) That, based on the ordinary application of statutory 673
law and case law as it existed at the time of the conduct or 674
threatened conduct of the public office or person responsible 675
for the requested public records that allegedly constitutes a 676
failure to comply with an obligation in accordance with division 677
(B) of this section and that was the basis of the mandamus 678
action, a well-informed public office or person responsible for 679
the requested public records reasonably would believe that the 680
conduct or threatened conduct of the public office or person 681
responsible for the requested public records did not constitute 682
a failure to comply with an obligation in accordance with 683
division (B) of this section; 684

(b) That a well-informed public office or person 685
responsible for the requested public records reasonably would 686
believe that the conduct or threatened conduct of the public 687
office or person responsible for the requested public records 688
would serve the public policy that underlies the authority that 689
is asserted as permitting that conduct or threatened conduct. 690

(3) In a mandamus action filed under division (C) (1) of 691
this section, the following apply: 692

(a) (i) If the court orders the public office or the person 693
responsible for the public record to comply with division (B) of 694
this section, the court shall determine and award to the relator 695

all court costs, which shall be construed as remedial and not 696
punitive. 697

(ii) If the court makes a determination described in 698
division (C) (3) (b) (iii) of this section, the court shall 699
determine and award to the relator all court costs, which shall 700
be construed as remedial and not punitive. 701

(b) If the court renders a judgment that orders the public 702
office or the person responsible for the public record to comply 703
with division (B) of this section or if the court determines any 704
of the following, the court may award reasonable attorney's fees 705
to the relator, subject to the provisions of division (C) (4) of 706
this section: 707

(i) The public office or the person responsible for the 708
public records failed to respond affirmatively or negatively to 709
the public records request in accordance with the time allowed 710
under division (B) of this section. 711

(ii) The public office or the person responsible for the 712
public records promised to permit the relator to inspect or 713
receive copies of the public records requested within a 714
specified period of time but failed to fulfill that promise 715
within that specified period of time. 716

(iii) The public office or the person responsible for the 717
public records acted in bad faith when the office or person 718
voluntarily made the public records available to the relator for 719
the first time after the relator commenced the mandamus action, 720
but before the court issued any order concluding whether or not 721
the public office or person was required to comply with division 722
(B) of this section. No discovery may be conducted on the issue 723
of the alleged bad faith of the public office or person 724

responsible for the public records. This division shall not be 725
construed as creating a presumption that the public office or 726
the person responsible for the public records acted in bad faith 727
when the office or person voluntarily made the public records 728
available to the relator for the first time after the relator 729
commenced the mandamus action, but before the court issued any 730
order described in this division. 731

(c) The court shall not award attorney's fees to the 732
relator if the court determines both of the following: 733

(i) That, based on the ordinary application of statutory 734
law and case law as it existed at the time of the conduct or 735
threatened conduct of the public office or person responsible 736
for the requested public records that allegedly constitutes a 737
failure to comply with an obligation in accordance with division 738
(B) of this section and that was the basis of the mandamus 739
action, a well-informed public office or person responsible for 740
the requested public records reasonably would believe that the 741
conduct or threatened conduct of the public office or person 742
responsible for the requested public records did not constitute 743
a failure to comply with an obligation in accordance with 744
division (B) of this section; 745

(ii) That a well-informed public office or person 746
responsible for the requested public records reasonably would 747
believe that the conduct or threatened conduct of the public 748
office or person responsible for the requested public records 749
would serve the public policy that underlies the authority that 750
is asserted as permitting that conduct or threatened conduct. 751

(4) All of the following apply to any award of reasonable 752
attorney's fees awarded under division (C) (3) (b) of this 753
section: 754

(a) The fees shall be construed as remedial and not 755
punitive. 756

(b) The fees awarded shall not exceed the total of the 757
reasonable attorney's fees incurred before the public record was 758
made available to the relator and the fees described in division 759
(C) (4) (c) of this section. 760

(c) Reasonable attorney's fees shall include reasonable 761
fees incurred to produce proof of the reasonableness and amount 762
of the fees and to otherwise litigate entitlement to the fees. 763

(d) The court may reduce the amount of fees awarded if the 764
court determines that, given the factual circumstances involved 765
with the specific public records request, an alternative means 766
should have been pursued to more effectively and efficiently 767
resolve the dispute that was subject to the mandamus action 768
filed under division (C) (1) of this section. 769

(5) If the court does not issue a writ of mandamus under 770
division (C) of this section and the court determines at that 771
time that the bringing of the mandamus action was frivolous 772
conduct as defined in division (A) of section 2323.51 of the 773
Revised Code, the court may award to the public office all court 774
costs, expenses, and reasonable attorney's fees, as determined 775
by the court. 776

(D) Chapter 1347. of the Revised Code does not limit the 777
provisions of this section. 778

(E) (1) To ensure that all employees of public offices are 779
appropriately educated about a public office's obligations under 780
division (B) of this section, all elected officials or their 781
appropriate designees shall attend training approved by the 782
attorney general as provided in section 109.43 of the Revised 783

Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

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

(F)(1) The bureau of motor vehicles may adopt rules

pursuant to Chapter 119. of the Revised Code to reasonably limit 815
the number of bulk commercial special extraction requests made 816
by a person for the same records or for updated records during a 817
calendar year. The rules may include provisions for charges to 818
be made for bulk commercial special extraction requests for the 819
actual cost of the bureau, plus special extraction costs, plus 820
ten per cent. The bureau may charge for expenses for redacting 821
information, the release of which is prohibited by law. 822

(2) As used in division (F) (1) of this section: 823

(a) "Actual cost" means the cost of depleted supplies, 824
records storage media costs, actual mailing and alternative 825
delivery costs, or other transmitting costs, and any direct 826
equipment operating and maintenance costs, including actual 827
costs paid to private contractors for copying services. 828

(b) "Bulk commercial special extraction request" means a 829
request for copies of a record for information in a format other 830
than the format already available, or information that cannot be 831
extracted without examination of all items in a records series, 832
class of records, or database by a person who intends to use or 833
forward the copies for surveys, marketing, solicitation, or 834
resale for commercial purposes. "Bulk commercial special 835
extraction request" does not include a request by a person who 836
gives assurance to the bureau that the person making the request 837
does not intend to use or forward the requested copies for 838
surveys, marketing, solicitation, or resale for commercial 839
purposes. 840

(c) "Commercial" means profit-seeking production, buying, 841
or selling of any good, service, or other product. 842

(d) "Special extraction costs" means the cost of the time 843

spent by the lowest paid employee competent to perform the task, 844
the actual amount paid to outside private contractors employed 845
by the bureau, or the actual cost incurred to create computer 846
programs to make the special extraction. "Special extraction 847
costs" include any charges paid to a public agency for computer 848
or records services. 849

(3) For purposes of divisions (F) (1) and (2) of this 850
section, "surveys, marketing, solicitation, or resale for 851
commercial purposes" shall be narrowly construed and does not 852
include reporting or gathering news, reporting or gathering 853
information to assist citizen oversight or understanding of the 854
operation or activities of government, or nonprofit educational 855
research. 856

(G) A request by a defendant, counsel of a defendant, or 857
any agent of a defendant in a criminal action that public 858
records related to that action be made available under this 859
section shall be considered a demand for discovery pursuant to 860
the Criminal Rules, except to the extent that the Criminal Rules 861
plainly indicate a contrary intent. The defendant, counsel of 862
the defendant, or agent of the defendant making a request under 863
this division shall serve a copy of the request on the 864
prosecuting attorney, director of law, or other chief legal 865
officer responsible for prosecuting the action. 866

(H) (1) Any portion of a body-worn camera or dashboard 867
camera recording described in divisions (A) (15) (b) to (h) of 868
this section may be released by consent of the subject of the 869
recording or a representative of that person, as specified in 870
those divisions, only if either of the following applies: 871

(a) The recording will not be used in connection with any 872
probable or pending criminal proceedings; 873

(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A) (15) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

Sec. 149.433. (A) As used in this section:

"Act of terrorism" has the same meaning as in section 2909.21 of the Revised Code.

"Express statement" means a written statement substantially similar to the following: "This information is voluntarily submitted to a public office in expectation of protection from disclosure as provided by section 149.433 of the Revised Code."

"Infrastructure record" means any record that discloses the configuration of critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the

infrastructure or structural configuration of a building.	903
"Infrastructure record" includes a risk assessment of	904
infrastructure performed by a state or local law enforcement	905
agency at the request of a property owner or manager.	906
"Infrastructure record" does not mean a simple floor plan	907
that discloses only the spatial relationship of components of	908
the building.	909
"Security record" means any of the following:	910
(1) Any record that contains information directly used for	911
protecting or maintaining the security of a public office	912
against attack, interference, or sabotage;	913
(2) Any record assembled, prepared, or maintained by a	914
public office or public body to prevent, mitigate, or respond to	915
acts of terrorism, including any of the following:	916
(a) Those portions of records containing specific and	917
unique vulnerability assessments or specific and unique response	918
plans either of which is intended to prevent or mitigate acts of	919
terrorism, and communication codes or deployment plans of law	920
enforcement or emergency response personnel;	921
(b) Specific intelligence information and specific	922
investigative records shared by federal and international law	923
enforcement agencies with state and local law enforcement and	924
public safety agencies;	925
(c) National security records classified under federal	926
executive order and not subject to public disclosure under	927
federal law that are shared by federal agencies, and other	928
records related to national security briefings to assist state	929
and local government with domestic preparedness for acts of	930

terrorism.	931
(3) An emergency management plan adopted pursuant to section 3313.536 of the Revised Code.	932 933
(B) (1) A record kept by a public office that is a security record is not a public record under section 149.43 of the Revised Code and is not subject to mandatory release or disclosure under that section.	934 935 936 937
(2) A record kept by a public office that is an infrastructure record of a public office, <u>public school</u> , or a chartered nonpublic school is not a public record under section 149.43 of the Revised Code and is not subject to mandatory release or disclosure under that section.	938 939 940 941 942
(3) A record kept by a public office that is an infrastructure record of a private entity may be exempted from release or disclosure under division (C) of this section.	943 944 945
(C) A record prepared by, submitted to, or kept by a public office that is an infrastructure record of a private entity, which is submitted to the public office for use by the public office, when accompanied by an express statement, is exempt from release or disclosure under section 149.43 of the Revised Code for a period of twenty-five years after its creation if it is retained by the public office for that length of time.	946 947 948 949 950 951 952 953
(D) Notwithstanding any other section of the Revised Code, disclosure by a public office, public employee, chartered nonpublic school, or chartered nonpublic school employee of a security record or infrastructure record that is necessary for construction, renovation, or remodeling work on any public building or project or chartered nonpublic school does not	954 955 956 957 958 959

constitute public disclosure for purposes of waiving division 960
(B) of this section and does not result in that record becoming 961
a public record for purposes of section 149.43 of the Revised 962
Code. 963

Section 2. That existing sections 149.43 and 149.433 of 964
the Revised Code are hereby repealed. 965