

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 659

Representative Galonski

A BILL

To amend section 149.43 of the Revised Code to 1
exempt from disclosure as a public record the 2
residential and familial information of retired 3
public service workers. 4

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

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

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

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

(a) Medical records; 16

(b) Records pertaining to probation and parole 17
proceedings, to proceedings related to the imposition of 18

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

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

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

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

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

(g) Trial preparation records; 37

(h) Confidential law enforcement investigatory records; 38

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

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

(k) Inmate records released by the department of 43
rehabilitation and correction to the department of youth 44
services or a court of record pursuant to division (E) of 45
section 5120.21 of the Revised Code; 46

(l) Records maintained by the department of youth services 47
pertaining to children in its custody released by the department 48
of youth services to the department of rehabilitation and 49
correction pursuant to section 5139.05 of the Revised Code; 50

(m) Intellectual property records; 51

(n) Donor profile records; 52

(o) Records maintained by the department of job and family 53
services pursuant to section 3121.894 of the Revised Code; 54

(p) Designated public service worker residential and 55
familial information; 56

(q) In the case of a county hospital operated pursuant to 57
Chapter 339. of the Revised Code or a municipal hospital 58
operated pursuant to Chapter 749. of the Revised Code, 59
information that constitutes a trade secret, as defined in 60
section 1333.61 of the Revised Code; 61

(r) Information pertaining to the recreational activities 62
of a person under the age of eighteen; 63

(s) In the case of a child fatality review board acting 64
under sections 307.621 to 307.629 of the Revised Code or a 65
review conducted pursuant to guidelines established by the 66
director of health under section 3701.70 of the Revised Code, 67
records provided to the board or director, statements made by 68
board members during meetings of the board or by persons 69
participating in the director's review, and all work products of 70
the board or director, and in the case of a child fatality 71
review board, child fatality review data submitted by the board 72
to the department of health or a national child death review 73
database, other than the report prepared pursuant to division 74
(A) of section 307.626 of the Revised Code; 75

(t) Records provided to and statements made by the 76
executive director of a public children services agency or a 77
prosecuting attorney acting pursuant to section 5153.171 of the 78
Revised Code other than the information released under that 79
section; 80

(u) Test materials, examinations, or evaluation tools used 81
in an examination for licensure as a nursing home administrator 82
that the board of executives of long-term services and supports 83
administers under section 4751.15 of the Revised Code or 84
contracts under that section with a private or government entity 85
to administer; 86

(v) Records the release of which is prohibited by state or 87
federal law; 88

(w) Proprietary information of or relating to any person 89
that is submitted to or compiled by the Ohio venture capital 90
authority created under section 150.01 of the Revised Code; 91

(x) Financial statements and data any person submits for 92
any purpose to the Ohio housing finance agency or the 93
controlling board in connection with applying for, receiving, or 94
accounting for financial assistance from the agency, and 95
information that identifies any individual who benefits directly 96
or indirectly from financial assistance from the agency; 97

(y) Records listed in section 5101.29 of the Revised Code; 98

(z) Discharges recorded with a county recorder under 99
section 317.24 of the Revised Code, as specified in division (B) 100
(2) of that section; 101

(aa) Usage information including names and addresses of 102
specific residential and commercial customers of a municipally 103
owned or operated public utility; 104

(bb) Records described in division (C) of section 187.04 105
of the Revised Code that are not designated to be made available 106
to the public as provided in that division; 107

(cc) Information and records that are made confidential, 108
privileged, and not subject to disclosure under divisions (B) 109
and (C) of section 2949.221 of the Revised Code; 110

(dd) Personal information, as defined in section 149.45 of 111
the Revised Code; 112

(ee) The confidential name, address, and other personally 113
identifiable information of a program participant in the address 114
confidentiality program established under sections 111.41 to 115
111.47 of the Revised Code, including the contents of any 116
application for absent voter's ballots, absent voter's ballot 117
identification envelope statement of voter, or provisional 118
ballot affirmation completed by a program participant who has a 119
confidential voter registration record, and records or portions 120
of records pertaining to that program that identify the number 121
of program participants that reside within a precinct, ward, 122
township, municipal corporation, county, or any other geographic 123
area smaller than the state. As used in this division, 124
"confidential address" and "program participant" have the 125
meaning defined in section 111.41 of the Revised Code. 126

(ff) Orders for active military service of an individual 127
serving or with previous service in the armed forces of the 128
United States, including a reserve component, or the Ohio 129
organized militia, except that, such order becomes a public 130
record on the day that is fifteen years after the published date 131
or effective date of the call to order; 132

(gg) The name, address, contact information, or other 133

personal information of an individual who is less than eighteen 134
years of age that is included in any record related to a traffic 135
accident involving a school vehicle in which the individual was 136
an occupant at the time of the accident; 137

(hh) Protected health information, as defined in 45 C.F.R. 138
160.103, that is in a claim for payment for a health care 139
product, service, or procedure, as well as any other health 140
claims data in another document that reveals the identity of an 141
individual who is the subject of the data or could be used to 142
reveal that individual's identity; 143

(ii) Any depiction by photograph, film, videotape, or 144
printed or digital image under either of the following 145
circumstances: 146

(i) The depiction is that of a victim of an offense the 147
release of which would be, to a reasonable person of ordinary 148
sensibilities, an offensive and objectionable intrusion into the 149
victim's expectation of bodily privacy and integrity. 150

(ii) The depiction captures or depicts the victim of a 151
sexually oriented offense, as defined in section 2950.01 of the 152
Revised Code, at the actual occurrence of that offense. 153

(jj) Restricted portions of a body-worn camera or 154
dashboard camera recording; 155

(kk) In the case of a fetal-infant mortality review board 156
acting under sections 3707.70 to 3707.77 of the Revised Code, 157
records, documents, reports, or other information presented to 158
the board or a person abstracting such materials on the board's 159
behalf, statements made by review board members during board 160
meetings, all work products of the board, and data submitted by 161
the board to the department of health or a national infant death 162

review database, other than the report prepared pursuant to 163
section 3707.77 of the Revised Code. 164

(ll) Records, documents, reports, or other information 165
presented to the pregnancy-associated mortality review board 166
established under section 3738.01 of the Revised Code, 167
statements made by board members during board meetings, all work 168
products of the board, and data submitted by the board to the 169
department of health, other than the biennial reports prepared 170
under section 3738.08 of the Revised Code; 171

(mm) Telephone numbers for a victim, as defined in section 172
2930.01 of the Revised Code, a witness to a crime, or a party to 173
a motor vehicle accident subject to the requirements of section 174
5502.11 of the Revised Code that are listed on any law 175
enforcement record or report. 176

A record that is not a public record under division (A) (1) 177
of this section and that, under law, is permanently retained 178
becomes a public record on the day that is seventy-five years 179
after the day on which the record was created, except for any 180
record protected by the attorney-client privilege, a trial 181
preparation record as defined in this section, a statement 182
prohibiting the release of identifying information signed under 183
section 3107.083 of the Revised Code, a denial of release form 184
filed pursuant to section 3107.46 of the Revised Code, or any 185
record that is exempt from release or disclosure under section 186
149.433 of the Revised Code. If the record is a birth 187
certificate and a biological parent's name redaction request 188
form has been accepted under section 3107.391 of the Revised 189
Code, the name of that parent shall be redacted from the birth 190
certificate before it is released under this paragraph. If any 191
other section of the Revised Code establishes a time period for 192

disclosure of a record that conflicts with the time period 193
specified in this section, the time period in the other section 194
prevails. 195

(2) "Confidential law enforcement investigatory record" 196
means any record that pertains to a law enforcement matter of a 197
criminal, quasi-criminal, civil, or administrative nature, but 198
only to the extent that the release of the record would create a 199
high probability of disclosure of any of the following: 200

(a) The identity of a suspect who has not been charged 201
with the offense to which the record pertains, or of an 202
information source or witness to whom confidentiality has been 203
reasonably promised; 204

(b) Information provided by an information source or 205
witness to whom confidentiality has been reasonably promised, 206
which information would reasonably tend to disclose the source's 207
or witness's identity; 208

(c) Specific confidential investigatory techniques or 209
procedures or specific investigatory work product; 210

(d) Information that would endanger the life or physical 211
safety of law enforcement personnel, a crime victim, a witness, 212
or a confidential information source. 213

(3) "Medical record" means any document or combination of 214
documents, except births, deaths, and the fact of admission to 215
or discharge from a hospital, that pertains to the medical 216
history, diagnosis, prognosis, or medical condition of a patient 217
and that is generated and maintained in the process of medical 218
treatment. 219

(4) "Trial preparation record" means any record that 220
contains information that is specifically compiled in reasonable 221

anticipation of, or in defense of, a civil or criminal action or 222
proceeding, including the independent thought processes and 223
personal trial preparation of an attorney. 224

(5) "Intellectual property record" means a record, other 225
than a financial or administrative record, that is produced or 226
collected by or for faculty or staff of a state institution of 227
higher learning in the conduct of or as a result of study or 228
research on an educational, commercial, scientific, artistic, 229
technical, or scholarly issue, regardless of whether the study 230
or research was sponsored by the institution alone or in 231
conjunction with a governmental body or private concern, and 232
that has not been publicly released, published, or patented. 233

(6) "Donor profile record" means all records about donors 234
or potential donors to a public institution of higher education 235
except the names and reported addresses of the actual donors and 236
the date, amount, and conditions of the actual donation. 237

(7) "Designated public service worker" means a current or 238
retired peace officer, parole officer, probation officer, 239
bailiff, prosecuting attorney, assistant prosecuting attorney, 240
correctional employee, county or multicounty corrections 241
officer, community-based correctional facility employee, youth 242
services employee, firefighter, EMT, medical director or member 243
of a cooperating physician advisory board of an emergency 244
medical service organization, state board of pharmacy employee, 245
investigator of the bureau of criminal identification and 246
investigation, judge, magistrate, or federal law enforcement 247
officer. 248

(8) "Designated public service worker residential and 249
familial information" means any information that discloses any 250
of the following about a designated public service worker: 251

(a) The address of the actual personal residence of a 252
designated public service worker, except for the following 253
information: 254

(i) The address of the actual personal residence of a 255
prosecuting attorney or judge; and 256

(ii) The state or political subdivision in which a 257
designated public service worker resides. 258

(b) Information compiled from referral to or participation 259
in an employee assistance program; 260

(c) The social security number, the residential telephone 261
number, any bank account, debit card, charge card, or credit 262
card number, or the emergency telephone number of, or any 263
medical information pertaining to, a designated public service 264
worker; 265

(d) The name of any beneficiary of employment benefits, 266
including, but not limited to, life insurance benefits, provided 267
to a designated public service worker by the designated public 268
service worker's employer; 269

(e) The identity and amount of any charitable or 270
employment benefit deduction made by the designated public 271
service worker's employer from the designated public service 272
worker's compensation, unless the amount of the deduction is 273
required by state or federal law; 274

(f) The name, the residential address, the name of the 275
employer, the address of the employer, the social security 276
number, the residential telephone number, any bank account, 277
debit card, charge card, or credit card number, or the emergency 278
telephone number of the spouse, a former spouse, or any child of 279
a designated public service worker; 280

(g) A photograph of a peace officer who holds or held a 281
position or who has or had an assignment that may include or may 282
have included undercover or plain clothes positions or 283
assignments as determined by the peace officer's appointing 284
authority. 285

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

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

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

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

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

"Firefighter" means any regular, paid or volunteer, member 305
of a lawfully constituted fire department of a municipal 306
corporation, township, fire district, or village. 307

"EMT" means EMTs-basic, EMTs-I, and paramedics that 308
provide emergency medical services for a public emergency 309

medical service organization. "Emergency medical service 310
organization," "EMT-basic," "EMT-I," and "paramedic" have the 311
meanings defined in section 4765.01 of the Revised Code. 312

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

"Federal law enforcement officer" has the meaning defined 316
in section 9.88 of the Revised Code. 317

(10) "Information pertaining to the recreational 318
activities of a person under the age of eighteen" means 319
information that is kept in the ordinary course of business by a 320
public office, that pertains to the recreational activities of a 321
person under the age of eighteen years, and that discloses any 322
of the following: 323

(a) The address or telephone number of a person under the 324
age of eighteen or the address or telephone number of that 325
person's parent, guardian, custodian, or emergency contact 326
person; 327

(b) The social security number, birth date, or 328
photographic image of a person under the age of eighteen; 329

(c) Any medical record, history, or information pertaining 330
to a person under the age of eighteen; 331

(d) Any additional information sought or required about a 332
person under the age of eighteen for the purpose of allowing 333
that person to participate in any recreational activity 334
conducted or sponsored by a public office or to use or obtain 335
admission privileges to any recreational facility owned or 336
operated by a public office. 337

- (11) "Community control sanction" has the meaning defined 338
in section 2929.01 of the Revised Code. 339
- (12) "Post-release control sanction" has the meaning 340
defined in section 2967.01 of the Revised Code. 341
- (13) "Redaction" means obscuring or deleting any 342
information that is exempt from the duty to permit public 343
inspection or copying from an item that otherwise meets the 344
definition of a "record" in section 149.011 of the Revised Code. 345
- (14) "Designee," "elected official," and "future official" 346
have the meanings defined in section 109.43 of the Revised Code. 347
- (15) "Body-worn camera" means a visual and audio recording 348
device worn on the person of a peace officer while the peace 349
officer is engaged in the performance of the peace officer's 350
duties. 351
- (16) "Dashboard camera" means a visual and audio recording 352
device mounted on a peace officer's vehicle or vessel that is 353
used while the peace officer is engaged in the performance of 354
the peace officer's duties. 355
- (17) "Restricted portions of a body-worn camera or 356
dashboard camera recording" means any visual or audio portion of 357
a body-worn camera or dashboard camera recording that shows, 358
communicates, or discloses any of the following: 359
- (a) The image or identity of a child or information that 360
could lead to the identification of a child who is a primary 361
subject of the recording when the law enforcement agency knows 362
or has reason to know the person is a child based on the law 363
enforcement agency's records or the content of the recording; 364
- (b) The death of a person or a deceased person's body, 365

unless the death was caused by a peace officer or, subject to 366
division (H) (1) of this section, the consent of the decedent's 367
executor or administrator has been obtained; 368

(c) The death of a peace officer, firefighter, paramedic, 369
or other first responder, occurring while the decedent was 370
engaged in the performance of official duties, unless, subject 371
to division (H) (1) of this section, the consent of the 372
decedent's executor or administrator has been obtained; 373

(d) Grievous bodily harm, unless the injury was effected 374
by a peace officer or, subject to division (H) (1) of this 375
section, the consent of the injured person or the injured 376
person's guardian has been obtained; 377

(e) An act of severe violence against a person that 378
results in serious physical harm to the person, unless the act 379
and injury was effected by a peace officer or, subject to 380
division (H) (1) of this section, the consent of the injured 381
person or the injured person's guardian has been obtained; 382

(f) Grievous bodily harm to a peace officer, firefighter, 383
paramedic, or other first responder, occurring while the injured 384
person was engaged in the performance of official duties, 385
unless, subject to division (H) (1) of this section, the consent 386
of the injured person or the injured person's guardian has been 387
obtained; 388

(g) An act of severe violence resulting in serious 389
physical harm against a peace officer, firefighter, paramedic, 390
or other first responder, occurring while the injured person was 391
engaged in the performance of official duties, unless, subject 392
to division (H) (1) of this section, the consent of the injured 393
person or the injured person's guardian has been obtained; 394

- (h) A person's nude body, unless, subject to division (H) 395
(1) of this section, the person's consent has been obtained; 396
- (i) Protected health information, the identity of a person 397
in a health care facility who is not the subject of a law 398
enforcement encounter, or any other information in a health care 399
facility that could identify a person who is not the subject of 400
a law enforcement encounter; 401
- (j) Information that could identify the alleged victim of 402
a sex offense, menacing by stalking, or domestic violence; 403
- (k) Information, that does not constitute a confidential 404
law enforcement investigatory record, that could identify a 405
person who provides sensitive or confidential information to a 406
law enforcement agency when the disclosure of the person's 407
identity or the information provided could reasonably be 408
expected to threaten or endanger the safety or property of the 409
person or another person; 410
- (l) Personal information of a person who is not arrested, 411
cited, charged, or issued a written warning by a peace officer; 412
- (m) Proprietary police contingency plans or tactics that 413
are intended to prevent crime and maintain public order and 414
safety; 415
- (n) A personal conversation unrelated to work between 416
peace officers or between a peace officer and an employee of a 417
law enforcement agency; 418
- (o) A conversation between a peace officer and a member of 419
the public that does not concern law enforcement activities; 420
- (p) The interior of a residence, unless the interior of a 421
residence is the location of an adversarial encounter with, or a 422

use of force by, a peace officer; 423

(q) Any portion of the interior of a private business that 424
is not open to the public, unless an adversarial encounter with, 425
or a use of force by, a peace officer occurs in that location. 426

As used in division (A) (17) of this section: 427

"Grievous bodily harm" has the same meaning as in section 428
5924.120 of the Revised Code. 429

"Health care facility" has the same meaning as in section 430
1337.11 of the Revised Code. 431

"Protected health information" has the same meaning as in 432
45 C.F.R. 160.103. 433

"Law enforcement agency" has the same meaning as in 434
section 2925.61 of the Revised Code. 435

"Personal information" means any government-issued 436
identification number, date of birth, address, financial 437
information, or criminal justice information from the law 438
enforcement automated data system or similar databases. 439

"Sex offense" has the same meaning as in section 2907.10 440
of the Revised Code. 441

"Firefighter," "paramedic," and "first responder" have the 442
same meanings as in section 4765.01 of the Revised Code. 443

(B) (1) Upon request and subject to division (B) (8) of this 444
section, all public records responsive to the request shall be 445
promptly prepared and made available for inspection to any 446
person at all reasonable times during regular business hours. 447
Subject to division (B) (8) of this section, upon request by any 448
person, a public office or person responsible for public records 449

shall make copies of the requested public record available to 450
the requester at cost and within a reasonable period of time. If 451
a public record contains information that is exempt from the 452
duty to permit public inspection or to copy the public record, 453
the public office or the person responsible for the public 454
record shall make available all of the information within the 455
public record that is not exempt. When making that public record 456
available for public inspection or copying that public record, 457
the public office or the person responsible for the public 458
record shall notify the requester of any redaction or make the 459
redaction plainly visible. A redaction shall be deemed a denial 460
of a request to inspect or copy the redacted information, except 461
if federal or state law authorizes or requires a public office 462
to make the redaction. 463

(2) To facilitate broader access to public records, a 464
public office or the person responsible for public records shall 465
organize and maintain public records in a manner that they can 466
be made available for inspection or copying in accordance with 467
division (B) of this section. A public office also shall have 468
available a copy of its current records retention schedule at a 469
location readily available to the public. If a requester makes 470
an ambiguous or overly broad request or has difficulty in making 471
a request for copies or inspection of public records under this 472
section such that the public office or the person responsible 473
for the requested public record cannot reasonably identify what 474
public records are being requested, the public office or the 475
person responsible for the requested public record may deny the 476
request but shall provide the requester with an opportunity to 477
revise the request by informing the requester of the manner in 478
which records are maintained by the public office and accessed 479
in the ordinary course of the public office's or person's 480

duties. 481

(3) If a request is ultimately denied, in part or in 482
whole, the public office or the person responsible for the 483
requested public record shall provide the requester with an 484
explanation, including legal authority, setting forth why the 485
request was denied. If the initial request was provided in 486
writing, the explanation also shall be provided to the requester 487
in writing. The explanation shall not preclude the public office 488
or the person responsible for the requested public record from 489
relying upon additional reasons or legal authority in defending 490
an action commenced under division (C) of this section. 491

(4) Unless specifically required or authorized by state or 492
federal law or in accordance with division (B) of this section, 493
no public office or person responsible for public records may 494
limit or condition the availability of public records by 495
requiring disclosure of the requester's identity or the intended 496
use of the requested public record. Any requirement that the 497
requester disclose the requester's identity or the intended use 498
of the requested public record constitutes a denial of the 499
request. 500

(5) A public office or person responsible for public 501
records may ask a requester to make the request in writing, may 502
ask for the requester's identity, and may inquire about the 503
intended use of the information requested, but may do so only 504
after disclosing to the requester that a written request is not 505
mandatory, that the requester may decline to reveal the 506
requester's identity or the intended use, and when a written 507
request or disclosure of the identity or intended use would 508
benefit the requester by enhancing the ability of the public 509
office or person responsible for public records to identify, 510

locate, or deliver the public records sought by the requester. 511

(6) If any person requests a copy of a public record in 512
accordance with division (B) of this section, the public office 513
or person responsible for the public record may require that 514
person to pay in advance the cost involved in providing the copy 515
of the public record in accordance with the choice made by the 516
person requesting the copy under this division. The public 517
office or the person responsible for the public record shall 518
permit that person to choose to have the public record 519
duplicated upon paper, upon the same medium upon which the 520
public office or person responsible for the public record keeps 521
it, or upon any other medium upon which the public office or 522
person responsible for the public record determines that it 523
reasonably can be duplicated as an integral part of the normal 524
operations of the public office or person responsible for the 525
public record. When the person requesting the copy makes a 526
choice under this division, the public office or person 527
responsible for the public record shall provide a copy of it in 528
accordance with the choice made by that person. Nothing in this 529
section requires a public office or person responsible for the 530
public record to allow the person requesting a copy of the 531
public record to make the copies of the public record. 532

(7) (a) Upon a request made in accordance with division (B) 533
of this section and subject to division (B) (6) of this section, 534
a public office or person responsible for public records shall 535
transmit a copy of a public record to any person by United 536
States mail or by any other means of delivery or transmission 537
within a reasonable period of time after receiving the request 538
for the copy. The public office or person responsible for the 539
public record may require the person making the request to pay 540
in advance the cost of postage if the copy is transmitted by 541

United States mail or the cost of delivery if the copy is 542
transmitted other than by United States mail, and to pay in 543
advance the costs incurred for other supplies used in the 544
mailing, delivery, or transmission. 545

(b) Any public office may adopt a policy and procedures 546
that it will follow in transmitting, within a reasonable period 547
of time after receiving a request, copies of public records by 548
United States mail or by any other means of delivery or 549
transmission pursuant to division (B) (7) of this section. A 550
public office that adopts a policy and procedures under division 551
(B) (7) of this section shall comply with them in performing its 552
duties under that division. 553

(c) In any policy and procedures adopted under division 554
(B) (7) of this section: 555

(i) A public office may limit the number of records 556
requested by a person that the office will physically deliver by 557
United States mail or by another delivery service to ten per 558
month, unless the person certifies to the office in writing that 559
the person does not intend to use or forward the requested 560
records, or the information contained in them, for commercial 561
purposes; 562

(ii) A public office that chooses to provide some or all 563
of its public records on a web site that is fully accessible to 564
and searchable by members of the public at all times, other than 565
during acts of God outside the public office's control or 566
maintenance, and that charges no fee to search, access, 567
download, or otherwise receive records provided on the web site, 568
may limit to ten per month the number of records requested by a 569
person that the office will deliver in a digital format, unless 570
the requested records are not provided on the web site and 571

unless the person certifies to the office in writing that the 572
person does not intend to use or forward the requested records, 573
or the information contained in them, for commercial purposes. 574

(iii) For purposes of division (B)(7) of this section, 575
"commercial" shall be narrowly construed and does not include 576
reporting or gathering news, reporting or gathering information 577
to assist citizen oversight or understanding of the operation or 578
activities of government, or nonprofit educational research. 579

(8) A public office or person responsible for public 580
records is not required to permit a person who is incarcerated 581
pursuant to a criminal conviction or a juvenile adjudication to 582
inspect or to obtain a copy of any public record concerning a 583
criminal investigation or prosecution or concerning what would 584
be a criminal investigation or prosecution if the subject of the 585
investigation or prosecution were an adult, unless the request 586
to inspect or to obtain a copy of the record is for the purpose 587
of acquiring information that is subject to release as a public 588
record under this section and the judge who imposed the sentence 589
or made the adjudication with respect to the person, or the 590
judge's successor in office, finds that the information sought 591
in the public record is necessary to support what appears to be 592
a justiciable claim of the person. 593

(9) (a) Upon written request made and signed by a 594
journalist, a public office, or person responsible for public 595
records, having custody of the records of the agency employing a 596
specified designated public service worker shall disclose to the 597
journalist the address of the actual personal residence of the 598
designated public service worker and, if the designated public 599
service worker's spouse, former spouse, or child is employed by 600
a public office, the name and address of the employer of the 601

designated public service worker's spouse, former spouse, or 602
child. The request shall include the journalist's name and title 603
and the name and address of the journalist's employer and shall 604
state that disclosure of the information sought would be in the 605
public interest. 606

(b) Division (B) (9) (a) of this section also applies to 607
journalist requests for: 608

(i) Customer information maintained by a municipally owned 609
or operated public utility, other than social security numbers 610
and any private financial information such as credit reports, 611
payment methods, credit card numbers, and bank account 612
information; 613

(ii) Information about minors involved in a school vehicle 614
accident as provided in division (A) (1) (gg) of this section, 615
other than personal information as defined in section 149.45 of 616
the Revised Code. 617

(c) As used in division (B) (9) of this section, 618
"journalist" means a person engaged in, connected with, or 619
employed by any news medium, including a newspaper, magazine, 620
press association, news agency, or wire service, a radio or 621
television station, or a similar medium, for the purpose of 622
gathering, processing, transmitting, compiling, editing, or 623
disseminating information for the general public. 624

(10) Upon a request made by a victim, victim's attorney, 625
or victim's representative, as that term is used in section 626
2930.02 of the Revised Code, a public office or person 627
responsible for public records shall transmit a copy of a 628
depiction of the victim as described in division (A) (1) (gg) of 629
this section to the victim, victim's attorney, or victim's 630

representative. 631

(C) (1) If a person allegedly is aggrieved by the failure 632
of a public office or the person responsible for public records 633
to promptly prepare a public record and to make it available to 634
the person for inspection in accordance with division (B) of 635
this section or by any other failure of a public office or the 636
person responsible for public records to comply with an 637
obligation in accordance with division (B) of this section, the 638
person allegedly aggrieved may do only one of the following, and 639
not both: 640

(a) File a complaint with the clerk of the court of claims 641
or the clerk of the court of common pleas under section 2743.75 642
of the Revised Code; 643

(b) Commence a mandamus action to obtain a judgment that 644
orders the public office or the person responsible for the 645
public record to comply with division (B) of this section, that 646
awards court costs and reasonable attorney's fees to the person 647
that instituted the mandamus action, and, if applicable, that 648
includes an order fixing statutory damages under division (C) (2) 649
of this section. The mandamus action may be commenced in the 650
court of common pleas of the county in which division (B) of 651
this section allegedly was not complied with, in the supreme 652
court pursuant to its original jurisdiction under Section 2 of 653
Article IV, Ohio Constitution, or in the court of appeals for 654
the appellate district in which division (B) of this section 655
allegedly was not complied with pursuant to its original 656
jurisdiction under Section 3 of Article IV, Ohio Constitution. 657

(2) If a requester transmits a written request by hand 658
delivery, electronic submission, or certified mail to inspect or 659
receive copies of any public record in a manner that fairly 660

describes the public record or class of public records to the 661
public office or person responsible for the requested public 662
records, except as otherwise provided in this section, the 663
requester shall be entitled to recover the amount of statutory 664
damages set forth in this division if a court determines that 665
the public office or the person responsible for public records 666
failed to comply with an obligation in accordance with division 667
(B) of this section. 668

The amount of statutory damages shall be fixed at one 669
hundred dollars for each business day during which the public 670
office or person responsible for the requested public records 671
failed to comply with an obligation in accordance with division 672
(B) of this section, beginning with the day on which the 673
requester files a mandamus action to recover statutory damages, 674
up to a maximum of one thousand dollars. The award of statutory 675
damages shall not be construed as a penalty, but as compensation 676
for injury arising from lost use of the requested information. 677
The existence of this injury shall be conclusively presumed. The 678
award of statutory damages shall be in addition to all other 679
remedies authorized by this section. 680

The court may reduce an award of statutory damages or not 681
award statutory damages if the court determines both of the 682
following: 683

(a) That, based on the ordinary application of statutory 684
law and case law as it existed at the time of the conduct or 685
threatened conduct of the public office or person responsible 686
for the requested public records that allegedly constitutes a 687
failure to comply with an obligation in accordance with division 688
(B) of this section and that was the basis of the mandamus 689
action, a well-informed public office or person responsible for 690

the requested public records reasonably would believe that the 691
conduct or threatened conduct of the public office or person 692
responsible for the requested public records did not constitute 693
a failure to comply with an obligation in accordance with 694
division (B) of this section; 695

(b) That a well-informed public office or person 696
responsible for the requested public records reasonably would 697
believe that the conduct or threatened conduct of the public 698
office or person responsible for the requested public records 699
would serve the public policy that underlies the authority that 700
is asserted as permitting that conduct or threatened conduct. 701

(3) In a mandamus action filed under division (C) (1) of 702
this section, the following apply: 703

(a) (i) If the court orders the public office or the person 704
responsible for the public record to comply with division (B) of 705
this section, the court shall determine and award to the relator 706
all court costs, which shall be construed as remedial and not 707
punitive. 708

(ii) If the court makes a determination described in 709
division (C) (3) (b) (iii) of this section, the court shall 710
determine and award to the relator all court costs, which shall 711
be construed as remedial and not punitive. 712

(b) If the court renders a judgment that orders the public 713
office or the person responsible for the public record to comply 714
with division (B) of this section or if the court determines any 715
of the following, the court may award reasonable attorney's fees 716
to the relator, subject to division (C) (4) of this section: 717

(i) The public office or the person responsible for the 718
public records failed to respond affirmatively or negatively to 719

the public records request in accordance with the time allowed 720
under division (B) of this section. 721

(ii) The public office or the person responsible for the 722
public records promised to permit the relator to inspect or 723
receive copies of the public records requested within a 724
specified period of time but failed to fulfill that promise 725
within that specified period of time. 726

(iii) The public office or the person responsible for the 727
public records acted in bad faith when the office or person 728
voluntarily made the public records available to the relator for 729
the first time after the relator commenced the mandamus action, 730
but before the court issued any order concluding whether or not 731
the public office or person was required to comply with division 732
(B) of this section. No discovery may be conducted on the issue 733
of the alleged bad faith of the public office or person 734
responsible for the public records. This division shall not be 735
construed as creating a presumption that the public office or 736
the person responsible for the public records acted in bad faith 737
when the office or person voluntarily made the public records 738
available to the relator for the first time after the relator 739
commenced the mandamus action, but before the court issued any 740
order described in this division. 741

(c) The court shall not award attorney's fees to the 742
relator if the court determines both of the following: 743

(i) That, based on the ordinary application of statutory 744
law and case law as it existed at the time of the conduct or 745
threatened conduct of the public office or person responsible 746
for the requested public records that allegedly constitutes a 747
failure to comply with an obligation in accordance with division 748
(B) of this section and that was the basis of the mandamus 749

action, a well-informed public office or person responsible for 750
the requested public records reasonably would believe that the 751
conduct or threatened conduct of the public office or person 752
responsible for the requested public records did not constitute 753
a failure to comply with an obligation in accordance with 754
division (B) of this section; 755

(ii) That a well-informed public office or person 756
responsible for the requested public records reasonably would 757
believe that the conduct or threatened conduct of the public 758
office or person responsible for the requested public records 759
would serve the public policy that underlies the authority that 760
is asserted as permitting that conduct or threatened conduct. 761

(4) All of the following apply to any award of reasonable 762
attorney's fees awarded under division (C) (3) (b) of this 763
section: 764

(a) The fees shall be construed as remedial and not 765
punitive. 766

(b) The fees awarded shall not exceed the total of the 767
reasonable attorney's fees incurred before the public record was 768
made available to the relator and the fees described in division 769
(C) (4) (c) of this section. 770

(c) Reasonable attorney's fees shall include reasonable 771
fees incurred to produce proof of the reasonableness and amount 772
of the fees and to otherwise litigate entitlement to the fees. 773

(d) The court may reduce the amount of fees awarded if the 774
court determines that, given the factual circumstances involved 775
with the specific public records request, an alternative means 776
should have been pursued to more effectively and efficiently 777
resolve the dispute that was subject to the mandamus action 778

filed under division (C) (1) of this section. 779

(5) If the court does not issue a writ of mandamus under 780
division (C) of this section and the court determines at that 781
time that the bringing of the mandamus action was frivolous 782
conduct as defined in division (A) of section 2323.51 of the 783
Revised Code, the court may award to the public office all court 784
costs, expenses, and reasonable attorney's fees, as determined 785
by the court. 786

(D) Chapter 1347. of the Revised Code does not limit the 787
provisions of this section. 788

(E) (1) To ensure that all employees of public offices are 789
appropriately educated about a public office's obligations under 790
division (B) of this section, all elected officials or their 791
appropriate designees shall attend training approved by the 792
attorney general as provided in section 109.43 of the Revised 793
Code. A future official may satisfy the requirements of this 794
division by attending the training before taking office, 795
provided that the future official may not send a designee in the 796
future official's place. 797

(2) All public offices shall adopt a public records policy 798
in compliance with this section for responding to public records 799
requests. In adopting a public records policy under this 800
division, a public office may obtain guidance from the model 801
public records policy developed and provided to the public 802
office by the attorney general under section 109.43 of the 803
Revised Code. Except as otherwise provided in this section, the 804
policy may not limit the number of public records that the 805
public office will make available to a single person, may not 806
limit the number of public records that it will make available 807
during a fixed period of time, and may not establish a fixed 808

period of time before it will respond to a request for 809
inspection or copying of public records, unless that period is 810
less than eight hours. 811

The public office shall distribute the public records 812
policy adopted by the public office under this division to the 813
employee of the public office who is the records custodian or 814
records manager or otherwise has custody of the records of that 815
office. The public office shall require that employee to 816
acknowledge receipt of the copy of the public records policy. 817
The public office shall create a poster that describes its 818
public records policy and shall post the poster in a conspicuous 819
place in the public office and in all locations where the public 820
office has branch offices. The public office may post its public 821
records policy on the internet web site of the public office if 822
the public office maintains an internet web site. A public 823
office that has established a manual or handbook of its general 824
policies and procedures for all employees of the public office 825
shall include the public records policy of the public office in 826
the manual or handbook. 827

(F) (1) The bureau of motor vehicles may adopt rules 828
pursuant to Chapter 119. of the Revised Code to reasonably limit 829
the number of bulk commercial special extraction requests made 830
by a person for the same records or for updated records during a 831
calendar year. The rules may include provisions for charges to 832
be made for bulk commercial special extraction requests for the 833
actual cost of the bureau, plus special extraction costs, plus 834
ten per cent. The bureau may charge for expenses for redacting 835
information, the release of which is prohibited by law. 836

(2) As used in division (F) (1) of this section: 837

(a) "Actual cost" means the cost of depleted supplies, 838

records storage media costs, actual mailing and alternative 839
delivery costs, or other transmitting costs, and any direct 840
equipment operating and maintenance costs, including actual 841
costs paid to private contractors for copying services. 842

(b) "Bulk commercial special extraction request" means a 843
request for copies of a record for information in a format other 844
than the format already available, or information that cannot be 845
extracted without examination of all items in a records series, 846
class of records, or database by a person who intends to use or 847
forward the copies for surveys, marketing, solicitation, or 848
resale for commercial purposes. "Bulk commercial special 849
extraction request" does not include a request by a person who 850
gives assurance to the bureau that the person making the request 851
does not intend to use or forward the requested copies for 852
surveys, marketing, solicitation, or resale for commercial 853
purposes. 854

(c) "Commercial" means profit-seeking production, buying, 855
or selling of any good, service, or other product. 856

(d) "Special extraction costs" means the cost of the time 857
spent by the lowest paid employee competent to perform the task, 858
the actual amount paid to outside private contractors employed 859
by the bureau, or the actual cost incurred to create computer 860
programs to make the special extraction. "Special extraction 861
costs" include any charges paid to a public agency for computer 862
or records services. 863

(3) For purposes of divisions (F) (1) and (2) of this 864
section, "surveys, marketing, solicitation, or resale for 865
commercial purposes" shall be narrowly construed and does not 866
include reporting or gathering news, reporting or gathering 867
information to assist citizen oversight or understanding of the 868

operation or activities of government, or nonprofit educational 869
research. 870

(G) A request by a defendant, counsel of a defendant, or 871
any agent of a defendant in a criminal action that public 872
records related to that action be made available under this 873
section shall be considered a demand for discovery pursuant to 874
the Criminal Rules, except to the extent that the Criminal Rules 875
plainly indicate a contrary intent. The defendant, counsel of 876
the defendant, or agent of the defendant making a request under 877
this division shall serve a copy of the request on the 878
prosecuting attorney, director of law, or other chief legal 879
officer responsible for prosecuting the action. 880

(H) (1) Any portion of a body-worn camera or dashboard 881
camera recording described in divisions (A) (17) (b) to (h) of 882
this section may be released by consent of the subject of the 883
recording or a representative of that person, as specified in 884
those divisions, only if either of the following applies: 885

(a) The recording will not be used in connection with any 886
probable or pending criminal proceedings; 887

(b) The recording has been used in connection with a 888
criminal proceeding that was dismissed or for which a judgment 889
has been entered pursuant to Rule 32 of the Rules of Criminal 890
Procedure, and will not be used again in connection with any 891
probable or pending criminal proceedings. 892

(2) If a public office denies a request to release a 893
restricted portion of a body-worn camera or dashboard camera 894
recording, as defined in division (A) (17) of this section, any 895
person may file a mandamus action pursuant to this section or a 896
complaint with the clerk of the court of claims pursuant to 897

section 2743.75 of the Revised Code, requesting the court to 898
order the release of all or portions of the recording. If the 899
court considering the request determines that the filing 900
articulates by clear and convincing evidence that the public 901
interest in the recording substantially outweighs privacy 902
interests and other interests asserted to deny release, the 903
court shall order the public office to release the recording. 904

Section 2. That existing section 149.43 of the Revised 905
Code is hereby repealed. 906