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Representative Retherford

Cosponsors: Representatives Thompson, Seitz, Johnson, Carfagna, DeVitis, Hill, Ryan, Becker, Householder, Butler, Edwards, Sprague, Wiggam, Young, Arndt, Brinkman, Patton, Schaffer, Romanchuk, Dean, Greenspan, Hambley, Riedel, Koehler, Lanese, Blessing, Dever, Anielski, Smith, R., Reineke, LaTourette, Hood, Manning, Gavarone, Merrin, Rezabek, Perales, Zeltwanger, Stein, Cupp, Hagan, Scherer, Roegner, Green, Brenner, Keller, Ginter, Lipps, Huffman, Sweeney, Kick, Henne, Gonzales, Celebrezze, Schuring, Slaby

A BILL

To amend sections 149.43 and 149.45 of the Revised	1
Code to exclude from the definition of public	2
record under the Public Records Law any	3
depiction by photograph, film, videotape, or	4
digital, visual, or printed material of victims	5
of crime under specified circumstances dealing	6
with the victims' bodily privacy, to exclude	7
from that definition specified residential and	8
familial information regarding county or	9
multicounty corrections officers, and to declare	10
an emergency.	11

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

Section 1. That sections 149.43 and 149.45 of the Revised	12
Code be amended to read as follows:	13

Sec. 149.43. (A) As used in this section:	14
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(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

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

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

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

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

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential	43
under section 2710.03 or 4112.05 of the Revised Code;	44
(j) DNA records stored in the DNA database pursuant to	45
section 109.573 of the Revised Code;	46
(k) Inmate records released by the department of	47
rehabilitation and correction to the department of youth	48
services or a court of record pursuant to division (E) of	49
section 5120.21 of the Revised Code;	50
(l) Records maintained by the department of youth services	51
pertaining to children in its custody released by the department	52
of youth services to the department of rehabilitation and	53
correction pursuant to section 5139.05 of the Revised Code;	54
(m) Intellectual property records;	55
(n) Donor profile records;	56
(o) Records maintained by the department of job and family	57
services pursuant to section 3121.894 of the Revised Code;	58
(p) Peace officer, parole officer, probation officer,	59
bailiff, prosecuting attorney, assistant prosecuting attorney,	60
correctional employee, <u>county or multicounty corrections</u>	61
<u>officer</u> , community-based correctional facility employee, youth	62
services employee, firefighter, EMT, investigator of the bureau	63
of criminal identification and investigation, or federal law	64
enforcement officer residential and familial information;	65
(q) In the case of a county hospital operated pursuant to	66
Chapter 339. of the Revised Code or a municipal hospital	67
operated pursuant to Chapter 749. of the Revised Code,	68
information that constitutes a trade secret, as defined in	69
section 1333.61 of the Revised Code;	70

(r) Information pertaining to the recreational activities 71
of a person under the age of eighteen; 72

(s) In the case of a child fatality review board acting 73
under sections 307.621 to 307.629 of the Revised Code or a 74
review conducted pursuant to guidelines established by the 75
director of health under section 3701.70 of the Revised Code, 76
records provided to the board or director, statements made by 77
board members during meetings of the board or by persons 78
participating in the director's review, and all work products of 79
the board or director, and in the case of a child fatality 80
review board, child fatality review data submitted by the board 81
to the department of health or a national child death review 82
database, other than the report prepared pursuant to division 83
(A) of section 307.626 of the Revised Code; 84

(t) Records provided to and statements made by the 85
executive director of a public children services agency or a 86
prosecuting attorney acting pursuant to section 5153.171 of the 87
Revised Code other than the information released under that 88
section; 89

(u) Test materials, examinations, or evaluation tools used 90
in an examination for licensure as a nursing home administrator 91
that the board of executives of long-term services and supports 92
administers under section 4751.04 of the Revised Code or 93
contracts under that section with a private or government entity 94
to administer; 95

(v) Records the release of which is prohibited by state or 96
federal law; 97

(w) Proprietary information of or relating to any person 98
that is submitted to or compiled by the Ohio venture capital 99

authority created under section 150.01 of the Revised Code; 100

(x) Financial statements and data any person submits for 101
any purpose to the Ohio housing finance agency or the 102
controlling board in connection with applying for, receiving, or 103
accounting for financial assistance from the agency, and 104
information that identifies any individual who benefits directly 105
or indirectly from financial assistance from the agency; 106

(y) Records listed in section 5101.29 of the Revised Code; 107

(z) Discharges recorded with a county recorder under 108
section 317.24 of the Revised Code, as specified in division (B) 109
(2) of that section; 110

(aa) Usage information including names and addresses of 111
specific residential and commercial customers of a municipally 112
owned or operated public utility; 113

(bb) Records described in division (C) of section 187.04 114
of the Revised Code that are not designated to be made available 115
to the public as provided in that division; 116

(cc) Information and records that are made confidential, 117
privileged, and not subject to disclosure under divisions (B) 118
and (C) of section 2949.221 of the Revised Code; 119

(dd) Personal information, as defined in section 149.45 of 120
the Revised Code; 121

(ee) The confidential name, address, and other personally 122
identifiable information of a program participant in the address 123
confidentiality program established under sections 111.41 to 124
111.47 of the Revised Code, including the contents of any 125
application for absent voter's ballots, absent voter's ballot 126
identification envelope statement of voter, or provisional 127

ballot affirmation completed by a program participant who has a
confidential voter registration record, and records or portions
of records pertaining to that program that identify the number
of program participants that reside within a precinct, ward,
township, municipal corporation, county, or any other geographic
area smaller than the state. As used in this division,
"confidential address" and "program participant" have the
meaning defined in section 111.41 of the Revised Code.

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

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

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

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

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

(a) The identity of a suspect who has not been charged 157
with the offense to which the record pertains, or of an 158
information source or witness to whom confidentiality has been 159
reasonably promised; 160

(b) Information provided by an information source or 161
witness to whom confidentiality has been reasonably promised, 162
which information would reasonably tend to disclose the source's 163
or witness's identity; 164

(c) Specific confidential investigatory techniques or 165
procedures or specific investigatory work product; 166

(d) Information that would endanger the life or physical 167
safety of law enforcement personnel, a crime victim, a witness, 168
or a confidential information source. 169

(3) "Medical record" means any document or combination of 170
documents, except births, deaths, and the fact of admission to 171
or discharge from a hospital, that pertains to the medical 172
history, diagnosis, prognosis, or medical condition of a patient 173
and that is generated and maintained in the process of medical 174
treatment. 175

(4) "Trial preparation record" means any record that 176
contains information that is specifically compiled in reasonable 177
anticipation of, or in defense of, a civil or criminal action or 178
proceeding, including the independent thought processes and 179
personal trial preparation of an attorney. 180

(5) "Intellectual property record" means a record, other 181
than a financial or administrative record, that is produced or 182
collected by or for faculty or staff of a state institution of 183
higher learning in the conduct of or as a result of study or 184
research on an educational, commercial, scientific, artistic, 185

technical, or scholarly issue, regardless of whether the study 186
or research was sponsored by the institution alone or in 187
conjunction with a governmental body or private concern, and 188
that has not been publicly released, published, or patented. 189

(6) "Donor profile record" means all records about donors 190
or potential donors to a public institution of higher education 191
except the names and reported addresses of the actual donors and 192
the date, amount, and conditions of the actual donation. 193

(7) "Peace officer, parole officer, probation officer, 194
bailiff, prosecuting attorney, assistant prosecuting attorney, 195
correctional employee, county or multicounty corrections 196
officer, community-based correctional facility employee, youth 197
services employee, firefighter, EMT, investigator of the bureau 198
of criminal identification and investigation, or federal law 199
enforcement officer residential and familial information" means 200
any information that discloses any of the following about a 201
peace officer, parole officer, probation officer, bailiff, 202
prosecuting attorney, assistant prosecuting attorney, 203
correctional employee, county or multicounty corrections 204
officer, community-based correctional facility employee, youth 205
services employee, firefighter, EMT, investigator of the bureau 206
of criminal identification and investigation, or federal law 207
enforcement officer: 208

(a) The address of the actual personal residence of a 209
peace officer, parole officer, probation officer, bailiff, 210
assistant prosecuting attorney, correctional employee, county or 211
multicounty corrections officer, community-based correctional 212
facility employee, youth services employee, firefighter, EMT, an 213
investigator of the bureau of criminal identification and 214
investigation, or federal law enforcement officer, except for 215

the state or political subdivision in which the peace officer, 216
parole officer, probation officer, bailiff, assistant 217
prosecuting attorney, correctional employee, county or 218
multicounty corrections officer, community-based correctional 219
facility employee, youth services employee, firefighter, EMT, 220
investigator of the bureau of criminal identification and 221
investigation, or federal law enforcement officer resides; 222

(b) Information compiled from referral to or participation 223
in an employee assistance program; 224

(c) The social security number, the residential telephone 225
number, any bank account, debit card, charge card, or credit 226
card number, or the emergency telephone number of, or any 227
medical information pertaining to, a peace officer, parole 228
officer, probation officer, bailiff, prosecuting attorney, 229
assistant prosecuting attorney, correctional employee, county or 230
multicounty corrections officer, community-based correctional 231
facility employee, youth services employee, firefighter, EMT, 232
investigator of the bureau of criminal identification and 233
investigation, or federal law enforcement officer; 234

(d) The name of any beneficiary of employment benefits, 235
including, but not limited to, life insurance benefits, provided 236
to a peace officer, parole officer, probation officer, bailiff, 237
prosecuting attorney, assistant prosecuting attorney, 238
correctional employee, county or multicounty corrections 239
officer, community-based correctional facility employee, youth 240
services employee, firefighter, EMT, investigator of the bureau 241
of criminal identification and investigation, or federal law 242
enforcement officer by the peace officer's, parole officer's, 243
probation officer's, bailiff's, prosecuting attorney's, 244
assistant prosecuting attorney's, correctional employee's, 245

county or multicounty corrections officer's, community-based 246
correctional facility employee's, youth services employee's, 247
firefighter's, EMT's, investigator of the bureau of criminal 248
identification and investigation's, or federal law enforcement 249
officer's employer; 250

(e) The identity and amount of any charitable or 251
employment benefit deduction made by the peace officer's, parole 252
officer's, probation officer's, bailiff's, prosecuting 253
attorney's, assistant prosecuting attorney's, correctional 254
employee's, county or multicounty corrections officer's, 255
community-based correctional facility employee's, youth services 256
employee's, firefighter's, EMT's, investigator of the bureau of 257
criminal identification and investigation's, or federal law 258
enforcement officer's employer from the peace officer's, parole 259
officer's, probation officer's, bailiff's, prosecuting 260
attorney's, assistant prosecuting attorney's, correctional 261
employee's, county or multicounty corrections officer's, 262
community-based correctional facility employee's, youth services 263
employee's, firefighter's, EMT's, investigator of the bureau of 264
criminal identification and investigation's, or federal law 265
enforcement officer's compensation unless the amount of the 266
deduction is required by state or federal law; 267

(f) The name, the residential address, the name of the 268
employer, the address of the employer, the social security 269
number, the residential telephone number, any bank account, 270
debit card, charge card, or credit card number, or the emergency 271
telephone number of the spouse, a former spouse, or any child of 272
a peace officer, parole officer, probation officer, bailiff, 273
prosecuting attorney, assistant prosecuting attorney, 274
correctional employee, county or multicounty corrections 275
officer, community-based correctional facility employee, youth 276

services employee, firefighter, EMT, investigator of the bureau 277
of criminal identification and investigation, or federal law 278
enforcement officer; 279

(g) A photograph of a peace officer who holds a position 280
or has an assignment that may include undercover or plain 281
clothes positions or assignments as determined by the peace 282
officer's appointing authority. 283

As used in divisions (A) (7) and (B) (9) of this section, 284
"peace officer" has the same meaning as in section 109.71 of the 285
Revised Code and also includes the superintendent and troopers 286
of the state highway patrol; it does not include the sheriff of 287
a county or a supervisory employee who, in the absence of the 288
sheriff, is authorized to stand in for, exercise the authority 289
of, and perform the duties of the sheriff. 290

As used in divisions (A) (7) and (B) (9) of this section, 291
"correctional employee" means any employee of the department of 292
rehabilitation and correction who in the course of performing 293
the employee's job duties has or has had contact with inmates 294
and persons under supervision. 295

As used in divisions (A) (7) and (B) (9) of this section, 296
"county or multicounty corrections officer" means any 297
corrections officer employed by any county or multicounty 298
correctional facility. 299

As used in divisions (A) (7) and (B) (9) of this section, 300
"youth services employee" means any employee of the department 301
of youth services who in the course of performing the employee's 302
job duties has or has had contact with children committed to the 303
custody of the department of youth services. 304

As used in divisions (A) (7) and (B) (9) of this section, 305

"firefighter" means any regular, paid or volunteer, member of a 306
lawfully constituted fire department of a municipal corporation, 307
township, fire district, or village. 308

As used in divisions (A) (7) and (B) (9) of this section, 309
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 310
emergency medical services for a public emergency medical 311
service organization. "Emergency medical service organization," 312
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 313
in section 4765.01 of the Revised Code. 314

As used in divisions (A) (7) and (B) (9) of this section, 315
"investigator of the bureau of criminal identification and 316
investigation" has the meaning defined in section 2903.11 of the 317
Revised Code. 318

As used in divisions (A) (7) and (B) (9) of this section, 319
"federal law enforcement officer" has the meaning defined in 320
section 9.88 of the Revised Code. 321

(8) "Information pertaining to the recreational activities 322
of a person under the age of eighteen" means information that is 323
kept in the ordinary course of business by a public office, that 324
pertains to the recreational activities of a person under the 325
age of eighteen years, and that discloses any of the following: 326

(a) The address or telephone number of a person under the 327
age of eighteen or the address or telephone number of that 328
person's parent, guardian, custodian, or emergency contact 329
person; 330

(b) The social security number, birth date, or 331
photographic image of a person under the age of eighteen; 332

(c) Any medical record, history, or information pertaining 333
to a person under the age of eighteen; 334

(d) Any additional information sought or required about a 335
person under the age of eighteen for the purpose of allowing 336
that person to participate in any recreational activity 337
conducted or sponsored by a public office or to use or obtain 338
admission privileges to any recreational facility owned or 339
operated by a public office. 340

(9) "Community control sanction" has the same meaning as 341
in section 2929.01 of the Revised Code. 342

(10) "Post-release control sanction" has the same meaning 343
as in section 2967.01 of the Revised Code. 344

(11) "Redaction" means obscuring or deleting any 345
information that is exempt from the duty to permit public 346
inspection or copying from an item that otherwise meets the 347
definition of a "record" in section 149.011 of the Revised Code. 348

(12) "Designee" and "elected official" have the same 349
meanings as in section 109.43 of the Revised Code. 350

(B) (1) Upon request and subject to division (B) (8) of this 351
section, all public records responsive to the request shall be 352
promptly prepared and made available for inspection to any 353
person at all reasonable times during regular business hours. 354
Subject to division (B) (8) of this section, upon request, a 355
public office or person responsible for public records shall 356
make copies of the requested public record available at cost and 357
within a reasonable period of time. If a public record contains 358
information that is exempt from the duty to permit public 359
inspection or to copy the public record, the public office or 360
the person responsible for the public record shall make 361
available all of the information within the public record that 362
is not exempt. When making that public record available for 363

public inspection or copying that public record, the public 364
office or the person responsible for the public record shall 365
notify the requester of any redaction or make the redaction 366
plainly visible. A redaction shall be deemed a denial of a 367
request to inspect or copy the redacted information, except if 368
federal or state law authorizes or requires a public office to 369
make the redaction. 370

(2) To facilitate broader access to public records, a 371
public office or the person responsible for public records shall 372
organize and maintain public records in a manner that they can 373
be made available for inspection or copying in accordance with 374
division (B) of this section. A public office also shall have 375
available a copy of its current records retention schedule at a 376
location readily available to the public. If a requester makes 377
an ambiguous or overly broad request or has difficulty in making 378
a request for copies or inspection of public records under this 379
section such that the public office or the person responsible 380
for the requested public record cannot reasonably identify what 381
public records are being requested, the public office or the 382
person responsible for the requested public record may deny the 383
request but shall provide the requester with an opportunity to 384
revise the request by informing the requester of the manner in 385
which records are maintained by the public office and accessed 386
in the ordinary course of the public office's or person's 387
duties. 388

(3) If a request is ultimately denied, in part or in 389
whole, the public office or the person responsible for the 390
requested public record shall provide the requester with an 391
explanation, including legal authority, setting forth why the 392
request was denied. If the initial request was provided in 393
writing, the explanation also shall be provided to the requester 394

in writing. The explanation shall not preclude the public office 395
or the person responsible for the requested public record from 396
relying upon additional reasons or legal authority in defending 397
an action commenced under division (C) of this section. 398

(4) Unless specifically required or authorized by state or 399
federal law or in accordance with division (B) of this section, 400
no public office or person responsible for public records may 401
limit or condition the availability of public records by 402
requiring disclosure of the requester's identity or the intended 403
use of the requested public record. Any requirement that the 404
requester disclose the requester's identity or the intended use 405
of the requested public record constitutes a denial of the 406
request. 407

(5) A public office or person responsible for public 408
records may ask a requester to make the request in writing, may 409
ask for the requester's identity, and may inquire about the 410
intended use of the information requested, but may do so only 411
after disclosing to the requester that a written request is not 412
mandatory and that the requester may decline to reveal the 413
requester's identity or the intended use and when a written 414
request or disclosure of the identity or intended use would 415
benefit the requester by enhancing the ability of the public 416
office or person responsible for public records to identify, 417
locate, or deliver the public records sought by the requester. 418

(6) If any person chooses to obtain a copy of a public 419
record in accordance with division (B) of this section, the 420
public office or person responsible for the public record may 421
require that person to pay in advance the cost involved in 422
providing the copy of the public record in accordance with the 423
choice made by the person seeking the copy under this division. 424

The public office or the person responsible for the public 425
record shall permit that person to choose to have the public 426
record duplicated upon paper, upon the same medium upon which 427
the public office or person responsible for the public record 428
keeps it, or upon any other medium upon which the public office 429
or person responsible for the public record determines that it 430
reasonably can be duplicated as an integral part of the normal 431
operations of the public office or person responsible for the 432
public record. When the person seeking the copy makes a choice 433
under this division, the public office or person responsible for 434
the public record shall provide a copy of it in accordance with 435
the choice made by the person seeking the copy. Nothing in this 436
section requires a public office or person responsible for the 437
public record to allow the person seeking a copy of the public 438
record to make the copies of the public record. 439

(7) (a) Upon a request made in accordance with division (B) 440
of this section and subject to division (B) (6) of this section, 441
a public office or person responsible for public records shall 442
transmit a copy of a public record to any person by United 443
States mail or by any other means of delivery or transmission 444
within a reasonable period of time after receiving the request 445
for the copy. The public office or person responsible for the 446
public record may require the person making the request to pay 447
in advance the cost of postage if the copy is transmitted by 448
United States mail or the cost of delivery if the copy is 449
transmitted other than by United States mail, and to pay in 450
advance the costs incurred for other supplies used in the 451
mailing, delivery, or transmission. 452

(b) Any public office may adopt a policy and procedures 453
that it will follow in transmitting, within a reasonable period 454
of time after receiving a request, copies of public records by 455

United States mail or by any other means of delivery or 456
transmission pursuant to division (B) (7) of this section. A 457
public office that adopts a policy and procedures under division 458
(B) (7) of this section shall comply with them in performing its 459
duties under that division. 460

(c) In any policy and procedures adopted under division 461
(B) (7) of this section: 462

(i) A public office may limit the number of records 463
requested by a person that the office will physically deliver by 464
United States mail or by another delivery service to ten per 465
month, unless the person certifies to the office in writing that 466
the person does not intend to use or forward the requested 467
records, or the information contained in them, for commercial 468
purposes; 469

(ii) A public office that chooses to provide some or all 470
of its public records on a web site that is fully accessible to 471
and searchable by members of the public at all times, other than 472
during acts of God outside the public office's control or 473
maintenance, and that charges no fee to search, access, 474
download, or otherwise receive records provided on the web site, 475
may limit to ten per month the number of records requested by a 476
person that the office will deliver in a digital format, unless 477
the requested records are not provided on the web site and 478
unless the person certifies to the office in writing that the 479
person does not intend to use or forward the requested records, 480
or the information contained in them, for commercial purposes. 481

(iii) For purposes of division (B) (7) of this section, 482
"commercial" shall be narrowly construed and does not include 483
reporting or gathering news, reporting or gathering information 484
to assist citizen oversight or understanding of the operation or 485

activities of government, or nonprofit educational research. 486

(8) A public office or person responsible for public 487
records is not required to permit a person who is incarcerated 488
pursuant to a criminal conviction or a juvenile adjudication to 489
inspect or to obtain a copy of any public record concerning a 490
criminal investigation or prosecution or concerning what would 491
be a criminal investigation or prosecution if the subject of the 492
investigation or prosecution were an adult, unless the request 493
to inspect or to obtain a copy of the record is for the purpose 494
of acquiring information that is subject to release as a public 495
record under this section and the judge who imposed the sentence 496
or made the adjudication with respect to the person, or the 497
judge's successor in office, finds that the information sought 498
in the public record is necessary to support what appears to be 499
a justiciable claim of the person. 500

(9) (a) Upon written request made and signed by a 501
journalist on or after December 16, 1999, a public office, or 502
person responsible for public records, having custody of the 503
records of the agency employing a specified peace officer, 504
parole officer, probation officer, bailiff, prosecuting 505
attorney, assistant prosecuting attorney, correctional employee, 506
county or multicounty corrections officer, community-based 507
correctional facility employee, youth services employee, 508
firefighter, EMT, investigator of the bureau of criminal 509
identification and investigation, or federal law enforcement 510
officer shall disclose to the journalist the address of the 511
actual personal residence of the peace officer, parole officer, 512
probation officer, bailiff, prosecuting attorney, assistant 513
prosecuting attorney, correctional employee, county or 514
multicounty corrections officer, community-based correctional 515
facility employee, youth services employee, firefighter, EMT, 516

investigator of the bureau of criminal identification and 517
investigation, or federal law enforcement officer and, if the 518
peace officer's, parole officer's, probation officer's, 519
bailiff's, prosecuting attorney's, assistant prosecuting 520
attorney's, correctional employee's, county or multicounty 521
corrections officer's, community-based correctional facility 522
employee's, youth services employee's, firefighter's, EMT's, 523
investigator of the bureau of criminal identification and 524
investigation's, or federal law enforcement officer's spouse, 525
former spouse, or child is employed by a public office, the name 526
and address of the employer of the peace officer's, parole 527
officer's, probation officer's, bailiff's, prosecuting 528
attorney's, assistant prosecuting attorney's, correctional 529
employee's, county or multicounty corrections officer's, 530
community-based correctional facility employee's, youth services 531
employee's, firefighter's, EMT's, investigator of the bureau of 532
criminal identification and investigation's, or federal law 533
enforcement officer's spouse, former spouse, or child. The 534
request shall include the journalist's name and title and the 535
name and address of the journalist's employer and shall state 536
that disclosure of the information sought would be in the public 537
interest. 538

(b) Division (B) (9) (a) of this section also applies to 539
journalist requests for customer information maintained by a 540
municipally owned or operated public utility, other than social 541
security numbers and any private financial information such as 542
credit reports, payment methods, credit card numbers, and bank 543
account information. 544

(c) As used in division (B) (9) of this section, 545
"journalist" means a person engaged in, connected with, or 546
employed by any news medium, including a newspaper, magazine, 547

press association, news agency, or wire service, a radio or 548
television station, or a similar medium, for the purpose of 549
gathering, processing, transmitting, compiling, editing, or 550
disseminating information for the general public. 551

(10) Upon a request made by a victim, victim's attorney, 552
or victim's representative, as that term is used in section 553
2930.02 of the Revised Code, a public office or person 554
responsible for public records shall transmit a copy of a 555
depiction of the victim as described in division (A) (1) (gg) of 556
this section to the victim, victim's attorney, or victim's 557
representative. 558

(C) (1) If a person allegedly is aggrieved by the failure 559
of a public office or the person responsible for public records 560
to promptly prepare a public record and to make it available to 561
the person for inspection in accordance with division (B) of 562
this section or by any other failure of a public office or the 563
person responsible for public records to comply with an 564
obligation in accordance with division (B) of this section, the 565
person allegedly aggrieved may do only one of the following, and 566
not both: 567

(a) File a complaint with the clerk of the court of claims 568
or the clerk of the court of common pleas under section 2743.75 569
of the Revised Code; 570

(b) Commence a mandamus action to obtain a judgment that 571
orders the public office or the person responsible for the 572
public record to comply with division (B) of this section, that 573
awards court costs and reasonable attorney's fees to the person 574
that instituted the mandamus action, and, if applicable, that 575
includes an order fixing statutory damages under division (C) (2) 576
of this section. The mandamus action may be commenced in the 577

court of common pleas of the county in which division (B) of 578
this section allegedly was not complied with, in the supreme 579
court pursuant to its original jurisdiction under Section 2 of 580
Article IV, Ohio Constitution, or in the court of appeals for 581
the appellate district in which division (B) of this section 582
allegedly was not complied with pursuant to its original 583
jurisdiction under Section 3 of Article IV, Ohio Constitution. 584

(2) If a requester transmits a written request by hand 585
delivery or certified mail to inspect or receive copies of any 586
public record in a manner that fairly describes the public 587
record or class of public records to the public office or person 588
responsible for the requested public records, except as 589
otherwise provided in this section, the requester shall be 590
entitled to recover the amount of statutory damages set forth in 591
this division if a court determines that the public office or 592
the person responsible for public records failed to comply with 593
an obligation in accordance with division (B) of this section. 594

The amount of statutory damages shall be fixed at one 595
hundred dollars for each business day during which the public 596
office or person responsible for the requested public records 597
failed to comply with an obligation in accordance with division 598
(B) of this section, beginning with the day on which the 599
requester files a mandamus action to recover statutory damages, 600
up to a maximum of one thousand dollars. The award of statutory 601
damages shall not be construed as a penalty, but as compensation 602
for injury arising from lost use of the requested information. 603
The existence of this injury shall be conclusively presumed. The 604
award of statutory damages shall be in addition to all other 605
remedies authorized by this section. 606

The court may reduce an award of statutory damages or not 607

award statutory damages if the court determines both of the 608
following: 609

(a) That, based on the ordinary application of statutory 610
law and case law as it existed at the time of the conduct or 611
threatened conduct of the public office or person responsible 612
for the requested public records that allegedly constitutes a 613
failure to comply with an obligation in accordance with division 614
(B) of this section and that was the basis of the mandamus 615
action, a well-informed public office or person responsible for 616
the requested public records reasonably would believe that the 617
conduct or threatened conduct of the public office or person 618
responsible for the requested public records did not constitute 619
a failure to comply with an obligation in accordance with 620
division (B) of this section; 621

(b) That a well-informed public office or person 622
responsible for the requested public records reasonably would 623
believe that the conduct or threatened conduct of the public 624
office or person responsible for the requested public records 625
would serve the public policy that underlies the authority that 626
is asserted as permitting that conduct or threatened conduct. 627

(3) In a mandamus action filed under division (C)(1) of 628
this section, the following apply: 629

(a) (i) If the court orders the public office or the person 630
responsible for the public record to comply with division (B) of 631
this section, the court shall determine and award to the relator 632
all court costs, which shall be construed as remedial and not 633
punitive. 634

(ii) If the court makes a determination described in 635
division (C)(3)(b)(iii) of this section, the court shall 636

determine and award to the relator all court costs, which shall 637
be construed as remedial and not punitive. 638

(b) If the court renders a judgment that orders the public 639
office or the person responsible for the public record to comply 640
with division (B) of this section or if the court determines any 641
of the following, the court may award reasonable attorney's fees 642
to the relator, subject to the provisions of division (C)(4) of 643
this section: 644

(i) The public office or the person responsible for the 645
public records failed to respond affirmatively or negatively to 646
the public records request in accordance with the time allowed 647
under division (B) of this section. 648

(ii) The public office or the person responsible for the 649
public records promised to permit the relator to inspect or 650
receive copies of the public records requested within a 651
specified period of time but failed to fulfill that promise 652
within that specified period of time. 653

(iii) The public office or the person responsible for the 654
public records acted in bad faith when the office or person 655
voluntarily made the public records available to the relator for 656
the first time after the relator commenced the mandamus action, 657
but before the court issued any order concluding whether or not 658
the public office or person was required to comply with division 659
(B) of this section. No discovery may be conducted on the issue 660
of the alleged bad faith of the public office or person 661
responsible for the public records. This division shall not be 662
construed as creating a presumption that the public office or 663
the person responsible for the public records acted in bad faith 664
when the office or person voluntarily made the public records 665
available to the relator for the first time after the relator 666

commenced the mandamus action, but before the court issued any 667
order described in this division. 668

(c) The court shall not award attorney's fees to the 669
relator if the court determines both of the following: 670

(i) That, based on the ordinary application of statutory 671
law and case law as it existed at the time of the conduct or 672
threatened conduct of the public office or person responsible 673
for the requested public records that allegedly constitutes a 674
failure to comply with an obligation in accordance with division 675
(B) of this section and that was the basis of the mandamus 676
action, a well-informed public office or person responsible for 677
the requested public records reasonably would believe that the 678
conduct or threatened conduct of the public office or person 679
responsible for the requested public records did not constitute 680
a failure to comply with an obligation in accordance with 681
division (B) of this section; 682

(ii) That a well-informed public office or person 683
responsible for the requested public records reasonably would 684
believe that the conduct or threatened conduct of the public 685
office or person responsible for the requested public records 686
would serve the public policy that underlies the authority that 687
is asserted as permitting that conduct or threatened conduct. 688

(4) All of the following apply to any award of reasonable 689
attorney's fees awarded under division (C) (3) (b) of this 690
section: 691

(a) The fees shall be construed as remedial and not 692
punitive. 693

(b) The fees awarded shall not exceed the total of the 694
reasonable attorney's fees incurred before the public record was 695

made available to the relator and the fees described in division 696
(C) (4) (c) of this section. 697

(c) Reasonable attorney's fees shall include reasonable 698
fees incurred to produce proof of the reasonableness and amount 699
of the fees and to otherwise litigate entitlement to the fees. 700

(d) The court may reduce the amount of fees awarded if the 701
court determines that, given the factual circumstances involved 702
with the specific public records request, an alternative means 703
should have been pursued to more effectively and efficiently 704
resolve the dispute that was subject to the mandamus action 705
filed under division (C) (1) of this section. 706

(5) If the court does not issue a writ of mandamus under 707
division (C) of this section and the court determines at that 708
time that the bringing of the mandamus action was frivolous 709
conduct as defined in division (A) of section 2323.51 of the 710
Revised Code, the court may award to the public office all court 711
costs, expenses, and reasonable attorney's fees, as determined 712
by the court. 713

(D) Chapter 1347. of the Revised Code does not limit the 714
provisions of this section. 715

(E) (1) To ensure that all employees of public offices are 716
appropriately educated about a public office's obligations under 717
division (B) of this section, all elected officials or their 718
appropriate designees shall attend training approved by the 719
attorney general as provided in section 109.43 of the Revised 720
Code. In addition, all public offices shall adopt a public 721
records policy in compliance with this section for responding to 722
public records requests. In adopting a public records policy 723
under this division, a public office may obtain guidance from 724

the model public records policy developed and provided to the 725
public office by the attorney general under section 109.43 of 726
the Revised Code. Except as otherwise provided in this section, 727
the policy may not limit the number of public records that the 728
public office will make available to a single person, may not 729
limit the number of public records that it will make available 730
during a fixed period of time, and may not establish a fixed 731
period of time before it will respond to a request for 732
inspection or copying of public records, unless that period is 733
less than eight hours. 734

(2) The public office shall distribute the public records 735
policy adopted by the public office under division (E)(1) of 736
this section to the employee of the public office who is the 737
records custodian or records manager or otherwise has custody of 738
the records of that office. The public office shall require that 739
employee to acknowledge receipt of the copy of the public 740
records policy. The public office shall create a poster that 741
describes its public records policy and shall post the poster in 742
a conspicuous place in the public office and in all locations 743
where the public office has branch offices. The public office 744
may post its public records policy on the internet web site of 745
the public office if the public office maintains an internet web 746
site. A public office that has established a manual or handbook 747
of its general policies and procedures for all employees of the 748
public office shall include the public records policy of the 749
public office in the manual or handbook. 750

(F)(1) The bureau of motor vehicles may adopt rules 751
pursuant to Chapter 119. of the Revised Code to reasonably limit 752
the number of bulk commercial special extraction requests made 753
by a person for the same records or for updated records during a 754
calendar year. The rules may include provisions for charges to 755

be made for bulk commercial special extraction requests for the 756
actual cost of the bureau, plus special extraction costs, plus 757
ten per cent. The bureau may charge for expenses for redacting 758
information, the release of which is prohibited by law. 759

(2) As used in division (F) (1) of this section: 760

(a) "Actual cost" means the cost of depleted supplies, 761
records storage media costs, actual mailing and alternative 762
delivery costs, or other transmitting costs, and any direct 763
equipment operating and maintenance costs, including actual 764
costs paid to private contractors for copying services. 765

(b) "Bulk commercial special extraction request" means a 766
request for copies of a record for information in a format other 767
than the format already available, or information that cannot be 768
extracted without examination of all items in a records series, 769
class of records, or database by a person who intends to use or 770
forward the copies for surveys, marketing, solicitation, or 771
resale for commercial purposes. "Bulk commercial special 772
extraction request" does not include a request by a person who 773
gives assurance to the bureau that the person making the request 774
does not intend to use or forward the requested copies for 775
surveys, marketing, solicitation, or resale for commercial 776
purposes. 777

(c) "Commercial" means profit-seeking production, buying, 778
or selling of any good, service, or other product. 779

(d) "Special extraction costs" means the cost of the time 780
spent by the lowest paid employee competent to perform the task, 781
the actual amount paid to outside private contractors employed 782
by the bureau, or the actual cost incurred to create computer 783
programs to make the special extraction. "Special extraction 784

costs" include any charges paid to a public agency for computer 785
or records services. 786

(3) For purposes of divisions (F)(1) and (2) of this 787
section, "surveys, marketing, solicitation, or resale for 788
commercial purposes" shall be narrowly construed and does not 789
include reporting or gathering news, reporting or gathering 790
information to assist citizen oversight or understanding of the 791
operation or activities of government, or nonprofit educational 792
research. 793

(G) A request by a defendant, counsel of a defendant, or 794
any agent of a defendant in a criminal action that public 795
records related to that action be made available under this 796
section shall be considered a demand for discovery pursuant to 797
the Criminal Rules, except to the extent that the Criminal Rules 798
plainly indicate a contrary intent. The defendant, counsel of 799
the defendant, or agent of the defendant making a request under 800
this division shall serve a copy of the request on the 801
prosecuting attorney, director of law, or other chief legal 802
officer responsible for prosecuting the action. 803

Sec. 149.45. (A) As used in this section: 804

(1) "Personal information" means any of the following: 805

(a) An individual's social security number; 806

(b) An individual's state or federal tax identification 807
number; 808

(c) An individual's driver's license number or state 809
identification number; 810

(d) An individual's checking account number, savings 811
account number, credit card number, or debit card number; 812

(e) An individual's demand deposit account number, money 813
market account number, mutual fund account number, or any other 814
financial or medical account number. 815

(2) "Public record" and "peace officer, parole officer, 816
probation officer, bailiff, prosecuting attorney, assistant 817
prosecuting attorney, correctional employee, county or 818
multicounty corrections officer, community-based correctional 819
facility employee, youth services employee, firefighter, EMT, 820
investigator of the bureau of criminal identification and 821
investigation, or federal law enforcement officer residential 822
and familial information" have the same meanings as in section 823
149.43 of the Revised Code. 824

(3) "Truncate" means to redact all but the last four 825
digits of an individual's social security number. 826

(B) (1) No public office or person responsible for a public 827
office's public records shall make available to the general 828
public on the internet any document that contains an 829
individual's social security number without otherwise redacting, 830
encrypting, or truncating the social security number. 831

(2) A public office or person responsible for a public 832
office's public records that prior to October 17, 2011, made 833
available to the general public on the internet any document 834
that contains an individual's social security number shall 835
redact, encrypt, or truncate the social security number from 836
that document. 837

(3) Divisions (B) (1) and (2) of this section do not apply 838
to documents that are only accessible through the internet with 839
a password. 840

(C) (1) An individual may request that a public office or a 841

person responsible for a public office's public records redact 842
personal information of that individual from any record made 843
available to the general public on the internet. An individual 844
who makes a request for redaction pursuant to this division 845
shall make the request in writing on a form developed by the 846
attorney general and shall specify the personal information to 847
be redacted and provide any information that identifies the 848
location of that personal information within a document that 849
contains that personal information. 850

(2) Upon receiving a request for a redaction pursuant to 851
division (C)(1) of this section, a public office or a person 852
responsible for a public office's public records shall act 853
within five business days in accordance with the request to 854
redact the personal information of the individual from any 855
record made available to the general public on the internet, if 856
practicable. If a redaction is not practicable, the public 857
office or person responsible for the public office's public 858
records shall verbally or in writing within five business days 859
after receiving the written request explain to the individual 860
why the redaction is impracticable. 861

(3) The attorney general shall develop a form to be used 862
by an individual to request a redaction pursuant to division (C) 863
(1) of this section. The form shall include a place to provide 864
any information that identifies the location of the personal 865
information to be redacted. 866

(D)(1) A peace officer, parole officer, probation officer, 867
bailiff, prosecuting attorney, assistant prosecuting attorney, 868
correctional employee, county or multicounty corrections 869
officer, community-based correctional facility employee, youth 870
services employee, firefighter, EMT, investigator of the bureau 871

of criminal identification and investigation, or federal law 872
enforcement officer may request that a public office other than 873
a county auditor or a person responsible for the public records 874
of a public office other than a county auditor redact the 875
address of the person making the request from any record made 876
available to the general public on the internet that includes 877
peace officer, parole officer, probation officer, bailiff, 878
prosecuting attorney, assistant prosecuting attorney, 879
correctional employee, county or multicounty corrections 880
officer, community-based correctional facility employee, youth 881
services employee, firefighter, EMT, investigator of the bureau 882
of criminal identification and investigation, or federal law 883
enforcement officer residential and familial information of the 884
person making the request. A person who makes a request for a 885
redaction pursuant to this division shall make the request in 886
writing and on a form developed by the attorney general. 887

(2) Upon receiving a written request for a redaction 888
pursuant to division (D) (1) of this section, a public office 889
other than a county auditor or a person responsible for the 890
public records of a public office other than a county auditor 891
shall act within five business days in accordance with the 892
request to redact the address of the peace officer, parole 893
officer, probation officer, bailiff, prosecuting attorney, 894
assistant prosecuting attorney, correctional employee, county or 895
multicounty corrections officer, community-based correctional 896
facility employee, youth services employee, firefighter, EMT, 897
investigator of the bureau of criminal identification and 898
investigation, or federal law enforcement officer making the 899
request from any record made available to the general public on 900
the internet that includes peace officer, parole officer, 901
probation officer, bailiff, prosecuting attorney, assistant 902

prosecuting attorney, correctional employee, county or 903
multicounty corrections officer, community-based correctional 904
facility employee, youth services employee, firefighter, EMT, 905
investigator of the bureau of criminal identification and 906
investigation, or federal law enforcement officer residential 907
and familial information of the person making the request, if 908
practicable. If a redaction is not practicable, the public 909
office or person responsible for the public office's public 910
records shall verbally or in writing within five business days 911
after receiving the written request explain to the peace 912
officer, parole officer, probation officer, bailiff, prosecuting 913
attorney, assistant prosecuting attorney, correctional employee, 914
county or multicounty corrections officer, community-based 915
correctional facility employee, youth services employee, 916
firefighter, EMT, investigator of the bureau of criminal 917
identification and investigation, or federal law enforcement 918
officer why the redaction is impracticable. 919

(3) Except as provided in this section and section 319.28 920
of the Revised Code, a public office other than an employer of a 921
peace officer, parole officer, probation officer, bailiff, 922
prosecuting attorney, assistant prosecuting attorney, 923
correctional employee, county or multicounty corrections 924
officer, community-based correctional facility employee, youth 925
services employee, firefighter, EMT, investigator of the bureau 926
of criminal identification and investigation, or federal law 927
enforcement officer or a person responsible for the public 928
records of the employer is not required to redact the 929
residential and familial information of the peace officer, 930
parole officer, probation officer, bailiff, prosecuting 931
attorney, assistant prosecuting attorney, correctional employee, 932
county or multicounty corrections officer, community-based 933

correctional facility employee, youth services employee, 934
firefighter, EMT, investigator of the bureau of criminal 935
identification and investigation, or federal law enforcement 936
officer from other records maintained by the public office. 937

(4) The attorney general shall develop a form to be used 938
by a peace officer, parole officer, probation officer, bailiff, 939
prosecuting attorney, assistant prosecuting attorney, 940
correctional employee, county or multicounty corrections 941
officer, community-based correctional facility employee, youth 942
services employee, firefighter, EMT, investigator of the bureau 943
of criminal identification and investigation, or federal law 944
enforcement officer to request a redaction pursuant to division 945
(D) (1) of this section. The form shall include a place to 946
provide any information that identifies the location of the 947
address of a peace officer, parole officer, probation officer, 948
bailiff, prosecuting attorney, assistant prosecuting attorney, 949
correctional employee, county or multicounty corrections 950
officer, community-based correctional facility employee, youth 951
services employee, firefighter, EMT, investigator of the bureau 952
of criminal identification and investigation, or federal law 953
enforcement officer to be redacted. 954

(E) (1) If a public office or a person responsible for a 955
public office's public records becomes aware that an electronic 956
record of that public office that is made available to the 957
general public on the internet contains an individual's social 958
security number that was mistakenly not redacted, encrypted, or 959
truncated as required by division (B) (1) or (2) of this section, 960
the public office or person responsible for the public office's 961
public records shall redact, encrypt, or truncate the 962
individual's social security number within a reasonable period 963
of time. 964

(2) A public office or a person responsible for a public 965
office's public records is not liable in damages in a civil 966
action for any harm an individual allegedly sustains as a result 967
of the inclusion of that individual's personal information on 968
any record made available to the general public on the internet 969
or any harm a peace officer, parole officer, probation officer, 970
bailiff, prosecuting attorney, assistant prosecuting attorney, 971
correctional employee, county or multicounty corrections 972
officer, community-based correctional facility employee, youth 973
services employee, firefighter, EMT, investigator of the bureau 974
of criminal identification and investigation, or federal law 975
enforcement officer sustains as a result of the inclusion of the 976
address of the peace officer, parole officer, probation officer, 977
bailiff, prosecuting attorney, assistant prosecuting attorney, 978
correctional employee, county or multicounty corrections 979
officer, community-based correctional facility employee, youth 980
services employee, firefighter, EMT, investigator of the bureau 981
of criminal identification and investigation, or federal law 982
enforcement officer on any record made available to the general 983
public on the internet in violation of this section unless the 984
public office or person responsible for the public office's 985
public records acted with malicious purpose, in bad faith, or in 986
a wanton or reckless manner or division (A) (6) (a) or (c) of 987
section 2744.03 of the Revised Code applies. 988

Section 2. That existing sections 149.43 and 149.45 of the 989
Revised Code are hereby repealed. 990

Section 3. This act shall be known as the "Victims Privacy 991
and Protection Act." 992

Section 4. This act is hereby declared to be an emergency 993
measure necessary for the immediate preservation of the public 994

peace, health, and safety. The reason for such necessity is to 995
immediately ensure that the Public Records Law cannot be used to 996
violate a victim's bodily privacy and integrity. Therefore, this 997
act shall go into immediate effect. 998

Section 5. Section 149.45 of the Revised Code is presented 999
in this act as a composite of the section as amended by both 1000
Sub. H.B. 317 and Sub. H.B. 359 of the 131st General Assembly. 1001
The General Assembly, applying the principle stated in division 1002
(B) of section 1.52 of the Revised Code that amendments are to 1003
be harmonized if reasonably capable of simultaneous operation, 1004
finds that the composite is the resulting version of the section 1005
in effect prior to the effective date of the section as 1006
presented in this act. 1007