As Introduced

131st General Assembly Regular Session 2015-2016

H. B. No. 76

Representative Patmon Cosponsors: Representative Schaffer

A BILL

То	amend sections 149.011 and 149.43 of the Revised	1
	Code to include in the definition of public	2
	record records kept by a police department	3
	established by a qualified nonprofit corporation	4
	or a campus police department established by a	5
	private college or university.	6

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

Section 1. That sections 149.011 and 149.43 of the Revised	7
Code be amended to read as follows:	8
Sec. 149.011. As used in this chapter, except as otherwise	9
provided:	10
(A) "Public office" includes any state agency, public	11
institution, political subdivision, or other organized body,	12
office, agency, institution, or entity established by the laws	13
of this state for the exercise of any function of government.	14
"Public office" does not include the nonprofit corporation	15
formed under section 187.01 of the Revised Code.	16
(D) "State agency" includes every department by year	17
(B) "State agency" includes every department, bureau,	Ι/
board, commission, office, or other organized body established	18

by the constitution and laws of this state for the exercise of	19
any function of state government, including any state-supported	20
institution of higher education, the general assembly, any	21
legislative agency, any court or judicial agency, or any	22
political subdivision or agency of a political subdivision.	23
"State agency" does not include the nonprofit corporation formed	24
under section 187.01 of the Revised Code.	25
(C) "Public money" includes all money received or	26
collected by or due a public official, whether in accordance	27
with or under authority of any law, ordinance, resolution, or	28
order, under color of office, or otherwise. It also includes any	29
money collected by any individual on behalf of a public office	30
or as a purported representative or agent of the public office.	31
(D) "Public official" includes all officers, employees, or	32
duly authorized representatives or agents of a public office.	33
(E) "Color of office" includes any act purported or	34
alleged to be done under any law, ordinance, resolution, order,	35
or other pretension to official right, power, or authority.	36
(F) "Archive" includes any public record that is	37
transferred to the state archives or other designated archival	38
institutions because of the historical information contained on	39
it.	40
(G) "Records" includes any document, device, or item,	41
regardless of physical form or characteristic, including an	42
electronic record as defined in section 1306.01 of the Revised	43
Code, created or received by or coming under the jurisdiction of	44
any public office of the state or its political subdivisions, <u>a</u>	45
police department established by a qualified nonprofit	46

corporation under section 1702.80 of the Revised Code, or a

campus police department established by a private college or	48
university under section 1713.50 of the Revised Code when the	49
board of trustees of the private college or university has	50
entered into an agreement with a political subdivision under	51
division (C) of section 1713.50 of the Revised Code that grants	52
the campus police department with powers and authority outside	53
the property of the college or university, which serves to	54
document the organization, functions, policies, decisions,	55
procedures, operations, or other activities of the office.	56
Sec. 149.43. (A) As used in this section:	57
(1) "Public record" means records kept by any public	58
office, including, but not limited to, state, county, city,	59
village, township, and school district units, records kept by a	60
police department established by a qualified nonprofit	61
corporation under section 1702.80 of the Revised Code, records	62
kept by a campus police department established by a private	63
college or university under section 1713.50 of the Revised Code	64
when the board of trustees of the private college or university	65
has entered into an agreement with a political subdivision under	66
division (C) of section 1713.50 of the Revised Code that grants	67
the campus police department with powers and authority outside	68
the property of the college or university, and records	69
pertaining to the delivery of educational services by an	70
alternative school in this state kept by the nonprofit or for-	71
profit entity operating the alternative school pursuant to	72
section 3313.533 of the Revised Code. "Public record" does not	73
mean any of the following:	74
(a) Medical records;	75
(b) Records pertaining to probation and parole proceedings	76
or to proceedings related to the imposition of community control	77

sanctions and post-release control sanctions;	78
(c) Records pertaining to actions under section 2151.85	79
and division (C) of section 2919.121 of the Revised Code and to	80
appeals of actions arising under those sections;	81
(d) Records pertaining to adoption proceedings, including	82
the contents of an adoption file maintained by the department of	83
health under sections 3705.12 to 3705.124 of the Revised Code;	84
(e) Information in a record contained in the putative	85
father registry established by section 3107.062 of the Revised	86
Code, regardless of whether the information is held by the	87
department of job and family services or, pursuant to section	88
3111.69 of the Revised Code, the office of child support in the	89
department or a child support enforcement agency;	90
(f) Records specified in division (A) of section 3107.52	91
of the Revised Code;	92
(g) Trial preparation records;	93
(h) Confidential law enforcement investigatory records;	94
(i) Records containing information that is confidential	95
under section 2710.03 or 4112.05 of the Revised Code;	96
(j) DNA records stored in the DNA database pursuant to	97
section 109.573 of the Revised Code;	98
(k) Inmate records released by the department of	99
rehabilitation and correction to the department of youth	100
services or a court of record pursuant to division (E) of	101
section 5120.21 of the Revised Code;	102
(1) Records maintained by the department of youth services	103
pertaining to children in its custody released by the department	104

of youth services to the department of rehabilitation and	105
correction pursuant to section 5139.05 of the Revised Code;	106
(m) Intellectual property records;	107
(n) Donor profile records;	108
(o) Records maintained by the department of job and family	109
services pursuant to section 3121.894 of the Revised Code;	110
(p) Peace officer, parole officer, probation officer,	111
bailiff, prosecuting attorney, assistant prosecuting attorney,	112
correctional employee, community-based correctional facility	113
employee, youth services employee, firefighter, EMT, or	114
investigator of the bureau of criminal identification and	115
investigation residential and familial information;	116
(q) In the case of a county hospital operated pursuant to	117
Chapter 339. of the Revised Code or a municipal hospital	118
operated pursuant to Chapter 749. of the Revised Code,	119
information that constitutes a trade secret, as defined in	120
section 1333.61 of the Revised Code;	121
(r) Information pertaining to the recreational activities	122
of a person under the age of eighteen;	123
(s) Records provided to, statements made by review board	124
members during meetings of, and all work products of a child	125
fatality review board acting under sections 307.621 to 307.629	126
of the Revised Code, and child fatality review data submitted by	127
the child fatality review board to the department of health or a	128
national child death review database, other than the report	129
prepared pursuant to division (A) of section 307.626 of the	130
Revised Code;	131
(t) Records provided to and statements made by the	132

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executive director of a public children services agency or a	133
prosecuting attorney acting pursuant to section 5153.171 of the	134
Revised Code other than the information released under that	135
section;	136
(u) Test materials, examinations, or evaluation tools used	137
in an examination for licensure as a nursing home administrator	138
that the board of executives of long-term services and supports	139
administers under section 4751.04 of the Revised Code or	140
contracts under that section with a private or government entity	141
to administer;	142
(v) Records the release of which is prohibited by state or	143
federal law;	144
(v) Proprietory information of an relating to any name	1 4 5
(w) Proprietary information of or relating to any person	145
that is submitted to or compiled by the Ohio venture capital	146
authority created under section 150.01 of the Revised Code;	147
(x) Financial statements and data any person submits for	148
any purpose to the Ohio housing finance agency or the	149
controlling board in connection with applying for, receiving, or	150
accounting for financial assistance from the agency, and	151
information that identifies any individual who benefits directly	152
or indirectly from financial assistance from the agency;	153
(y) Records listed in section 5101.29 of the Revised Code;	154
(z) Discharges recorded with a county recorder under	155
section 317.24 of the Revised Code, as specified in division (B)	156
(2) of that section;	157
(aa) Usage information including names and addresses of	158
specific residential and commercial customers of a municipally	159
owned or operated public utility;	160

(bb) Records described in division (C) of section 187.04	161
of the Revised Code that are not designated to be made available	162
to the public as provided in that division.	163
(2) "Confidential law enforcement investigatory record"	164
means any record that pertains to a law enforcement matter of a	165
criminal, quasi-criminal, civil, or administrative nature, but	166
only to the extent that the release of the record would create a	167
high probability of disclosure of any of the following:	168
(a) The identity of a suspect who has not been charged	169
with the offense to which the record pertains, or of an	170
information source or witness to whom confidentiality has been	171
reasonably promised;	172
(b) Information provided by an information source or	173
witness to whom confidentiality has been reasonably promised,	174
which information would reasonably tend to disclose the source's	175
or witness's identity;	176
(c) Specific confidential investigatory techniques or	177
procedures or specific investigatory work product;	178
(d) Information that would endanger the life or physical	179
safety of law enforcement personnel, a crime victim, a witness,	180
or a confidential information source.	181
(3) "Medical record" means any document or combination of	182
documents, except births, deaths, and the fact of admission to	183
or discharge from a hospital, that pertains to the medical	184
history, diagnosis, prognosis, or medical condition of a patient	185
and that is generated and maintained in the process of medical	186
treatment.	187
(4) "Trial preparation record" means any record that	188
contains information that is specifically compiled in reasonable	189

anticipation of, or in defense of, a civil or criminal action or	190
proceeding, including the independent thought processes and	191
personal trial preparation of an attorney.	192
(5) "Intellectual property record" means a record, other	193
than a financial or administrative record, that is produced or	194
collected by or for faculty or staff of a state institution of	195
higher learning in the conduct of or as a result of study or	196
research on an educational, commercial, scientific, artistic,	197
technical, or scholarly issue, regardless of whether the study	198
or research was sponsored by the institution alone or in	199
conjunction with a governmental body or private concern, and	200
that has not been publicly released, published, or patented.	201
(6) "Donor profile record" means all records about donors	202
or potential donors to a public institution of higher education	203
except the names and reported addresses of the actual donors and	204
the date, amount, and conditions of the actual donation.	205
(7) "Peace officer, parole officer, probation officer,	206
bailiff, prosecuting attorney, assistant prosecuting attorney,	207
correctional employee, community-based correctional facility	208
employee, youth services employee, firefighter, EMT, or	209
investigator of the bureau of criminal identification and	210
investigation residential and familial information" means any	211
information that discloses any of the following about a peace	212
officer, parole officer, probation officer, bailiff, prosecuting	213
attorney, assistant prosecuting attorney, correctional employee,	214
community-based correctional facility employee, youth services	215
employee, firefighter, EMT, or investigator of the bureau of	216
criminal identification and investigation:	217

(a) The address of the actual personal residence of a

peace officer, parole officer, probation officer, bailiff,

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assistant prosecuting attorney, correctional employee,	220
community-based correctional facility employee, youth services	221
employee, firefighter, EMT, or an investigator of the bureau of	222
criminal identification and investigation, except for the state	223
or political subdivision in which the peace officer, parole	224
officer, probation officer, bailiff, assistant prosecuting	225
attorney, correctional employee, community-based correctional	226
facility employee, youth services employee, firefighter, EMT, or	227
investigator of the bureau of criminal identification and	228
investigation resides;	229
(b) Information compiled from referral to or participation	230
in an employee assistance program;	231
(c) The social security number, the residential telephone	232
number, any bank account, debit card, charge card, or credit	233
card number, or the emergency telephone number of, or any	234
medical information pertaining to, a peace officer, parole	235
officer, probation officer, bailiff, prosecuting attorney,	236
assistant prosecuting attorney, correctional employee,	237
community-based correctional facility employee, youth services	238
employee, firefighter, EMT, or investigator of the bureau of	239
criminal identification and investigation;	240
(d) The name of any beneficiary of employment benefits,	241
including, but not limited to, life insurance benefits, provided	242
to a peace officer, parole officer, probation officer, bailiff,	243
prosecuting attorney, assistant prosecuting attorney,	244
correctional employee, community-based correctional facility	245
employee, youth services employee, firefighter, EMT, or	246
investigator of the bureau of criminal identification and	247
investigation by the peace officer's, parole officer's,	248
probation officer's, bailiff's, prosecuting attorney's,	249

assistant prosecuting attorney's, correctional employee's,	250
community-based correctional facility employee's, youth services	251
employee's, firefighter's, EMT's, or investigator of the bureau	252
of criminal identification and investigation's employer;	253
(e) The identity and amount of any charitable or	254
employment benefit deduction made by the peace officer's, parole	255
officer's, probation officer's, bailiff's, prosecuting	256
attorney's, assistant prosecuting attorney's, correctional	257
employee's, community-based correctional facility employee's,	258
youth services employee's, firefighter's, EMT's, or investigator	259
of the bureau of criminal identification and investigation's	260
employer from the peace officer's, parole officer's, probation	261
officer's, bailiff's, prosecuting attorney's, assistant	262
prosecuting attorney's, correctional employee's, community-based	263
correctional facility employee's, youth services employee's,	264
firefighter's, EMT's, or investigator of the bureau of criminal	265
identification and investigation's compensation unless the	266
amount of the deduction is required by state or federal law;	267
(f) The name, the residential address, the name of the	268
employer, the address of the employer, the social security	269
number, the residential telephone number, any bank account,	270
debit card, charge card, or credit card number, or the emergency	271
telephone number of the spouse, a former spouse, or any child of	272
a peace officer, parole officer, probation officer, bailiff,	273
prosecuting attorney, assistant prosecuting attorney,	274
correctional employee, community-based correctional facility	275
employee, youth services employee, firefighter, EMT, or	276
investigator of the bureau of criminal identification and	277
investigation;	278

(g) A photograph of a peace officer who holds a position

or has an assignment that may include undercover or plain	280
clothes positions or assignments as determined by the peace	281
officer's appointing authority.	282
As used in divisions (A)(7) and (B)(9) of this section,	283
"peace officer" has the same meaning as in section 109.71 of the	284
Revised Code and also includes the superintendent and troopers	285
of the state highway patrol; it does not include the sheriff of	286
a county or a supervisory employee who, in the absence of the	287
sheriff, is authorized to stand in for, exercise the authority	288
of, and perform the duties of the sheriff.	289
As used in divisions (A)(7) and (B)(9) of this section,	290
"correctional employee" means any employee of the department of	291
rehabilitation and correction who in the course of performing	292
the employee's job duties has or has had contact with inmates	293
and persons under supervision.	294
As used in divisions (A) (7) and (B) (9) of this section,	295
"youth services employee" means any employee of the department	296
of youth services who in the course of performing the employee's	297
job duties has or has had contact with children committed to the	298
custody of the department of youth services.	299
As used in divisions (A) (7) and (B) (9) of this section,	300
"firefighter" means any regular, paid or volunteer, member of a	301
lawfully constituted fire department of a municipal corporation,	302
township, fire district, or village.	303
As used in divisions (A) (7) and (B) (9) of this section,	304
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide	305
emergency medical services for a public emergency medical	306
service organization. "Emergency medical service organization,"	307
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as	308

in section 4765.01 of the Revised Code.	309
As used in divisions (A)(7) and (B)(9) of this section,	310
"investigator of the bureau of criminal identification and	311
investigation" has the meaning defined in section 2903.11 of the	312
Revised Code.	313
(8) "Information pertaining to the recreational activities	314
of a person under the age of eighteen" means information that is	315
kept in the ordinary course of business by a public office, that	316
pertains to the recreational activities of a person under the	317
age of eighteen years, and that discloses any of the following:	318
(a) The address or telephone number of a person under the	319
age of eighteen or the address or telephone number of that	320
person's parent, guardian, custodian, or emergency contact	321
person;	322
(b) The social security number, birth date, or	323
photographic image of a person under the age of eighteen;	324
(c) Any medical record, history, or information pertaining	325
to a person under the age of eighteen;	326
(d) Any additional information sought or required about a	327
person under the age of eighteen for the purpose of allowing	328
that person to participate in any recreational activity	329
conducted or sponsored by a public office or to use or obtain	330
admission privileges to any recreational facility owned or	331
operated by a public office.	332
(9) "Community control sanction" has the same meaning as	333
in section 2929.01 of the Revised Code.	334
(10) "Post-release control sanction" has the same meaning	335
as in section 2967.01 of the Revised Code.	336

(11) "Redaction" means obscuring or deleting any	337
information that is exempt from the duty to permit public	338
inspection or copying from an item that otherwise meets the	339
definition of a "record" in section 149.011 of the Revised Code.	340
(12) "Designee" and "elected official" have the same	341
meanings as in section 109.43 of the Revised Code.	342
(B)(1) Upon request and subject to division (B)(8) of this	343
section, all public records responsive to the request shall be	344
promptly prepared and made available for inspection to any	345
person at all reasonable times during regular business hours.	346
Subject to division (B)(8) of this section, upon request, a	347
public office or person responsible for public records shall	348
make copies of the requested public record available at cost and	349
within a reasonable period of time. If a public record contains	350
information that is exempt from the duty to permit public	351
inspection or to copy the public record, the public office or	352
the person responsible for the public record shall make	353
available all of the information within the public record that	354
is not exempt. When making that public record available for	355
public inspection or copying that public record, the public	356
office or the person responsible for the public record shall	357
notify the requester of any redaction or make the redaction	358
plainly visible. A redaction shall be deemed a denial of a	359
request to inspect or copy the redacted information, except if	360
federal or state law authorizes or requires a public office to	361
make the redaction.	362
(2) To facilitate broader access to public records, a	363
public office or the person responsible for public records shall	364
organize and maintain public records in a manner that they can	365

be made available for inspection or copying in accordance with

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division (B) of this section. A public office also shall have	367
available a copy of its current records retention schedule at a	368
location readily available to the public. If a requester makes	369
an ambiguous or overly broad request or has difficulty in making	370
a request for copies or inspection of public records under this	371
section such that the public office or the person responsible	372
for the requested public record cannot reasonably identify what	373
public records are being requested, the public office or the	374
person responsible for the requested public record may deny the	375
request but shall provide the requester with an opportunity to	376
revise the request by informing the requester of the manner in	377
which records are maintained by the public office and accessed	378
in the ordinary course of the public office's or person's	379
duties.	380

- (3) If a request is ultimately denied, in part or in 381 whole, the public office or the person responsible for the 382 requested public record shall provide the requester with an 383 explanation, including legal authority, setting forth why the 384 request was denied. If the initial request was provided in 385 writing, the explanation also shall be provided to the requester 386 in writing. The explanation shall not preclude the public office 387 or the person responsible for the requested public record from 388 relying upon additional reasons or legal authority in defending 389 an action commenced under division (C) of this section. 390
- (4) Unless specifically required or authorized by state or
 federal law or in accordance with division (B) of this section,
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 no public office or person responsible for public records may
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 limit or condition the availability of public records by
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 requiring disclosure of the requester's identity or the intended
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 use of the requested public record. Any requirement that the
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 requester disclose the requestor's identity or the intended use
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of the requested public record constitutes a denial of the 398 request.

- (5) A public office or person responsible for public 400 records may ask a requester to make the request in writing, may 401 ask for the requester's identity, and may inquire about the 402 intended use of the information requested, but may do so only 403 after disclosing to the requester that a written request is not 404 mandatory and that the requester may decline to reveal the 405 requester's identity or the intended use and when a written 406 request or disclosure of the identity or intended use would 407 benefit the requester by enhancing the ability of the public 408 office or person responsible for public records to identify, 409 locate, or deliver the public records sought by the requester. 410
- (6) If any person chooses to obtain a copy of a public 411 record in accordance with division (B) of this section, the 412 public office or person responsible for the public record may 413 require that person to pay in advance the cost involved in 414 providing the copy of the public record in accordance with the 415 choice made by the person seeking the copy under this division. 416 The public office or the person responsible for the public 417 record shall permit that person to choose to have the public 418 record duplicated upon paper, upon the same medium upon which 419 the public office or person responsible for the public record 420 keeps it, or upon any other medium upon which the public office 421 or person responsible for the public record determines that it 422 reasonably can be duplicated as an integral part of the normal 423 operations of the public office or person responsible for the 424 public record. When the person seeking the copy makes a choice 425 under this division, the public office or person responsible for 426 the public record shall provide a copy of it in accordance with 427 the choice made by the person seeking the copy. Nothing in this 428

section requires a public office or person responsible for the	429
public record to allow the person seeking a copy of the public	430
record to make the copies of the public record.	431

(7) Upon a request made in accordance with division (B) of 432 this section and subject to division (B)(6) of this section, a 433 public office or person responsible for public records shall 434 transmit a copy of a public record to any person by United 435 States mail or by any other means of delivery or transmission 436 within a reasonable period of time after receiving the request 437 for the copy. The public office or person responsible for the 438 public record may require the person making the request to pay 439 in advance the cost of postage if the copy is transmitted by 440 United States mail or the cost of delivery if the copy is 441 transmitted other than by United States mail, and to pay in 442 advance the costs incurred for other supplies used in the 443 mailing, delivery, or transmission. 444

Any public office may adopt a policy and procedures that

it will follow in transmitting, within a reasonable period of

time after receiving a request, copies of public records by

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United States mail or by any other means of delivery or

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transmission pursuant to this division. A public office that

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adopts a policy and procedures under this division shall comply

with them in performing its duties under this division.

In any policy and procedures adopted under this division,

a public office may limit the number of records requested by a

person that the office will transmit by United States mail to

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ten per month, unless the person certifies to the office in

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writing that the person does not intend to use or forward the

requested records, or the information contained in them, for

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commercial purposes. For purposes of this division, "commercial"

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shall be narrowly construed and does not include reporting or 459 gathering news, reporting or gathering information to assist 460 citizen oversight or understanding of the operation or 461 activities of government, or nonprofit educational research. 462

- (8) A public office or person responsible for public 463 records is not required to permit a person who is incarcerated 464 pursuant to a criminal conviction or a juvenile adjudication to 465 inspect or to obtain a copy of any public record concerning a 466 criminal investigation or prosecution or concerning what would 467 be a criminal investigation or prosecution if the subject of the 468 investigation or prosecution were an adult, unless the request 469 to inspect or to obtain a copy of the record is for the purpose 470 of acquiring information that is subject to release as a public 471 record under this section and the judge who imposed the sentence 472 or made the adjudication with respect to the person, or the 473 judge's successor in office, finds that the information sought 474 in the public record is necessary to support what appears to be 475 a justiciable claim of the person. 476
- (9) (a) Upon written request made and signed by a 477 journalist on or after December 16, 1999, a public office, or 478 person responsible for public records, having custody of the 479 records of the agency employing a specified peace officer, 480 parole officer, probation officer, bailiff, prosecuting 481 attorney, assistant prosecuting attorney, correctional employee, 482 community-based correctional facility employee, youth services 483 employee, firefighter, EMT, or investigator of the bureau of 484 criminal identification and investigation shall disclose to the 485 journalist the address of the actual personal residence of the 486 peace officer, parole officer, probation officer, bailiff, 487 prosecuting attorney, assistant prosecuting attorney, 488 correctional employee, community-based correctional facility 489

employee, youth services employee, firefighter, EMT, or	490
investigator of the bureau of criminal identification and	491
investigation and, if the peace officer's, parole officer's,	492
probation officer's, bailiff's, prosecuting attorney's,	493
assistant prosecuting attorney's, correctional employee's,	494
community-based correctional facility employee's, youth services	495
employee's, firefighter's, EMT's, or investigator of the bureau	496
of criminal identification and investigation's spouse, former	497
spouse, or child is employed by a public office, the name and	498
address of the employer of the peace officer's, parole	499
officer's, probation officer's, bailiff's, prosecuting	500
attorney's, assistant prosecuting attorney's, correctional	501
employee's, community-based correctional facility employee's,	502
youth services employee's, firefighter's, EMT's, or investigator	503
of the bureau of criminal identification and investigation's	504
spouse, former spouse, or child. The request shall include the	505
journalist's name and title and the name and address of the	506
journalist's employer and shall state that disclosure of the	507
information sought would be in the public interest.	508
(b) Division (B)(9)(a) of this section also applies to	509
journalist requests for customer information maintained by a	510
municipally owned or operated public utility, other than social	511
security numbers and any private financial information such as	512
credit reports, payment methods, credit card numbers, and bank	513
account information.	514
(c) As used in division (B)(9) of this section,	515
"journalist" means a person engaged in, connected with, or	516
employed by any news medium, including a newspaper, magazine,	517

press association, news agency, or wire service, a radio or

television station, or a similar medium, for the purpose of

gathering, processing, transmitting, compiling, editing, or

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disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure 522 of a public office or the person responsible for public records 523 to promptly prepare a public record and to make it available to 524 the person for inspection in accordance with division (B) of 525 this section or by any other failure of a public office or the 526 person responsible for public records to comply with an 527 obligation in accordance with division (B) of this section, the 528 person allegedly aggrieved may commence a mandamus action to 529 obtain a judgment that orders the public office or the person 530 responsible for the public record to comply with division (B) of 531 this section, that awards court costs and reasonable attorney's 532 fees to the person that instituted the mandamus action, and, if 533 applicable, that includes an order fixing statutory damages 534 under division (C)(1) of this section. The mandamus action may 535 be commenced in the court of common pleas of the county in which 536 division (B) of this section allegedly was not complied with, in 537 the supreme court pursuant to its original jurisdiction under 538 Section 2 of Article IV, Ohio Constitution, or in the court of 539 appeals for the appellate district in which division (B) of this 540 section allegedly was not complied with pursuant to its original 541 jurisdiction under Section 3 of Article IV, Ohio Constitution. 542

If a requestor transmits a written request by hand 543 delivery or certified mail to inspect or receive copies of any 544 public record in a manner that fairly describes the public 545 record or class of public records to the public office or person 546 responsible for the requested public records, except as 547 otherwise provided in this section, the requestor shall be 548 entitled to recover the amount of statutory damages set forth in 549 this division if a court determines that the public office or 550 the person responsible for public records failed to comply with 551

an obligation in accordance with division (B) of this section.	552
The amount of statutory damages shall be fixed at one	553
hundred dollars for each business day during which the public	554
office or person responsible for the requested public records	555
failed to comply with an obligation in accordance with division	556
(B) of this section, beginning with the day on which the	557
requester files a mandamus action to recover statutory damages,	558
up to a maximum of one thousand dollars. The award of statutory	559
damages shall not be construed as a penalty, but as compensation	560
for injury arising from lost use of the requested information.	561
The existence of this injury shall be conclusively presumed. The	562
award of statutory damages shall be in addition to all other	563
remedies authorized by this section.	564
The court may reduce an award of statutory damages or not	565
award statutory damages if the court determines both of the	566
following:	567
(a) That, based on the ordinary application of statutory	568
law and case law as it existed at the time of the conduct or	569
threatened conduct of the public office or person responsible	570
for the requested public records that allegedly constitutes a	571
failure to comply with an obligation in accordance with division	572
(B) of this section and that was the basis of the mandamus	573
action, a well-informed public office or person responsible for	574
the requested public records reasonably would believe that the	575
conduct or threatened conduct of the public office or person	576
responsible for the requested public records did not constitute	577
a failure to comply with an obligation in accordance with	578
division (B) of this section;	579
(b) That a well-informed public office or person	580

responsible for the requested public records reasonably would

believe that the conduct or threatened conduct of the public	582
office or person responsible for the requested public records	583
would serve the public policy that underlies the authority that	584
is asserted as permitting that conduct or threatened conduct.	585
(2)(a) If the court issues a writ of mandamus that orders	586
the public office or the person responsible for the public	587
record to comply with division (B) of this section and	588
determines that the circumstances described in division (C)(1)	589
of this section exist, the court shall determine and award to	590
the relator all court costs.	591
(b) If the court renders a judgment that orders the public	592
office or the person responsible for the public record to comply	593
with division (B) of this section, the court may award	594
reasonable attorney's fees subject to reduction as described in	595
division (C)(2)(c) of this section. The court shall award	596
reasonable attorney's fees, subject to reduction as described in	597
division (C)(2)(c) of this section when either of the following	598
applies:	599
(i) The public office or the person responsible for the	600
public records failed to respond affirmatively or negatively to	601
the public records request in accordance with the time allowed	602
under division (B) of this section.	603
(ii) The public office or the person responsible for the	604
public records promised to permit the relator to inspect or	605
receive copies of the public records requested within a	606
specified period of time but failed to fulfill that promise	607
within that specified period of time.	608
(c) Court costs and reasonable attorney's fees awarded	609

under this section shall be construed as remedial and not

punitive. Reasonable attorney's fees shall include reasonable	611
fees incurred to produce proof of the reasonableness and amount	612
of the fees and to otherwise litigate entitlement to the fees.	613
The court may reduce an award of attorney's fees to the relator	614
or not award attorney's fees to the relator if the court	615
determines both of the following:	616
(i) That, based on the ordinary application of statutory	617
law and case law as it existed at the time of the conduct or	618
threatened conduct of the public office or person responsible	619
for the requested public records that allegedly constitutes a	620
failure to comply with an obligation in accordance with division	621
(B) of this section and that was the basis of the mandamus	622
action, a well-informed public office or person responsible for	623
the requested public records reasonably would believe that the	624
conduct or threatened conduct of the public office or person	625
responsible for the requested public records did not constitute	626
a failure to comply with an obligation in accordance with	627
division (B) of this section;	628
(ii) That a well-informed public office or person	629
responsible for the requested public records reasonably would	630
believe that the conduct or threatened conduct of the public	631
office or person responsible for the requested public records as	632
described in division (C)(2)(c)(i) of this section would serve	633
the public policy that underlies the authority that is asserted	634
as permitting that conduct or threatened conduct.	635
(D) Chapter 1347. of the Revised Code does not limit the	636
provisions of this section.	637
(E)(1) To ensure that all employees of public offices are	638
appropriately educated about a public office's obligations under	639

division (B) of this section, all elected officials or their

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appropriate designees shall attend training approved by the	641
attorney general as provided in section 109.43 of the Revised	642
Code. In addition, all public offices shall adopt a public	643
records policy in compliance with this section for responding to	644
public records requests. In adopting a public records policy	645
under this division, a public office may obtain guidance from	646
the model public records policy developed and provided to the	647
public office by the attorney general under section 109.43 of	648
the Revised Code. Except as otherwise provided in this section,	649
the policy may not limit the number of public records that the	650
public office will make available to a single person, may not	651
limit the number of public records that it will make available	652
during a fixed period of time, and may not establish a fixed	653
period of time before it will respond to a request for	654
inspection or copying of public records, unless that period is	655
less than eight hours.	656

(2) The public office shall distribute the public records 657 policy adopted by the public office under division (E)(1) of 658 this section to the employee of the public office who is the 659 records custodian or records manager or otherwise has custody of 660 the records of that office. The public office shall require that 661 employee to acknowledge receipt of the copy of the public 662 records policy. The public office shall create a poster that 663 describes its public records policy and shall post the poster in 664 a conspicuous place in the public office and in all locations 665 where the public office has branch offices. The public office 666 may post its public records policy on the internet web site of 667 the public office if the public office maintains an internet web 668 site. A public office that has established a manual or handbook 669 of its general policies and procedures for all employees of the 670 public office shall include the public records policy of the 671

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public office in the manual or handbook. 672 (F)(1) The bureau of motor vehicles may adopt rules 673 pursuant to Chapter 119. of the Revised Code to reasonably limit 674 the number of bulk commercial special extraction requests made 675 by a person for the same records or for updated records during a 676 calendar year. The rules may include provisions for charges to 677 be made for bulk commercial special extraction requests for the 678 actual cost of the bureau, plus special extraction costs, plus 679 ten per cent. The bureau may charge for expenses for redacting 680 information, the release of which is prohibited by law. 681 (2) As used in division (F)(1) of this section: 682 (a) "Actual cost" means the cost of depleted supplies, 683 records storage media costs, actual mailing and alternative 684 delivery costs, or other transmitting costs, and any direct 685 equipment operating and maintenance costs, including actual 686 costs paid to private contractors for copying services. 687 (b) "Bulk commercial special extraction request" means a 688 request for copies of a record for information in a format other 689 than the format already available, or information that cannot be 690 extracted without examination of all items in a records series, 691 class of records, or database by a person who intends to use or 692 forward the copies for surveys, marketing, solicitation, or 693 resale for commercial purposes. "Bulk commercial special 694 extraction request" does not include a request by a person who 695 gives assurance to the bureau that the person making the request 696 does not intend to use or forward the requested copies for 697 surveys, marketing, solicitation, or resale for commercial 698 purposes. 699

(c) "Commercial" means profit-seeking production, buying,

or selling of any good, service, or other product.	701
(d) "Special extraction costs" means the cost of the time	702
spent by the lowest paid employee competent to perform the task,	703
the actual amount paid to outside private contractors employed	704
by the bureau, or the actual cost incurred to create computer	705
programs to make the special extraction. "Special extraction	706
costs" include any charges paid to a public agency for computer	707
or records services.	708
(3) For purposes of divisions (F)(1) and (2) of this	709
section, "surveys, marketing, solicitation, or resale for	710
commercial purposes" shall be narrowly construed and does not	711
include reporting or gathering news, reporting or gathering	712
information to assist citizen oversight or understanding of the	713
operation or activities of government, or nonprofit educational	714
research.	715
Section 2. That existing sections 149.011 and 149.43 of	716
the Revised Code are hereby repealed.	717
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