

**As Recommended to the Senate Local Government, Public Safety and
Veterans Affairs Committee**

132nd General Assembly

**Regular Session
2017-2018**

Sub. H. B. No. 8

Representatives Hambley, Rezabek

**Cosponsors: Representatives Brenner, Thompson, Koehler, Riedel, Dean,
Blessing, Goodman, Anielski, Antonio, Arndt, Barnes, Boccieri, Boyd, Conditt,
Dever, Edwards, Faber, Fedor, Galonski, Gavarone, Green, Greenspan, Holmes,
Householder, Ingram, Kick, Landis, Leland, Manning, O'Brien, Patmon, Patterson,
Patton, Pelanda, Perales, Ramos, Reineke, Rogers, Ryan, Schaffer, Slaby, Smith,
K., Stein, Sweeney, West, Young**

Senators Uecker, Hackett

A BILL

To amend section 149.43 and to enact section 1
149.436 of the Revised Code to exempt from the 2
Public Records Law certain information 3
concerning a minor that is included in a record 4
related to a traffic accident involving a school 5
vehicle in which the minor was an occupant at 6
the time of the accident, to allow the parent or 7
guardian of the minor to request a record of the 8
accident containing the exempted information, 9
and to exempt certain protected health 10
information from the Public Records Law. 11

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

Section 1. That section 149.43 be amended and section 12
149.436 of the Revised Code be enacted to read as follows: 13

Sec. 149.43. (A) As used in this section:	14
(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:	15 16 17 18 19 20 21 22
(a) Medical records;	23
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	24 25 26
(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;	27 28 29
(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;	30 31 32
(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;	33 34 35 36 37 38
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	39 40
(g) Trial preparation records;	41

(h) Confidential law enforcement investigatory records;	42
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	43 44
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	45 46
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	47 48 49 50
(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;	51 52 53 54
(m) Intellectual property records;	55
(n) Donor profile records;	56
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	57 58
(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;	59 60 61 62 63 64 65
(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	66 67 68 69

section 1333.61 of the Revised Code;	70
(r) Information pertaining to the recreational activities	71
of a person under the age of eighteen;	72
(s) In the case of a child fatality review board acting	73
under sections 307.621 to 307.629 of the Revised Code or a	74
review conducted pursuant to guidelines established by the	75
director of health under section 3701.70 of the Revised Code,	76
records provided to the board or director, statements made by	77
board members during meetings of the board or by persons	78
participating in the director's review, and all work products of	79
the board or director, and in the case of a child fatality	80
review board, child fatality review data submitted by the board	81
to the department of health or a national child death review	82
database, other than the report prepared pursuant to division	83
(A) of section 307.626 of the Revised Code;	84
(t) Records provided to and statements made by the	85
executive director of a public children services agency or a	86
prosecuting attorney acting pursuant to section 5153.171 of the	87
Revised Code other than the information released under that	88
section;	89
(u) Test materials, examinations, or evaluation tools used	90
in an examination for licensure as a nursing home administrator	91
that the board of executives of long-term services and supports	92
administers under section 4751.04 of the Revised Code or	93
contracts under that section with a private or government entity	94
to administer;	95
(v) Records the release of which is prohibited by state or	96
federal law;	97
(w) Proprietary information of or relating to any person	98

that is submitted to or compiled by the Ohio venture capital	99
authority created under section 150.01 of the Revised Code;	100
(x) Financial statements and data any person submits for	101
any purpose to the Ohio housing finance agency or the	102
controlling board in connection with applying for, receiving, or	103
accounting for financial assistance from the agency, and	104
information that identifies any individual who benefits directly	105
or indirectly from financial assistance from the agency;	106
(y) Records listed in section 5101.29 of the Revised Code;	107
(z) Discharges recorded with a county recorder under	108
section 317.24 of the Revised Code, as specified in division (B)	109
(2) of that section;	110
(aa) Usage information including names and addresses of	111
specific residential and commercial customers of a municipally	112
owned or operated public utility;	113
(bb) Records described in division (C) of section 187.04	114
of the Revised Code that are not designated to be made available	115
to the public as provided in that division;	116
(cc) Information and records that are made confidential,	117
privileged, and not subject to disclosure under divisions (B)	118
and (C) of section 2949.221 of the Revised Code;	119
(dd) Personal information, as defined in section 149.45 of	120
the Revised Code;	121
(ee) The confidential name, address, and other personally	122
identifiable information of a program participant in the address	123
confidentiality program established under sections 111.41 to	124
111.47 of the Revised Code, including the contents of any	125
application for absent voter's ballots, absent voter's ballot	126

identification envelope statement of voter, or provisional 127
ballot affirmation completed by a program participant who has a 128
confidential voter registration record, and records or portions 129
of records pertaining to that program that identify the number 130
of program participants that reside within a precinct, ward, 131
township, municipal corporation, county, or any other geographic 132
area smaller than the state. As used in this division, 133
"confidential address" and "program participant" have the 134
meaning defined in section 111.41 of the Revised Code. 135

(ff) Orders for active military service of an individual 136
serving or with previous service in the armed forces of the 137
United States, including a reserve component, or the Ohio 138
organized militia, except that, such order becomes a public 139
record on the day that is fifteen years after the published date 140
or effective date of the call to order; 141

(gg) The name, address, contact information, or other 142
personal information of an individual who is less than eighteen 143
years of age that is included in any record related to a traffic 144
accident involving a school vehicle in which the individual was 145
an occupant at the time of the accident; 146

(hh) Protected health information, as defined in 45 C.F.R. 147
160.103, that is in a claim for payment for a health care 148
product, service, or procedure, as well as any other health 149
claims data in another document that reveals the identity of an 150
individual who is the subject of the data or could be used to 151
reveal that individual's identity. 152

(2) "Confidential law enforcement investigatory record" 153
means any record that pertains to a law enforcement matter of a 154
criminal, quasi-criminal, civil, or administrative nature, but 155
only to the extent that the release of the record would create a 156

high probability of disclosure of any of the following:	157
(a) The identity of a suspect who has not been charged	158
with the offense to which the record pertains, or of an	159
information source or witness to whom confidentiality has been	160
reasonably promised;	161
(b) Information provided by an information source or	162
witness to whom confidentiality has been reasonably promised,	163
which information would reasonably tend to disclose the source's	164
or witness's identity;	165
(c) Specific confidential investigatory techniques or	166
procedures or specific investigatory work product;	167
(d) Information that would endanger the life or physical	168
safety of law enforcement personnel, a crime victim, a witness,	169
or a confidential information source.	170
(3) "Medical record" means any document or combination of	171
documents, except births, deaths, and the fact of admission to	172
or discharge from a hospital, that pertains to the medical	173
history, diagnosis, prognosis, or medical condition of a patient	174
and that is generated and maintained in the process of medical	175
treatment.	176
(4) "Trial preparation record" means any record that	177
contains information that is specifically compiled in reasonable	178
anticipation of, or in defense of, a civil or criminal action or	179
proceeding, including the independent thought processes and	180
personal trial preparation of an attorney.	181
(5) "Intellectual property record" means a record, other	182
than a financial or administrative record, that is produced or	183
collected by or for faculty or staff of a state institution of	184
higher learning in the conduct of or as a result of study or	185

research on an educational, commercial, scientific, artistic, 186
technical, or scholarly issue, regardless of whether the study 187
or research was sponsored by the institution alone or in 188
conjunction with a governmental body or private concern, and 189
that has not been publicly released, published, or patented. 190

(6) "Donor profile record" means all records about donors 191
or potential donors to a public institution of higher education 192
except the names and reported addresses of the actual donors and 193
the date, amount, and conditions of the actual donation. 194

(7) "Peace officer, parole officer, probation officer, 195
bailiff, prosecuting attorney, assistant prosecuting attorney, 196
correctional employee, community-based correctional facility 197
employee, youth services employee, firefighter, EMT, 198
investigator of the bureau of criminal identification and 199
investigation, or federal law enforcement officer residential 200
and familial information" means any information that discloses 201
any of the following about a peace officer, parole officer, 202
probation officer, bailiff, prosecuting attorney, assistant 203
prosecuting attorney, correctional employee, community-based 204
correctional facility employee, youth services employee, 205
firefighter, EMT, investigator of the bureau of criminal 206
identification and investigation, or federal law enforcement 207
officer: 208

(a) The address of the actual personal residence of a 209
peace officer, parole officer, probation officer, bailiff, 210
assistant prosecuting attorney, correctional employee, 211
community-based correctional facility employee, youth services 212
employee, firefighter, EMT, an investigator of the bureau of 213
criminal identification and investigation, or federal law 214
enforcement officer, except for the state or political 215

subdivision in which the peace officer, parole officer,	216
probation officer, bailiff, assistant prosecuting attorney,	217
correctional employee, community-based correctional facility	218
employee, youth services employee, firefighter, EMT,	219
investigator of the bureau of criminal identification and	220
investigation, or federal law enforcement officer resides;	221
(b) Information compiled from referral to or participation	222
in an employee assistance program;	223
(c) The social security number, the residential telephone	224
number, any bank account, debit card, charge card, or credit	225
card number, or the emergency telephone number of, or any	226
medical information pertaining to, a peace officer, parole	227
officer, probation officer, bailiff, prosecuting attorney,	228
assistant prosecuting attorney, correctional employee,	229
community-based correctional facility employee, youth services	230
employee, firefighter, EMT, investigator of the bureau of	231
criminal identification and investigation, or federal law	232
enforcement officer;	233
(d) The name of any beneficiary of employment benefits,	234
including, but not limited to, life insurance benefits, provided	235
to a peace officer, parole officer, probation officer, bailiff,	236
prosecuting attorney, assistant prosecuting attorney,	237
correctional employee, community-based correctional facility	238
employee, youth services employee, firefighter, EMT,	239
investigator of the bureau of criminal identification and	240
investigation, or federal law enforcement officer by 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 employer;	247
(e) The identity and amount of any charitable or	248
employment benefit deduction made by the peace officer's, parole	249
officer's, probation officer's, bailiff's, prosecuting	250
attorney's, assistant prosecuting attorney's, correctional	251
employee's, community-based correctional facility employee's,	252
youth services employee's, firefighter's, EMT's, investigator of	253
the bureau of criminal identification and investigation's, or	254
federal law enforcement officer's employer from the peace	255
officer's, parole officer's, probation officer's, bailiff's,	256
prosecuting attorney's, assistant prosecuting attorney's,	257
correctional employee's, community-based correctional facility	258
employee's, youth services employee's, firefighter's, EMT's,	259
investigator of the bureau of criminal identification and	260
investigation's, or federal law enforcement officer's	261
compensation unless the amount of the deduction is required by	262
state or federal law;	263
(f) The name, the residential address, the name of the	264
employer, the address of the employer, the social security	265
number, the residential telephone number, any bank account,	266
debit card, charge card, or credit card number, or the emergency	267
telephone number of the spouse, a former spouse, or any child of	268
a peace officer, parole officer, probation officer, bailiff,	269
prosecuting attorney, assistant prosecuting attorney,	270
correctional employee, community-based correctional facility	271
employee, youth services employee, firefighter, EMT,	272
investigator of the bureau of criminal identification and	273
investigation, or federal law enforcement officer;	274
(g) A photograph of a peace officer who holds a position	275

or has an assignment that may include undercover or plain 276
clothes positions or assignments as determined by the peace 277
officer's appointing authority. 278

As used in divisions (A) (7) and (B) (9) of this section, 279
"peace officer" has the same meaning as in section 109.71 of the 280
Revised Code and also includes the superintendent and troopers 281
of the state highway patrol; it does not include the sheriff of 282
a county or a supervisory employee who, in the absence of the 283
sheriff, is authorized to stand in for, exercise the authority 284
of, and perform the duties of the sheriff. 285

As used in divisions (A) (7) and (B) (9) of this section, 286
"correctional employee" means any employee of the department of 287
rehabilitation and correction who in the course of performing 288
the employee's job duties has or has had contact with inmates 289
and persons under supervision. 290

As used in divisions (A) (7) and (B) (9) of this section, 291
"youth services employee" means any employee of the department 292
of youth services who in the course of performing the employee's 293
job duties has or has had contact with children committed to the 294
custody of the department of youth services. 295

As used in divisions (A) (7) and (B) (9) of this section, 296
"firefighter" means any regular, paid or volunteer, member of a 297
lawfully constituted fire department of a municipal corporation, 298
township, fire district, or village. 299

As used in divisions (A) (7) and (B) (9) of this section, 300
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 301
emergency medical services for a public emergency medical 302
service organization. "Emergency medical service organization," 303
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 304

in section 4765.01 of the Revised Code. 305

As used in divisions (A) (7) and (B) (9) of this section, 306
"investigator of the bureau of criminal identification and 307
investigation" has the meaning defined in section 2903.11 of the 308
Revised Code. 309

As used in divisions (A) (7) and (B) (9) of this section, 310
"federal law enforcement officer" has the meaning defined in 311
section 9.88 of the Revised Code. 312

(8) "Information pertaining to the recreational activities 313
of a person under the age of eighteen" means information that is 314
kept in the ordinary course of business by a public office, that 315
pertains to the recreational activities of a person under the 316
age of eighteen years, and that discloses any of the following: 317

(a) The address or telephone number of a person under the 318
age of eighteen or the address or telephone number of that 319
person's parent, guardian, custodian, or emergency contact 320
person; 321

(b) The social security number, birth date, or 322
photographic image of a person under the age of eighteen; 323

(c) Any medical record, history, or information pertaining 324
to a person under the age of eighteen; 325

(d) Any additional information sought or required about a 326
person under the age of eighteen for the purpose of allowing 327
that person to participate in any recreational activity 328
conducted or sponsored by a public office or to use or obtain 329
admission privileges to any recreational facility owned or 330
operated by a public office. 331

(9) "Community control sanction" has the same meaning as 332

in section 2929.01 of the Revised Code. 333

(10) "Post-release control sanction" has the same meaning 334
as in section 2967.01 of the Revised Code. 335

(11) "Redaction" means obscuring or deleting any 336
information that is exempt from the duty to permit public 337
inspection or copying from an item that otherwise meets the 338
definition of a "record" in section 149.011 of the Revised Code. 339

(12) "Designee" and "elected official" have the same 340
meanings as in section 109.43 of the Revised Code. 341

(B) (1) Upon request and subject to division (B) (8) of this 342
section, all public records responsive to the request shall be 343
promptly prepared and made available for inspection to any 344
person at all reasonable times during regular business hours. 345
Subject to division (B) (8) of this section, upon request, a 346
public office or person responsible for public records shall 347
make copies of the requested public record available at cost and 348
within a reasonable period of time. If a public record contains 349
information that is exempt from the duty to permit public 350
inspection or to copy the public record, the public office or 351
the person responsible for the public record shall make 352
available all of the information within the public record that 353
is not exempt. When making that public record available for 354
public inspection or copying that public record, the public 355
office or the person responsible for the public record shall 356
notify the requester of any redaction or make the redaction 357
plainly visible. A redaction shall be deemed a denial of a 358
request to inspect or copy the redacted information, except if 359
federal or state law authorizes or requires a public office to 360
make the redaction. 361

(2) To facilitate broader access to public records, a 362
public office or the person responsible for public records shall 363
organize and maintain public records in a manner that they can 364
be made available for inspection or copying in accordance with 365
division (B) of this section. A public office also shall have 366
available a copy of its current records retention schedule at a 367
location readily available to the public. If a requester makes 368
an ambiguous or overly broad request or has difficulty in making 369
a request for copies or inspection of public records under this 370
section such that the public office or the person responsible 371
for the requested public record cannot reasonably identify what 372
public records are being requested, the public office or the 373
person responsible for the requested public record may deny the 374
request but shall provide the requester with an opportunity to 375
revise the request by informing the requester of the manner in 376
which records are maintained by the public office and accessed 377
in the ordinary course of the public office's or person's 378
duties. 379

(3) If a request is ultimately denied, in part or in 380
whole, the public office or the person responsible for the 381
requested public record shall provide the requester with an 382
explanation, including legal authority, setting forth why the 383
request was denied. If the initial request was provided in 384
writing, the explanation also shall be provided to the requester 385
in writing. The explanation shall not preclude the public office 386
or the person responsible for the requested public record from 387
relying upon additional reasons or legal authority in defending 388
an action commenced under division (C) of this section. 389

(4) Unless specifically required or authorized by state or 390
federal law or in accordance with division (B) of this section, 391
no public office or person responsible for public records may 392

limit or condition the availability of public records by 393
requiring disclosure of the requester's identity or the intended 394
use of the requested public record. Any requirement that the 395
requester disclose the requester's identity or the intended use 396
of the requested public record constitutes a denial of the 397
request. 398

(5) A public office or person responsible for public 399
records may ask a requester to make the request in writing, may 400
ask for the requester's identity, and may inquire about the 401
intended use of the information requested, but may do so only 402
after disclosing to the requester that a written request is not 403
mandatory and that the requester may decline to reveal the 404
requester's identity or the intended use and when a written 405
request or disclosure of the identity or intended use would 406
benefit the requester by enhancing the ability of the public 407
office or person responsible for public records to identify, 408
locate, or deliver the public records sought by the requester. 409

(6) If any person chooses to obtain a copy of a public 410
record in accordance with division (B) of this section, the 411
public office or person responsible for the public record may 412
require that person to pay in advance the cost involved in 413
providing the copy of the public record in accordance with the 414
choice made by the person seeking the copy under this division. 415
The public office or the person responsible for the public 416
record shall permit that person to choose to have the public 417
record duplicated upon paper, upon the same medium upon which 418
the public office or person responsible for the public record 419
keeps it, or upon any other medium upon which the public office 420
or person responsible for the public record determines that it 421
reasonably can be duplicated as an integral part of the normal 422
operations of the public office or person responsible for the 423

public record. When the person seeking the copy makes a choice 424
under this division, the public office or person responsible for 425
the public record shall provide a copy of it in accordance with 426
the choice made by the person seeking the copy. Nothing in this 427
section requires a public office or person responsible for the 428
public record to allow the person seeking a copy of the public 429
record to make the copies of the public record. 430

(7) (a) Upon a request made in accordance with division (B) 431
of this section and subject to division (B) (6) of this section, 432
a public office or person responsible for public records shall 433
transmit a copy of a public record to any person by United 434
States mail or by any other means of delivery or transmission 435
within a reasonable period of time after receiving the request 436
for the copy. The public office or person responsible for the 437
public record may require the person making the request to pay 438
in advance the cost of postage if the copy is transmitted by 439
United States mail or the cost of delivery if the copy is 440
transmitted other than by United States mail, and to pay in 441
advance the costs incurred for other supplies used in the 442
mailing, delivery, or transmission. 443

(b) Any public office may adopt a policy and procedures 444
that it will follow in transmitting, within a reasonable period 445
of time after receiving a request, copies of public records by 446
United States mail or by any other means of delivery or 447
transmission pursuant to division (B) (7) of this section. A 448
public office that adopts a policy and procedures under division 449
(B) (7) of this section shall comply with them in performing its 450
duties under that division. 451

(c) In any policy and procedures adopted under division 452
(B) (7) of this section: 453

(i) A public office may limit the number of records 454
requested by a person that the office will physically deliver by 455
United States mail or by another delivery service to ten per 456
month, unless the person certifies to the office in writing that 457
the person does not intend to use or forward the requested 458
records, or the information contained in them, for commercial 459
purposes; 460

(ii) A public office that chooses to provide some or all 461
of its public records on a web site that is fully accessible to 462
and searchable by members of the public at all times, other than 463
during acts of God outside the public office's control or 464
maintenance, and that charges no fee to search, access, 465
download, or otherwise receive records provided on the web site, 466
may limit to ten per month the number of records requested by a 467
person that the office will deliver in a digital format, unless 468
the requested records are not provided on the web site and 469
unless the person certifies to the office in writing that the 470
person does not intend to use or forward the requested records, 471
or the information contained in them, for commercial purposes. 472

(iii) For purposes of division (B)(7) of this section, 473
"commercial" shall be narrowly construed and does not include 474
reporting or gathering news, reporting or gathering information 475
to assist citizen oversight or understanding of the operation or 476
activities of government, or nonprofit educational research. 477

(8) A public office or person responsible for public 478
records is not required to permit a person who is incarcerated 479
pursuant to a criminal conviction or a juvenile adjudication to 480
inspect or to obtain a copy of any public record concerning a 481
criminal investigation or prosecution or concerning what would 482
be a criminal investigation or prosecution if the subject of the 483

investigation or prosecution were an adult, unless the request 484
to inspect or to obtain a copy of the record is for the purpose 485
of acquiring information that is subject to release as a public 486
record under this section and the judge who imposed the sentence 487
or made the adjudication with respect to the person, or the 488
judge's successor in office, finds that the information sought 489
in the public record is necessary to support what appears to be 490
a justiciable claim of the person. 491

(9) (a) Upon written request made and signed by a 492
journalist on or after December 16, 1999, a public office, or 493
person responsible for public records, having custody of the 494
records of the agency employing a specified peace officer, 495
parole officer, probation officer, bailiff, prosecuting 496
attorney, assistant prosecuting attorney, correctional employee, 497
community-based correctional facility employee, youth services 498
employee, firefighter, EMT, investigator of the bureau of 499
criminal identification and investigation, or federal law 500
enforcement officer shall disclose to the journalist the address 501
of the actual personal residence of the peace officer, parole 502
officer, probation officer, bailiff, prosecuting attorney, 503
assistant prosecuting attorney, correctional employee, 504
community-based correctional facility employee, youth services 505
employee, firefighter, EMT, investigator of the bureau of 506
criminal identification and investigation, or federal law 507
enforcement officer and, if the peace officer's, parole 508
officer's, probation officer's, bailiff's, prosecuting 509
attorney's, assistant prosecuting attorney's, correctional 510
employee's, community-based correctional facility employee's, 511
youth services employee's, firefighter's, EMT's, investigator of 512
the bureau of criminal identification and investigation's, or 513
federal law enforcement officer's spouse, former spouse, or 514

child is employed by a public office, the name and address of 515
the employer of the peace officer's, parole officer's, probation 516
officer's, bailiff's, prosecuting attorney's, assistant 517
prosecuting attorney's, correctional employee's, community-based 518
correctional facility employee's, youth services employee's, 519
firefighter's, EMT's, investigator of the bureau of criminal 520
identification and investigation's, or federal law enforcement 521
officer's spouse, former spouse, or child. The request shall 522
include the journalist's name and title and the name and address 523
of the journalist's employer and shall state that disclosure of 524
the information sought would be in the public interest. 525

(b) Division (B) (9) (a) of this section also applies to 526
journalist requests for customer information maintained by a 527
municipally owned or operated public utility, other than social 528
security numbers and any private financial information such as 529
credit reports, payment methods, credit card numbers, and bank 530
account information. 531

(c) As used in division (B) (9) of this section, 532
"journalist" means a person engaged in, connected with, or 533
employed by any news medium, including a newspaper, magazine, 534
press association, news agency, or wire service, a radio or 535
television station, or a similar medium, for the purpose of 536
gathering, processing, transmitting, compiling, editing, or 537
disseminating information for the general public. 538

(C) (1) If a person allegedly is aggrieved by the failure 539
of a public office or the person responsible for public records 540
to promptly prepare a public record and to make it available to 541
the person for inspection in accordance with division (B) of 542
this section or by any other failure of a public office or the 543
person responsible for public records to comply with an 544

obligation in accordance with division (B) of this section, the 545
person allegedly aggrieved may do only one of the following, and 546
not both: 547

(a) File a complaint with the clerk of the court of claims 548
or the clerk of the court of common pleas under section 2743.75 549
of the Revised Code; 550

(b) Commence a mandamus action to obtain a judgment that 551
orders the public office or the person responsible for the 552
public record to comply with division (B) of this section, that 553
awards court costs and reasonable attorney's fees to the person 554
that instituted the mandamus action, and, if applicable, that 555
includes an order fixing statutory damages under division (C) (2) 556
of this section. The mandamus action may be commenced in the 557
court of common pleas of the county in which division (B) of 558
this section allegedly was not complied with, in the supreme 559
court pursuant to its original jurisdiction under Section 2 of 560
Article IV, Ohio Constitution, or in the court of appeals for 561
the appellate district in which division (B) of this section 562
allegedly was not complied with pursuant to its original 563
jurisdiction under Section 3 of Article IV, Ohio Constitution. 564

(2) If a requester transmits a written request by hand 565
delivery or certified mail to inspect or receive copies of any 566
public record in a manner that fairly describes the public 567
record or class of public records to the public office or person 568
responsible for the requested public records, except as 569
otherwise provided in this section, the requester shall be 570
entitled to recover the amount of statutory damages set forth in 571
this division if a court determines that the public office or 572
the person responsible for public records failed to comply with 573
an obligation in accordance with division (B) of this section. 574

The amount of statutory damages shall be fixed at one 575
hundred dollars for each business day during which the public 576
office or person responsible for the requested public records 577
failed to comply with an obligation in accordance with division 578
(B) of this section, beginning with the day on which the 579
requester files a mandamus action to recover statutory damages, 580
up to a maximum of one thousand dollars. The award of statutory 581
damages shall not be construed as a penalty, but as compensation 582
for injury arising from lost use of the requested information. 583
The existence of this injury shall be conclusively presumed. The 584
award of statutory damages shall be in addition to all other 585
remedies authorized by this section. 586

The court may reduce an award of statutory damages or not 587
award statutory damages if the court determines both of the 588
following: 589

(a) That, based on the ordinary application of statutory 590
law and case law as it existed at the time of the conduct or 591
threatened conduct of the public office or person responsible 592
for the requested public records that allegedly constitutes a 593
failure to comply with an obligation in accordance with division 594
(B) of this section and that was the basis of the mandamus 595
action, a well-informed public office or person responsible for 596
the requested public records reasonably would believe that the 597
conduct or threatened conduct of the public office or person 598
responsible for the requested public records did not constitute 599
a failure to comply with an obligation in accordance with 600
division (B) of this section; 601

(b) That a well-informed public office or person 602
responsible for the requested public records reasonably would 603
believe that the conduct or threatened conduct of the public 604

office or person responsible for the requested public records 605
would serve the public policy that underlies the authority that 606
is asserted as permitting that conduct or threatened conduct. 607

(3) In a mandamus action filed under division (C)(1) of 608
this section, the following apply: 609

(a) (i) If the court orders the public office or the person 610
responsible for the public record to comply with division (B) of 611
this section, the court shall determine and award to the relator 612
all court costs, which shall be construed as remedial and not 613
punitive. 614

(ii) If the court makes a determination described in 615
division (C)(3)(b)(iii) of this section, the court shall 616
determine and award to the relator all court costs, which shall 617
be construed as remedial and not punitive. 618

(b) If the court renders a judgment that orders the public 619
office or the person responsible for the public record to comply 620
with division (B) of this section or if the court determines any 621
of the following, the court may award reasonable attorney's fees 622
to the relator, subject to the provisions of division (C)(4) of 623
this section: 624

(i) The public office or the person responsible for the 625
public records failed to respond affirmatively or negatively to 626
the public records request in accordance with the time allowed 627
under division (B) of this section. 628

(ii) The public office or the person responsible for the 629
public records promised to permit the relator to inspect or 630
receive copies of the public records requested within a 631
specified period of time but failed to fulfill that promise 632
within that specified period of time. 633

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

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

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

(ii) That a well-informed public office or person

responsible for the requested public records reasonably would 664
believe that the conduct or threatened conduct of the public 665
office or person responsible for the requested public records 666
would serve the public policy that underlies the authority that 667
is asserted as permitting that conduct or threatened conduct. 668

(4) All of the following apply to any award of reasonable 669
attorney's fees awarded under division (C) (3) (b) of this 670
section: 671

(a) The fees shall be construed as remedial and not 672
punitive. 673

(b) The fees awarded shall not exceed the total of the 674
reasonable attorney's fees incurred before the public record was 675
made available to the relator and the fees described in division 676
(C) (4) (c) of this section. 677

(c) Reasonable attorney's fees shall include reasonable 678
fees incurred to produce proof of the reasonableness and amount 679
of the fees and to otherwise litigate entitlement to the fees. 680

(d) The court may reduce the amount of fees awarded if the 681
court determines that, given the factual circumstances involved 682
with the specific public records request, an alternative means 683
should have been pursued to more effectively and efficiently 684
resolve the dispute that was subject to the mandamus action 685
filed under division (C) (1) of this section. 686

(5) If the court does not issue a writ of mandamus under 687
division (C) of this section and the court determines at that 688
time that the bringing of the mandamus action was frivolous 689
conduct as defined in division (A) of section 2323.51 of the 690
Revised Code, the court may award to the public office all court 691
costs, expenses, and reasonable attorney's fees, as determined 692

by the court. 693

(D) Chapter 1347. of the Revised Code does not limit the 694
provisions of this section. 695

(E) (1) To ensure that all employees of public offices are 696
appropriately educated about a public office's obligations under 697
division (B) of this section, all elected officials or their 698
appropriate designees shall attend training approved by the 699
attorney general as provided in section 109.43 of the Revised 700
Code. In addition, all public offices shall adopt a public 701
records policy in compliance with this section for responding to 702
public records requests. In adopting a public records policy 703
under this division, a public office may obtain guidance from 704
the model public records policy developed and provided to the 705
public office by the attorney general under section 109.43 of 706
the Revised Code. Except as otherwise provided in this section, 707
the policy may not limit the number of public records that the 708
public office will make available to a single person, may not 709
limit the number of public records that it will make available 710
during a fixed period of time, and may not establish a fixed 711
period of time before it will respond to a request for 712
inspection or copying of public records, unless that period is 713
less than eight hours. 714

(2) The public office shall distribute the public records 715
policy adopted by the public office under division (E) (1) of 716
this section to the employee of the public office who is the 717
records custodian or records manager or otherwise has custody of 718
the records of that office. The public office shall require that 719
employee to acknowledge receipt of the copy of the public 720
records policy. The public office shall create a poster that 721
describes its public records policy and shall post the poster in 722

a conspicuous place in the public office and in all locations 723
where the public office has branch offices. The public office 724
may post its public records policy on the internet web site of 725
the public office if the public office maintains an internet web 726
site. A public office that has established a manual or handbook 727
of its general policies and procedures for all employees of the 728
public office shall include the public records policy of the 729
public office in the manual or handbook. 730

(F) (1) The bureau of motor vehicles may adopt rules 731
pursuant to Chapter 119. of the Revised Code to reasonably limit 732
the number of bulk commercial special extraction requests made 733
by a person for the same records or for updated records during a 734
calendar year. The rules may include provisions for charges to 735
be made for bulk commercial special extraction requests for the 736
actual cost of the bureau, plus special extraction costs, plus 737
ten per cent. The bureau may charge for expenses for redacting 738
information, the release of which is prohibited by law. 739

(2) As used in division (F) (1) of this section: 740

(a) "Actual cost" means the cost of depleted supplies, 741
records storage media costs, actual mailing and alternative 742
delivery costs, or other transmitting costs, and any direct 743
equipment operating and maintenance costs, including actual 744
costs paid to private contractors for copying services. 745

(b) "Bulk commercial special extraction request" means a 746
request for copies of a record for information in a format other 747
than the format already available, or information that cannot be 748
extracted without examination of all items in a records series, 749
class of records, or database by a person who intends to use or 750
forward the copies for surveys, marketing, solicitation, or 751
resale for commercial purposes. "Bulk commercial special 752

extraction request" does not include a request by a person who 753
gives assurance to the bureau that the person making the request 754
does not intend to use or forward the requested copies for 755
surveys, marketing, solicitation, or resale for commercial 756
purposes. 757

(c) "Commercial" means profit-seeking production, buying, 758
or selling of any good, service, or other product. 759

(d) "Special extraction costs" means the cost of the time 760
spent by the lowest paid employee competent to perform the task, 761
the actual amount paid to outside private contractors employed 762
by the bureau, or the actual cost incurred to create computer 763
programs to make the special extraction. "Special extraction 764
costs" include any charges paid to a public agency for computer 765
or records services. 766

(3) For purposes of divisions (F)(1) and (2) of this 767
section, "surveys, marketing, solicitation, or resale for 768
commercial purposes" shall be narrowly construed and does not 769
include reporting or gathering news, reporting or gathering 770
information to assist citizen oversight or understanding of the 771
operation or activities of government, or nonprofit educational 772
research. 773

(G) A request by a defendant, counsel of a defendant, or 774
any agent of a defendant in a criminal action that public 775
records related to that action be made available under this 776
section shall be considered a demand for discovery pursuant to 777
the Criminal Rules, except to the extent that the Criminal Rules 778
plainly indicate a contrary intent. The defendant, counsel of 779
the defendant, or agent of the defendant making a request under 780
this division shall serve a copy of the request on the 781
prosecuting attorney, director of law, or other chief legal 782

officer responsible for prosecuting the action. 783

Sec. 149.436. Notwithstanding division (A) (1) (gg) of 784
section 149.43 of the Revised Code, upon written request made 785
and signed by the parent or guardian of an individual who is 786
less than eighteen years of age and was an occupant of a school 787
vehicle involved in a traffic accident, a public office or 788
person responsible for public records, having custody of any 789
record related to the traffic accident containing the personal 790
information of the individual, shall transmit a copy of that 791
record to the recipient identified in the request. 792

The written request shall identify the individual on whose 793
behalf the record is requested and the person to whom the record 794
shall be transmitted. The record shall be transmitted only to 795
the person identified in the written request as the recipient of 796
the record. 797

A public office or person responsible for records 798
responding to a request under this section shall redact any 799
personal information contained in the record of any individual 800
less than eighteen years of age who is not the subject of the 801
request, before providing the record to the recipient. 802

Section 2. That existing section 149.43 of the Revised 803
Code is hereby repealed. 804