

As Reported by the House Civil Justice Committee

134th General Assembly

Regular Session

2021-2022

H. B. No. 41

Representatives Lanese, Liston

Cosponsors: Representatives Grendell, Galonski, Brown, Crossman



A BILL

To amend section 149.43 of the Revised Code to
exempt certain mental health care providers'
residential and familial information from
disclosure under the Public Records Law.

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

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

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

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

(a) Medical records;

(b) Records pertaining to probation and parole

proceedings, to proceedings related to the imposition of 18
community control sanctions and post-release control sanctions, 19
or to proceedings related to determinations under section 20
2967.271 of the Revised Code regarding the release or maintained 21
incarceration of an offender to whom that section applies; 22

(c) Records pertaining to actions under section 2151.85 23
and division (C) of section 2919.121 of the Revised Code and to 24
appeals of actions arising under those sections; 25

(d) Records pertaining to adoption proceedings, including 26
the contents of an adoption file maintained by the department of 27
health under sections 3705.12 to 3705.124 of the Revised Code; 28

(e) Information in a record contained in the putative 29
father registry established by section 3107.062 of the Revised 30
Code, regardless of whether the information is held by the 31
department of job and family services or, pursuant to section 32
3111.69 of the Revised Code, the office of child support in the 33
department or a child support enforcement agency; 34

(f) Records specified in division (A) of section 3107.52 35
of the Revised Code; 36

(g) Trial preparation records; 37

(h) Confidential law enforcement investigatory records; 38

(i) Records containing information that is confidential 39
under section 2710.03 or 4112.05 of the Revised Code; 40

(j) DNA records stored in the DNA database pursuant to 41
section 109.573 of the Revised Code; 42

(k) Inmate records released by the department of 43
rehabilitation and correction to the department of youth 44
services or a court of record pursuant to division (E) of 45

section 5120.21 of the Revised Code;	46
(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;	47 48 49 50
(m) Intellectual property records;	51
(n) Donor profile records;	52
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	53 54
(p) Designated public service worker residential and familial information;	55 56
(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;	57 58 59 60 61
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	62 63
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review	64 65 66 67 68 69 70 71 72 73

database, other than the report prepared pursuant to division	74
(A) of section 307.626 of the Revised Code;	75
(t) Records provided to and statements made by the	76
executive director of a public children services agency or a	77
prosecuting attorney acting pursuant to section 5153.171 of the	78
Revised Code other than the information released under that	79
section;	80
(u) Test materials, examinations, or evaluation tools used	81
in an examination for licensure as a nursing home administrator	82
that the board of executives of long-term services and supports	83
administers under section 4751.15 of the Revised Code or	84
contracts under that section with a private or government entity	85
to administer;	86
(v) Records the release of which is prohibited by state or	87
federal law;	88
(w) Proprietary information of or relating to any person	89
that is submitted to or compiled by the Ohio venture capital	90
authority created under section 150.01 of the Revised Code;	91
(x) Financial statements and data any person submits for	92
any purpose to the Ohio housing finance agency or the	93
controlling board in connection with applying for, receiving, or	94
accounting for financial assistance from the agency, and	95
information that identifies any individual who benefits directly	96
or indirectly from financial assistance from the agency;	97
(y) Records listed in section 5101.29 of the Revised Code;	98
(z) Discharges recorded with a county recorder under	99
section 317.24 of the Revised Code, as specified in division (B)	100
(2) of that section;	101

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	102 103 104
(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;	105 106 107
(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;	108 109 110
(dd) Personal information, as defined in section 149.45 of the Revised Code;	111 112
(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.	113 114 115 116 117 118 119 120 121 122 123 124 125 126
(ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public	127 128 129 130

record on the day that is fifteen years after the published date	131
or effective date of the call to order;	132
(gg) The name, address, contact information, or other	133
personal information of an individual who is less than eighteen	134
years of age that is included in any record related to a traffic	135
accident involving a school vehicle in which the individual was	136
an occupant at the time of the accident;	137
(hh) Protected health information, as defined in 45 C.F.R.	138
160.103, that is in a claim for payment for a health care	139
product, service, or procedure, as well as any other health	140
claims data in another document that reveals the identity of an	141
individual who is the subject of the data or could be used to	142
reveal that individual's identity;	143
(ii) Any depiction by photograph, film, videotape, or	144
printed or digital image under either of the following	145
circumstances:	146
(i) The depiction is that of a victim of an offense the	147
release of which would be, to a reasonable person of ordinary	148
sensibilities, an offensive and objectionable intrusion into the	149
victim's expectation of bodily privacy and integrity.	150
(ii) The depiction captures or depicts the victim of a	151
sexually oriented offense, as defined in section 2950.01 of the	152
Revised Code, at the actual occurrence of that offense.	153
(jj) Restricted portions of a body-worn camera or	154
dashboard camera recording;	155
(kk) In the case of a fetal-infant mortality review board	156
acting under sections 3707.70 to 3707.77 of the Revised Code,	157
records, documents, reports, or other information presented to	158
the board or a person abstracting such materials on the board's	159

behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section 3738.08 of the Revised Code;

(mm) Telephone numbers for a victim, as defined in section 2930.01 of the Revised Code, a witness to a crime, or a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report.

A record that is not a public record under division (A) (1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the Revised Code, or any record that is exempt from release or disclosure under section 149.433 of the Revised Code. If the record is a birth certificate and a biological parent's name redaction request form has been accepted under section 3107.391 of the Revised

Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

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

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

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

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

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

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

treatment.	219
(4) "Trial preparation record" means any record that	220
contains information that is specifically compiled in reasonable	221
anticipation of, or in defense of, a civil or criminal action or	222
proceeding, including the independent thought processes and	223
personal trial preparation of an attorney.	224
(5) "Intellectual property record" means a record, other	225
than a financial or administrative record, that is produced or	226
collected by or for faculty or staff of a state institution of	227
higher learning in the conduct of or as a result of study or	228
research on an educational, commercial, scientific, artistic,	229
technical, or scholarly issue, regardless of whether the study	230
or research was sponsored by the institution alone or in	231
conjunction with a governmental body or private concern, and	232
that has not been publicly released, published, or patented.	233
(6) "Donor profile record" means all records about donors	234
or potential donors to a public institution of higher education	235
except the names and reported addresses of the actual donors and	236
the date, amount, and conditions of the actual donation.	237
(7) "Designated public service worker" means a peace	238
officer, parole officer, probation officer, bailiff, prosecuting	239
attorney, assistant prosecuting attorney, correctional employee,	240
county or multicounty corrections officer, community-based	241
correctional facility employee, youth services employee,	242
firefighter, EMT, medical director or member of a cooperating	243
physician advisory board of an emergency medical service	244
organization, state board of pharmacy employee, investigator of	245
the bureau of criminal identification and investigation,	246
<u>forensic mental health provider, mental health evaluation</u>	247
<u>provider, regional psychiatric hospital employee, judge,</u>	248

magistrate, or federal law enforcement officer.	249
(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:	250 251 252
(a) The address of the actual personal residence of a designated public service worker, except for the following information:	253 254 255
(i) The address of the actual personal residence of a prosecuting attorney or judge; and	256 257
(ii) The state or political subdivision in which a designated public service worker resides.	258 259
(b) Information compiled from referral to or participation in an employee assistance program;	260 261
(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 designated public service worker;	262 263 264 265 266
(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;	267 268 269 270
(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;	271 272 273 274 275
(f) The name, the residential address, the name of the	276

employer, the address of the employer, the social security 277
number, the residential telephone number, any bank account, 278
debit card, charge card, or credit card number, or the emergency 279
telephone number of the spouse, a former spouse, or any child of 280
a designated public service worker; 281

(g) A photograph of a peace officer who holds a position 282
or has an assignment that may include undercover or plain 283
clothes positions or assignments as determined by the peace 284
officer's appointing authority. 285

(9) As used in divisions (A) (7) and (15) to (17) of this 286
section: 287

"Peace officer" has the meaning defined in section 109.71 288
of the Revised Code and also includes the superintendent and 289
troopers of the state highway patrol; it does not include the 290
sheriff of a county or a supervisory employee who, in the 291
absence of the sheriff, is authorized to stand in for, exercise 292
the authority of, and perform the duties of the sheriff. 293

"Correctional employee" means any employee of the 294
department of rehabilitation and correction who in the course of 295
performing the employee's job duties has or has had contact with 296
inmates and persons under supervision. 297

"County or multicounty corrections officer" means any 298
corrections officer employed by any county or multicounty 299
correctional facility. 300

"Youth services employee" means any employee of the 301
department of youth services who in the course of performing the 302
employee's job duties has or has had contact with children 303
committed to the custody of the department of youth services. 304

"Firefighter" means any regular, paid or volunteer, member 305

of a lawfully constituted fire department of a municipal 306
corporation, township, fire district, or village. 307

"EMT" means EMTs-basic, EMTs-I, and paramedics that 308
provide emergency medical services for a public emergency 309
medical service organization. "Emergency medical service 310
organization," "EMT-basic," "EMT-I," and "paramedic" have the 311
meanings defined in section 4765.01 of the Revised Code. 312

"Investigator of the bureau of criminal identification and 313
investigation" has the meaning defined in section 2903.11 of the 314
Revised Code. 315

"Forensic mental health provider" means any employee of a 316
community mental health service provider or local alcohol, drug 317
addiction, and mental health services board who, in the course 318
of the employee's duties, has contact with persons committed to 319
a local alcohol, drug addiction, and mental health services 320
board by a court order pursuant to section 2945.38, 2945.39, 321
2945.40, or 2945.402 of the Revised Code. 322

"Mental health evaluation provider" means an individual 323
who, under Chapter 5122. of the Revised Code, examines a 324
respondent who is alleged to be a mentally ill person subject to 325
court order, as defined in section 5122.01 of the Revised Code, 326
and reports to the probate court the respondent's mental 327
condition. 328

"Regional psychiatric hospital employee" means any 329
employee of the department of mental health and addiction 330
services who, in the course of performing the employee's duties, 331
has contact with patients committed to the department of mental 332
health and addiction services by a court order pursuant to 333
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 334

<u>Code.</u>	335
"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.	336 337
(10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:	338 339 340 341 342 343
(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;	344 345 346 347
(b) The social security number, birth date, or photographic image of a person under the age of eighteen;	348 349
(c) Any medical record, history, or information pertaining to a person under the age of eighteen;	350 351
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	352 353 354 355 356 357
(11) "Community control sanction" has the meaning defined in section 2929.01 of the Revised Code.	358 359
(12) "Post-release control sanction" has the meaning defined in section 2967.01 of the Revised Code.	360 361
(13) "Redaction" means obscuring or deleting any	362

information that is exempt from the duty to permit public 363
inspection or copying from an item that otherwise meets the 364
definition of a "record" in section 149.011 of the Revised Code. 365

(14) "Designee," "elected official," and "future official" 366
have the meanings defined in section 109.43 of the Revised Code. 367

(15) "Body-worn camera" means a visual and audio recording 368
device worn on the person of a peace officer while the peace 369
officer is engaged in the performance of the peace officer's 370
duties. 371

(16) "Dashboard camera" means a visual and audio recording 372
device mounted on a peace officer's vehicle or vessel that is 373
used while the peace officer is engaged in the performance of 374
the peace officer's duties. 375

(17) "Restricted portions of a body-worn camera or 376
dashboard camera recording" means any visual or audio portion of 377
a body-worn camera or dashboard camera recording that shows, 378
communicates, or discloses any of the following: 379

(a) The image or identity of a child or information that 380
could lead to the identification of a child who is a primary 381
subject of the recording when the law enforcement agency knows 382
or has reason to know the person is a child based on the law 383
enforcement agency's records or the content of the recording; 384

(b) The death of a person or a deceased person's body, 385
unless the death was caused by a peace officer or, subject to 386
division (H)(1) of this section, the consent of the decedent's 387
executor or administrator has been obtained; 388

(c) The death of a peace officer, firefighter, paramedic, 389
or other first responder, occurring while the decedent was 390
engaged in the performance of official duties, unless, subject 391

to division (H) (1) of this section, the consent of the 392
decedent's executor or administrator has been obtained; 393

(d) Grievous bodily harm, unless the injury was effected 394
by a peace officer or, subject to division (H) (1) of this 395
section, the consent of the injured person or the injured 396
person's guardian has been obtained; 397

(e) An act of severe violence against a person that 398
results in serious physical harm to the person, unless the act 399
and injury was effected by a peace officer or, subject to 400
division (H) (1) of this section, the consent of the injured 401
person or the injured person's guardian has been obtained; 402

(f) Grievous bodily harm to a peace officer, firefighter, 403
paramedic, or other first responder, occurring while the injured 404
person was engaged in the performance of official duties, 405
unless, subject to division (H) (1) of this section, the consent 406
of the injured person or the injured person's guardian has been 407
obtained; 408

(g) An act of severe violence resulting in serious 409
physical harm against a peace officer, firefighter, paramedic, 410
or other first responder, occurring while the injured person was 411
engaged in the performance of official duties, unless, subject 412
to division (H) (1) of this section, the consent of the injured 413
person or the injured person's guardian has been obtained; 414

(h) A person's nude body, unless, subject to division (H) 415
(1) of this section, the person's consent has been obtained; 416

(i) Protected health information, the identity of a person 417
in a health care facility who is not the subject of a law 418
enforcement encounter, or any other information in a health care 419
facility that could identify a person who is not the subject of 420

a law enforcement encounter;	421
(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;	422 423
(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;	424 425 426 427 428 429 430
(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;	431 432
(m) Proprietary police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;	433 434 435
(n) A personal conversation unrelated to work between peace officers or between a peace officer and an employee of a law enforcement agency;	436 437 438
(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;	439 440
(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a peace officer;	441 442 443
(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a peace officer occurs in that location.	444 445 446
As used in division (A) (17) of this section:	447

"Grievous bodily harm" has the same meaning as in section 448
5924.120 of the Revised Code. 449

"Health care facility" has the same meaning as in section 450
1337.11 of the Revised Code. 451

"Protected health information" has the same meaning as in 452
45 C.F.R. 160.103. 453

"Law enforcement agency" has the same meaning as in 454
section 2925.61 of the Revised Code. 455

"Personal information" means any government-issued 456
identification number, date of birth, address, financial 457
information, or criminal justice information from the law 458
enforcement automated data system or similar databases. 459

"Sex offense" has the same meaning as in section 2907.10 460
of the Revised Code. 461

"Firefighter," "paramedic," and "first responder" have the 462
same meanings as in section 4765.01 of the Revised Code. 463

(B) (1) Upon request by any person and subject to division 464
(B) (8) of this section, all public records responsive to the 465
request shall be promptly prepared and made available for 466
inspection to ~~any person~~ the requester at all reasonable times 467
during regular business hours. Subject to division (B) (8) of 468
this section, upon request by any person, a public office or 469
person responsible for public records shall make copies of the 470
requested public record available to the requester at cost and 471
within a reasonable period of time. If a public record contains 472
information that is exempt from the duty to permit public 473
inspection or to copy the public record, the public office or 474
the person responsible for the public record shall make 475
available all of the information within the public record that 476

is not exempt. When making that public record available for 477
public inspection or copying that public record, the public 478
office or the person responsible for the public record shall 479
notify the requester of any redaction or make the redaction 480
plainly visible. A redaction shall be deemed a denial of a 481
request to inspect or copy the redacted information, except if 482
federal or state law authorizes or requires a public office to 483
make the redaction. 484

(2) To facilitate broader access to public records, a 485
public office or the person responsible for public records shall 486
organize and maintain public records in a manner that they can 487
be made available for inspection or copying in accordance with 488
division (B) of this section. A public office also shall have 489
available a copy of its current records retention schedule at a 490
location readily available to the public. If a requester makes 491
an ambiguous or overly broad request or has difficulty in making 492
a request for copies or inspection of public records under this 493
section such that the public office or the person responsible 494
for the requested public record cannot reasonably identify what 495
public records are being requested, the public office or the 496
person responsible for the requested public record may deny the 497
request but shall provide the requester with an opportunity to 498
revise the request by informing the requester of the manner in 499
which records are maintained by the public office and accessed 500
in the ordinary course of the public office's or person's 501
duties. 502

(3) If a request is ultimately denied, in part or in 503
whole, the public office or the person responsible for the 504
requested public record shall provide the requester with an 505
explanation, including legal authority, setting forth why the 506
request was denied. If the initial request was provided in 507

writing, the explanation also shall be provided to the requester 508
in writing. The explanation shall not preclude the public office 509
or the person responsible for the requested public record from 510
relying upon additional reasons or legal authority in defending 511
an action commenced under division (C) of this section. 512

(4) Unless specifically required or authorized by state or 513
federal law or in accordance with division (B) of this section, 514
no public office or person responsible for public records may 515
limit or condition the availability of public records by 516
requiring disclosure of the requester's identity or the intended 517
use of the requested public record. Any requirement that the 518
requester disclose the requester's identity or the intended use 519
of the requested public record constitutes a denial of the 520
request. 521

(5) A public office or person responsible for public 522
records may ask a requester to make the request in writing, may 523
ask for the requester's identity, and may inquire about the 524
intended use of the information requested, but may do so only 525
after disclosing to the requester that a written request is not 526
mandatory, that the requester may decline to reveal the 527
requester's identity or the intended use, and when a written 528
request or disclosure of the identity or intended use would 529
benefit the requester by enhancing the ability of the public 530
office or person responsible for public records to identify, 531
locate, or deliver the public records sought by the requester. 532

(6) If any person requests a copy of a public record in 533
accordance with division (B) of this section, the public office 534
or person responsible for the public record may require ~~that~~ 535
~~person~~ the requester to pay in advance the cost involved in 536
providing the copy of the public record in accordance with the 537

choice made by the ~~person requesting the copy requester~~ under 538
this division. The public office or the person responsible for 539
the public record shall permit ~~that person the requester~~ to 540
choose to have the public record duplicated upon paper, upon the 541
same medium upon which the public office or person responsible 542
for the public record keeps it, or upon any other medium upon 543
which the public office or person responsible for the public 544
record determines that it reasonably can be duplicated as an 545
integral part of the normal operations of the public office or 546
person responsible for the public record. When the ~~person~~ 547
~~requesting the copy requester~~ makes a choice under this 548
division, the public office or person responsible for the public 549
record shall provide a copy of it in accordance with the choice 550
made by ~~that person the requester~~. Nothing in this section 551
requires a public office or person responsible for the public 552
record to allow the ~~person requesting requester of~~ a copy of the 553
public record to make the copies of the public record. 554

(7) (a) Upon a request made in accordance with division (B) 555
of this section and subject to division (B) (6) of this section, 556
a public office or person responsible for public records shall 557
transmit a copy of a public record to any person by United 558
States mail or by any other means of delivery or transmission 559
within a reasonable period of time after receiving the request 560
for the copy. The public office or person responsible for the 561
public record may require the person making the request to pay 562
in advance the cost of postage if the copy is transmitted by 563
United States mail or the cost of delivery if the copy is 564
transmitted other than by United States mail, and to pay in 565
advance the costs incurred for other supplies used in the 566
mailing, delivery, or transmission. 567

(b) Any public office may adopt a policy and procedures 568

that it will follow in transmitting, within a reasonable period 569
of time after receiving a request, copies of public records by 570
United States mail or by any other means of delivery or 571
transmission pursuant to division (B) (7) of this section. A 572
public office that adopts a policy and procedures under division 573
(B) (7) of this section shall comply with them in performing its 574
duties under that division. 575

(c) In any policy and procedures adopted under division 576
(B) (7) of this section: 577

(i) A public office may limit the number of records 578
requested by a person that the office will physically deliver by 579
United States mail or by another delivery service to ten per 580
month, unless the person certifies to the office in writing that 581
the person does not intend to use or forward the requested 582
records, or the information contained in them, for commercial 583
purposes; 584

(ii) A public office that chooses to provide some or all 585
of its public records on a web site that is fully accessible to 586
and searchable by members of the public at all times, other than 587
during acts of God outside the public office's control or 588
maintenance, and that charges no fee to search, access, 589
download, or otherwise receive records provided on the web site, 590
may limit to ten per month the number of records requested by a 591
person that the office will deliver in a digital format, unless 592
the requested records are not provided on the web site and 593
unless the person certifies to the office in writing that the 594
person does not intend to use or forward the requested records, 595
or the information contained in them, for commercial purposes. 596

(iii) For purposes of division (B) (7) of this section, 597
"commercial" shall be narrowly construed and does not include 598

reporting or gathering news, reporting or gathering information 599
to assist citizen oversight or understanding of the operation or 600
activities of government, or nonprofit educational research. 601

(8) A public office or person responsible for public 602
records is not required to permit a person who is incarcerated 603
pursuant to a criminal conviction or a juvenile adjudication to 604
inspect or to obtain a copy of any public record concerning a 605
criminal investigation or prosecution or concerning what would 606
be a criminal investigation or prosecution if the subject of the 607
investigation or prosecution were an adult, unless the request 608
to inspect or to obtain a copy of the record is for the purpose 609
of acquiring information that is subject to release as a public 610
record under this section and the judge who imposed the sentence 611
or made the adjudication with respect to the person, or the 612
judge's successor in office, finds that the information sought 613
in the public record is necessary to support what appears to be 614
a justiciable claim of the person. 615

(9) (a) Upon written request made and signed by a 616
journalist, a public office, or person responsible for public 617
records, having custody of the records of the agency employing a 618
specified designated public service worker shall disclose to the 619
journalist the address of the actual personal residence of the 620
designated public service worker and, if the designated public 621
service worker's spouse, former spouse, or child is employed by 622
a public office, the name and address of the employer of the 623
designated public service worker's spouse, former spouse, or 624
child. The request shall include the journalist's name and title 625
and the name and address of the journalist's employer and shall 626
state that disclosure of the information sought would be in the 627
public interest. 628

(b) Division (B) (9) (a) of this section also applies to 629
journalist requests for: 630

(i) Customer information maintained by a municipally owned 631
or operated public utility, other than social security numbers 632
and any private financial information such as credit reports, 633
payment methods, credit card numbers, and bank account 634
information; 635

(ii) Information about minors involved in a school vehicle 636
accident as provided in division (A) (1) (gg) of this section, 637
other than personal information as defined in section 149.45 of 638
the Revised Code. 639

(c) As used in division (B) (9) of this section, 640
"journalist" means a person engaged in, connected with, or 641
employed by any news medium, including a newspaper, magazine, 642
press association, news agency, or wire service, a radio or 643
television station, or a similar medium, for the purpose of 644
gathering, processing, transmitting, compiling, editing, or 645
disseminating information for the general public. 646

(10) Upon a request made by a victim, victim's attorney, 647
or victim's representative, as that term is used in section 648
2930.02 of the Revised Code, a public office or person 649
responsible for public records shall transmit a copy of a 650
depiction of the victim as described in division ~~(A) (1) (gg)~~ (A) 651
(1) (ii) of this section to the victim, victim's attorney, or 652
victim's representative. 653

(C) (1) If a person allegedly is aggrieved by the failure 654
of a public office or the person responsible for public records 655
to promptly prepare a public record and to make it available to 656
the person for inspection in accordance with division (B) of 657

this section or by any other failure of a public office or the 658
person responsible for public records to comply with an 659
obligation in accordance with division (B) of this section, the 660
person allegedly aggrieved may do only one of the following, and 661
not both: 662

(a) File a complaint with the clerk of the court of claims 663
or the clerk of the court of common pleas under section 2743.75 664
of the Revised Code; 665

(b) Commence a mandamus action to obtain a judgment that 666
orders the public office or the person responsible for the 667
public record to comply with division (B) of this section, that 668
awards court costs and reasonable attorney's fees to the person 669
that instituted the mandamus action, and, if applicable, that 670
includes an order fixing statutory damages under division (C) (2) 671
of this section. The mandamus action may be commenced in the 672
court of common pleas of the county in which division (B) of 673
this section allegedly was not complied with, in the supreme 674
court pursuant to its original jurisdiction under Section 2 of 675
Article IV, Ohio Constitution, or in the court of appeals for 676
the appellate district in which division (B) of this section 677
allegedly was not complied with pursuant to its original 678
jurisdiction under Section 3 of Article IV, Ohio Constitution. 679

(2) If a requester transmits a written request by hand 680
delivery, electronic submission, or certified mail to inspect or 681
receive copies of any public record in a manner that fairly 682
describes the public record or class of public records to the 683
public office or person responsible for the requested public 684
records, except as otherwise provided in this section, the 685
requester shall be entitled to recover the amount of statutory 686
damages set forth in this division if a court determines that 687

the public office or the person responsible for public records 688
failed to comply with an obligation in accordance with division 689
(B) of this section. 690

The amount of statutory damages shall be fixed at one 691
hundred dollars for each business day during which the public 692
office or person responsible for the requested public records 693
failed to comply with an obligation in accordance with division 694
(B) of this section, beginning with the day on which the 695
requester files a mandamus action to recover statutory damages, 696
up to a maximum of one thousand dollars. The award of statutory 697
damages shall not be construed as a penalty, but as compensation 698
for injury arising from lost use of the requested information. 699
The existence of this injury shall be conclusively presumed. The 700
award of statutory damages shall be in addition to all other 701
remedies authorized by this section. 702

The court may reduce an award of statutory damages or not 703
award statutory damages if the court determines both of the 704
following: 705

(a) That, based on the ordinary application of statutory 706
law and case law as it existed at the time of the conduct or 707
threatened conduct of the public office or person responsible 708
for the requested public records that allegedly constitutes a 709
failure to comply with an obligation in accordance with division 710
(B) of this section and that was the basis of the mandamus 711
action, a well-informed public office or person responsible for 712
the requested public records reasonably would believe that the 713
conduct or threatened conduct of the public office or person 714
responsible for the requested public records did not constitute 715
a failure to comply with an obligation in accordance with 716
division (B) of this section; 717

(b) That a well-informed public office or person 718
responsible for the requested public records reasonably would 719
believe that the conduct or threatened conduct of the public 720
office or person responsible for the requested public records 721
would serve the public policy that underlies the authority that 722
is asserted as permitting that conduct or threatened conduct. 723

(3) In a mandamus action filed under division (C) (1) of 724
this section, the following apply: 725

(a) (i) If the court orders the public office or the person 726
responsible for the public record to comply with division (B) of 727
this section, the court shall determine and award to the relator 728
all court costs, which shall be construed as remedial and not 729
punitive. 730

(ii) If the court makes a determination described in 731
division (C) (3) (b) (iii) of this section, the court shall 732
determine and award to the relator all court costs, which shall 733
be construed as remedial and not punitive. 734

(b) If the court renders a judgment that orders the public 735
office or the person responsible for the public record to comply 736
with division (B) of this section or if the court determines any 737
of the following, the court may award reasonable attorney's fees 738
to the relator, subject to division (C) (4) of this section: 739

(i) The public office or the person responsible for the 740
public records failed to respond affirmatively or negatively to 741
the public records request in accordance with the time allowed 742
under division (B) of this section. 743

(ii) The public office or the person responsible for the 744
public records promised to permit the relator to inspect or 745
receive copies of the public records requested within a 746

specified period of time but failed to fulfill that promise 747
within that specified period of time. 748

(iii) The public office or the person responsible for the 749
public records acted in bad faith when the office or person 750
voluntarily made the public records available to the relator for 751
the first time after the relator commenced the mandamus action, 752
but before the court issued any order concluding whether or not 753
the public office or person was required to comply with division 754
(B) of this section. No discovery may be conducted on the issue 755
of the alleged bad faith of the public office or person 756
responsible for the public records. This division shall not be 757
construed as creating a presumption that the public office or 758
the person responsible for the public records acted in bad faith 759
when the office or person voluntarily made the public records 760
available to the relator for the first time after the relator 761
commenced the mandamus action, but before the court issued any 762
order described in this division. 763

(c) The court shall not award attorney's fees to the 764
relator if the court determines both of the following: 765

(i) That, based on the ordinary application of statutory 766
law and case law as it existed at the time of the conduct or 767
threatened conduct of the public office or person responsible 768
for the requested public records that allegedly constitutes a 769
failure to comply with an obligation in accordance with division 770
(B) of this section and that was the basis of the mandamus 771
action, a well-informed public office or person responsible for 772
the requested public records reasonably would believe that the 773
conduct or threatened conduct of the public office or person 774
responsible for the requested public records did not constitute 775
a failure to comply with an obligation in accordance with 776

division (B) of this section; 777

(ii) That a well-informed public office or person 778
responsible for the requested public records reasonably would 779
believe that the conduct or threatened conduct of the public 780
office or person responsible for the requested public records 781
would serve the public policy that underlies the authority that 782
is asserted as permitting that conduct or threatened conduct. 783

(4) All of the following apply to any award of reasonable 784
attorney's fees awarded under division (C) (3) (b) of this 785
section: 786

(a) The fees shall be construed as remedial and not 787
punitive. 788

(b) The fees awarded shall not exceed the total of the 789
reasonable attorney's fees incurred before the public record was 790
made available to the relator and the fees described in division 791
(C) (4) (c) of this section. 792

(c) Reasonable attorney's fees shall include reasonable 793
fees incurred to produce proof of the reasonableness and amount 794
of the fees and to otherwise litigate entitlement to the fees. 795

(d) The court may reduce the amount of fees awarded if the 796
court determines that, given the factual circumstances involved 797
with the specific public records request, an alternative means 798
should have been pursued to more effectively and efficiently 799
resolve the dispute that was subject to the mandamus action 800
filed under division (C) (1) of this section. 801

(5) If the court does not issue a writ of mandamus under 802
division (C) of this section and the court determines at that 803
time that the bringing of the mandamus action was frivolous 804
conduct as defined in division (A) of section 2323.51 of the 805

Revised Code, the court may award to the public office all court 806
costs, expenses, and reasonable attorney's fees, as determined 807
by the court. 808

(D) Chapter 1347. of the Revised Code does not limit the 809
provisions of this section. 810

(E) (1) To ensure that all employees of public offices are 811
appropriately educated about a public office's obligations under 812
division (B) of this section, all elected officials or their 813
appropriate designees shall attend training approved by the 814
attorney general as provided in section 109.43 of the Revised 815
Code. A future official may satisfy the requirements of this 816
division by attending the training before taking office, 817
provided that the future official may not send a designee in the 818
future official's place. 819

(2) All public offices shall adopt a public records policy 820
in compliance with this section for responding to public records 821
requests. In adopting a public records policy under this 822
division, a public office may obtain guidance from the model 823
public records policy developed and provided to the public 824
office by the attorney general under section 109.43 of the 825
Revised Code. Except as otherwise provided in this section, the 826
policy may not limit the number of public records that the 827
public office will make available to a single person, may not 828
limit the number of public records that it will make available 829
during a fixed period of time, and may not establish a fixed 830
period of time before it will respond to a request for 831
inspection or copying of public records, unless that period is 832
less than eight hours. 833

The public office shall distribute the public records 834
policy adopted by the public office under this division to the 835

employee of the public office who is the records custodian or 836
records manager or otherwise has custody of the records of that 837
office. The public office shall require that employee to 838
acknowledge receipt of the copy of the public records policy. 839
The public office shall create a poster that describes its 840
public records policy and shall post the poster in a conspicuous 841
place in the public office and in all locations where the public 842
office has branch offices. The public office may post its public 843
records policy on the internet web site of the public office if 844
the public office maintains an internet web site. A public 845
office that has established a manual or handbook of its general 846
policies and procedures for all employees of the public office 847
shall include the public records policy of the public office in 848
the manual or handbook. 849

(F) (1) The bureau of motor vehicles may adopt rules 850
pursuant to Chapter 119. of the Revised Code to reasonably limit 851
the number of bulk commercial special extraction requests made 852
by a person for the same records or for updated records during a 853
calendar year. The rules may include provisions for charges to 854
be made for bulk commercial special extraction requests for the 855
actual cost of the bureau, plus special extraction costs, plus 856
ten per cent. The bureau may charge for expenses for redacting 857
information, the release of which is prohibited by law. 858

(2) As used in division (F) (1) of this section: 859

(a) "Actual cost" means the cost of depleted supplies, 860
records storage media costs, actual mailing and alternative 861
delivery costs, or other transmitting costs, and any direct 862
equipment operating and maintenance costs, including actual 863
costs paid to private contractors for copying services. 864

(b) "Bulk commercial special extraction request" means a 865

request for copies of a record for information in a format other 866
than the format already available, or information that cannot be 867
extracted without examination of all items in a records series, 868
class of records, or database by a person who intends to use or 869
forward the copies for surveys, marketing, solicitation, or 870
resale for commercial purposes. "Bulk commercial special 871
extraction request" does not include a request by a person who 872
gives assurance to the bureau that the person making the request 873
does not intend to use or forward the requested copies for 874
surveys, marketing, solicitation, or resale for commercial 875
purposes. 876

(c) "Commercial" means profit-seeking production, buying, 877
or selling of any good, service, or other product. 878

(d) "Special extraction costs" means the cost of the time 879
spent by the lowest paid employee competent to perform the task, 880
the actual amount paid to outside private contractors employed 881
by the bureau, or the actual cost incurred to create computer 882
programs to make the special extraction. "Special extraction 883
costs" include any charges paid to a public agency for computer 884
or records services. 885

(3) For purposes of divisions (F) (1) and (2) of this 886
section, "surveys, marketing, solicitation, or resale for 887
commercial purposes" shall be narrowly construed and does not 888
include reporting or gathering news, reporting or gathering 889
information to assist citizen oversight or understanding of the 890
operation or activities of government, or nonprofit educational 891
research. 892

(G) A request by a defendant, counsel of a defendant, or 893
any agent of a defendant in a criminal action that public 894
records related to that action be made available under this 895

section shall be considered a demand for discovery pursuant to 896
the Criminal Rules, except to the extent that the Criminal Rules 897
plainly indicate a contrary intent. The defendant, counsel of 898
the defendant, or agent of the defendant making a request under 899
this division shall serve a copy of the request on the 900
prosecuting attorney, director of law, or other chief legal 901
officer responsible for prosecuting the action. 902

(H) (1) Any portion of a body-worn camera or dashboard 903
camera recording described in divisions (A) (17) (b) to (h) of 904
this section may be released by consent of the subject of the 905
recording or a representative of that person, as specified in 906
those divisions, only if either of the following applies: 907

(a) The recording will not be used in connection with any 908
probable or pending criminal proceedings; 909

(b) The recording has been used in connection with a 910
criminal proceeding that was dismissed or for which a judgment 911
has been entered pursuant to Rule 32 of the Rules of Criminal 912
Procedure, and will not be used again in connection with any 913
probable or pending criminal proceedings. 914

(2) If a public office denies a request to release a 915
restricted portion of a body-worn camera or dashboard camera 916
recording, as defined in division (A) (17) of this section, any 917
person may file a mandamus action pursuant to this section or a 918
complaint with the clerk of the court of claims pursuant to 919
section 2743.75 of the Revised Code, requesting the court to 920
order the release of all or portions of the recording. If the 921
court considering the request determines that the filing 922
articulates by clear and convincing evidence that the public 923
interest in the recording substantially outweighs privacy 924
interests and other interests asserted to deny release, the 925

court shall order the public office to release the recording. 926

Section 2. That existing section 149.43 of the Revised 927
Code is hereby repealed. 928