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136th General Assembly
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Sub. H. B. No. 314

To amend section 149.43 of the Revised Code to 1
restrict harassing or disruptive public records 2
requests and permit private contractors to 3
respond to voluminous public records requests. 4

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

Section 1. That section 149.43 of the Revised Code be 5
amended to read as follows: 6

Sec. 149.43. (A) As used in this section: 7

(1) "Public record" means records kept by any public 8
office, including, but not limited to, state, county, city, 9
village, township, and school district units, and records 10
pertaining to the delivery of educational services by an 11
alternative school in this state kept by the nonprofit or for- 12
profit entity operating the alternative school pursuant to 13
section 3313.533 of the Revised Code. "Public record" does not 14
mean any of the following: 15

(a) Medical records; 16

(b) Records pertaining to probation and parole 17
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 children and youth or, pursuant to section 3111.69 32
of the Revised Code, the office of child support in the 33
department of job and family services or a child support 34
enforcement agency; 35

(f) Records specified in division (A) of section 3107.52 36
of the Revised Code; 37

(g) Trial preparation records, prior to the conclusion of 38
all direct appeals or, if no appeal is filed, prior to the 39
expiration of the time during which an appeal may be filed, or, 40
if no trial has occurred, until the civil or criminal action or 41
proceeding has ended without the possibility of direct appeal or 42
each agency, office, or official responsible for the matter has 43
made a decision not to proceed with the matter; 44

(h) Confidential law enforcement investigatory records; 45

(i) Records containing information that is confidential 46
under section 2710.03 or 4112.05 of the Revised Code; 47

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	48 49
(k) Inmate records under section 5120.21 of the Revised Code, except for permitted disclosure of the information listed in division (E)(1) of that section;	50 51 52
(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;	53 54 55 56
(m) Intellectual property records;	57
(n) Donor profile records;	58
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	59 60
(p) Designated public service worker residential and familial information;	61 62
(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;	63 64 65 66 67
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	68 69
(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	70 71 72 73 74 75

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

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

(u) Test materials, examinations, or evaluation tools used 87
in an examination for licensure as a nursing home administrator 88
that the board of executives of long-term services and supports 89
administers under section 4751.15 of the Revised Code or 90
contracts under that section with a private or government entity 91
to administer; 92

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

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

(x) Financial statements and data any person submits for 98
any purpose to the Ohio housing finance agency or the 99
controlling board in connection with applying for, receiving, or 100
accounting for financial assistance from the agency, and 101
information that identifies any individual who benefits directly 102
or indirectly from financial assistance from the agency; 103

(y) Records listed in section 5101.29 of the Revised Code; 104

(z) Discharges recorded with a county recorder under	105
section 317.24 of the Revised Code, as specified in division (B)	106
(2) of that section;	107
(aa) Usage information including names and addresses of	108
specific residential and commercial customers of a municipally	109
owned or operated public utility;	110
(bb) Records described in division (C) of section 187.04	111
of the Revised Code that are not designated to be made available	112
to the public as provided in that division;	113
(cc) Information and records that are made confidential,	114
privileged, and not subject to disclosure under divisions (B)	115
and (C) of section 2949.221 of the Revised Code;	116
(dd) Personal information, as defined in section 149.45 of	117
the Revised Code;	118
(ee) The confidential name, address, and other personally	119
identifiable information of a program participant in the address	120
confidentiality program established under sections 111.41 to	121
111.47 of the Revised Code, including the contents of any	122
application for absent voter's ballots, absent voter's ballot	123
identification envelope statement of voter, or provisional	124
ballot affirmation completed by a program participant who has a	125
confidential voter registration record; records or portions of	126
records pertaining to that program that identify the number of	127
program participants that reside within a precinct, ward,	128
township, municipal corporation, county, or any other geographic	129
area smaller than the state; and any real property	130
confidentiality notice filed under section 111.431 of the	131
Revised Code and the information described in division (C) of	132
that section. As used in this division, "confidential address"	133

and "program participant" have the meaning defined in section 134
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

(ii) Any depiction by photograph, film, videotape, or 153
printed or digital image under either of the following 154
circumstances: 155

(i) The depiction is that of a victim of an offense the 156
release of which would be, to a reasonable person of ordinary 157
sensibilities, an offensive and objectionable intrusion into the 158
victim's expectation of bodily privacy and integrity. 159

(ii) The depiction captures or depicts the victim of a 160
sexually oriented offense, as defined in section 2950.01 of the 161
Revised Code, at the actual occurrence of that offense. 162

(jj) Restricted portions of a body-worn camera or dashboard camera recording;	163 164
(kk) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's 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.	165 166 167 168 169 170 171 172 173
(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 5180.27 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 5180.277 of the Revised Code;	174 175 176 177 178 179 180
(mm) Except as otherwise provided in division (A) (1) (oo) of this section, telephone numbers for a victim, as defined in section 2930.01 of the Revised Code or a witness to a crime that are listed on any law enforcement record or report.	181 182 183 184
(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised Code.	185 186 187 188 189 190 191

(oo) Telephone numbers for a party to a motor vehicle 192
accident subject to the requirements of section 5502.11 of the 193
Revised Code that are listed on any law enforcement record or 194
report, except that the telephone numbers described in this 195
division are not excluded from the definition of "public record" 196
under this division on and after the thirtieth day after the 197
occurrence of the motor vehicle accident. 198

(pp) Records pertaining to individuals who complete 199
training under section 5502.703 of the Revised Code to be 200
permitted by a school district board of education or governing 201
body of a community school established under Chapter 3314. of 202
the Revised Code, a STEM school established under Chapter 3326. 203
of the Revised Code, or a chartered nonpublic school to convey 204
deadly weapons or dangerous ordnance into a school safety zone; 205

(qq) Records, documents, reports, or other information 206
presented to a domestic violence fatality review board 207
established under section 307.651 of the Revised Code, 208
statements made by board members during board meetings, all work 209
products of the board, and data submitted by the board to the 210
department of health, other than a report prepared pursuant to 211
section 307.656 of the Revised Code; 212

(rr) Records, documents, and information the release of 213
which is prohibited under sections 2930.04 and 2930.07 of the 214
Revised Code; 215

(ss) Records of an existing qualified nonprofit 216
corporation that creates a special improvement district under 217
Chapter 1710. of the Revised Code that do not pertain to a 218
purpose for which the district is created; 219

(tt) Educational support services data, as defined in 220

section 3319.325 of the Revised Code;	221
(uu) Records of the past, current, and future work schedule of a designated public service worker. As used in division (A)(1)(uu) of this section, "work schedule" does not include the docket of cases of a court, judge, or magistrate;	222 223 224 225
(vv) A request form or confirmation letter submitted to a public office under section 149.45 of the Revised Code;	226 227
(ww) An affidavit or confirmation letter submitted under section 319.28 of the Revised Code;	228 229
(xx) License or certificate application or renewal responses and supporting documentation submitted to the state medical board regarding an applicant's, or a license or certificate holder's, inability to practice according to acceptable and prevailing standards of care by reason of a medical condition;	230 231 232 233 234 235
(yy) Images and data captured by an automated license plate recognition system that are maintained in a law enforcement database;	236 237 238
(zz) Attorney work product record;	239
(aaa) Any entry on the public calendar of an elected official that is for any date that is after the date the record is requested;	240 241 242
(bbb) Records pertaining to burial sites under section 149.3010 of the Revised Code;	243 244
<u>(ccc) Documentary evidence provided in response to a request for such evidence made under division (B)(11) of this section;</u>	245 246 247

(ddd) The electronic mail address, kept by a school 248
district, educational service center, or public school as 249
defined in section 3301.0711 of the Revised Code, of any current 250
or former student of the district, center, or school or the 251
parent or legal guardian of any such student. 252

A record that is not a public record under division (A) (1) 253
of this section and that, under law, is permanently retained 254
becomes a public record on the day that is seventy-five years 255
after the day on which the record was created, or in the case of 256
a record that is not a public record under division (A) (1) (uu) 257
of this section that is retained, three years after the day on 258
which the record was created, except for any record protected by 259
the attorney-client privilege, a trial preparation record as 260
defined in this section, a statement prohibiting the release of 261
identifying information signed under section 3107.083 of the 262
Revised Code, a denial of release form filed pursuant to section 263
3107.46 of the Revised Code, records pertaining to burial sites 264
under section 149.3010 of the Revised Code, or any record that 265
is exempt from release or disclosure under section 149.433 of 266
the Revised Code. If the record is a birth certificate and a 267
biological parent's name redaction request form has been 268
accepted under section 3107.391 of the Revised Code, the name of 269
that parent shall be redacted from the birth certificate before 270
it is released under this paragraph. If any other section of the 271
Revised Code establishes a time period for disclosure of a 272
record that conflicts with the time period specified in this 273
section, the time period in the other section prevails. 274

(2) (a) "Confidential law enforcement investigatory record" 275
means any record that pertains to a law enforcement matter of a 276
criminal, quasi-criminal, civil, or administrative nature, but 277
only to the extent that the release of the record would create a 278

high probability of disclosure of any of the following:	279
(i) The identity of a suspect who has not been charged	280
with the offense to which the record pertains, or of an	281
information source or witness to whom confidentiality has been	282
reasonably promised;	283
(ii) Information provided by an information source or	284
witness to whom confidentiality has been reasonably promised,	285
which information would reasonably tend to disclose the source's	286
or witness's identity;	287
(iii) Specific confidential investigatory techniques or	288
procedures or specific investigatory work product;	289
(iv) Information that would endanger the life or physical	290
safety of law enforcement personnel, a crime victim, a witness,	291
or a confidential information source.	292
(b) As used in divisions (A) (2) and (18) of this section,	293
"specific investigatory work product" means information	294
assembled by law enforcement officials in connection with a	295
probable or pending criminal or civil proceeding, with the	296
exception of routine incident reports. "Specific investigatory	297
work product" is not a public record prior to the conclusion of	298
all direct appeals, or, if no appeal is filed, prior to the	299
expiration of the time during which an appeal may be filed, or,	300
if no trial has occurred, until the criminal or civil proceeding	301
has ended without possibility of direct appeal or each agency,	302
office, or official responsible for the matter has made a	303
decision not to proceed with the matter.	304
(3) "Medical record" means any document or combination of	305
documents, except births, deaths, and the fact of admission to	306
or discharge from a hospital, that pertains to the medical	307

history, diagnosis, prognosis, or medical condition of a patient 308
and that is generated and maintained in the process of medical 309
treatment. 310

(4) "Trial preparation record" means any record created by 311
or for another party or by or for that party's representative, 312
in reasonable anticipation of, or in defense of, a civil or 313
criminal action or proceeding, that is not a confidential law 314
enforcement investigatory record or attorney work product record 315
and that contains factual information that is specifically 316
compiled for that civil or criminal action or proceeding. 317

(5) "Intellectual property record" means a record, other 318
than a financial or administrative record, that is produced or 319
collected by or for faculty or staff of a state institution of 320
higher learning in the conduct of or as a result of study or 321
research on an educational, commercial, scientific, artistic, 322
technical, or scholarly issue, regardless of whether the study 323
or research was sponsored by the institution alone or in 324
conjunction with a governmental body or private concern, and 325
that has not been publicly released, published, or patented. 326

(6) "Donor profile record" means all records about donors 327
or potential donors to a public institution of higher education 328
except the names and reported addresses of the actual donors and 329
the date, amount, and conditions of the actual donation. 330

(7) "Designated public service worker" means a peace 331
officer, parole officer, probation officer, bailiff, prosecuting 332
attorney, assistant prosecuting attorney, correctional employee, 333
county or multicounty corrections officer, community-based 334
correctional facility employee, designated Ohio national guard 335
member, protective services worker, youth services employee, 336
firefighter, EMT, medical director or member of a cooperating 337

physician advisory board of an emergency medical service 338
organization, state board of pharmacy employee, investigator of 339
the bureau of criminal identification and investigation, 340
emergency service telecommunicator, forensic mental health 341
provider, mental health evaluation provider, regional 342
psychiatric hospital employee, judge, magistrate, or federal law 343
enforcement officer. 344

(8) "Designated public service worker residential and 345
familial information" means any information that discloses any 346
of the following about a designated public service worker: 347

(a) The address of the actual personal residence of a 348
designated public service worker, except for the following 349
information: 350

(i) The address of the actual personal residence of a 351
prosecuting attorney or judge; and 352

(ii) The state or political subdivision in which a 353
designated public service worker resides. 354

(b) Information compiled from referral to or participation 355
in an employee assistance program; 356

(c) The social security number, the residential telephone 357
number, any bank account, debit card, charge card, or credit 358
card number, or the emergency telephone number of, or any 359
medical information pertaining to, a designated public service 360
worker; 361

(d) The name of any beneficiary of employment benefits, 362
including, but not limited to, life insurance benefits, provided 363
to a designated public service worker by the designated public 364
service worker's employer; 365

(e) The identity and amount of any charitable or 366
employment benefit deduction made by the designated public 367
service worker's employer from the designated public service 368
worker's compensation, unless the amount of the deduction is 369
required by state or federal law; 370

(f) The name, the residential address, the name of the 371
employer, the address of the employer, the social security 372
number, the residential telephone number, any bank account, 373
debit card, charge card, or credit card number, or the emergency 374
telephone number of the spouse, a former spouse, or any child of 375
a designated public service worker; 376

(g) A photograph of a peace officer who holds a position 377
or has an assignment that may include undercover or plain 378
clothes positions or assignments as determined by the peace 379
officer's appointing authority. 380

(9) As used in divisions (A) (7) and (15) to (17) of this 381
section: 382

"Peace officer" has the meaning defined in section 109.71 383
of the Revised Code and also includes the superintendent and 384
troopers of the state highway patrol; it does not include the 385
sheriff of a county or a supervisory employee who, in the 386
absence of the sheriff, is authorized to stand in for, exercise 387
the authority of, and perform the duties of the sheriff. 388

"Correctional employee" means any employee of the 389
department of rehabilitation and correction who in the course of 390
performing the employee's job duties has or has had contact with 391
inmates and persons under supervision. 392

"County or multicounty corrections officer" means any 393
corrections officer employed by any county or multicounty 394

correctional facility. 395

"Designated Ohio national guard member" means a member of 396
the Ohio national guard who is participating in duties related 397
to remotely piloted aircraft, including, but not limited to, 398
pilots, sensor operators, and mission intelligence personnel, 399
duties related to special forces operations, or duties related 400
to cybersecurity, and is designated by the adjutant general as a 401
designated public service worker for those purposes. 402

"Protective services worker" means any employee of a 403
county agency who is responsible for child protective services, 404
child support services, or adult protective services. 405

"Youth services employee" means any employee of the 406
department of youth services who in the course of performing the 407
employee's job duties has or has had contact with children 408
committed to the custody of the department of youth services. 409

"Firefighter" means any regular, paid or volunteer, member 410
of a lawfully constituted fire department of a municipal 411
corporation, township, fire district, or village. 412

"EMT" means EMTs-basic, EMTs-I, and paramedics that 413
provide emergency medical services for a public emergency 414
medical service organization. "Emergency medical service 415
organization," "EMT-basic," "EMT-I," and "paramedic" have the 416
meanings defined in section 4765.01 of the Revised Code. 417

"Investigator of the bureau of criminal identification and 418
investigation" has the meaning defined in section 2903.11 of the 419
Revised Code. 420

"Emergency service telecommunicator" means an individual 421
employed by an emergency service provider as defined under 422
section 128.01 of the Revised Code, whose primary responsibility 423

is to be an operator for the receipt or processing of calls for 424
emergency services made by telephone, radio, or other electronic 425
means. 426

"Forensic mental health provider" means any employee of a 427
community mental health service provider or local alcohol, drug 428
addiction, and mental health services board who, in the course 429
of the employee's duties, has contact with persons committed to 430
a local alcohol, drug addiction, and mental health services 431
board by a court order pursuant to section 2945.38, 2945.39, 432
2945.40, or 2945.402 of the Revised Code. 433

"Mental health evaluation provider" means an individual 434
who, under Chapter 5122. of the Revised Code, examines a 435
respondent who is alleged to be a mentally ill person subject to 436
court order, as defined in section 5122.01 of the Revised Code, 437
and reports to the probate court the respondent's mental 438
condition. 439

"Regional psychiatric hospital employee" means any 440
employee of the department of ~~mental health and addiction-~~ 441
~~services~~ behavioral health who, in the course of performing the 442
employee's duties, has contact with patients committed to the 443
department of ~~mental health and addiction services~~ behavioral 444
health by a court order pursuant to section 2945.38, 2945.39, 445
2945.40, or 2945.402 of the Revised Code. 446

"Federal law enforcement officer" has the meaning defined 447
in section 9.88 of the Revised Code. 448

(10) "Information pertaining to the recreational 449
activities of a person under the age of eighteen" means 450
information that is kept in the ordinary course of business by a 451
public office, that pertains to the recreational activities of a 452

person under the age of eighteen years, and that discloses any 453
of the following: 454

(a) The address or telephone number of a person under the 455
age of eighteen or the address or telephone number of that 456
person's parent, guardian, custodian, or emergency contact 457
person; 458

(b) The social security number, birth date, or 459
photographic image of a person under the age of eighteen; 460

(c) Any medical record, history, or information pertaining 461
to a person under the age of eighteen; 462

(d) Any additional information sought or required about a 463
person under the age of eighteen for the purpose of allowing 464
that person to participate in any recreational activity 465
conducted or sponsored by a public office or to use or obtain 466
admission privileges to any recreational facility owned or 467
operated by a public office. 468

(11) "Community control sanction" has the meaning defined 469
in section 2929.01 of the Revised Code. 470

(12) "Post-release control sanction" has the meaning 471
defined in section 2967.01 of the Revised Code. 472

(13) "Redaction" means obscuring or deleting any 473
information that is exempt from the duty to permit public 474
inspection or copying from an item that otherwise meets the 475
definition of a "record" in section 149.011 of the Revised Code. 476

(14) "Designee," "elected official," and "future official" 477
have the meanings defined in section 109.43 of the Revised Code. 478

(15) "Body-worn camera" means a visual and audio recording 479
device worn on the person of a correctional employee, youth 480

services employee, or peace officer while the correctional 481
employee, youth services employee, or peace officer is engaged 482
in the performance of official duties. 483

(16) "Dashboard camera" means a visual and audio recording 484
device mounted on a peace officer's vehicle or vessel that is 485
used while the peace officer is engaged in the performance of 486
the peace officer's duties. 487

(17) "Restricted portions of a body-worn camera or 488
dashboard camera recording" means any visual or audio portion of 489
a body-worn camera or dashboard camera recording that shows, 490
communicates, or discloses any of the following: 491

(a) The image or identity of a child or information that 492
could lead to the identification of a child who is a primary 493
subject of the recording when the department of rehabilitation 494
and correction, department of youth services, or the law 495
enforcement agency knows or has reason to know the person is a 496
child based on the department's or law enforcement agency's 497
records or the content of the recording; 498

(b) The death of a person or a deceased person's body, 499
unless the death was caused by a correctional employee, youth 500
services employee, or peace officer or, subject to division (H) 501
(1) of this section, the consent of the decedent's executor or 502
administrator has been obtained; 503

(c) The death of a correctional employee, youth services 504
employee, peace officer, firefighter, paramedic, or other first 505
responder, occurring while the decedent was engaged in the 506
performance of official duties, unless, subject to division (H) 507
(1) of this section, the consent of the decedent's executor or 508
administrator has been obtained; 509

(d) Grievous bodily harm, unless the injury was effected 510
by a correctional employee, youth services employee, or peace 511
officer or, subject to division (H) (1) of this section, the 512
consent of the injured person or the injured person's guardian 513
has been obtained; 514

(e) An act of severe violence against a person that 515
results in serious physical harm to the person, unless the act 516
and injury was effected by a correctional employee, youth 517
services employee, or peace officer or, subject to division (H) 518
(1) of this section, the consent of the injured person or the 519
injured person's guardian has been obtained; 520

(f) Grievous bodily harm to a correctional employee, youth 521
services employee, peace officer, firefighter, paramedic, or 522
other first responder, occurring while the injured person was 523
engaged in the performance of official duties, unless, subject 524
to division (H) (1) of this section, the consent of the injured 525
person or the injured person's guardian has been obtained; 526

(g) An act of severe violence resulting in serious 527
physical harm against a correctional employee, youth services 528
employee, peace officer, firefighter, paramedic, or other first 529
responder, occurring while the injured person was engaged in the 530
performance of official duties, unless, subject to division (H) 531
(1) of this section, the consent of the injured person or the 532
injured person's guardian has been obtained; 533

(h) A person's nude body, unless, subject to division (H) 534
(1) of this section, the person's consent has been obtained; 535

(i) Protected health information, the identity of a person 536
in a health care facility who is not the subject of a 537
correctional, youth services, or law enforcement encounter, or 538

any other information in a health care facility that could 539
identify a person who is not the subject of a correctional, 540
youth services, or law enforcement encounter; 541

(j) Information that could identify the alleged victim of 542
a sex offense, menacing by stalking, or domestic violence; 543

(k) Information, that does not constitute a confidential 544
law enforcement investigatory record, that could identify a 545
person who provides sensitive or confidential information to the 546
department of rehabilitation and correction, the department of 547
youth services, or a law enforcement agency when the disclosure 548
of the person's identity or the information provided could 549
reasonably be expected to threaten or endanger the safety or 550
property of the person or another person; 551

(l) Personal information of a person who is not arrested, 552
cited, charged, or issued a written warning by a peace officer; 553

(m) Proprietary correctional, youth services, or police 554
contingency plans or tactics that are intended to prevent crime 555
and maintain public order and safety; 556

(n) A personal conversation unrelated to work between 557
correctional employees, youth services employees, or peace 558
officers or between a correctional employee, youth services 559
employee, or peace officer and an employee of a law enforcement 560
agency; 561

(o) A conversation between a correctional employee, youth 562
services employee, or peace officer and a member of the public 563
that does not concern correctional, youth services, or law 564
enforcement activities; 565

(p) The interior of a residence, unless the interior of a 566
residence is the location of an adversarial encounter with, or a 567

use of force by, a correctional employee, youth services 568
employee, or peace officer; 569

(q) Any portion of the interior of a private business that 570
is not open to the public, unless an adversarial encounter with, 571
or a use of force by, a correctional employee, youth services 572
employee, or peace officer occurs in that location. 573

As used in division (A) (17) of this section: 574

"Grievous bodily harm" has the same meaning as in section 575
5924.120 of the Revised Code. 576

"Health care facility" has the same meaning as in section 577
1337.11 of the Revised Code. 578

"Protected health information" has the same meaning as in 579
45 C.F.R. 160.103. 580

"Law enforcement agency" means a government entity that 581
employs peace officers to perform law enforcement duties. 582

"Personal information" means any government-issued 583
identification number, date of birth, address, financial 584
information, or criminal justice information from the law 585
enforcement automated data system or similar databases. 586

"Sex offense" has the same meaning as in section 2907.10 587
of the Revised Code. 588

"Firefighter," "paramedic," and "first responder" have the 589
same meanings as in section 4765.01 of the Revised Code. 590

(18) "Attorney work product record" means a record that is 591
not specific investigatory work product or a trial preparation 592
record and that is created by an attorney, or by the agent of an 593
attorney, in reasonable anticipation of or for litigation, 594

trial, or administrative proceedings, when acting in an official 595
capacity on behalf of the state, a political subdivision of the 596
state, a state agency, a public official, or a public employee, 597
that documents the independent thought processes, mental 598
impressions, legal theories, strategies, analysis, or reasoning 599
of an attorney or the agent of an attorney. 600

(19) "Elected official" means a person who is elected or 601
appointed to an elective office of the state or a political 602
subdivision. 603

(20) "Public calendar" means a calendar or appointment 604
book maintained by an elected official to schedule the elected 605
official's activities in relation to the elected official's 606
position as an elected official. "Public calendar" does not 607
include a personal calendar or appointment book maintained 608
solely for an elected official's personal convenience that does 609
not serve to document the elected official's official activities 610
or functions or the official activities or functions of the 611
elected official's public office. 612

(21) "Public defender" means an attorney employed by a 613
public defender's office or who is selected or appointed 614
pursuant to section 120.33 of the Revised Code. 615

(22) "Political subdivision" means a municipal 616
corporation, township, county, school district, or other body 617
corporate and politic responsible for governmental activities in 618
a geographic area smaller than that of the state. 619

(23) "Hours to produce" means the total number of hours, 620
rounded up or down to the nearest full hour, worked by employees 621
of a public office or person responsible for public records, or, 622
if applicable, a private contractor engaged under division (B) 623

(6) (b) (i) of this section, in compiling and making necessary 624
redactions to records in preparation for production. "Hours to 625
produce" does not include time spent seeking or creating legal 626
advice. 627

~~(B) (1)~~ (B) (1) (a) Upon request by any person and subject to 628
division (B) (8) of this section, all public records responsive 629
to the request shall be promptly prepared and made available for 630
inspection to the requester at all reasonable times during 631
regular business hours. Subject to ~~division~~ divisions (B) (1) (b) 632
and (B) (8) of this section, upon request by any person, a public 633
office or person responsible for public records shall make 634
copies of the requested public record available to the requester 635
at cost and within a reasonable period of time. 636

When considering whether a public office or person 637
responsible for public records prepared a record for inspection 638
or produced copies of a requested record within a reasonable 639
period of time, a court shall not consider whether engaging a 640
private contractor under division (B) (6) (b) (i) of this section 641
would have resulted in the faster preparation or production of 642
records. 643

When considering whether a state or local law enforcement 644
agency or a prosecuting attorney's office promptly prepared a 645
video record for inspection or produced a copy of a video record 646
within a reasonable period of time, in addition to any other 647
factors, a court shall consider the time required for a state or 648
local law enforcement agency or a prosecuting attorney's office 649
to retrieve, download, review, redact, seek legal advice 650
regarding, and produce the video record. Except as specified in 651
division (B) (11) of this section, notwithstanding any other 652
requirement set forth in Chapter 149. of the Revised Code, a 653

state or local law enforcement agency or a prosecuting attorney's office may charge a requester the actual cost associated with preparing a video record for inspection or production, not to exceed seventy-five dollars per hour of video produced, nor seven hundred fifty dollars total. As used in this division, "actual cost," with respect to video records only, means all costs incurred by the state or local law enforcement agency or a prosecuting attorney's office in reviewing, blurring or otherwise obscuring, redacting, uploading, or producing the video records, including but not limited to the storage medium on which the record is produced, staff time, and any other relevant overhead necessary to comply with the request. A state or local law enforcement agency or a prosecuting attorney's office may include in its public records policy the requirement that a requester pay the estimated actual cost before beginning the process of preparing a video record for inspection or production. Where a state or local law enforcement agency or a prosecuting attorney's office imposes such a requirement, its obligation to produce a video or make it available for inspection begins once the estimated actual cost is paid in full by the requester. A state or local law enforcement agency or a prosecuting attorney's office shall provide the requester with the estimated actual cost within five business days of receipt of the public records request. If the actual cost exceeds the estimated actual cost, a state or local law enforcement agency or a prosecuting attorney's office may charge a requester for the difference upon fulfilling a request for video records if the requester is notified in advance that the actual cost may be up to twenty per cent higher than the estimated actual cost. A state or local law enforcement agency or a prosecuting attorney's office shall not charge a requester a difference that exceeds twenty per cent of the estimated actual cost.

If a public record contains information that is exempt 686
from the duty to permit public inspection or to copy the public 687
record, the public office or the person responsible for the 688
public record shall make available all of the information within 689
the public record that is not exempt. When making that public 690
record available for public inspection or copying that public 691
record, the public office or the person responsible for the 692
public record shall notify the requester of any redaction or 693
make the redaction plainly visible. A redaction shall be deemed 694
a denial of a request to inspect or copy the redacted 695
information, except if federal or state law authorizes or 696
requires a public office to make the redaction. When the auditor 697
of state receives a request to inspect or to make a copy of a 698
record that was provided to the auditor of state for purposes of 699
an audit, but the original public office has asserted to the 700
auditor of state that the record is not a public record, the 701
auditor of state may handle the requests by directing the 702
requestor to the original public office that provided the record 703
to the auditor of state. 704

(b) If the public office or person responsible for public 705
records is a political subdivision, the office or person may, 706
instead of making copies of requested records available at cost, 707
charge a fee based on the total number of hours to produce on a 708
per-request basis, as follows: 709

	1	2
A	<u>Requests that require 1 to 10</u> <u>hours</u>	<u>No charge</u>
B	<u>Requests that require 11 to 20</u>	<u>Up to \$25</u>

710

	<u>hours</u>	
C	<u>Requests that require 21 to 30</u> <u>hours</u>	<u>Up to \$50</u>
D	<u>Requests that require 31 to 40</u> <u>hours</u>	<u>Up to \$100</u>
E	<u>Requests that require more than</u> <u>40 hours</u>	<u>Up to \$200</u>

If the office or person has a reasonable basis to suspect 711
that a requester has submitted multiple requests for copies of 712
related records in an attempt to avoid the fee if the requests 713
had been submitted as a single request, the office or person may 714
combine the total cost to produce each individual request in 715
calculating the fee to be charged to that requester under this 716
division. 717

(c) (i) A public office or person responsible for public 718
records that adopts a fee schedule pursuant to division (B) (1) 719
(b) of this section shall provide each requester with an 720
estimate of the fee and provide the requester an opportunity to 721
amend or cancel the request. 722

(ii) A public office or person responsible for public 723
records that adopts a fee schedule pursuant to division (B) (1) 724
(b) of this section shall require a requester to provide payment 725
before releasing any requested public records. 726

(iii) A requester that cancels a request pursuant to 727
division (B) (1) (c) (i) of this section after the request has been 728
prepared, or that fails to provide payment pursuant to division 729
(B) (1) (c) (ii) of this section, shall not have subsequent 730

requests fulfilled until payments due under those divisions have 731
been made. 732

(d) (i) A public office or person responsible for public 733
records shall not require the payment of fees adopted under 734
division (B) (1) (b) of this section if the requester is a person 735
listed under division (B) (2) (c) (v) of this section. 736

(ii) Division (B) (1) (d) (i) of this section does not apply 737
to a request submitted by an anonymous requester. 738

(e) A local law enforcement agency or a prosecuting 739
attorney's office that has adopted fees pursuant to division (B) 740
(1) (a) of this section with regard to video records shall not, 741
in calculating a requester's total annual hours to produce or 742
the hours to produce a given request under division (B) (1) (b) of 743
this section, consider the time spent preparing or producing 744
video records. 745

~~(2)~~ (2) (a) To facilitate broader access to public records, 746
a public office or the person responsible for public records 747
shall organize and maintain public records in a manner that they 748
can be made available for inspection or copying in accordance 749
with division (B) of this section. A public office also shall 750
have available a copy of its current records retention schedule 751
at a location readily available to the public. 752

(b) If a requester makes an ambiguous or overly broad 753
request or has difficulty in making a request for copies or 754
inspection of public records under this section such that the 755
public office or the person responsible for the requested public 756
record cannot reasonably identify what public records are being 757
requested, the public office or the person responsible for the 758
requested public record may deny the request but shall provide 759

the requester with an opportunity to revise the request by 760
informing the requester of the manner in which records are 761
maintained by the public office and accessed in the ordinary 762
course of the public office's or person's duties. 763

(c) (i) If a requester submits multiple related or 764
unrelated requests for copying or inspection of public records 765
to the same public office or person responsible for a public 766
record and, based on the volume or the repeated nature of the 767
requests, the public office or person has reason to believe that 768
the requests are intended to harass the public office or person 769
or to disrupt the essential functions of the public office or 770
person, the public office or person may bring an action in the 771
court of common pleas of the county in which the public office 772
or person is located requesting the court to limit or deny the 773
requests. 774

(ii) The action shall proceed as any other civil action, 775
and the Ohio Rules of Civil Procedure apply to the action. The 776
court shall provide the requester with notice of the action and 777
an opportunity to be heard. While the action or any appeal from 778
a final order of the court is pending, the requirement that the 779
public office or person respond to the requests under this 780
section is tolled. 781

(iii) If the court determines by a preponderance of the 782
evidence that the requests are intended to harass the public 783
office or person or to disrupt the essential functions of the 784
public office or person, the court may limit or deny the 785
requests. If the court determines by a preponderance of the 786
evidence that the requester is likely to submit future requests 787
for copying or inspection of public records to that public 788
office or person for the purpose of harassing the public office 789

or person or disrupting the essential functions of the public 790
office or person, the court also may issue an order that limits 791
or denies any such future requests submitted to the public 792
office or person by that requester for a period of up to five 793
years. If a requester submits a request in violation of the 794
order, the court may extend the order for a period determined at 795
the court's discretion. If a person is determined to have 796
submitted a request anonymously in an attempt to circumvent the 797
order, the court also may issue a fine against the person in an 798
amount not exceeding one hundred dollars per violation. 799

(iv) If the court determines that the requests are not 800
intended to harass the public office or person nor to disrupt 801
the essential functions of the public officer or person, the 802
court may make an award to the requester, against the public 803
office or person that brought the action, subject to section 804
9.86 of the Revised Code, of reasonable attorney's fees and 805
litigation expenses incurred by the requester in connection with 806
the action. 807

(v) Division (B) (2) (c) of this section does not apply to a 808
requester who is any of the following: 809

(I) A journalist as defined in division (B) (9) (c) of this 810
section; 811

(II) A pro se litigant who requests records pertaining to 812
litigation in which the pro se litigant is a named party; 813

(III) A state agency, including a public college or 814
university or subsidiary of a public college or university, a 815
public defender or other government attorney, or the staff or 816
agent of a public defender or government attorney. This 817
exemption does not apply to a public defender whose request for 818

records is not related to a matter that is within the scope of 819
the public defender's employment with a public defender's office 820
or selection or appointment under section 120.33 of the Revised 821
Code. 822

(vi) No court shall limit, deny, or restrict the access of 823
any requester listed under division (B) (2) (c) (v) of this section 824
to any public record under division (B) (2) (c) of this section. 825

(vii) A public office or person responsible for public 826
records shall not bring an action under division (B) (2) (c) (i) of 827
this section against a requester who the public office or person 828
knows or has reason to believe is a public defender unless the 829
requester fails to provide sufficient evidence in response to a 830
request for evidence made pursuant to division (B) (11) of this 831
section within five business days of the transmission of the 832
request for evidence. 833

(3) If a request is ultimately denied, in part or in 834
whole, the public office or the person responsible for the 835
requested public record shall provide the requester with an 836
explanation, including legal authority, setting forth why the 837
request was denied. If the initial request was provided in 838
writing, the explanation also shall be provided to the requester 839
in writing. The explanation shall not preclude the public office 840
or the person responsible for the requested public record from 841
relying upon additional reasons or legal authority in defending 842
an action commenced under division (C) of this section. 843

(4) Unless specifically required or authorized by state or 844
federal law or in accordance with division (B) of this section, 845
no public office or person responsible for public records may 846
limit or condition the availability of public records by 847
requiring disclosure of the requester's identity or the intended 848

use of the requested public record. Any requirement that the requester disclose the requester's identity or the intended use of the requested public record constitutes a denial of the request.

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

~~(6)~~(6) (a) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division.

(b) (i) If the request is voluminous and it is therefore reasonable to do so, the public office or person responsible for the public record may engage a private contractor to respond to the request, including making any required redactions, on behalf of the public office or person. The public office or person responsible for the public record may include the contractor's services in calculating the cost to produce the requested records. The inclusion of a contractor's services in calculating a fee under division (B) (1) (b) of this section does not permit a

public office or person responsible for public records to charge 879
a requester a fee in excess of the highest permissible fee 880
indicated in the fee structure described in that division. 881

(ii) A private contractor engaged under division (B) (6) (b) 882
(i) of this section shall promptly dispose of copies of records, 883
and return original records, if any, reviewed in the course of 884
the engagement and shall not, outside the terms of the 885
engagement, use for profit any such record or the information 886
contained therein. If the contractor makes any required 887
redactions in the course of the engagement, the contractor shall 888
not disclose any information contained in the redactions. 889

(c) The public office or the person responsible for the 890
public record shall permit the requester to choose to have the 891
public record duplicated upon paper, upon the same medium upon 892
which the public office or person responsible for the public 893
record keeps it, or upon any other medium upon which the public 894
office or person responsible for the public record determines 895
that it reasonably can be duplicated as an integral part of the 896
normal operations of the public office or person responsible for 897
the public record. When the requester makes a choice under this 898
division, the public office or person responsible for the public 899
record shall provide a copy of it in accordance with the choice 900
made by the requester. 901

(d) Nothing in this section requires a public office or 902
person responsible for the public record to allow the requester 903
of a copy of the public record to make the copies of the public 904
record. 905

(7) (a) Upon a request made in accordance with division (B) 906
of this section and subject to division (B) (6) of this section, 907
a public office or person responsible for public records shall 908

transmit a copy of a public record to any person by United 909
States mail or by any other means of delivery or transmission 910
within a reasonable period of time after receiving the request 911
for the copy. The public office or person responsible for the 912
public record may require the person making the request to pay 913
in advance the cost of postage if the copy is transmitted by 914
United States mail or the cost of delivery if the copy is 915
transmitted other than by United States mail, and to pay in 916
advance the costs incurred for other supplies used in the 917
mailing, delivery, or transmission. 918

(b) Any public office may adopt a policy and procedures 919
that it will follow in transmitting, within a reasonable period 920
of time after receiving a request, copies of public records by 921
United States mail or by any other means of delivery or 922
transmission pursuant to division (B) (7) of this section. A 923
public office that adopts a policy and procedures under division 924
(B) (7) of this section shall comply with them in performing its 925
duties under that division. 926

(c) In any policy and procedures adopted under division 927
(B) (7) of this section: 928

(i) A public office may limit the number of records 929
requested by a person that the office will physically deliver by 930
United States mail or by another delivery service to ten per 931
month, unless the person certifies to the office in writing that 932
the person does not intend to use or forward the requested 933
records, or the information contained in them, for commercial 934
purposes; 935

(ii) A public office that chooses to provide some or all 936
of its public records on a web site that is fully accessible to 937
and searchable by members of the public at all times, other than 938

during acts of God outside the public office's control or 939
maintenance, and that charges no fee to search, access, 940
download, or otherwise receive records provided on the web site, 941
may limit to ten per month the number of records requested by a 942
person that the office will deliver in a digital format, unless 943
the requested records are not provided on the web site and 944
unless the person certifies to the office in writing that the 945
person does not intend to use or forward the requested records, 946
or the information contained in them, for commercial purposes. 947

(iii) For purposes of division (B) (7) of this section, 948
"commercial" shall be narrowly construed and does not include 949
reporting or gathering news, reporting or gathering information 950
to assist citizen oversight or understanding of the operation or 951
activities of government, or nonprofit educational research. 952

(8) A public office or person responsible for public 953
records is not required to permit a person ~~who~~ to inspect or 954
obtain a copy of a public record if either of the following 955
apply: 956

(a) The person is incarcerated pursuant to a criminal 957
conviction or a juvenile adjudication and requests to inspect or 958
to obtain a copy of any public record concerning a criminal 959
investigation or prosecution or concerning what would be a 960
criminal investigation or prosecution if the subject of the 961
investigation or prosecution were an adult, unless the request 962
to inspect or to obtain a copy of the record is for the purpose 963
of acquiring information that is subject to release as a public 964
record under this section and the judge who imposed the sentence 965
or made the adjudication with respect to the person, or the 966
judge's successor in office, finds that the information sought 967
in the public record is necessary to support what appears to be 968

a justiciable claim of the person. As used in this division, 969
"public record concerning a criminal investigation or 970
prosecution or concerning what would be a criminal investigation 971
or prosecution if the subject of the investigation were an 972
adult" includes, but is not limited to, personnel files and 973
payroll and attendance records of designated public service 974
workers. 975

(b) A court order issued under division (B) (2) (c) of this 976
section permits the public office or the person responsible for 977
public records to deny the request. 978

(9) (a) Upon written request made and signed by a 979
journalist, a public office, or person responsible for public 980
records, having custody of the records of the agency employing a 981
specified designated public service worker shall disclose to the 982
journalist the address of the actual personal residence of the 983
designated public service worker and, if the designated public 984
service worker's spouse, former spouse, or child is employed by 985
a public office, the name and address of the employer of the 986
designated public service worker's spouse, former spouse, or 987
child, and any past, current, and future work schedules of the 988
designated public service worker. The request shall include the 989
journalist's name and title and the name and address of the 990
journalist's employer and shall state that disclosure of the 991
information sought would be in the public interest. 992

(b) Division (B) (9) (a) of this section also applies to 993
journalist requests for: 994

(i) Customer information maintained by a municipally owned 995
or operated public utility, other than social security numbers 996
and any private financial information such as credit reports, 997
payment methods, credit card numbers, and bank account 998

information;	999
(ii) Information about minors involved in a school vehicle accident as provided in division (A) (1) (gg) of this section, other than personal information as defined in section 149.45 of the Revised Code;	1000 1001 1002 1003
(iii) A request form submitted to a public office under section 149.45 of the Revised Code;	1004 1005
(iv) An affidavit submitted under section 319.28 of the Revised Code.	1006 1007
(c) As used in division (B) (9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.	1008 1009 1010 1011 1012 1013 1014
(10) Upon a request made by a victim, victim's attorney, or victim's representative, as that term is used in section 2930.02 of the Revised Code, a public office or person responsible for public records shall transmit a copy of a depiction of the victim as described in division (A) (1) (ii) of this section to the victim, victim's attorney, or victim's representative.	1015 1016 1017 1018 1019 1020 1021
(11) A state or local law enforcement agency or a prosecuting attorney's office shall not charge a fee for preparing a video record for inspection, or producing a copy of a video record, when the requester of the video record is a victim, as defined in Ohio Constitution, Article I, Section 10a, or who is a victim who suffered loss and could seek remedy	1022 1023 1024 1025 1026 1027

through a tort action as defined by section 2307.011 of the Revised Code, who reasonably asserts that the video recording relates to the act or omission that caused the victim's harm or loss, or who is the legal counsel or insurer of the victim. A fee under this section may only be waived upon the receipt of an affidavit by the victim or the victim's legal counsel identifying that the use of the video is to investigate harm or damages that may have been captured on the video.

As used in this division, "legal counsel of the victim" means an attorney who, at the time of making the request, produces to the state or local law enforcement agency or a prosecuting attorney's office a signed retention agreement or letter of representation that establishes that the attorney is representing the victim.

(12) A public office or person responsible for public records may require a requester who the public office or person knows or has reason to believe is a public defender to provide documentary evidence sufficient to prove that the requested records relate to a matter that is within the scope of the requester's employment with a public defender's office or selection or appointment under section 120.33 of the Revised Code. A public office or person responsible for public records shall not require a requester who the public office or person knows or has reason to believe is a public defender to provide, nor condition the availability of public records on the provision of, materials protected by the attorney-client privilege or attorney work product privilege in response to a request for evidence made pursuant to this division.

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

to promptly prepare a public record and to make it available to 1058
the person for inspection in accordance with division (B) of 1059
this section, by a public office's or person responsible for 1060
public records's unreasonable combination of the person's 1061
requests for the purpose of calculating fees under division (B) 1062
(1)(b) of this section, or by any other failure of a public 1063
office or the person responsible for public records to comply 1064
with an obligation in accordance with division (B) of this 1065
section, the person allegedly aggrieved may serve pursuant to 1066
Rule 4 of the Ohio Rules of Civil Procedure a complaint, on a 1067
form prescribed by the clerk of the court of claims, to the 1068
public office or person responsible for public records allegedly 1069
responsible for the alleged failure. Upon receipt of the 1070
complaint of the person allegedly aggrieved, the public office 1071
or person responsible for public records has three business days 1072
to cure or otherwise address the failure alleged in the 1073
complaint. The person allegedly aggrieved shall not file a 1074
complaint with a court or commence a mandamus action under this 1075
section within the three-day period. Upon the expiration of the 1076
three-day period, the person allegedly aggrieved may, subject to 1077
the requirements of division (C)(2) of this section, do only one 1078
of the following, and not both: 1079

(a) File a complaint with the clerk of the court of claims 1080
or the clerk of the court of common pleas under section 2743.75 1081
of the Revised Code; 1082

(b) Commence a mandamus action to obtain a judgment that 1083
orders the public office or the person responsible for the 1084
public record to comply with division (B) of this section, that 1085
awards court costs and reasonable attorney's fees to the person 1086
that instituted the mandamus action, and, if applicable, that 1087
includes an order fixing statutory damages under division (C)(3) 1088

of this section. The mandamus action may be commenced in the 1089
court of common pleas of the county in which division (B) of 1090
this section allegedly was not complied with, in the supreme 1091
court pursuant to its original jurisdiction under Section 2 of 1092
Article IV, Ohio Constitution, or in the court of appeals for 1093
the appellate district in which division (B) of this section 1094
allegedly was not complied with pursuant to its original 1095
jurisdiction under Section 3 of Article IV, Ohio Constitution. 1096

(2) Upon filing a complaint or mandamus action with a 1097
court under divisions (C) (1) (a) or (b) of this section, a person 1098
allegedly aggrieved shall file with the court, in conjunction 1099
with the person's complaint or petition, a written affirmation 1100
stating that the person properly transmitted a complaint to the 1101
public office or person responsible for public records, the 1102
failure alleged in the complaint has not been cured or otherwise 1103
resolved to the person's satisfaction, and that the complaint 1104
was transmitted to the public office or person responsible for 1105
public records at least three business days before the filing of 1106
the suit. If the person fails to file an affirmation pursuant to 1107
this division, the suit shall be dismissed. 1108

(3) If a requester transmits a written request by hand 1109
delivery, electronic submission, or certified mail to inspect or 1110
receive copies of any public record in a manner that fairly 1111
describes the public record or class of public records to the 1112
public office or person responsible for the requested public 1113
records, except as otherwise provided in this section, the 1114
requester shall be entitled to recover the amount of statutory 1115
damages set forth in this division if a court determines that 1116
the public office or the person responsible for public records 1117
failed to comply with an obligation in accordance with division 1118
(B) of this section. Statutory damages are not available 1119

pursuant to this section to a person committed to the custody of 1120
the department of rehabilitation and correction or the United 1121
States bureau of prisons, or a child committed to the department 1122
of youth services as permitted in Chapter 2152. of the Revised 1123
Code. 1124

The amount of statutory damages shall be fixed at one 1125
hundred dollars for each business day during which the public 1126
office or person responsible for the requested public records 1127
failed to comply with an obligation in accordance with division 1128
(B) of this section, beginning with the day on which the 1129
requester files a mandamus action to recover statutory damages, 1130
up to a maximum of one thousand dollars. The award of statutory 1131
damages shall not be construed as a penalty, but as compensation 1132
for injury arising from lost use of the requested information. 1133
The existence of this injury shall be conclusively presumed. The 1134
award of statutory damages shall be in addition to all other 1135
remedies authorized by this section. 1136

The court may reduce an award of statutory damages or not 1137
award statutory damages if the court determines both of the 1138
following: 1139

(a) That, based on the ordinary application of statutory 1140
law and case law as it existed at the time of the conduct or 1141
threatened conduct of the public office or person responsible 1142
for the requested public records that allegedly constitutes a 1143
failure to comply with an obligation in accordance with division 1144
(B) of this section and that was the basis of the mandamus 1145
action, a well-informed public office or person responsible for 1146
the requested public records reasonably would believe that the 1147
conduct or threatened conduct of the public office or person 1148
responsible for the requested public records did not constitute 1149

a failure to comply with an obligation in accordance with 1150
division (B) of this section; 1151

(b) That a well-informed public office or person 1152
responsible for the requested public records reasonably would 1153
believe that the conduct or threatened conduct of the public 1154
office or person responsible for the requested public records 1155
would serve the public policy that underlies the authority that 1156
is asserted as permitting that conduct or threatened conduct. 1157

(4) In a mandamus action filed under division (C) (1) of 1158
this section, the following apply: 1159

(a) (i) If the court orders the public office or the person 1160
responsible for the public record to comply with division (B) of 1161
this section, the court shall determine and award to the relator 1162
all court costs, which shall be construed as remedial and not 1163
punitive. 1164

(ii) If the court makes a determination described in 1165
division (C) (4) (b) (iii) of this section, the court shall 1166
determine and award to the relator all court costs, which shall 1167
be construed as remedial and not punitive. 1168

(b) If the court renders a judgment that orders the public 1169
office or the person responsible for the public record to comply 1170
with division (B) of this section or if the court determines any 1171
of the following, the court may award reasonable attorney's fees 1172
to the relator, subject to division (C) (5) of this section: 1173

(i) The public office or the person responsible for the 1174
public records failed to respond affirmatively or negatively to 1175
the public records request in accordance with the time allowed 1176
under division (B) of this section. 1177

(ii) The public office or the person responsible for the 1178

public records promised to permit the relator to inspect or 1179
receive copies of the public records requested within a 1180
specified period of time but failed to fulfill that promise 1181
within that specified period of time. 1182

(iii) The public office or the person responsible for the 1183
public records acted in bad faith when the office or person 1184
voluntarily made the public records available to the relator for 1185
the first time after the relator commenced the mandamus action, 1186
but before the court issued any order concluding whether or not 1187
the public office or person was required to comply with division 1188
(B) of this section. No discovery may be conducted on the issue 1189
of the alleged bad faith of the public office or person 1190
responsible for the public records. This division shall not be 1191
construed as creating a presumption that the public office or 1192
the person responsible for the public records acted in bad faith 1193
when the office or person voluntarily made the public records 1194
available to the relator for the first time after the relator 1195
commenced the mandamus action, but before the court issued any 1196
order described in this division. 1197

(c) The court shall not award attorney's fees to the 1198
relator if the court determines both of the following: 1199

(i) That, based on the ordinary application of statutory 1200
law and case law as it existed at the time of the conduct or 1201
threatened conduct of the public office or person responsible 1202
for the requested public records that allegedly constitutes a 1203
failure to comply with an obligation in accordance with division 1204
(B) of this section and that was the basis of the mandamus 1205
action, a well-informed public office or person responsible for 1206
the requested public records reasonably would believe that the 1207
conduct or threatened conduct of the public office or person 1208

responsible for the requested public records did not constitute 1209
a failure to comply with an obligation in accordance with 1210
division (B) of this section; 1211

(ii) That a well-informed public office or person 1212
responsible for the requested public records reasonably would 1213
believe that the conduct or threatened conduct of the public 1214
office or person responsible for the requested public records 1215
would serve the public policy that underlies the authority that 1216
is asserted as permitting that conduct or threatened conduct. 1217

(5) All of the following apply to any award of reasonable 1218
attorney's fees awarded under division (C) (4) (b) of this 1219
section: 1220

(a) The fees shall be construed as remedial and not 1221
punitive. 1222

(b) The fees awarded shall not exceed the total of the 1223
reasonable attorney's fees incurred before the public record was 1224
made available to the relator and the fees described in division 1225
(C) (5) (c) of this section. 1226

(c) Reasonable attorney's fees shall include reasonable 1227
fees incurred to produce proof of the reasonableness and amount 1228
of the fees and to otherwise litigate entitlement to the fees. 1229

(d) The court may reduce the amount of fees awarded if the 1230
court determines that, given the factual circumstances involved 1231
with the specific public records request, an alternative means 1232
should have been pursued to more effectively and efficiently 1233
resolve the dispute that was subject to the mandamus action 1234
filed under division (C) (1) of this section. 1235

(6) If the court does not issue a writ of mandamus under 1236
division (C) of this section and the court determines at that 1237

time that the bringing of the mandamus action was frivolous 1238
conduct as defined in division (A) of section 2323.51 of the 1239
Revised Code, the court may award to the public office all court 1240
costs, expenses, and reasonable attorney's fees, as determined 1241
by the court. 1242

(D) Chapter 1347. of the Revised Code does not limit the 1243
provisions of this section. 1244

(E) (1) To ensure that all employees of public offices are 1245
appropriately educated about a public office's obligations under 1246
division (B) of this section, all elected officials or their 1247
appropriate designees shall attend training approved by the 1248
attorney general as provided in section 109.43 of the Revised 1249
Code. A future official may satisfy the requirements of this 1250
division by attending the training before taking office, 1251
provided that the future official may not send a designee in the 1252
future official's place. 1253

(2) All public offices shall adopt a public records policy 1254
in compliance with this section for responding to public records 1255
requests. In adopting a public records policy under this 1256
division, a public office may obtain guidance from the model 1257
public records policy developed and provided to the public 1258
office by the attorney general under section 109.43 of the 1259
Revised Code. Except as otherwise provided in this section, the 1260
policy may not limit the number of public records that the 1261
public office will make available to a single person, may not 1262
limit the number of public records that it will make available 1263
during a fixed period of time, and may not establish a fixed 1264
period of time before it will respond to a request for 1265
inspection or copying of public records, unless that period is 1266
less than eight hours. 1267

A public records policy shall include a description of any 1268
schedule of fees adopted by a public office pursuant to division 1269
(B) (1) of this section and permit a requester to amend or cancel 1270
the requester's request upon receipt of a fee estimate provided 1271
under division (B) (1) (c) of this section. 1272

The public office shall distribute the public records 1273
policy adopted by the public office under this division to the 1274
employee of the public office who is the records custodian or 1275
records manager or otherwise has custody of the records of that 1276
office. The public office shall require that employee to 1277
acknowledge receipt of the copy of the public records policy. 1278
The public office shall create a poster that describes its 1279
public records policy and shall post the poster in a conspicuous 1280
place in the public office and in all locations where the public 1281
office has branch offices. The public office may post its public 1282
records policy on the internet web site of the public office if 1283
the public office maintains an internet web site. A public 1284
office that has established a manual or handbook of its general 1285
policies and procedures for all employees of the public office 1286
shall include the public records policy of the public office in 1287
the manual or handbook. 1288

(F) (1) The bureau of motor vehicles may adopt rules 1289
pursuant to Chapter 119. of the Revised Code to reasonably limit 1290
the number of bulk commercial special extraction requests made 1291
by a person for the same records or for updated records during a 1292
calendar year. The rules may include provisions for charges to 1293
be made for bulk commercial special extraction requests for the 1294
actual cost of the bureau, plus special extraction costs, plus 1295
ten per cent. The bureau may charge for expenses for redacting 1296
information, the release of which is prohibited by law. 1297

- (2) As used in division (F)(1) of this section: 1298
- (a) "Actual cost" means the cost of depleted supplies, 1299
records storage media costs, actual mailing and alternative 1300
delivery costs, or other transmitting costs, and any direct 1301
equipment operating and maintenance costs, including actual 1302
costs paid to private contractors for copying services. 1303
- (b) "Bulk commercial special extraction request" means a 1304
request for copies of a record for information in a format other 1305
than the format already available, or information that cannot be 1306
extracted without examination of all items in a records series, 1307
class of records, or database by a person who intends to use or 1308
forward the copies for surveys, marketing, solicitation, or 1309
resale for commercial purposes. "Bulk commercial special 1310
extraction request" does not include a request by a person who 1311
gives assurance to the bureau that the person making the request 1312
does not intend to use or forward the requested copies for 1313
surveys, marketing, solicitation, or resale for commercial 1314
purposes. 1315
- (c) "Commercial" means profit-seeking production, buying, 1316
or selling of any good, service, or other product. 1317
- (d) "Special extraction costs" means the cost of the time 1318
spent by the lowest paid employee competent to perform the task, 1319
the actual amount paid to outside private contractors employed 1320
by the bureau, or the actual cost incurred to create computer 1321
programs to make the special extraction. "Special extraction 1322
costs" include any charges paid to a public agency for computer 1323
or records services. 1324
- (3) For purposes of divisions (F)(1) and (2) of this 1325
section, "surveys, marketing, solicitation, or resale for 1326

commercial purposes" shall be narrowly construed and does not 1327
include reporting or gathering news, reporting or gathering 1328
information to assist citizen oversight or understanding of the 1329
operation or activities of government, or nonprofit educational 1330
research. 1331

(G) A request by a defendant, counsel of a defendant, or 1332
any agent of a defendant in a criminal action that public 1333
records related to that action be made available under this 1334
section shall be considered a demand for discovery pursuant to 1335
the Criminal Rules, except to the extent that the Criminal Rules 1336
plainly indicate a contrary intent. The defendant, counsel of 1337
the defendant, or agent of the defendant making a request under 1338
this division shall serve a copy of the request on the 1339
prosecuting attorney, director of law, or other chief legal 1340
officer responsible for prosecuting the action. 1341

(H) (1) Any portion of a body-worn camera or dashboard 1342
camera recording described in divisions (A) (17) (b) to (h) of 1343
this section may be released by consent of the subject of the 1344
recording or a representative of that person, as specified in 1345
those divisions, only if either of the following applies: 1346

(a) The recording will not be used in connection with any 1347
probable or pending criminal proceedings; 1348

(b) The recording has been used in connection with a 1349
criminal proceeding that was dismissed or for which a judgment 1350
has been entered pursuant to Rule 32 of the Rules of Criminal 1351
Procedure, and will not be used again in connection with any 1352
probable or pending criminal proceedings. 1353

(2) If a public office denies a request to release a 1354
restricted portion of a body-worn camera or dashboard camera 1355

recording, as defined in division (A)(17) of this section, any 1356
person may file a mandamus action pursuant to this section or a 1357
complaint with the clerk of the court of claims pursuant to 1358
section 2743.75 of the Revised Code, requesting the court to 1359
order the release of all or portions of the recording. If the 1360
court considering the request determines that the filing 1361
articulates by clear and convincing evidence that the public 1362
interest in the recording substantially outweighs privacy 1363
interests and other interests asserted to deny release, the 1364
court shall order the public office to release the recording. 1365

Section 2. That existing section 149.43 of the Revised 1366
Code is hereby repealed. 1367