

As Introduced

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Representatives Hambley, Rezabek

**Cosponsors: Representatives Brenner, Thompson, Koehler, Riedel, Dean,
Blessing, Goodman**

A BILL

To amend section 149.43 of the Revised Code to 1
exempt from the Public Records Law certain 2
information concerning a minor that is included 3
in a record related to a traffic accident 4
involving a school vehicle in which the minor 5
was an occupant at the time of the accident. 6

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

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

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

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

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

section 5120.21 of the Revised Code;	45
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	46 47 48 49
(m) Intellectual property records;	50
(n) Donor profile records;	51
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	52 53
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, 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 section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	103 104 105
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	106 107 108
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	109 110 111
(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code ; ;	112 113 114
(dd) Personal information, as defined in section 149.45 of the Revised Code ; ;	115 116
(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record, and records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.	117 118 119 120 121 122 123 124 125 126 127 128 129 130

(ff) The name, address, contact information, or other 131
personal information of an individual who is less than eighteen 132
years of age that is included in any record related to a traffic 133
accident involving a school vehicle in which the individual was 134
an occupant at the time of the accident. 135

(2) "Confidential law enforcement investigatory record" 136
means any record that pertains to a law enforcement matter of a 137
criminal, quasi-criminal, civil, or administrative nature, but 138
only to the extent that the release of the record would create a 139
high probability of disclosure of any of the following: 140

(a) The identity of a suspect who has not been charged 141
with the offense to which the record pertains, or of an 142
information source or witness to whom confidentiality has been 143
reasonably promised; 144

(b) Information provided by an information source or 145
witness to whom confidentiality has been reasonably promised, 146
which information would reasonably tend to disclose the source's 147
or witness's identity; 148

(c) Specific confidential investigatory techniques or 149
procedures or specific investigatory work product; 150

(d) Information that would endanger the life or physical 151
safety of law enforcement personnel, a crime victim, a witness, 152
or a confidential information source. 153

(3) "Medical record" means any document or combination of 154
documents, except births, deaths, and the fact of admission to 155
or discharge from a hospital, that pertains to the medical 156
history, diagnosis, prognosis, or medical condition of a patient 157
and that is generated and maintained in the process of medical 158
treatment. 159

(4) "Trial preparation record" means any record that 160
contains information that is specifically compiled in reasonable 161
anticipation of, or in defense of, a civil or criminal action or 162
proceeding, including the independent thought processes and 163
personal trial preparation of an attorney. 164

(5) "Intellectual property record" means a record, other 165
than a financial or administrative record, that is produced or 166
collected by or for faculty or staff of a state institution of 167
higher learning in the conduct of or as a result of study or 168
research on an educational, commercial, scientific, artistic, 169
technical, or scholarly issue, regardless of whether the study 170
or research was sponsored by the institution alone or in 171
conjunction with a governmental body or private concern, and 172
that has not been publicly released, published, or patented. 173

(6) "Donor profile record" means all records about donors 174
or potential donors to a public institution of higher education 175
except the names and reported addresses of the actual donors and 176
the date, amount, and conditions of the actual donation. 177

(7) "Peace officer, parole officer, probation officer, 178
bailiff, prosecuting attorney, assistant prosecuting attorney, 179
correctional employee, community-based correctional facility 180
employee, youth services employee, firefighter, EMT, 181
investigator of the bureau of criminal identification and 182
investigation, or federal law enforcement officer residential 183
and familial information" means any information that discloses 184
any of the following about a peace officer, parole officer, 185
probation officer, bailiff, prosecuting attorney, assistant 186
prosecuting attorney, correctional employee, community-based 187
correctional facility employee, youth services employee, 188
firefighter, EMT, investigator of the bureau of criminal 189

identification and investigation, or federal law enforcement officer:	190
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(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, an investigator of the bureau of criminal identification and investigation, or federal law enforcement officer, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, 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 resides;	192
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(b) Information compiled from referral to or participation in an employee assistance program;	205
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(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer;	207
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(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff,	217
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prosecuting attorney, assistant prosecuting attorney, 220
correctional employee, community-based correctional facility 221
employee, youth services employee, firefighter, EMT, 222
investigator of the bureau of criminal identification and 223
investigation, or federal law enforcement officer by the peace 224
officer's, parole officer's, probation officer's, bailiff's, 225
prosecuting attorney's, assistant prosecuting attorney's, 226
correctional employee's, community-based correctional facility 227
employee's, youth services employee's, firefighter's, EMT's, 228
investigator of the bureau of criminal identification and 229
investigation's, or federal law enforcement officer's employer; 230

(e) The identity and amount of any charitable or 231
employment benefit deduction made by the peace officer's, parole 232
officer's, probation officer's, bailiff's, prosecuting 233
attorney's, assistant prosecuting attorney's, correctional 234
employee's, community-based correctional facility employee's, 235
youth services employee's, firefighter's, EMT's, investigator of 236
the bureau of criminal identification and investigation's, or 237
federal law enforcement officer's employer from the peace 238
officer's, parole officer's, probation officer's, bailiff's, 239
prosecuting attorney's, assistant prosecuting attorney's, 240
correctional employee's, community-based correctional facility 241
employee's, youth services employee's, firefighter's, EMT's, 242
investigator of the bureau of criminal identification and 243
investigation's, or federal law enforcement officer's 244
compensation unless the amount of the deduction is required by 245
state or federal law; 246

(f) The name, the residential address, the name of the 247
employer, the address of the employer, the social security 248
number, the residential telephone number, any bank account, 249
debit card, charge card, or credit card number, or the emergency 250

telephone number of the spouse, a former spouse, or any child of 251
a peace officer, parole officer, probation officer, bailiff, 252
prosecuting attorney, assistant prosecuting attorney, 253
correctional employee, community-based correctional facility 254
employee, youth services employee, firefighter, EMT, 255
investigator of the bureau of criminal identification and 256
investigation, or federal law enforcement officer; 257

(g) A photograph of a peace officer who holds a position 258
or has an assignment that may include undercover or plain 259
clothes positions or assignments as determined by the peace 260
officer's appointing authority. 261

As used in divisions (A) (7) and (B) (9) of this section, 262
"peace officer" has the same meaning as in section 109.71 of the 263
Revised Code and also includes the superintendent and troopers 264
of the state highway patrol; it does not include the sheriff of 265
a county or a supervisory employee who, in the absence of the 266
sheriff, is authorized to stand in for, exercise the authority 267
of, and perform the duties of the sheriff. 268

As used in divisions (A) (7) and (B) (9) of this section, 269
"correctional employee" means any employee of the department of 270
rehabilitation and correction who in the course of performing 271
the employee's job duties has or has had contact with inmates 272
and persons under supervision. 273

As used in divisions (A) (7) and (B) (9) of this section, 274
"youth services employee" means any employee of the department 275
of youth services who in the course of performing the employee's 276
job duties has or has had contact with children committed to the 277
custody of the department of youth services. 278

As used in divisions (A) (7) and (B) (9) of this section, 279

"firefighter" means any regular, paid or volunteer, member of a 280
lawfully constituted fire department of a municipal corporation, 281
township, fire district, or village. 282

As used in divisions (A)(7) and (B)(9) of this section, 283
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 284
emergency medical services for a public emergency medical 285
service organization. "Emergency medical service organization," 286
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 287
in section 4765.01 of the Revised Code. 288

As used in divisions (A)(7) and (B)(9) of this section, 289
"investigator of the bureau of criminal identification and 290
investigation" has the meaning defined in section 2903.11 of the 291
Revised Code. 292

As used in divisions (A)(7) and (B)(9) of this section, 293
"federal law enforcement officer" has the meaning defined in 294
section 9.88 of the Revised Code. 295

(8) "Information pertaining to the recreational activities 296
of a person under the age of eighteen" means information that is 297
kept in the ordinary course of business by a public office, that 298
pertains to the recreational activities of a person under the 299
age of eighteen years, and that discloses any of the following: 300

(a) The address or telephone number of a person under the 301
age of eighteen or the address or telephone number of that 302
person's parent, guardian, custodian, or emergency contact 303
person; 304

(b) The social security number, birth date, or 305
photographic image of a person under the age of eighteen; 306

(c) Any medical record, history, or information pertaining 307
to a person under the age of eighteen; 308

(d) Any additional information sought or required about a 309
person under the age of eighteen for the purpose of allowing 310
that person to participate in any recreational activity 311
conducted or sponsored by a public office or to use or obtain 312
admission privileges to any recreational facility owned or 313
operated by a public office. 314

(9) "Community control sanction" has the same meaning as 315
in section 2929.01 of the Revised Code. 316

(10) "Post-release control sanction" has the same meaning 317
as in section 2967.01 of the Revised Code. 318

(11) "Redaction" means obscuring or deleting any 319
information that is exempt from the duty to permit public 320
inspection or copying from an item that otherwise meets the 321
definition of a "record" in section 149.011 of the Revised Code. 322

(12) "Designee" and "elected official" have the same 323
meanings as in section 109.43 of the Revised Code. 324

(B) (1) Upon request and subject to division (B) (8) of this 325
section, all public records responsive to the request shall be 326
promptly prepared and made available for inspection to any 327
person at all reasonable times during regular business hours. 328
Subject to division (B) (8) of this section, upon request, a 329
public office or person responsible for public records shall 330
make copies of the requested public record available at cost and 331
within a reasonable period of time. If a public record contains 332
information that is exempt from the duty to permit public 333
inspection or to copy the public record, the public office or 334
the person responsible for the public record shall make 335
available all of the information within the public record that 336
is not exempt. When making that public record available for 337

public inspection or copying that public record, the public 338
office or the person responsible for the public record shall 339
notify the requester of any redaction or make the redaction 340
plainly visible. A redaction shall be deemed a denial of a 341
request to inspect or copy the redacted information, except if 342
federal or state law authorizes or requires a public office to 343
make the redaction. 344

(2) To facilitate broader access to public records, a 345
public office or the person responsible for public records shall 346
organize and maintain public records in a manner that they can 347
be made available for inspection or copying in accordance with 348
division (B) of this section. A public office also shall have 349
available a copy of its current records retention schedule at a 350
location readily available to the public. If a requester makes 351
an ambiguous or overly broad request or has difficulty in making 352
a request for copies or inspection of public records under this 353
section such that the public office or the person responsible 354
for the requested public record cannot reasonably identify what 355
public records are being requested, the public office or the 356
person responsible for the requested public record may deny the 357
request but shall provide the requester with an opportunity to 358
revise the request by informing the requester of the manner in 359
which records are maintained by the public office and accessed 360
in the ordinary course of the public office's or person's 361
duties. 362

(3) If a request is ultimately denied, in part or in 363
whole, the public office or the person responsible for the 364
requested public record shall provide the requester with an 365
explanation, including legal authority, setting forth why the 366
request was denied. If the initial request was provided in 367
writing, the explanation also shall be provided to the requester 368

in writing. The explanation shall not preclude the public office 369
or the person responsible for the requested public record from 370
relying upon additional reasons or legal authority in defending 371
an action commenced under division (C) of this section. 372

(4) Unless specifically required or authorized by state or 373
federal law or in accordance with division (B) of this section, 374
no public office or person responsible for public records may 375
limit or condition the availability of public records by 376
requiring disclosure of the requester's identity or the intended 377
use of the requested public record. Any requirement that the 378
requester disclose the requester's identity or the intended use 379
of the requested public record constitutes a denial of the 380
request. 381

(5) A public office or person responsible for public 382
records may ask a requester to make the request in writing, may 383
ask for the requester's identity, and may inquire about the 384
intended use of the information requested, but may do so only 385
after disclosing to the requester that a written request is not 386
mandatory and that the requester may decline to reveal the 387
requester's identity or the intended use and when a written 388
request or disclosure of the identity or intended use would 389
benefit the requester by enhancing the ability of the public 390
office or person responsible for public records to identify, 391
locate, or deliver the public records sought by the requester. 392

(6) If any person chooses to obtain a copy of a public 393
record in accordance with division (B) of this section, the 394
public office or person responsible for the public record may 395
require that person to pay in advance the cost involved in 396
providing the copy of the public record in accordance with the 397
choice made by the person seeking the copy under this division. 398

The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

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

(b) Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by

United States mail or by any other means of delivery or 430
transmission pursuant to division (B) (7) of this section. A 431
public office that adopts a policy and procedures under division 432
(B) (7) of this section shall comply with them in performing its 433
duties under that division. 434

(c) In any policy and procedures adopted under division 435
(B) (7) of this section: 436

(i) A public office may limit the number of records 437
requested by a person that the office will physically deliver by 438
United States mail or by another delivery service to ten per 439
month, unless the person certifies to the office in writing that 440
the person does not intend to use or forward the requested 441
records, or the information contained in them, for commercial 442
purposes; 443

(ii) A public office that chooses to provide some or all 444
of its public records on a web site that is fully accessible to 445
and searchable by members of the public at all times, other than 446
during acts of God outside the public office's control or 447
maintenance, and that charges no fee to search, access, 448
download, or otherwise receive records provided on the web site, 449
may limit to ten per month the number of records requested by a 450
person that the office will deliver in a digital format, unless 451
the requested records are not provided on the web site and 452
unless the person certifies to the office in writing that the 453
person does not intend to use or forward the requested records, 454
or the information contained in them, for commercial purposes. 455

(iii) For purposes of division (B) (7) of this section, 456
"commercial" shall be narrowly construed and does not include 457
reporting or gathering news, reporting or gathering information 458
to assist citizen oversight or understanding of the operation or 459

activities of government, or nonprofit educational research. 460

(8) A public office or person responsible for public 461
records is not required to permit a person who is incarcerated 462
pursuant to a criminal conviction or a juvenile adjudication to 463
inspect or to obtain a copy of any public record concerning a 464
criminal investigation or prosecution or concerning what would 465
be a criminal investigation or prosecution if the subject of the 466
investigation or prosecution were an adult, unless the request 467
to inspect or to obtain a copy of the record is for the purpose 468
of acquiring information that is subject to release as a public 469
record under this section and the judge who imposed the sentence 470
or made the adjudication with respect to the person, or the 471
judge's successor in office, finds that the information sought 472
in the public record is necessary to support what appears to be 473
a justiciable claim of the person. 474

(9) (a) Upon written request made and signed by a 475
journalist on or after December 16, 1999, a public office, or 476
person responsible for public records, having custody of the 477
records of the agency employing a specified peace officer, 478
parole officer, probation officer, bailiff, prosecuting 479
attorney, assistant prosecuting attorney, correctional employee, 480
community-based correctional facility employee, youth services 481
employee, firefighter, EMT, investigator of the bureau of 482
criminal identification and investigation, or federal law 483
enforcement officer shall disclose to the journalist the address 484
of the actual personal residence of the peace officer, parole 485
officer, probation officer, bailiff, prosecuting attorney, 486
assistant prosecuting attorney, correctional employee, 487
community-based correctional facility employee, youth services 488
employee, firefighter, EMT, investigator of the bureau of 489
criminal identification and investigation, or federal law 490

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

(b) Division (B) (9) (a) of this section also applies to 509
journalist requests for customer information maintained by a 510
municipally owned or operated public utility, other than social 511
security numbers and any private financial information such as 512
credit reports, payment methods, credit card numbers, and bank 513
account information. 514

(c) As used in division (B) (9) of this section, 515
"journalist" means a person engaged in, connected with, or 516
employed by any news medium, including a newspaper, magazine, 517
press association, news agency, or wire service, a radio or 518
television station, or a similar medium, for the purpose of 519
gathering, processing, transmitting, compiling, editing, or 520
disseminating information for the general public. 521

(C) (1) If a person allegedly is aggrieved by the failure 522
of a public office or the person responsible for public records 523
to promptly prepare a public record and to make it available to 524
the person for inspection in accordance with division (B) of 525
this section or by any other failure of a public office or the 526
person responsible for public records to comply with an 527
obligation in accordance with division (B) of this section, the 528
person allegedly aggrieved may do only one of the following, and 529
not both: 530

(a) File a complaint with the clerk of the court of claims 531
or the clerk of the court of common pleas under section 2743.75 532
of the Revised Code; 533

(b) Commence a mandamus action to obtain a judgment that 534
orders the public office or the person responsible for the 535
public record to comply with division (B) of this section, that 536
awards court costs and reasonable attorney's fees to the person 537
that instituted the mandamus action, and, if applicable, that 538
includes an order fixing statutory damages under division (C) (2) 539
of this section. The mandamus action may be commenced in the 540
court of common pleas of the county in which division (B) of 541
this section allegedly was not complied with, in the supreme 542
court pursuant to its original jurisdiction under Section 2 of 543
Article IV, Ohio Constitution, or in the court of appeals for 544
the appellate district in which division (B) of this section 545
allegedly was not complied with pursuant to its original 546
jurisdiction under Section 3 of Article IV, Ohio Constitution. 547

(2) If a requester transmits a written request by hand 548
delivery or certified mail to inspect or receive copies of any 549
public record in a manner that fairly describes the public 550
record or class of public records to the public office or person 551

responsible for the requested public records, except as 552
otherwise provided in this section, the requester shall be 553
entitled to recover the amount of statutory damages set forth in 554
this division if a court determines that the public office or 555
the person responsible for public records failed to comply with 556
an obligation in accordance with division (B) of this section. 557

The amount of statutory damages shall be fixed at one 558
hundred dollars for each business day during which the public 559
office or person responsible for the requested public records 560
failed to comply with an obligation in accordance with division 561
(B) of this section, beginning with the day on which the 562
requester files a mandamus action to recover statutory damages, 563
up to a maximum of one thousand dollars. The award of statutory 564
damages shall not be construed as a penalty, but as compensation 565
for injury arising from lost use of the requested information. 566
The existence of this injury shall be conclusively presumed. The 567
award of statutory damages shall be in addition to all other 568
remedies authorized by this section. 569

The court may reduce an award of statutory damages or not 570
award statutory damages if the court determines both of the 571
following: 572

(a) That, based on the ordinary application of statutory 573
law and case law as it existed at the time of the conduct or 574
threatened conduct of the public office or person responsible 575
for the requested public records that allegedly constitutes a 576
failure to comply with an obligation in accordance with division 577
(B) of this section and that was the basis of the mandamus 578
action, a well-informed public office or person responsible for 579
the requested public records reasonably would believe that the 580
conduct or threatened conduct of the public office or person 581

responsible for the requested public records did not constitute 582
a failure to comply with an obligation in accordance with 583
division (B) of this section; 584

(b) That a well-informed public office or person 585
responsible for the requested public records reasonably would 586
believe that the conduct or threatened conduct of the public 587
office or person responsible for the requested public records 588
would serve the public policy that underlies the authority that 589
is asserted as permitting that conduct or threatened conduct. 590

(3) In a mandamus action filed under division (C) (1) of 591
this section, the following apply: 592

(a) (i) If the court orders the public office or the person 593
responsible for the public record to comply with division (B) of 594
this section, the court shall determine and award to the relator 595
all court costs, which shall be construed as remedial and not 596
punitive. 597

(ii) If the court makes a determination described in 598
division (C) (3) (b) (iii) of this section, the court shall 599
determine and award to the relator all court costs, which shall 600
be construed as remedial and not punitive. 601

(b) If the court renders a judgment that orders the public 602
office or the person responsible for the public record to comply 603
with division (B) of this section or if the court determines any 604
of the following, the court may award reasonable attorney's fees 605
to the relator, subject to the provisions of division (C) (4) of 606
this section: 607

(i) The public office or the person responsible for the 608
public records failed to respond affirmatively or negatively to 609
the public records request in accordance with the time allowed 610

under division (B) of this section. 611

(ii) The public office or the person responsible for the 612
public records promised to permit the relator to inspect or 613
receive copies of the public records requested within a 614
specified period of time but failed to fulfill that promise 615
within that specified period of time. 616

(iii) The public office or the person responsible for the 617
public records acted in bad faith when the office or person 618
voluntarily made the public records available to the relator for 619
the first time after the relator commenced the mandamus action, 620
but before the court issued any order concluding whether or not 621
the public office or person was required to comply with division 622
(B) of this section. No discovery may be conducted on the issue 623
of the alleged bad faith of the public office or person 624
responsible for the public records. This division shall not be 625
construed as creating a presumption that the public office or 626
the person responsible for the public records acted in bad faith 627
when the office or person voluntarily made the public records 628
available to the relator for the first time after the relator 629
commenced the mandamus action, but before the court issued any 630
order described in this division. 631

(c) The court shall not award attorney's fees to the 632
relator if the court determines both of the following: 633

(i) That, based on the ordinary application of statutory 634
law and case law as it existed at the time of the conduct or 635
threatened conduct of the public office or person responsible 636
for the requested public records that allegedly constitutes a 637
failure to comply with an obligation in accordance with division 638
(B) of this section and that was the basis of the mandamus 639
action, a well-informed public office or person responsible for 640

the requested public records reasonably would believe that the 641
conduct or threatened conduct of the public office or person 642
responsible for the requested public records did not constitute 643
a failure to comply with an obligation in accordance with 644
division (B) of this section; 645

(ii) That a well-informed public office or person 646
responsible for the requested public records reasonably would 647
believe that the conduct or threatened conduct of the public 648
office or person responsible for the requested public records 649
would serve the public policy that underlies the authority that 650
is asserted as permitting that conduct or threatened conduct. 651

(4) All of the following apply to any award of reasonable 652
attorney's fees awarded under division (C) (3) (b) of this 653
section: 654

(a) The fees shall be construed as remedial and not 655
punitive. 656

(b) The fees awarded shall not exceed the total of the 657
reasonable attorney's fees incurred before the public record was 658
made available to the relator and the fees described in division 659
(C) (4) (c) of this section. 660

(c) Reasonable attorney's fees shall include reasonable 661
fees incurred to produce proof of the reasonableness and amount 662
of the fees and to otherwise litigate entitlement to the fees. 663

(d) The court may reduce the amount of fees awarded if the 664
court determines that, given the factual circumstances involved 665
with the specific public records request, an alternative means 666
should have been pursued to more effectively and efficiently 667
resolve the dispute that was subject to the mandamus action 668
filed under division (C) (1) of this section. 669

(5) If the court does not issue a writ of mandamus under 670
division (C) of this section and the court determines at that 671
time that the bringing of the mandamus action was frivolous 672
conduct as defined in division (A) of section 2323.51 of the 673
Revised Code, the court may award to the public office all court 674
costs, expenses, and reasonable attorney's fees, as determined 675
by the court. 676

(D) Chapter 1347. of the Revised Code does not limit the 677
provisions of this section. 678

(E) (1) To ensure that all employees of public offices are 679
appropriately educated about a public office's obligations under 680
division (B) of this section, all elected officials or their 681
appropriate designees shall attend training approved by the 682
attorney general as provided in section 109.43 of the Revised 683
Code. In addition, all public offices shall adopt a public 684
records policy in compliance with this section for responding to 685
public records requests. In adopting a public records policy 686
under this division, a public office may obtain guidance from 687
the model public records policy developed and provided to the 688
public office by the attorney general under section 109.43 of 689
the Revised Code. Except as otherwise provided in this section, 690
the policy may not limit the number of public records that the 691
public office will make available to a single person, may not 692
limit the number of public records that it will make available 693
during a fixed period of time, and may not establish a fixed 694
period of time before it will respond to a request for 695
inspection or copying of public records, unless that period is 696
less than eight hours. 697

(2) The public office shall distribute the public records 698
policy adopted by the public office under division (E) (1) of 699

this section to the employee of the public office who is the 700
records custodian or records manager or otherwise has custody of 701
the records of that office. The public office shall require that 702
employee to acknowledge receipt of the copy of the public 703
records policy. The public office shall create a poster that 704
describes its public records policy and shall post the poster in 705
a conspicuous place in the public office and in all locations 706
where the public office has branch offices. The public office 707
may post its public records policy on the internet web site of 708
the public office if the public office maintains an internet web 709
site. A public office that has established a manual or handbook 710
of its general policies and procedures for all employees of the 711
public office shall include the public records policy of the 712
public office in the manual or handbook. 713

(F) (1) The bureau of motor vehicles may adopt rules 714
pursuant to Chapter 119. of the Revised Code to reasonably limit 715
the number of bulk commercial special extraction requests made 716
by a person for the same records or for updated records during a 717
calendar year. The rules may include provisions for charges to 718
be made for bulk commercial special extraction requests for the 719
actual cost of the bureau, plus special extraction costs, plus 720
ten per cent. The bureau may charge for expenses for redacting 721
information, the release of which is prohibited by law. 722

(2) As used in division (F) (1) of this section: 723

(a) "Actual cost" means the cost of depleted supplies, 724
records storage media costs, actual mailing and alternative 725
delivery costs, or other transmitting costs, and any direct 726
equipment operating and maintenance costs, including actual 727
costs paid to private contractors for copying services. 728

(b) "Bulk commercial special extraction request" means a 729

request for copies of a record for information in a format other 730
than the format already available, or information that cannot be 731
extracted without examination of all items in a records series, 732
class of records, or database by a person who intends to use or 733
forward the copies for surveys, marketing, solicitation, or 734
resale for commercial purposes. "Bulk commercial special 735
extraction request" does not include a request by a person who 736
gives assurance to the bureau that the person making the request 737
does not intend to use or forward the requested copies for 738
surveys, marketing, solicitation, or resale for commercial 739
purposes. 740

(c) "Commercial" means profit-seeking production, buying, 741
or selling of any good, service, or other product. 742

(d) "Special extraction costs" means the cost of the time 743
spent by the lowest paid employee competent to perform the task, 744
the actual amount paid to outside private contractors employed 745
by the bureau, or the actual cost incurred to create computer 746
programs to make the special extraction. "Special extraction 747
costs" include any charges paid to a public agency for computer 748
or records services. 749

(3) For purposes of divisions (F) (1) and (2) of this 750
section, "surveys, marketing, solicitation, or resale for 751
commercial purposes" shall be narrowly construed and does not 752
include reporting or gathering news, reporting or gathering 753
information to assist citizen oversight or understanding of the 754
operation or activities of government, or nonprofit educational 755
research. 756

(G) A request by a defendant, counsel of a defendant, or 757
any agent of a defendant in a criminal action that public 758
records related to that action be made available under this 759

section shall be considered a demand for discovery pursuant to 760
the Criminal Rules, except to the extent that the Criminal Rules 761
plainly indicate a contrary intent. The defendant, counsel of 762
the defendant, or agent of the defendant making a request under 763
this division shall serve a copy of the request on the 764
prosecuting attorney, director of law, or other chief legal 765
officer responsible for prosecuting the action. 766

Section 2. That existing section 149.43 of the Revised 767
Code is hereby repealed. 768

Section 3. Section 149.43 of the Revised Code is presented 769
in this act as a composite of the section as amended by Sub. 770
H.B. 317, Sub. H.B. 359, and Sub. S.B. 321, all of the 131st 771
General Assembly. The General Assembly, applying the principle 772
stated in division (B) of section 1.52 of the Revised Code that 773
amendments are to be harmonized if reasonably capable of 774
simultaneous operation, finds that the composite is the 775
resulting version of the section in effect prior to the 776
effective date of the section as presented in this act. 777