

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 31

Senator Roegner

A BILL

To amend section 149.43 of the Revised Code to 1
include emergency service telecommunicators as 2
individuals whose residential and familial 3
information is exempt from disclosure under the 4
Public Records Law. 5

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

Section 1. That section 149.43 of the Revised Code be 6
amended to read as follows: 7

Sec. 149.43. (A) As used in this section: 8

(1) "Public record" means records kept by any public 9
office, including, but not limited to, state, county, city, 10
village, township, and school district units, and records 11
pertaining to the delivery of educational services by an 12
alternative school in this state kept by the nonprofit or for- 13
profit entity operating the alternative school pursuant to 14
section 3313.533 of the Revised Code. "Public record" does not 15
mean any of the following: 16

(a) Medical records; 17

(b) Records pertaining to probation and parole 18

proceedings, to proceedings related to the imposition of 19
community control sanctions and post-release control sanctions, 20
or to proceedings related to determinations under section 21
2967.271 of the Revised Code regarding the release or maintained 22
incarceration of an offender to whom that section applies; 23

(c) Records pertaining to actions under section 2151.85 24
and division (C) of section 2919.121 of the Revised Code and to 25
appeals of actions arising under those sections; 26

(d) Records pertaining to adoption proceedings, including 27
the contents of an adoption file maintained by the department of 28
health under sections 3705.12 to 3705.124 of the Revised Code; 29

(e) Information in a record contained in the putative 30
father registry established by section 3107.062 of the Revised 31
Code, regardless of whether the information is held by the 32
department of job and family services or, pursuant to section 33
3111.69 of the Revised Code, the office of child support in the 34
department or a child support enforcement agency; 35

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

(g) Trial preparation records; 38

(h) Confidential law enforcement investigatory records; 39

(i) Records containing information that is confidential 40
under section 2710.03 or 4112.05 of the Revised Code; 41

(j) DNA records stored in the DNA database pursuant to 42
section 109.573 of the Revised Code; 43

(k) Inmate records released by the department of 44
rehabilitation and correction to the department of youth 45
services or a court of record pursuant to division (E) of 46

section 5120.21 of the Revised Code;	47
(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;	48 49 50 51
(m) Intellectual property records;	52
(n) Donor profile records;	53
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	54 55
(p) Designated public service worker residential and familial information;	56 57
(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;	58 59 60 61 62
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	63 64
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review	65 66 67 68 69 70 71 72 73 74

database, other than the report prepared pursuant to division	75
(A) of section 307.626 of the Revised Code;	76
(t) Records provided to and statements made by the	77
executive director of a public children services agency or a	78
prosecuting attorney acting pursuant to section 5153.171 of the	79
Revised Code other than the information released under that	80
section;	81
(u) Test materials, examinations, or evaluation tools used	82
in an examination for licensure as a nursing home administrator	83
that the board of executives of long-term services and supports	84
administers under section 4751.04 of the Revised Code or	85
contracts under that section with a private or government entity	86
to administer;	87
(v) Records the release of which is prohibited by state or	88
federal law;	89
(w) Proprietary information of or relating to any person	90
that is submitted to or compiled by the Ohio venture capital	91
authority created under section 150.01 of the Revised Code;	92
(x) Financial statements and data any person submits for	93
any purpose to the Ohio housing finance agency or the	94
controlling board in connection with applying for, receiving, or	95
accounting for financial assistance from the agency, and	96
information that identifies any individual who benefits directly	97
or indirectly from financial assistance from the agency;	98
(y) Records listed in section 5101.29 of the Revised Code;	99
(z) Discharges recorded with a county recorder under	100
section 317.24 of the Revised Code, as specified in division (B)	101
(2) of that section;	102

(aa) Usage information including names and addresses of	103
specific residential and commercial customers of a municipally	104
owned or operated public utility;	105
(bb) Records described in division (C) of section 187.04	106
of the Revised Code that are not designated to be made available	107
to the public as provided in that division;	108
(cc) Information and records that are made confidential,	109
privileged, and not subject to disclosure under divisions (B)	110
and (C) of section 2949.221 of the Revised Code;	111
(dd) Personal information, as defined in section 149.45 of	112
the Revised Code;	113
(ee) The confidential name, address, and other personally	114
identifiable information of a program participant in the address	115
confidentiality program established under sections 111.41 to	116
111.47 of the Revised Code, including the contents of any	117
application for absent voter's ballots, absent voter's ballot	118
identification envelope statement of voter, or provisional	119
ballot affirmation completed by a program participant who has a	120
confidential voter registration record, and records or portions	121
of records pertaining to that program that identify the number	122
of program participants that reside within a precinct, ward,	123
township, municipal corporation, county, or any other geographic	124
area smaller than the state. As used in this division,	125
"confidential address" and "program participant" have the	126
meaning defined in section 111.41 of the Revised Code.	127
(ff) Orders for active military service of an individual	128
serving or with previous service in the armed forces of the	129
United States, including a reserve component, or the Ohio	130
organized militia, except that, such order becomes a public	131

record on the day that is fifteen years after the published date 132
or effective date of the call to order; 133

(gg) The name, address, contact information, or other 134
personal information of an individual who is less than eighteen 135
years of age that is included in any record related to a traffic 136
accident involving a school vehicle in which the individual was 137
an occupant at the time of the accident; 138

(hh) Protected health information, as defined in 45 C.F.R. 139
160.103, that is in a claim for payment for a health care 140
product, service, or procedure, as well as any other health 141
claims data in another document that reveals the identity of an 142
individual who is the subject of the data or could be used to 143
reveal that individual's identity; 144

(ii) Any depiction by photograph, film, videotape, or 145
printed or digital image under either of the following 146
circumstances: 147

(i) The depiction is that of a victim of an offense the 148
release of which would be, to a reasonable person of ordinary 149
sensibilities, an offensive and objectionable intrusion into the 150
victim's expectation of bodily privacy and integrity. 151

(ii) The depiction captures or depicts the victim of a 152
sexually oriented offense, as defined in section 2950.01 of the 153
Revised Code, at the actual occurrence of that offense. 154

(jj) Restricted portions of a body-worn camera or 155
dashboard camera recording. 156

A record that is not a public record under division (A) (1) 157
of this section and that, under law, is permanently retained 158
becomes a public record on the day that is seventy-five years 159
after the day on which the record was created, except for any 160

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

(2) "Confidential law enforcement investigatory record" 176
means any record that pertains to a law enforcement matter of a 177
criminal, quasi-criminal, civil, or administrative nature, but 178
only to the extent that the release of the record would create a 179
high probability of disclosure of any of the following: 180

(a) The identity of a suspect who has not been charged 181
with the offense to which the record pertains, or of an 182
information source or witness to whom confidentiality has been 183
reasonably promised; 184

(b) Information provided by an information source or 185
witness to whom confidentiality has been reasonably promised, 186
which information would reasonably tend to disclose the source's 187
or witness's identity; 188

(c) Specific confidential investigatory techniques or 189
procedures or specific investigatory work product; 190

(d) Information that would endanger the life or physical 191
safety of law enforcement personnel, a crime victim, a witness, 192
or a confidential information source. 193

(3) "Medical record" means any document or combination of 194
documents, except births, deaths, and the fact of admission to 195
or discharge from a hospital, that pertains to the medical 196
history, diagnosis, prognosis, or medical condition of a patient 197
and that is generated and maintained in the process of medical 198
treatment. 199

(4) "Trial preparation record" means any record that 200
contains information that is specifically compiled in reasonable 201
anticipation of, or in defense of, a civil or criminal action or 202
proceeding, including the independent thought processes and 203
personal trial preparation of an attorney. 204

(5) "Intellectual property record" means a record, other 205
than a financial or administrative record, that is produced or 206
collected by or for faculty or staff of a state institution of 207
higher learning in the conduct of or as a result of study or 208
research on an educational, commercial, scientific, artistic, 209
technical, or scholarly issue, regardless of whether the study 210
or research was sponsored by the institution alone or in 211
conjunction with a governmental body or private concern, and 212
that has not been publicly released, published, or patented. 213

(6) "Donor profile record" means all records about donors 214
or potential donors to a public institution of higher education 215
except the names and reported addresses of the actual donors and 216
the date, amount, and conditions of the actual donation. 217

(7) "Designated public service worker" means a peace 218
officer, parole officer, probation officer, bailiff, prosecuting 219

attorney, assistant prosecuting attorney, correctional employee, 220
county or multicounty corrections officer, community-based 221
correctional facility employee, youth services employee, 222
firefighter, EMT, medical director or member of a cooperating 223
physician advisory board of an emergency medical service 224
organization, state board of pharmacy employee, investigator of 225
the bureau of criminal identification and investigation, 226
emergency service telecommunicator, judge, magistrate, or 227
federal law enforcement officer. 228

(8) "Designated public service worker residential and 229
familial information" means any information that discloses any 230
of the following about a designated public service worker: 231

(a) The address of the actual personal residence of a 232
designated public service worker, except for the following 233
information: 234

(i) The address of the actual personal residence of a 235
prosecuting attorney or judge; and 236

(ii) The state or political subdivision in which a 237
designated public service worker resides. 238

(b) Information compiled from referral to or participation 239
in an employee assistance program; 240

(c) The social security number, the residential telephone 241
number, any bank account, debit card, charge card, or credit 242
card number, or the emergency telephone number of, or any 243
medical information pertaining to, a designated public service 244
worker; 245

(d) The name of any beneficiary of employment benefits, 246
including, but not limited to, life insurance benefits, provided 247
to a designated public service worker by the designated public 248

service worker's employer;	249
(e) The identity and amount of any charitable or	250
employment benefit deduction made by the designated public	251
service worker's employer from the designated public service	252
worker's compensation, unless the amount of the deduction is	253
required by state or federal law;	254
(f) The name, the residential address, the name of the	255
employer, the address of the employer, the social security	256
number, the residential telephone number, any bank account,	257
debit card, charge card, or credit card number, or the emergency	258
telephone number of the spouse, a former spouse, or any child of	259
a designated public service worker;	260
(g) A photograph of a peace officer who holds a position	261
or has an assignment that may include undercover or plain	262
clothes positions or assignments as determined by the peace	263
officer's appointing authority.	264
(9) As used in divisions (A) (7) and (15) to (17) of this	265
section:	266
"Peace officer" has the meaning defined in section 109.71	267
of the Revised Code and also includes the superintendent and	268
troopers of the state highway patrol; it does not include the	269
sheriff of a county or a supervisory employee who, in the	270
absence of the sheriff, is authorized to stand in for, exercise	271
the authority of, and perform the duties of the sheriff.	272
"Correctional employee" means any employee of the	273
department of rehabilitation and correction who in the course of	274
performing the employee's job duties has or has had contact with	275
inmates and persons under supervision.	276
"County or multicounty corrections officer" means any	277

corrections officer employed by any county or multicounty	278
correctional facility.	279
"Youth services employee" means any employee of the	280
department of youth services who in the course of performing the	281
employee's job duties has or has had contact with children	282
committed to the custody of the department of youth services.	283
"Firefighter" means any regular, paid or volunteer, member	284
of a lawfully constituted fire department of a municipal	285
corporation, township, fire district, or village.	286
"EMT" means EMTs-basic, EMTs-I, and paramedics that	287
provide emergency medical services for a public emergency	288
medical service organization. "Emergency medical service	289
organization," "EMT-basic," "EMT-I," and "paramedic" have the	290
meanings defined in section 4765.01 of the Revised Code.	291
"Investigator of the bureau of criminal identification and	292
investigation" has the meaning defined in section 2903.11 of the	293
Revised Code.	294
<u>"Emergency service telecommunicator" has the meaning</u>	295
<u>defined in section 4742.01 of the Revised Code.</u>	296
"Federal law enforcement officer" has the meaning defined	297
in section 9.88 of the Revised Code.	298
(10) "Information pertaining to the recreational	299
activities of a person under the age of eighteen" means	300
information that is kept in the ordinary course of business by a	301
public office, that pertains to the recreational activities of a	302
person under the age of eighteen years, and that discloses any	303
of the following:	304
(a) The address or telephone number of a person under the	305

age of eighteen or the address or telephone number of that 306
person's parent, guardian, custodian, or emergency contact 307
person; 308

(b) The social security number, birth date, or 309
photographic image of a person under the age of eighteen; 310

(c) Any medical record, history, or information pertaining 311
to a person under the age of eighteen; 312

(d) Any additional information sought or required about a 313
person under the age of eighteen for the purpose of allowing 314
that person to participate in any recreational activity 315
conducted or sponsored by a public office or to use or obtain 316
admission privileges to any recreational facility owned or 317
operated by a public office. 318

(11) "Community control sanction" has the meaning defined 319
in section 2929.01 of the Revised Code. 320

(12) "Post-release control sanction" has the meaning 321
defined in section 2967.01 of the Revised Code. 322

(13) "Redaction" means obscuring or deleting any 323
information that is exempt from the duty to permit public 324
inspection or copying from an item that otherwise meets the 325
definition of a "record" in section 149.011 of the Revised Code. 326

(14) "Designee," "elected official," and "future official" 327
have the meanings defined in section 109.43 of the Revised Code. 328

(15) "Body-worn camera" means a visual and audio recording 329
device worn on the person of a peace officer while the peace 330
officer is engaged in the performance of the peace officer's 331
duties. 332

(16) "Dashboard camera" means a visual and audio recording 333

device mounted on a peace officer's vehicle or vessel that is 334
used while the peace officer is engaged in the performance of 335
the peace officer's duties. 336

(17) "Restricted portions of a body-worn camera or 337
dashboard camera recording" means any visual or audio portion of 338
a body-worn camera or dashboard camera recording that shows, 339
communicates, or discloses any of the following: 340

(a) The image or identity of a child or information that 341
could lead to the identification of a child who is a primary 342
subject of the recording when the law enforcement agency knows 343
or has reason to know the person is a child based on the law 344
enforcement agency's records or the content of the recording; 345

(b) The death of a person or a deceased person's body, 346
unless the death was caused by a peace officer or, subject to 347
division (H)(1) of this section, the consent of the decedent's 348
executor or administrator has been obtained; 349

(c) The death of a peace officer, firefighter, paramedic, 350
or other first responder, occurring while the decedent was 351
engaged in the performance of official duties, unless, subject 352
to division (H)(1) of this section, the consent of the 353
decedent's executor or administrator has been obtained; 354

(d) Grievous bodily harm, unless the injury was effected 355
by a peace officer or, subject to division (H)(1) of this 356
section, the consent of the injured person or the injured 357
person's guardian has been obtained; 358

(e) An act of severe violence against a person that 359
results in serious physical harm to the person, unless the act 360
and injury was effected by a peace officer or, subject to 361
division (H)(1) of this section, the consent of the injured 362

person or the injured person's guardian has been obtained; 363

(f) Grievous bodily harm to a peace officer, firefighter, 364
paramedic, or other first responder, occurring while the injured 365
person was engaged in the performance of official duties, 366
unless, subject to division (H)(1) of this section, the consent 367
of the injured person or the injured person's guardian has been 368
obtained; 369

(g) An act of severe violence resulting in serious 370
physical harm against a peace officer, firefighter, paramedic, 371
or other first responder, occurring while the injured person was 372
engaged in the performance of official duties, unless, subject 373
to division (H)(1) of this section, the consent of the injured 374
person or the injured person's guardian has been obtained; 375

(h) A person's nude body, unless, subject to division (H) 376
(1) of this section, the person's consent has been obtained; 377

(i) Protected health information, the identity of a person 378
in a health care facility who is not the subject of a law 379
enforcement encounter, or any other information in a health care 380
facility that could identify a person who is not the subject of 381
a law enforcement encounter; 382

(j) Information that could identify the alleged victim of 383
a sex offense, menacing by stalking, or domestic violence; 384

(k) Information, that does not constitute a confidential 385
law enforcement investigatory record, that could identify a 386
person who provides sensitive or confidential information to a 387
law enforcement agency when the disclosure of the person's 388
identity or the information provided could reasonably be 389
expected to threaten or endanger the safety or property of the 390
person or another person; 391

(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;	392 393
(m) Proprietary police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;	394 395 396
(n) A personal conversation unrelated to work between peace officers or between a peace officer and an employee of a law enforcement agency;	397 398 399
(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;	400 401
(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;	402 403 404
(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.	405 406 407
As used in division (A) (17) of this section:	408
"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.	409 410
"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.	411 412
"Protected health information" has the same meaning as in 45 C.F.R. 160.103.	413 414
"Law enforcement agency" has the same meaning as in section 2925.61 of the Revised Code.	415 416
"Personal information" means any government-issued identification number, date of birth, address, financial	417 418

information, or criminal justice information from the law 419
enforcement automated data system or similar databases. 420

"Sex offense" has the same meaning as in section 2907.10 421
of the Revised Code. 422

"Firefighter," "paramedic," and "first responder" have the 423
same meanings as in section 4765.01 of the Revised Code. 424

(B) (1) Upon request by any person and subject to division 425
(B) (8) of this section, all public records responsive to the 426
request shall be promptly prepared and made available for 427
inspection to ~~any person~~ the requester at all reasonable times 428
during regular business hours. Subject to division (B) (8) of 429
this section, upon request by any person, a public office or 430
person responsible for public records shall make copies of the 431
requested public record available to the requester at cost and 432
within a reasonable period of time. If a public record contains 433
information that is exempt from the duty to permit public 434
inspection or to copy the public record, the public office or 435
the person responsible for the public record shall make 436
available all of the information within the public record that 437
is not exempt. When making that public record available for 438
public inspection or copying that public record, the public 439
office or the person responsible for the public record shall 440
notify the requester of any redaction or make the redaction 441
plainly visible. A redaction shall be deemed a denial of a 442
request to inspect or copy the redacted information, except if 443
federal or state law authorizes or requires a public office to 444
make the redaction. 445

(2) To facilitate broader access to public records, a 446
public office or the person responsible for public records shall 447
organize and maintain public records in a manner that they can 448

be made available for inspection or copying in accordance with 449
division (B) of this section. A public office also shall have 450
available a copy of its current records retention schedule at a 451
location readily available to the public. If a requester makes 452
an ambiguous or overly broad request or has difficulty in making 453
a request for copies or inspection of public records under this 454
section such that the public office or the person responsible 455
for the requested public record cannot reasonably identify what 456
public records are being requested, the public office or the 457
person responsible for the requested public record may deny the 458
request but shall provide the requester with an opportunity to 459
revise the request by informing the requester of the manner in 460
which records are maintained by the public office and accessed 461
in the ordinary course of the public office's or person's 462
duties. 463

(3) If a request is ultimately denied, in part or in 464
whole, the public office or the person responsible for the 465
requested public record shall provide the requester with an 466
explanation, including legal authority, setting forth why the 467
request was denied. If the initial request was provided in 468
writing, the explanation also shall be provided to the requester 469
in writing. The explanation shall not preclude the public office 470
or the person responsible for the requested public record from 471
relying upon additional reasons or legal authority in defending 472
an action commenced under division (C) of this section. 473

(4) Unless specifically required or authorized by state or 474
federal law or in accordance with division (B) of this section, 475
no public office or person responsible for public records may 476
limit or condition the availability of public records by 477
requiring disclosure of the requester's identity or the intended 478
use of the requested public record. Any requirement that the 479

requester disclose the requester's identity or the intended use 480
of the requested public record constitutes a denial of the 481
request. 482

(5) A public office or person responsible for public 483
records may ask a requester to make the request in writing, may 484
ask for the requester's identity, and may inquire about the 485
intended use of the information requested, but may do so only 486
after disclosing to the requester that a written request is not 487
mandatory, that the requester may decline to reveal the 488
requester's identity or the intended use, and when a written 489
request or disclosure of the identity or intended use would 490
benefit the requester by enhancing the ability of the public 491
office or person responsible for public records to identify, 492
locate, or deliver the public records sought by the requester. 493

(6) If any person requests a copy of a public record in 494
accordance with division (B) of this section, the public office 495
or person responsible for the public record may require ~~that~~ 496
~~person the requester~~ to pay in advance the cost involved in 497
providing the copy of the public record in accordance with the 498
choice made by the ~~person requesting the copy requester~~ under 499
this division. The public office or the person responsible for 500
the public record shall permit ~~that person the requester~~ to 501
choose to have the public record duplicated upon paper, upon the 502
same medium upon which the public office or person responsible 503
for the public record keeps it, or upon any other medium upon 504
which the public office or person responsible for the public 505
record determines that it reasonably can be duplicated as an 506
integral part of the normal operations of the public office or 507
person responsible for the public record. When the ~~person~~ 508
~~requesting the copy requester~~ makes a choice under this 509
division, the public office or person responsible for the public 510

record shall provide a copy of it in accordance with the choice 511
made by ~~that person~~ the requester. Nothing in this section 512
requires a public office or person responsible for the public 513
record to allow the ~~person requesting~~ requester of a copy of the 514
public record to make the copies of the public record. 515

(7) (a) Upon a request made in accordance with division (B) 516
of this section and subject to division (B) (6) of this section, 517
a public office or person responsible for public records shall 518
transmit a copy of a public record to any person by United 519
States mail or by any other means of delivery or transmission 520
within a reasonable period of time after receiving the request 521
for the copy. The public office or person responsible for the 522
public record may require the person making the request to pay 523
in advance the cost of postage if the copy is transmitted by 524
United States mail or the cost of delivery if the copy is 525
transmitted other than by United States mail, and to pay in 526
advance the costs incurred for other supplies used in the 527
mailing, delivery, or transmission. 528

(b) Any public office may adopt a policy and procedures 529
that it will follow in transmitting, within a reasonable period 530
of time after receiving a request, copies of public records by 531
United States mail or by any other means of delivery or 532
transmission pursuant to division (B) (7) of this section. A 533
public office that adopts a policy and procedures under division 534
(B) (7) of this section shall comply with them in performing its 535
duties under that division. 536

(c) In any policy and procedures adopted under division 537
(B) (7) of this section: 538

(i) A public office may limit the number of records 539
requested by a person that the office will physically deliver by 540

United States mail or by another delivery service to ten per 541
month, unless the person certifies to the office in writing that 542
the person does not intend to use or forward the requested 543
records, or the information contained in them, for commercial 544
purposes; 545

(ii) A public office that chooses to provide some or all 546
of its public records on a web site that is fully accessible to 547
and searchable by members of the public at all times, other than 548
during acts of God outside the public office's control or 549
maintenance, and that charges no fee to search, access, 550
download, or otherwise receive records provided on the web site, 551
may limit to ten per month the number of records requested by a 552
person that the office will deliver in a digital format, unless 553
the requested records are not provided on the web site and 554
unless the person certifies to the office in writing that the 555
person does not intend to use or forward the requested records, 556
or the information contained in them, for commercial purposes. 557

(iii) For purposes of division (B)(7) of this section, 558
"commercial" shall be narrowly construed and does not include 559
reporting or gathering news, reporting or gathering information 560
to assist citizen oversight or understanding of the operation or 561
activities of government, or nonprofit educational research. 562

(8) A public office or person responsible for public 563
records is not required to permit a person who is incarcerated 564
pursuant to a criminal conviction or a juvenile adjudication to 565
inspect or to obtain a copy of any public record concerning a 566
criminal investigation or prosecution or concerning what would 567
be a criminal investigation or prosecution if the subject of the 568
investigation or prosecution were an adult, unless the request 569
to inspect or to obtain a copy of the record is for the purpose 570

of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

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

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

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

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

(c) As used in division (B) (9) of this section, 601
"journalist" means a person engaged in, connected with, or 602
employed by any news medium, including a newspaper, magazine, 603
press association, news agency, or wire service, a radio or 604
television station, or a similar medium, for the purpose of 605
gathering, processing, transmitting, compiling, editing, or 606
disseminating information for the general public. 607

(10) Upon a request made by a victim, victim's attorney, 608
or victim's representative, as that term is used in section 609
2930.02 of the Revised Code, a public office or person 610
responsible for public records shall transmit a copy of a 611
depiction of the victim as described in division (A) (1) (gg) of 612
this section to the victim, victim's attorney, or victim's 613
representative. 614

(C) (1) If a person allegedly is aggrieved by the failure 615
of a public office or the person responsible for public records 616
to promptly prepare a public record and to make it available to 617
the person for inspection in accordance with division (B) of 618
this section or by any other failure of a public office or the 619
person responsible for public records to comply with an 620
obligation in accordance with division (B) of this section, the 621
person allegedly aggrieved may do only one of the following, and 622
not both: 623

(a) File a complaint with the clerk of the court of claims 624
or the clerk of the court of common pleas under section 2743.75 625
of the Revised Code; 626

(b) Commence a mandamus action to obtain a judgment that 627
orders the public office or the person responsible for the 628
public record to comply with division (B) of this section, that 629
awards court costs and reasonable attorney's fees to the person 630

that instituted the mandamus action, and, if applicable, that 631
includes an order fixing statutory damages under division (C) (2) 632
of this section. The mandamus action may be commenced in the 633
court of common pleas of the county in which division (B) of 634
this section allegedly was not complied with, in the supreme 635
court pursuant to its original jurisdiction under Section 2 of 636
Article IV, Ohio Constitution, or in the court of appeals for 637
the appellate district in which division (B) of this section 638
allegedly was not complied with pursuant to its original 639
jurisdiction under Section 3 of Article IV, Ohio Constitution. 640

(2) If a requester transmits a written request by hand 641
delivery, electronic submission, or certified mail to inspect or 642
receive copies of any public record in a manner that fairly 643
describes the public record or class of public records to the 644
public office or person responsible for the requested public 645
records, except as otherwise provided in this section, the 646
requester shall be entitled to recover the amount of statutory 647
damages set forth in this division if a court determines that 648
the public office or the person responsible for public records 649
failed to comply with an obligation in accordance with division 650
(B) of this section. 651

The amount of statutory damages shall be fixed at one 652
hundred dollars for each business day during which the public 653
office or person responsible for the requested public records 654
failed to comply with an obligation in accordance with division 655
(B) of this section, beginning with the day on which the 656
requester files a mandamus action to recover statutory damages, 657
up to a maximum of one thousand dollars. The award of statutory 658
damages shall not be construed as a penalty, but as compensation 659
for injury arising from lost use of the requested information. 660
The existence of this injury shall be conclusively presumed. The 661

award of statutory damages shall be in addition to all other 662
remedies authorized by this section. 663

The court may reduce an award of statutory damages or not 664
award statutory damages if the court determines both of the 665
following: 666

(a) That, based on the ordinary application of statutory 667
law and case law as it existed at the time of the conduct or 668
threatened conduct of the public office or person responsible 669
for the requested public records that allegedly constitutes a 670
failure to comply with an obligation in accordance with division 671
(B) of this section and that was the basis of the mandamus 672
action, a well-informed public office or person responsible for 673
the requested public records reasonably would believe that the 674
conduct or threatened conduct of the public office or person 675
responsible for the requested public records did not constitute 676
a failure to comply with an obligation in accordance with 677
division (B) of this section; 678

(b) That a well-informed public office or person 679
responsible for the requested public records reasonably would 680
believe that the conduct or threatened conduct of the public 681
office or person responsible for the requested public records 682
would serve the public policy that underlies the authority that 683
is asserted as permitting that conduct or threatened conduct. 684

(3) In a mandamus action filed under division (C)(1) of 685
this section, the following apply: 686

(a) (i) If the court orders the public office or the person 687
responsible for the public record to comply with division (B) of 688
this section, the court shall determine and award to the relator 689
all court costs, which shall be construed as remedial and not 690

punitive. 691

(ii) If the court makes a determination described in 692
division (C) (3) (b) (iii) of this section, the court shall 693
determine and award to the relator all court costs, which shall 694
be construed as remedial and not punitive. 695

(b) If the court renders a judgment that orders the public 696
office or the person responsible for the public record to comply 697
with division (B) of this section or if the court determines any 698
of the following, the court may award reasonable attorney's fees 699
to the relator, subject to division (C) (4) of this section: 700

(i) The public office or the person responsible for the 701
public records failed to respond affirmatively or negatively to 702
the public records request in accordance with the time allowed 703
under division (B) of this section. 704

(ii) The public office or the person responsible for the 705
public records promised to permit the relator to inspect or 706
receive copies of the public records requested within a 707
specified period of time but failed to fulfill that promise 708
within that specified period of time. 709

(iii) The public office or the person responsible for the 710
public records acted in bad faith when the office or person 711
voluntarily made the public records available to the relator for 712
the first time after the relator commenced the mandamus action, 713
but before the court issued any order concluding whether or not 714
the public office or person was required to comply with division 715
(B) of this section. No discovery may be conducted on the issue 716
of the alleged bad faith of the public office or person 717
responsible for the public records. This division shall not be 718
construed as creating a presumption that the public office or 719

the person responsible for the public records acted in bad faith 720
when the office or person voluntarily made the public records 721
available to the relator for the first time after the relator 722
commenced the mandamus action, but before the court issued any 723
order described in this division. 724

(c) The court shall not award attorney's fees to the 725
relator if the court determines both of the following: 726

(i) That, based on the ordinary application of statutory 727
law and case law as it existed at the time of the conduct or 728
threatened conduct of the public office or person responsible 729
for the requested public records that allegedly constitutes a 730
failure to comply with an obligation in accordance with division 731
(B) of this section and that was the basis of the mandamus 732
action, a well-informed public office or person responsible for 733
the requested public records reasonably would believe that the 734
conduct or threatened conduct of the public office or person 735
responsible for the requested public records did not constitute 736
a failure to comply with an obligation in accordance with 737
division (B) of this section; 738

(ii) That a well-informed public office or person 739
responsible for the requested public records reasonably would 740
believe that the conduct or threatened conduct of the public 741
office or person responsible for the requested public records 742
would serve the public policy that underlies the authority that 743
is asserted as permitting that conduct or threatened conduct. 744

(4) All of the following apply to any award of reasonable 745
attorney's fees awarded under division (C) (3) (b) of this 746
section: 747

(a) The fees shall be construed as remedial and not 748

punitive. 749

(b) The fees awarded shall not exceed the total of the 750
reasonable attorney's fees incurred before the public record was 751
made available to the relator and the fees described in division 752
(C) (4) (c) of this section. 753

(c) Reasonable attorney's fees shall include reasonable 754
fees incurred to produce proof of the reasonableness and amount 755
of the fees and to otherwise litigate entitlement to the fees. 756

(d) The court may reduce the amount of fees awarded if the 757
court determines that, given the factual circumstances involved 758
with the specific public records request, an alternative means 759
should have been pursued to more effectively and efficiently 760
resolve the dispute that was subject to the mandamus action 761
filed under division (C) (1) of this section. 762

(5) If the court does not issue a writ of mandamus under 763
division (C) of this section and the court determines at that 764
time that the bringing of the mandamus action was frivolous 765
conduct as defined in division (A) of section 2323.51 of the 766
Revised Code, the court may award to the public office all court 767
costs, expenses, and reasonable attorney's fees, as determined 768
by the court. 769

(D) Chapter 1347. of the Revised Code does not limit the 770
provisions of this section. 771

(E) (1) To ensure that all employees of public offices are 772
appropriately educated about a public office's obligations under 773
division (B) of this section, all elected officials or their 774
appropriate designees shall attend training approved by the 775
attorney general as provided in section 109.43 of the Revised 776
Code. A future official may satisfy the requirements of this 777

division by attending the training before taking office, 778
provided that the future official may not send a designee in the 779
future official's place. 780

(2) All public offices shall adopt a public records policy 781
in compliance with this section for responding to public records 782
requests. In adopting a public records policy under this 783
division, a public office may obtain guidance from the model 784
public records policy developed and provided to the public 785
office by the attorney general under section 109.43 of the 786
Revised Code. Except as otherwise provided in this section, the 787
policy may not limit the number of public records that the 788
public office will make available to a single person, may not 789
limit the number of public records that it will make available 790
during a fixed period of time, and may not establish a fixed 791
period of time before it will respond to a request for 792
inspection or copying of public records, unless that period is 793
less than eight hours. 794

The public office shall distribute the public records 795
policy adopted by the public office under this division to the 796
employee of the public office who is the records custodian or 797
records manager or otherwise has custody of the records of that 798
office. The public office shall require that employee to 799
acknowledge receipt of the copy of the public records policy. 800
The public office shall create a poster that describes its 801
public records policy and shall post the poster in a conspicuous 802
place in the public office and in all locations where the public 803
office has branch offices. The public office may post its public 804
records policy on the internet web site of the public office if 805
the public office maintains an internet web site. A public 806
office that has established a manual or handbook of its general 807
policies and procedures for all employees of the public office 808

shall include the public records policy of the public office in 809
the manual or handbook. 810

(F) (1) The bureau of motor vehicles may adopt rules 811
pursuant to Chapter 119. of the Revised Code to reasonably limit 812
the number of bulk commercial special extraction requests made 813
by a person for the same records or for updated records during a 814
calendar year. The rules may include provisions for charges to 815
be made for bulk commercial special extraction requests for the 816
actual cost of the bureau, plus special extraction costs, plus 817
ten per cent. The bureau may charge for expenses for redacting 818
information, the release of which is prohibited by law. 819

(2) As used in division (F) (1) of this section: 820

(a) "Actual cost" means the cost of depleted supplies, 821
records storage media costs, actual mailing and alternative 822
delivery costs, or other transmitting costs, and any direct 823
equipment operating and maintenance costs, including actual 824
costs paid to private contractors for copying services. 825

(b) "Bulk commercial special extraction request" means a 826
request for copies of a record for information in a format other 827
than the format already available, or information that cannot be 828
extracted without examination of all items in a records series, 829
class of records, or database by a person who intends to use or 830
forward the copies for surveys, marketing, solicitation, or 831
resale for commercial purposes. "Bulk commercial special 832
extraction request" does not include a request by a person who 833
gives assurance to the bureau that the person making the request 834
does not intend to use or forward the requested copies for 835
surveys, marketing, solicitation, or resale for commercial 836
purposes. 837

(c) "Commercial" means profit-seeking production, buying, 838
or selling of any good, service, or other product. 839

(d) "Special extraction costs" means the cost of the time 840
spent by the lowest paid employee competent to perform the task, 841
the actual amount paid to outside private contractors employed 842
by the bureau, or the actual cost incurred to create computer 843
programs to make the special extraction. "Special extraction 844
costs" include any charges paid to a public agency for computer 845
or records services. 846

(3) For purposes of divisions (F) (1) and (2) of this 847
section, "surveys, marketing, solicitation, or resale for 848
commercial purposes" shall be narrowly construed and does not 849
include reporting or gathering news, reporting or gathering 850
information to assist citizen oversight or understanding of the 851
operation or activities of government, or nonprofit educational 852
research. 853

(G) A request by a defendant, counsel of a defendant, or 854
any agent of a defendant in a criminal action that public 855
records related to that action be made available under this 856
section shall be considered a demand for discovery pursuant to 857
the Criminal Rules, except to the extent that the Criminal Rules 858
plainly indicate a contrary intent. The defendant, counsel of 859
the defendant, or agent of the defendant making a request under 860
this division shall serve a copy of the request on the 861
prosecuting attorney, director of law, or other chief legal 862
officer responsible for prosecuting the action. 863

(H) (1) Any portion of a body-worn camera or dashboard 864
camera recording described in divisions (A) (17) (b) to (h) of 865
this section may be released by consent of the subject of the 866
recording or a representative of that person, as specified in 867

those divisions, only if either of the following applies: 868

(a) The recording will not be used in connection with any 869
probable or pending criminal proceedings; 870

(b) The recording has been used in connection with a 871
criminal proceeding that was dismissed or for which a judgment 872
has been entered pursuant to Rule 32 of the Rules of Criminal 873
Procedure, and will not be used again in connection with any 874
probable or pending criminal proceedings. 875

(2) If a public office denies a request to release a 876
restricted portion of a body-worn camera or dashboard camera 877
recording, as defined in division (A) (17) of this section, any 878
person may file a mandamus action pursuant to this section or a 879
complaint with the clerk of the court of claims pursuant to 880
section 2743.75 of the Revised Code, requesting the court to 881
order the release of all or portions of the recording. If the 882
court considering the request determines that the filing 883
articulates by clear and convincing evidence that the public 884
interest in the recording substantially outweighs privacy 885
interests and other interests asserted to deny release, the 886
court shall order the public office to release the recording. 887

Section 2. That existing section 149.43 of the Revised 888
Code is hereby repealed. 889

Section 3. Section 149.43 of the Revised Code is presented 890
in this act as a composite of the section as amended by Am. Sub. 891
H.B. 8, Sub. H.B. 34, Sub. H.B. 139, Sub. H.B. 312, Sub. H.B. 892
341, Sub. H.B. 425, Am. Sub. S.B. 201, Am. S.B. 214, and Sub. 893
S.B. 229, all of the 132nd General Assembly. The General 894
Assembly, applying the principle stated in division (B) of 895
section 1.52 of the Revised Code that amendments are to be 896

harmonized if reasonably capable of simultaneous operation,	897
finds that the composite is the resulting version of the section	898
in effect prior to the effective date of the section as	899
presented in this act.	900