

As Reported by the House Civil Justice Committee

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H. B. No. 61

Representatives Lanese, Liston

**Cosponsors: Representatives Riedel, Patterson, Roemer, Scherer, Crawley, Ryan,
Carfagna, Leland, Brown, West, Hambley, Galonski**

A BILL

To amend section 149.43 of the Revised Code to 1
include forensic mental health providers, mental 2
health evaluation providers, and regional 3
psychiatric hospital employees as individuals 4
whose residential and familial information is 5
exempt from disclosure under the Public Records 6
Law. 7

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

Section 1. That section 149.43 of the Revised Code be 8
amended to read as follows: 9

Sec. 149.43. (A) As used in this section: 10

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

mean any of the following:	18
(a) Medical records;	19
(b) Records pertaining to probation and parole	20
proceedings, to proceedings related to the imposition of	21
community control sanctions and post-release control sanctions,	22
or to proceedings related to determinations under section	23
2967.271 of the Revised Code regarding the release or maintained	24
incarceration of an offender to whom that section applies;	25
(c) Records pertaining to actions under section 2151.85	26
and division (C) of section 2919.121 of the Revised Code and to	27
appeals of actions arising under those sections;	28
(d) Records pertaining to adoption proceedings, including	29
the contents of an adoption file maintained by the department of	30
health under sections 3705.12 to 3705.124 of the Revised Code;	31
(e) Information in a record contained in the putative	32
father registry established by section 3107.062 of the Revised	33
Code, regardless of whether the information is held by the	34
department of job and family services or, pursuant to section	35
3111.69 of the Revised Code, the office of child support in the	36
department or a child support enforcement agency;	37
(f) Records specified in division (A) of section 3107.52	38
of the Revised Code;	39
(g) Trial preparation records;	40
(h) Confidential law enforcement investigatory records;	41
(i) Records containing information that is confidential	42
under section 2710.03 or 4112.05 of the Revised Code;	43
(j) DNA records stored in the DNA database pursuant to	44

section 109.573 of the Revised Code;	45
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	46 47 48 49
(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;	50 51 52 53
(m) Intellectual property records;	54
(n) Donor profile records;	55
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	56 57
(p) Designated public service worker residential and familial information;	58 59
(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;	60 61 62 63 64
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	65 66
(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	67 68 69 70 71 72

participating in the director's review, and all work products of	73
the board or director, and in the case of a child fatality	74
review board, child fatality review data submitted by the board	75
to the department of health or a national child death review	76
database, other than the report prepared pursuant to division	77
(A) of section 307.626 of the Revised Code;	78
(t) Records provided to and statements made by the	79
executive director of a public children services agency or a	80
prosecuting attorney acting pursuant to section 5153.171 of the	81
Revised Code other than the information released under that	82
section;	83
(u) Test materials, examinations, or evaluation tools used	84
in an examination for licensure as a nursing home administrator	85
that the board of executives of long-term services and supports	86
administers under section 4751.04 of the Revised Code or	87
contracts under that section with a private or government entity	88
to administer;	89
(v) Records the release of which is prohibited by state or	90
federal law;	91
(w) Proprietary information of or relating to any person	92
that is submitted to or compiled by the Ohio venture capital	93
authority created under section 150.01 of the Revised Code;	94
(x) Financial statements and data any person submits for	95
any purpose to the Ohio housing finance agency or the	96
controlling board in connection with applying for, receiving, or	97
accounting for financial assistance from the agency, and	98
information that identifies any individual who benefits directly	99
or indirectly from financial assistance from the agency;	100
(y) Records listed in section 5101.29 of the Revised Code;	101

(z) Discharges recorded with a county recorder under	102
section 317.24 of the Revised Code, as specified in division (B)	103
(2) of that section;	104
(aa) Usage information including names and addresses of	105
specific residential and commercial customers of a municipally	106
owned or operated public utility;	107
(bb) Records described in division (C) of section 187.04	108
of the Revised Code that are not designated to be made available	109
to the public as provided in that division;	110
(cc) Information and records that are made confidential,	111
privileged, and not subject to disclosure under divisions (B)	112
and (C) of section 2949.221 of the Revised Code;	113
(dd) Personal information, as defined in section 149.45 of	114
the Revised Code;	115
(ee) The confidential name, address, and other personally	116
identifiable information of a program participant in the address	117
confidentiality program established under sections 111.41 to	118
111.47 of the Revised Code, including the contents of any	119
application for absent voter's ballots, absent voter's ballot	120
identification envelope statement of voter, or provisional	121
ballot affirmation completed by a program participant who has a	122
confidential voter registration record, and records or portions	123
of records pertaining to that program that identify the number	124
of program participants that reside within a precinct, ward,	125
township, municipal corporation, county, or any other geographic	126
area smaller than the state. As used in this division,	127
"confidential address" and "program participant" have the	128
meaning defined in section 111.41 of the Revised Code.	129
(ff) Orders for active military service of an individual	130

serving or with previous service in the armed forces of the 131
United States, including a reserve component, or the Ohio 132
organized militia, except that, such order becomes a public 133
record on the day that is fifteen years after the published date 134
or effective date of the call to order; 135

(gg) The name, address, contact information, or other 136
personal information of an individual who is less than eighteen 137
years of age that is included in any record related to a traffic 138
accident involving a school vehicle in which the individual was 139
an occupant at the time of the accident; 140

(hh) Protected health information, as defined in 45 C.F.R. 141
160.103, that is in a claim for payment for a health care 142
product, service, or procedure, as well as any other health 143
claims data in another document that reveals the identity of an 144
individual who is the subject of the data or could be used to 145
reveal that individual's identity; 146

(ii) Any depiction by photograph, film, videotape, or 147
printed or digital image under either of the following 148
circumstances: 149

(i) The depiction is that of a victim of an offense the 150
release of which would be, to a reasonable person of ordinary 151
sensibilities, an offensive and objectionable intrusion into the 152
victim's expectation of bodily privacy and integrity. 153

(ii) The depiction captures or depicts the victim of a 154
sexually oriented offense, as defined in section 2950.01 of the 155
Revised Code, at the actual occurrence of that offense. 156

(jj) Restricted portions of a body-worn camera or 157
dashboard camera recording. 158

A record that is not a public record under division (A) (1) 159

of this section and that, under law, is permanently retained 160
becomes a public record on the day that is seventy-five years 161
after the day on which the record was created, except for any 162
record protected by the attorney-client privilege, a trial 163
preparation record as defined in this section, a statement 164
prohibiting the release of identifying information signed under 165
section 3107.083 of the Revised Code, a denial of release form 166
filed pursuant to section 3107.46 of the Revised Code, or any 167
record that is exempt from release or disclosure under section 168
149.433 of the Revised Code. If the record is a birth 169
certificate and a biological parent's name redaction request 170
form has been accepted under section 3107.391 of the Revised 171
Code, the name of that parent shall be redacted from the birth 172
certificate before it is released under this paragraph. If any 173
other section of the Revised Code establishes a time period for 174
disclosure of a record that conflicts with the time period 175
specified in this section, the time period in the other section 176
prevails. 177

(2) "Confidential law enforcement investigatory record" 178
means any record that pertains to a law enforcement matter of a 179
criminal, quasi-criminal, civil, or administrative nature, but 180
only to the extent that the release of the record would create a 181
high probability of disclosure of any of the following: 182

(a) The identity of a suspect who has not been charged 183
with the offense to which the record pertains, or of an 184
information source or witness to whom confidentiality has been 185
reasonably promised; 186

(b) Information provided by an information source or 187
witness to whom confidentiality has been reasonably promised, 188
which information would reasonably tend to disclose the source's 189

or witness's identity;	190
(c) Specific confidential investigatory techniques or	191
procedures or specific investigatory work product;	192
(d) Information that would endanger the life or physical	193
safety of law enforcement personnel, a crime victim, a witness,	194
or a confidential information source.	195
(3) "Medical record" means any document or combination of	196
documents, except births, deaths, and the fact of admission to	197
or discharge from a hospital, that pertains to the medical	198
history, diagnosis, prognosis, or medical condition of a patient	199
and that is generated and maintained in the process of medical	200
treatment.	201
(4) "Trial preparation record" means any record that	202
contains information that is specifically compiled in reasonable	203
anticipation of, or in defense of, a civil or criminal action or	204
proceeding, including the independent thought processes and	205
personal trial preparation of an attorney.	206
(5) "Intellectual property record" means a record, other	207
than a financial or administrative record, that is produced or	208
collected by or for faculty or staff of a state institution of	209
higher learning in the conduct of or as a result of study or	210
research on an educational, commercial, scientific, artistic,	211
technical, or scholarly issue, regardless of whether the study	212
or research was sponsored by the institution alone or in	213
conjunction with a governmental body or private concern, and	214
that has not been publicly released, published, or patented.	215
(6) "Donor profile record" means all records about donors	216
or potential donors to a public institution of higher education	217
except the names and reported addresses of the actual donors and	218

the date, amount, and conditions of the actual donation.	219
(7) "Designated public service worker" means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, <u>forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge,</u> magistrate, or federal law enforcement officer.	220 221 222 223 224 225 226 227 228 229 230 231
(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:	232 233 234
(a) The address of the actual personal residence of a designated public service worker, except for the following information:	235 236 237
(i) The address of the actual personal residence of a prosecuting attorney or judge; and	238 239
(ii) The state or political subdivision in which a designated public service worker resides.	240 241
(b) Information compiled from referral to or participation in an employee assistance program;	242 243
(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service	244 245 246 247

worker;	248
(d) The name of any beneficiary of employment benefits,	249
including, but not limited to, life insurance benefits, provided	250
to a designated public service worker by the designated public	251
service worker's employer;	252
(e) The identity and amount of any charitable or	253
employment benefit deduction made by the designated public	254
service worker's employer from the designated public service	255
worker's compensation, unless the amount of the deduction is	256
required by state or federal law;	257
(f) The name, the residential address, the name of the	258
employer, the address of the employer, the social security	259
number, the residential telephone number, any bank account,	260
debit card, charge card, or credit card number, or the emergency	261
telephone number of the spouse, a former spouse, or any child of	262
a designated public service worker;	263
(g) A photograph of a peace officer who holds a position	264
or has an assignment that may include undercover or plain	265
clothes positions or assignments as determined by the peace	266
officer's appointing authority.	267
(9) As used in divisions (A) (7) and (15) to (17) of this	268
section:	269
"Peace officer" has the meaning defined in section 109.71	270
of the Revised Code and also includes the superintendent and	271
troopers of the state highway patrol; it does not include the	272
sheriff of a county or a supervisory employee who, in the	273
absence of the sheriff, is authorized to stand in for, exercise	274
the authority of, and perform the duties of the sheriff.	275
"Correctional employee" means any employee of the	276

department of rehabilitation and correction who in the course of 277
performing the employee's job duties has or has had contact with 278
inmates and persons under supervision. 279

"County or multicounty corrections officer" means any 280
corrections officer employed by any county or multicounty 281
correctional facility. 282

"Youth services employee" means any employee of the 283
department of youth services who in the course of performing the 284
employee's job duties has or has had contact with children 285
committed to the custody of the department of youth services. 286

"Firefighter" means any regular, paid or volunteer, member 287
of a lawfully constituted fire department of a municipal 288
corporation, township, fire district, or village. 289

"EMT" means EMTs-basic, EMTs-I, and paramedics that 290
provide emergency medical services for a public emergency 291
medical service organization. "Emergency medical service 292
organization," "EMT-basic," "EMT-I," and "paramedic" have the 293
meanings defined in section 4765.01 of the Revised Code. 294

"Investigator of the bureau of criminal identification and 295
investigation" has the meaning defined in section 2903.11 of the 296
Revised Code. 297

"Forensic mental health provider" means any employee of a 298
community mental health service provider or local alcohol, drug 299
addiction, and mental health services board who, in the course 300
of the employee's duties, has contact with persons committed to 301
a local alcohol, drug addiction, and mental health services 302
board by a court order pursuant to section 2945.38, 2945.39, 303
2945.40, or 2945.402 of the Revised Code. 304

"Mental health evaluation provider" means an individual 305

who, under Chapter 5122. of the Revised Code, examines a 306
respondent who is alleged to be a mentally ill person subject to 307
court order, as defined in section 5122.01 of the Revised Code, 308
and reports to the probate court the respondent's mental 309
condition. 310

"Regional psychiatric hospital employee" means any 311
employee of the department of mental health and addiction 312
services who, in the course of performing the employee's duties, 313
has contact with patients committed to the department of mental 314
health and addiction services by a court order pursuant to 315
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 316
Code. 317

"Federal law enforcement officer" has the meaning defined 318
in section 9.88 of the Revised Code. 319

(10) "Information pertaining to the recreational 320
activities of a person under the age of eighteen" means 321
information that is kept in the ordinary course of business by a 322
public office, that pertains to the recreational activities of a 323
person under the age of eighteen years, and that discloses any 324
of the following: 325

(a) The address or telephone number of a person under the 326
age of eighteen or the address or telephone number of that 327
person's parent, guardian, custodian, or emergency contact 328
person; 329

(b) The social security number, birth date, or 330
photographic image of a person under the age of eighteen; 331

(c) Any medical record, history, or information pertaining 332
to a person under the age of eighteen; 333

(d) Any additional information sought or required about a 334

person under the age of eighteen for the purpose of allowing 335
that person to participate in any recreational activity 336
conducted or sponsored by a public office or to use or obtain 337
admission privileges to any recreational facility owned or 338
operated by a public office. 339

(11) "Community control sanction" has the meaning defined 340
in section 2929.01 of the Revised Code. 341

(12) "Post-release control sanction" has the meaning 342
defined in section 2967.01 of the Revised Code. 343

(13) "Redaction" means obscuring or deleting any 344
information that is exempt from the duty to permit public 345
inspection or copying from an item that otherwise meets the 346
definition of a "record" in section 149.011 of the Revised Code. 347

(14) "Designee," "elected official," and "future official" 348
have the meanings defined in section 109.43 of the Revised Code. 349

(15) "Body-worn camera" means a visual and audio recording 350
device worn on the person of a peace officer while the peace 351
officer is engaged in the performance of the peace officer's 352
duties. 353

(16) "Dashboard camera" means a visual and audio recording 354
device mounted on a peace officer's vehicle or vessel that is 355
used while the peace officer is engaged in the performance of 356
the peace officer's duties. 357

(17) "Restricted portions of a body-worn camera or 358
dashboard camera recording" means any visual or audio portion of 359
a body-worn camera or dashboard camera recording that shows, 360
communicates, or discloses any of the following: 361

(a) The image or identity of a child or information that 362

could lead to the identification of a child who is a primary 363
subject of the recording when the law enforcement agency knows 364
or has reason to know the person is a child based on the law 365
enforcement agency's records or the content of the recording; 366

(b) The death of a person or a deceased person's body, 367
unless the death was caused by a peace officer or, subject to 368
division (H)(1) of this section, the consent of the decedent's 369
executor or administrator has been obtained; 370

(c) The death of a peace officer, firefighter, paramedic, 371
or other first responder, occurring while the decedent was 372
engaged in the performance of official duties, unless, subject 373
to division (H)(1) of this section, the consent of the 374
decedent's executor or administrator has been obtained; 375

(d) Grievous bodily harm, unless the injury was effected 376
by a peace officer or, subject to division (H)(1) of this 377
section, the consent of the injured person or the injured 378
person's guardian has been obtained; 379

(e) An act of severe violence against a person that 380
results in serious physical harm to the person, unless the act 381
and injury was effected by a peace officer or, subject to 382
division (H)(1) of this section, the consent of the injured 383
person or the injured person's guardian has been obtained; 384

(f) Grievous bodily harm to a peace officer, firefighter, 385
paramedic, or other first responder, occurring while the injured 386
person was engaged in the performance of official duties, 387
unless, subject to division (H)(1) of this section, the consent 388
of the injured person or the injured person's guardian has been 389
obtained; 390

(g) An act of severe violence resulting in serious 391

physical harm against a peace officer, firefighter, paramedic, 392
or other first responder, occurring while the injured person was 393
engaged in the performance of official duties, unless, subject 394
to division (H) (1) of this section, the consent of the injured 395
person or the injured person's guardian has been obtained; 396

(h) A person's nude body, unless, subject to division (H) 397
(1) of this section, the person's consent has been obtained; 398

(i) Protected health information, the identity of a person 399
in a health care facility who is not the subject of a law 400
enforcement encounter, or any other information in a health care 401
facility that could identify a person who is not the subject of 402
a law enforcement encounter; 403

(j) Information that could identify the alleged victim of 404
a sex offense, menacing by stalking, or domestic violence; 405

(k) Information, that does not constitute a confidential 406
law enforcement investigatory record, that could identify a 407
person who provides sensitive or confidential information to a 408
law enforcement agency when the disclosure of the person's 409
identity or the information provided could reasonably be 410
expected to threaten or endanger the safety or property of the 411
person or another person; 412

(l) Personal information of a person who is not arrested, 413
cited, charged, or issued a written warning by a peace officer; 414

(m) Proprietary police contingency plans or tactics that 415
are intended to prevent crime and maintain public order and 416
safety; 417

(n) A personal conversation unrelated to work between 418
peace officers or between a peace officer and an employee of a 419
law enforcement agency; 420

(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;	421 422
(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a peace officer;	423 424 425
(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a peace officer occurs in that location.	426 427 428
As used in division (A) (17) of this section:	429
"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.	430 431
"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.	432 433
"Protected health information" has the same meaning as in 45 C.F.R. 160.103.	434 435
"Law enforcement agency" has the same meaning as in section 2925.61 of the Revised Code.	436 437
"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.	438 439 440 441
"Sex offense" has the same meaning as in section 2907.10 of the Revised Code.	442 443
"Firefighter," "paramedic," and "first responder" have the same meanings as in section 4765.01 of the Revised Code.	444 445
(B) (1) Upon request <u>by any person</u> and subject to division (B) (8) of this section, all public records responsive to the	446 447

request shall be promptly prepared and made available for 448
inspection to ~~any person~~ the requester at all reasonable times 449
during regular business hours. Subject to division (B) (8) of 450
this section, upon request by any person, a public office or 451
person responsible for public records shall make copies of the 452
requested public record available to the requester at cost and 453
within a reasonable period of time. If a public record contains 454
information that is exempt from the duty to permit public 455
inspection or to copy the public record, the public office or 456
the person responsible for the public record shall make 457
available all of the information within the public record that 458
is not exempt. When making that public record available for 459
public inspection or copying that public record, the public 460
office or the person responsible for the public record shall 461
notify the requester of any redaction or make the redaction 462
plainly visible. A redaction shall be deemed a denial of a 463
request to inspect or copy the redacted information, except if 464
federal or state law authorizes or requires a public office to 465
make the redaction. 466

(2) To facilitate broader access to public records, a 467
public office or the person responsible for public records shall 468
organize and maintain public records in a manner that they can 469
be made available for inspection or copying in accordance with 470
division (B) of this section. A public office also shall have 471
available a copy of its current records retention schedule at a 472
location readily available to the public. If a requester makes 473
an ambiguous or overly broad request or has difficulty in making 474
a request for copies or inspection of public records under this 475
section such that the public office or the person responsible 476
for the requested public record cannot reasonably identify what 477
public records are being requested, the public office or the 478

person responsible for the requested public record may deny the 479
request but shall provide the requester with an opportunity to 480
revise the request by informing the requester of the manner in 481
which records are maintained by the public office and accessed 482
in the ordinary course of the public office's or person's 483
duties. 484

(3) If a request is ultimately denied, in part or in 485
whole, the public office or the person responsible for the 486
requested public record shall provide the requester with an 487
explanation, including legal authority, setting forth why the 488
request was denied. If the initial request was provided in 489
writing, the explanation also shall be provided to the requester 490
in writing. The explanation shall not preclude the public office 491
or the person responsible for the requested public record from 492
relying upon additional reasons or legal authority in defending 493
an action commenced under division (C) of this section. 494

(4) Unless specifically required or authorized by state or 495
federal law or in accordance with division (B) of this section, 496
no public office or person responsible for public records may 497
limit or condition the availability of public records by 498
requiring disclosure of the requester's identity or the intended 499
use of the requested public record. Any requirement that the 500
requester disclose the requester's identity or the intended use 501
of the requested public record constitutes a denial of the 502
request. 503

(5) A public office or person responsible for public 504
records may ask a requester to make the request in writing, may 505
ask for the requester's identity, and may inquire about the 506
intended use of the information requested, but may do so only 507
after disclosing to the requester that a written request is not 508

mandatory, that the requester may decline to reveal the 509
requester's identity or the intended use, and when a written 510
request or disclosure of the identity or intended use would 511
benefit the requester by enhancing the ability of the public 512
office or person responsible for public records to identify, 513
locate, or deliver the public records sought by the requester. 514

(6) If any person requests a copy of a public record in 515
accordance with division (B) of this section, the public office 516
or person responsible for the public record may require ~~that~~ 517
~~person~~ the requester to pay in advance the cost involved in 518
providing the copy of the public record in accordance with the 519
choice made by the ~~person requesting the copy~~ requester under 520
this division. The public office or the person responsible for 521
the public record shall permit ~~that person~~ the requester to 522
choose to have the public record duplicated upon paper, upon the 523
same medium upon which the public office or person responsible 524
for the public record keeps it, or upon any other medium upon 525
which the public office or person responsible for the public 526
record determines that it reasonably can be duplicated as an 527
integral part of the normal operations of the public office or 528
person responsible for the public record. When the ~~person~~ 529
~~requesting the copy~~ requester makes a choice under this 530
division, the public office or person responsible for the public 531
record shall provide a copy of it in accordance with the choice 532
made by ~~that person~~ the requester. Nothing in this section 533
requires a public office or person responsible for the public 534
record to allow the ~~person requesting~~ requester of a copy of the 535
public record to make the copies of the public record. 536

(7) (a) Upon a request made in accordance with division (B) 537
of this section and subject to division (B) (6) of this section, 538
a public office or person responsible for public records shall 539

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

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

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

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

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

during acts of God outside the public office's control or 570
maintenance, and that charges no fee to search, access, 571
download, or otherwise receive records provided on the web site, 572
may limit to ten per month the number of records requested by a 573
person that the office will deliver in a digital format, unless 574
the requested records are not provided on the web site and 575
unless the person certifies to the office in writing that the 576
person does not intend to use or forward the requested records, 577
or the information contained in them, for commercial purposes. 578

(iii) For purposes of division (B)(7) of this section, 579
"commercial" shall be narrowly construed and does not include 580
reporting or gathering news, reporting or gathering information 581
to assist citizen oversight or understanding of the operation or 582
activities of government, or nonprofit educational research. 583

(8) A public office or person responsible for public 584
records is not required to permit a person who is incarcerated 585
pursuant to a criminal conviction or a juvenile adjudication to 586
inspect or to obtain a copy of any public record concerning a 587
criminal investigation or prosecution or concerning what would 588
be a criminal investigation or prosecution if the subject of the 589
investigation or prosecution were an adult, unless the request 590
to inspect or to obtain a copy of the record is for the purpose 591
of acquiring information that is subject to release as a public 592
record under this section and the judge who imposed the sentence 593
or made the adjudication with respect to the person, or the 594
judge's successor in office, finds that the information sought 595
in the public record is necessary to support what appears to be 596
a justiciable claim of the person. 597

(9) (a) Upon written request made and signed by a 598
journalist, a public office, or person responsible for public 599

records, having custody of the records of the agency employing a 600
specified designated public service worker shall disclose to the 601
journalist the address of the actual personal residence of the 602
designated public service worker and, if the designated public 603
service worker's spouse, former spouse, or child is employed by 604
a public office, the name and address of the employer of the 605
designated public service worker's spouse, former spouse, or 606
child. The request shall include the journalist's name and title 607
and the name and address of the journalist's employer and shall 608
state that disclosure of the information sought would be in the 609
public interest. 610

(b) Division (B) (9) (a) of this section also applies to 611
journalist requests for: 612

(i) Customer information maintained by a municipally owned 613
or operated public utility, other than social security numbers 614
and any private financial information such as credit reports, 615
payment methods, credit card numbers, and bank account 616
information; 617

(ii) Information about minors involved in a school vehicle 618
accident as provided in division (A) (1) (gg) of this section, 619
other than personal information as defined in section 149.45 of 620
the Revised Code. 621

(c) As used in division (B) (9) of this section, 622
"journalist" means a person engaged in, connected with, or 623
employed by any news medium, including a newspaper, magazine, 624
press association, news agency, or wire service, a radio or 625
television station, or a similar medium, for the purpose of 626
gathering, processing, transmitting, compiling, editing, or 627
disseminating information for the general public. 628

(10) Upon a request made by a victim, victim's attorney, 629
or victim's representative, as that term is used in section 630
2930.02 of the Revised Code, a public office or person 631
responsible for public records shall transmit a copy of a 632
depiction of the victim as described in division (A) (1) (gg) of 633
this section to the victim, victim's attorney, or victim's 634
representative. 635

(C) (1) If a person allegedly is aggrieved by the failure 636
of a public office or the person responsible for public records 637
to promptly prepare a public record and to make it available to 638
the person for inspection in accordance with division (B) of 639
this section or by any other failure of a public office or the 640
person responsible for public records to comply with an 641
obligation in accordance with division (B) of this section, the 642
person allegedly aggrieved may do only one of the following, and 643
not both: 644

(a) File a complaint with the clerk of the court of claims 645
or the clerk of the court of common pleas under section 2743.75 646
of the Revised Code; 647

(b) Commence a mandamus action to obtain a judgment that 648
orders the public office or the person responsible for the 649
public record to comply with division (B) of this section, that 650
awards court costs and reasonable attorney's fees to the person 651
that instituted the mandamus action, and, if applicable, that 652
includes an order fixing statutory damages under division (C) (2) 653
of this section. The mandamus action may be commenced in the 654
court of common pleas of the county in which division (B) of 655
this section allegedly was not complied with, in the supreme 656
court pursuant to its original jurisdiction under Section 2 of 657
Article IV, Ohio Constitution, or in the court of appeals for 658

the appellate district in which division (B) of this section 659
allegedly was not complied with pursuant to its original 660
jurisdiction under Section 3 of Article IV, Ohio Constitution. 661

(2) If a requester transmits a written request by hand 662
delivery, electronic submission, or certified mail to inspect or 663
receive copies of any public record in a manner that fairly 664
describes the public record or class of public records to the 665
public office or person responsible for the requested public 666
records, except as otherwise provided in this section, the 667
requester shall be entitled to recover the amount of statutory 668
damages set forth in this division if a court determines that 669
the public office or the person responsible for public records 670
failed to comply with an obligation in accordance with division 671
(B) of this section. 672

The amount of statutory damages shall be fixed at one 673
hundred dollars for each business day during which the public 674
office or person responsible for the requested public records 675
failed to comply with an obligation in accordance with division 676
(B) of this section, beginning with the day on which the 677
requester files a mandamus action to recover statutory damages, 678
up to a maximum of one thousand dollars. The award of statutory 679
damages shall not be construed as a penalty, but as compensation 680
for injury arising from lost use of the requested information. 681
The existence of this injury shall be conclusively presumed. The 682
award of statutory damages shall be in addition to all other 683
remedies authorized by this section. 684

The court may reduce an award of statutory damages or not 685
award statutory damages if the court determines both of the 686
following: 687

(a) That, based on the ordinary application of statutory 688

law and case law as it existed at the time of the conduct or 689
threatened conduct of the public office or person responsible 690
for the requested public records that allegedly constitutes a 691
failure to comply with an obligation in accordance with division 692
(B) of this section and that was the basis of the mandamus 693
action, a well-informed public office or person responsible for 694
the requested public records reasonably would believe that the 695
conduct or threatened conduct of the public office or person 696
responsible for the requested public records did not constitute 697
a failure to comply with an obligation in accordance with 698
division (B) of this section; 699

(b) That a well-informed public office or person 700
responsible for the requested public records reasonably would 701
believe that the conduct or threatened conduct of the public 702
office or person responsible for the requested public records 703
would serve the public policy that underlies the authority that 704
is asserted as permitting that conduct or threatened conduct. 705

(3) In a mandamus action filed under division (C) (1) of 706
this section, the following apply: 707

(a) (i) If the court orders the public office or the person 708
responsible for the public record to comply with division (B) of 709
this section, the court shall determine and award to the relator 710
all court costs, which shall be construed as remedial and not 711
punitive. 712

(ii) If the court makes a determination described in 713
division (C) (3) (b) (iii) of this section, the court shall 714
determine and award to the relator all court costs, which shall 715
be construed as remedial and not punitive. 716

(b) If the court renders a judgment that orders the public 717

office or the person responsible for the public record to comply 718
with division (B) of this section or if the court determines any 719
of the following, the court may award reasonable attorney's fees 720
to the relator, subject to division (C) (4) of this section: 721

(i) The public office or the person responsible for the 722
public records failed to respond affirmatively or negatively to 723
the public records request in accordance with the time allowed 724
under division (B) of this section. 725

(ii) The public office or the person responsible for the 726
public records promised to permit the relator to inspect or 727
receive copies of the public records requested within a 728
specified period of time but failed to fulfill that promise 729
within that specified period of time. 730

(iii) The public office or the person responsible for the 731
public records acted in bad faith when the office or person 732
voluntarily made the public records available to the relator for 733
the first time after the relator commenced the mandamus action, 734
but before the court issued any order concluding whether or not 735
the public office or person was required to comply with division 736
(B) of this section. No discovery may be conducted on the issue 737
of the alleged bad faith of the public office or person 738
responsible for the public records. This division shall not be 739
construed as creating a presumption that the public office or 740
the person responsible for the public records acted in bad faith 741
when the office or person voluntarily made the public records 742
available to the relator for the first time after the relator 743
commenced the mandamus action, but before the court issued any 744
order described in this division. 745

(c) The court shall not award attorney's fees to the 746
relator if the court determines both of the following: 747

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

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

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

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

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

(c) Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount

of the fees and to otherwise litigate entitlement to the fees. 777

(d) The court may reduce the amount of fees awarded if the 778
court determines that, given the factual circumstances involved 779
with the specific public records request, an alternative means 780
should have been pursued to more effectively and efficiently 781
resolve the dispute that was subject to the mandamus action 782
filed under division (C) (1) of this section. 783

(5) If the court does not issue a writ of mandamus under 784
division (C) of this section and the court determines at that 785
time that the bringing of the mandamus action was frivolous 786
conduct as defined in division (A) of section 2323.51 of the 787
Revised Code, the court may award to the public office all court 788
costs, expenses, and reasonable attorney's fees, as determined 789
by the court. 790

(D) Chapter 1347. of the Revised Code does not limit the 791
provisions of this section. 792

(E) (1) To ensure that all employees of public offices are 793
appropriately educated about a public office's obligations under 794
division (B) of this section, all elected officials or their 795
appropriate designees shall attend training approved by the 796
attorney general as provided in section 109.43 of the Revised 797
Code. A future official may satisfy the requirements of this 798
division by attending the training before taking office, 799
provided that the future official may not send a designee in the 800
future official's place. 801

(2) All public offices shall adopt a public records policy 802
in compliance with this section for responding to public records 803
requests. In adopting a public records policy under this 804
division, a public office may obtain guidance from the model 805

public records policy developed and provided to the public 806
office by the attorney general under section 109.43 of the 807
Revised Code. Except as otherwise provided in this section, the 808
policy may not limit the number of public records that the 809
public office will make available to a single person, may not 810
limit the number of public records that it will make available 811
during a fixed period of time, and may not establish a fixed 812
period of time before it will respond to a request for 813
inspection or copying of public records, unless that period is 814
less than eight hours. 815

The public office shall distribute the public records 816
policy adopted by the public office under this division to the 817
employee of the public office who is the records custodian or 818
records manager or otherwise has custody of the records of that 819
office. The public office shall require that employee to 820
acknowledge receipt of the copy of the public records policy. 821
The public office shall create a poster that describes its 822
public records policy and shall post the poster in a conspicuous 823
place in the public office and in all locations where the public 824
office has branch offices. The public office may post its public 825
records policy on the internet web site of the public office if 826
the public office maintains an internet web site. A public 827
office that has established a manual or handbook of its general 828
policies and procedures for all employees of the public office 829
shall include the public records policy of the public office in 830
the manual or handbook. 831

(F) (1) The bureau of motor vehicles may adopt rules 832
pursuant to Chapter 119. of the Revised Code to reasonably limit 833
the number of bulk commercial special extraction requests made 834
by a person for the same records or for updated records during a 835
calendar year. The rules may include provisions for charges to 836

be made for bulk commercial special extraction requests for the 837
actual cost of the bureau, plus special extraction costs, plus 838
ten per cent. The bureau may charge for expenses for redacting 839
information, the release of which is prohibited by law. 840

(2) As used in division (F) (1) of this section: 841

(a) "Actual cost" means the cost of depleted supplies, 842
records storage media costs, actual mailing and alternative 843
delivery costs, or other transmitting costs, and any direct 844
equipment operating and maintenance costs, including actual 845
costs paid to private contractors for copying services. 846

(b) "Bulk commercial special extraction request" means a 847
request for copies of a record for information in a format other 848
than the format already available, or information that cannot be 849
extracted without examination of all items in a records series, 850
class of records, or database by a person who intends to use or 851
forward the copies for surveys, marketing, solicitation, or 852
resale for commercial purposes. "Bulk commercial special 853
extraction request" does not include a request by a person who 854
gives assurance to the bureau that the person making the request 855
does not intend to use or forward the requested copies for 856
surveys, marketing, solicitation, or resale for commercial 857
purposes. 858

(c) "Commercial" means profit-seeking production, buying, 859
or selling of any good, service, or other product. 860

(d) "Special extraction costs" means the cost of the time 861
spent by the lowest paid employee competent to perform the task, 862
the actual amount paid to outside private contractors employed 863
by the bureau, or the actual cost incurred to create computer 864
programs to make the special extraction. "Special extraction 865

costs" include any charges paid to a public agency for computer 866
or records services. 867

(3) For purposes of divisions (F)(1) and (2) of this 868
section, "surveys, marketing, solicitation, or resale for 869
commercial purposes" shall be narrowly construed and does not 870
include reporting or gathering news, reporting or gathering 871
information to assist citizen oversight or understanding of the 872
operation or activities of government, or nonprofit educational 873
research. 874

(G) A request by a defendant, counsel of a defendant, or 875
any agent of a defendant in a criminal action that public 876
records related to that action be made available under this 877
section shall be considered a demand for discovery pursuant to 878
the Criminal Rules, except to the extent that the Criminal Rules 879
plainly indicate a contrary intent. The defendant, counsel of 880
the defendant, or agent of the defendant making a request under 881
this division shall serve a copy of the request on the 882
prosecuting attorney, director of law, or other chief legal 883
officer responsible for prosecuting the action. 884

(H) (1) Any portion of a body-worn camera or dashboard 885
camera recording described in divisions (A)(17)(b) to (h) of 886
this section may be released by consent of the subject of the 887
recording or a representative of that person, as specified in 888
those divisions, only if either of the following applies: 889

(a) The recording will not be used in connection with any 890
probable or pending criminal proceedings; 891

(b) The recording has been used in connection with a 892
criminal proceeding that was dismissed or for which a judgment 893
has been entered pursuant to Rule 32 of the Rules of Criminal 894

Procedure, and will not be used again in connection with any 895
probable or pending criminal proceedings. 896

(2) If a public office denies a request to release a 897
restricted portion of a body-worn camera or dashboard camera 898
recording, as defined in division (A)(17) of this section, any 899
person may file a mandamus action pursuant to this section or a 900
complaint with the clerk of the court of claims pursuant to 901
section 2743.75 of the Revised Code, requesting the court to 902
order the release of all or portions of the recording. If the 903
court considering the request determines that the filing 904
articulates by clear and convincing evidence that the public 905
interest in the recording substantially outweighs privacy 906
interests and other interests asserted to deny release, the 907
court shall order the public office to release the recording. 908

Section 2. That existing section 149.43 of the Revised 909
Code is hereby repealed. 910

Section 3. Section 149.43 of the Revised Code is presented 911
in this act as a composite of the section as amended by Am. Sub. 912
H.B. 8, Sub. H.B. 34, Sub. H.B. 139, Sub. H.B. 312, Sub. H.B. 913
341, Sub. H.B. 425, Am. Sub. S.B. 201, Am. S.B. 214, and Sub. 914
S.B. 229, all of the 132nd General Assembly. The General 915
Assembly, applying the principle stated in division (B) of 916
section 1.52 of the Revised Code that amendments are to be 917
harmonized if reasonably capable of simultaneous operation, 918
finds that the composite is the resulting version of the section 919
in effect prior to the effective date of the section as 920
presented in this act. 921