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Committee**

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Sub. H. B. No. 451

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, Cera,
Sykes, Kick, Kelly, Henne, Gonzales, Celebrezze, Strahorn, Fedor, Patterson,
Galonski, Lepore-Hagan, Schuring, Howse, Boyd, Ashford, Barnes, Rogers,
Boggs**

A BILL

To amend section 149.43 of the Revised Code to	1
exclude from the definition of public record	2
under the Public Records Law any depiction by	3
photograph, film, videotape, or digital, visual,	4
or printed material of victims of crime under	5
specified circumstances dealing with the	6
victims' bodily privacy, and to declare an	7
emergency.	8

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

Section 1. That section 149.43 of the Revised Code be	9
amended to read as follows:	10

Sec. 149.43. (A) As used in this section:	11
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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 40
under section 2710.03 or 4112.05 of the Revised Code; 41

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

(k) Inmate records released by the department of 44
rehabilitation and correction to the department of youth 45
services or a court of record pursuant to division (E) of 46
section 5120.21 of the Revised Code; 47

(l) Records maintained by the department of youth services 48
pertaining to children in its custody released by the department 49
of youth services to the department of rehabilitation and 50
correction pursuant to section 5139.05 of the Revised Code; 51

(m) Intellectual property records; 52

(n) Donor profile records; 53

(o) Records maintained by the department of job and family 54
services pursuant to section 3121.894 of the Revised Code; 55

(p) Peace officer, parole officer, probation officer, 56
bailiff, prosecuting attorney, assistant prosecuting attorney, 57
correctional employee, community-based correctional facility 58
employee, youth services employee, firefighter, EMT, 59
investigator of the bureau of criminal identification and 60
investigation, or federal law enforcement officer residential 61
and familial information; 62

(q) In the case of a county hospital operated pursuant to 63
Chapter 339. of the Revised Code or a municipal hospital 64
operated pursuant to Chapter 749. of the Revised Code, 65
information that constitutes a trade secret, as defined in 66
section 1333.61 of the Revised Code; 67

(r) Information pertaining to the recreational activities 68
of a person under the age of eighteen; 69

(s) In the case of a child fatality review board acting 70
under sections 307.621 to 307.629 of the Revised Code or a 71
review conducted pursuant to guidelines established by the 72
director of health under section 3701.70 of the Revised Code, 73
records provided to the board or director, statements made by 74
board members during meetings of the board or by persons 75
participating in the director's review, and all work products of 76
the board or director, and in the case of a child fatality 77
review board, child fatality review data submitted by the board 78
to the department of health or a national child death review 79
database, other than the report prepared pursuant to division 80
(A) of section 307.626 of the Revised Code; 81

(t) Records provided to and statements made by the 82
executive director of a public children services agency or a 83
prosecuting attorney acting pursuant to section 5153.171 of the 84
Revised Code other than the information released under that 85
section; 86

(u) Test materials, examinations, or evaluation tools used 87
in an examination for licensure as a nursing home administrator 88
that the board of executives of long-term services and supports 89
administers under section 4751.04 of the Revised Code or 90
contracts under that section with a private or government entity 91
to administer; 92

(v) Records the release of which is prohibited by state or 93
federal law; 94

(w) Proprietary information of or relating to any person 95
that is submitted to or compiled by the Ohio venture capital 96

authority created under section 150.01 of the Revised Code; 97

(x) Financial statements and data any person submits for 98
any purpose to the Ohio housing finance agency or the 99
controlling board in connection with applying for, receiving, or 100
accounting for financial assistance from the agency, and 101
information that identifies any individual who benefits directly 102
or indirectly from financial assistance from the agency; 103

(y) Records listed in section 5101.29 of the Revised Code; 104

(z) Discharges recorded with a county recorder under 105
section 317.24 of the Revised Code, as specified in division (B) 106
(2) of that section; 107

(aa) Usage information including names and addresses of 108
specific residential and commercial customers of a municipally 109
owned or operated public utility; 110

(bb) Records described in division (C) of section 187.04 111
of the Revised Code that are not designated to be made available 112
to the public as provided in that division; 113

(cc) Information and records that are made confidential, 114
privileged, and not subject to disclosure under divisions (B) 115
and (C) of section 2949.221 of the Revised Code; 116

(dd) Personal information, as defined in section 149.45 of 117
the Revised Code; 118

(ee) The confidential name, address, and other personally 119
identifiable information of a program participant in the address 120
confidentiality program established under sections 111.41 to 121
111.47 of the Revised Code, including the contents of any 122
application for absent voter's ballots, absent voter's ballot 123
identification envelope statement of voter, or provisional 124

ballot affirmation completed by a program participant who has a 125
confidential voter registration record, and records or portions 126
of records pertaining to that program that identify the number 127
of program participants that reside within a precinct, ward, 128
township, municipal corporation, county, or any other geographic 129
area smaller than the state. As used in this division, 130
"confidential address" and "program participant" have the 131
meaning defined in section 111.41 of the Revised Code. 132

(ff) Orders for active military service of an individual 133
serving or with previous service in the armed forces of the 134
United States, including a reserve component, or the Ohio 135
organized militia, except that, such order becomes a public 136
record on the day that is fifteen years after the published date 137
or effective date of the call to order; 138

(gg) Any depiction by photograph, film, videotape, digital 139
image, or visual or printed material under either of the 140
following circumstances: 141

(i) The depiction is that of a victim of an offense the 142
release of which would be, to a reasonable person of ordinary 143
sensibilities, an offensive and objectionable intrusion into the 144
victim's expectation of bodily privacy and integrity. 145

(ii) The depiction captures or depicts the victim of a 146
sexually oriented offense, as defined in section 2950.01 of the 147
Revised Code, at the actual occurrence of that offense. 148

(2) "Confidential law enforcement investigatory record" 149
means any record that pertains to a law enforcement matter of a 150
criminal, quasi-criminal, civil, or administrative nature, but 151
only to the extent that the release of the record would create a 152
high probability of disclosure of any of the following: 153

(a) The identity of a suspect who has not been charged 154
with the offense to which the record pertains, or of an 155
information source or witness to whom confidentiality has been 156
reasonably promised; 157

(b) Information provided by an information source or 158
witness to whom confidentiality has been reasonably promised, 159
which information would reasonably tend to disclose the source's 160
or witness's identity; 161

(c) Specific confidential investigatory techniques or 162
procedures or specific investigatory work product; 163

(d) Information that would endanger the life or physical 164
safety of law enforcement personnel, a crime victim, a witness, 165
or a confidential information source. 166

(3) "Medical record" means any document or combination of 167
documents, except births, deaths, and the fact of admission to 168
or discharge from a hospital, that pertains to the medical 169
history, diagnosis, prognosis, or medical condition of a patient 170
and that is generated and maintained in the process of medical 171
treatment. 172

(4) "Trial preparation record" means any record that 173
contains information that is specifically compiled in reasonable 174
anticipation of, or in defense of, a civil or criminal action or 175
proceeding, including the independent thought processes and 176
personal trial preparation of an attorney. 177

(5) "Intellectual property record" means a record, other 178
than a financial or administrative record, that is produced or 179
collected by or for faculty or staff of a state institution of 180
higher learning in the conduct of or as a result of study or 181
research on an educational, commercial, scientific, artistic, 182

technical, or scholarly issue, regardless of whether the study 183
or research was sponsored by the institution alone or in 184
conjunction with a governmental body or private concern, and 185
that has not been publicly released, published, or patented. 186

(6) "Donor profile record" means all records about donors 187
or potential donors to a public institution of higher education 188
except the names and reported addresses of the actual donors and 189
the date, amount, and conditions of the actual donation. 190

(7) "Peace officer, parole officer, probation officer, 191
bailiff, prosecuting attorney, assistant prosecuting attorney, 192
correctional employee, community-based correctional facility 193
employee, youth services employee, firefighter, EMT, 194
investigator of the bureau of criminal identification and 195
investigation, or federal law enforcement officer residential 196
and familial information" means any information that discloses 197
any of the following about a peace officer, parole officer, 198
probation officer, bailiff, prosecuting attorney, assistant 199
prosecuting attorney, correctional employee, community-based 200
correctional facility employee, youth services employee, 201
firefighter, EMT, investigator of the bureau of criminal 202
identification and investigation, or federal law enforcement 203
officer: 204

(a) The address of the actual personal residence of a 205
peace officer, parole officer, probation officer, bailiff, 206
assistant prosecuting attorney, correctional employee, 207
community-based correctional facility employee, youth services 208
employee, firefighter, EMT, an investigator of the bureau of 209
criminal identification and investigation, or federal law 210
enforcement officer, except for the state or political 211
subdivision in which the peace officer, parole officer, 212

probation officer, bailiff, assistant prosecuting attorney, 213
correctional employee, community-based correctional facility 214
employee, youth services employee, firefighter, EMT, 215
investigator of the bureau of criminal identification and 216
investigation, or federal law enforcement officer resides; 217

(b) Information compiled from referral to or participation 218
in an employee assistance program; 219

(c) The social security number, the residential telephone 220
number, any bank account, debit card, charge card, or credit 221
card number, or the emergency telephone number of, or any 222
medical information pertaining to, a peace officer, parole 223
officer, probation officer, bailiff, prosecuting attorney, 224
assistant prosecuting attorney, correctional employee, 225
community-based correctional facility employee, youth services 226
employee, firefighter, EMT, investigator of the bureau of 227
criminal identification and investigation, or federal law 228
enforcement officer; 229

(d) The name of any beneficiary of employment benefits, 230
including, but not limited to, life insurance benefits, provided 231
to a peace officer, parole officer, probation officer, bailiff, 232
prosecuting attorney, assistant prosecuting attorney, 233
correctional employee, community-based correctional facility 234
employee, youth services employee, firefighter, EMT, 235
investigator of the bureau of criminal identification and 236
investigation, or federal law enforcement officer by the peace 237
officer's, parole officer's, probation officer's, bailiff's, 238
prosecuting attorney's, assistant prosecuting attorney's, 239
correctional employee's, community-based correctional facility 240
employee's, youth services employee's, firefighter's, EMT's, 241
investigator of the bureau of criminal identification and 242

investigation's, or federal law enforcement officer's employer; 243

(e) The identity and amount of any charitable or 244
employment benefit deduction made by the peace officer's, parole 245
officer's, probation officer's, bailiff's, prosecuting 246
attorney's, assistant prosecuting attorney's, correctional 247
employee's, community-based correctional facility employee's, 248
youth services employee's, firefighter's, EMT's, investigator of 249
the bureau of criminal identification and investigation's, or 250
federal law enforcement officer's employer from the peace 251
officer's, parole officer's, probation officer's, bailiff's, 252
prosecuting attorney's, assistant prosecuting attorney's, 253
correctional employee's, community-based correctional facility 254
employee's, youth services employee's, firefighter's, EMT's, 255
investigator of the bureau of criminal identification and 256
investigation's, or federal law enforcement officer's 257
compensation unless the amount of the deduction is required by 258
state or federal law; 259

(f) The name, the residential address, the name of the 260
employer, the address of the employer, the social security 261
number, the residential telephone number, any bank account, 262
debit card, charge card, or credit card number, or the emergency 263
telephone number of the spouse, a former spouse, or any child of 264
a peace officer, parole officer, probation officer, bailiff, 265
prosecuting attorney, assistant prosecuting attorney, 266
correctional employee, community-based correctional facility 267
employee, youth services employee, firefighter, EMT, 268
investigator of the bureau of criminal identification and 269
investigation, or federal law enforcement officer; 270

(g) A photograph of a peace officer who holds a position 271
or has an assignment that may include undercover or plain 272

clothes positions or assignments as determined by the peace 273
officer's appointing authority. 274

As used in divisions (A)(7) and (B)(9) of this section, 275
"peace officer" has the same meaning as in section 109.71 of the 276
Revised Code and also includes the superintendent and troopers 277
of the state highway patrol; it does not include the sheriff of 278
a county or a supervisory employee who, in the absence of the 279
sheriff, is authorized to stand in for, exercise the authority 280
of, and perform the duties of the sheriff. 281

As used in divisions (A)(7) and (B)(9) of this section, 282
"correctional employee" means any employee of the department of 283
rehabilitation and correction who in the course of performing 284
the employee's job duties has or has had contact with inmates 285
and persons under supervision. 286

As used in divisions (A)(7) and (B)(9) of this section, 287
"youth services employee" means any employee of the department 288
of youth services who in the course of performing the employee's 289
job duties has or has had contact with children committed to the 290
custody of the department of youth services. 291

As used in divisions (A)(7) and (B)(9) of this section, 292
"firefighter" means any regular, paid or volunteer, member of a 293
lawfully constituted fire department of a municipal corporation, 294
township, fire district, or village. 295

As used in divisions (A)(7) and (B)(9) of this section, 296
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 297
emergency medical services for a public emergency medical 298
service organization. "Emergency medical service organization," 299
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 300
in section 4765.01 of the Revised Code. 301

As used in divisions (A) (7) and (B) (9) of this section, 302
"investigator of the bureau of criminal identification and 303
investigation" has the meaning defined in section 2903.11 of the 304
Revised Code. 305

As used in divisions (A) (7) and (B) (9) of this section, 306
"federal law enforcement officer" has the meaning defined in 307
section 9.88 of the Revised Code. 308

(8) "Information pertaining to the recreational activities 309
of a person under the age of eighteen" means information that is 310
kept in the ordinary course of business by a public office, that 311
pertains to the recreational activities of a person under the 312
age of eighteen years, and that discloses any of the following: 313

(a) The address or telephone number of a person under the 314
age of eighteen or the address or telephone number of that 315
person's parent, guardian, custodian, or emergency contact 316
person; 317

(b) The social security number, birth date, or 318
photographic image of a person under the age of eighteen; 319

(c) Any medical record, history, or information pertaining 320
to a person under the age of eighteen; 321

(d) Any additional information sought or required about a 322
person under the age of eighteen for the purpose of allowing 323
that person to participate in any recreational activity 324
conducted or sponsored by a public office or to use or obtain 325
admission privileges to any recreational facility owned or 326
operated by a public office. 327

(9) "Community control sanction" has the same meaning as 328
in section 2929.01 of the Revised Code. 329

(10) "Post-release control sanction" has the same meaning 330
as in section 2967.01 of the Revised Code. 331

(11) "Redaction" means obscuring or deleting any 332
information that is exempt from the duty to permit public 333
inspection or copying from an item that otherwise meets the 334
definition of a "record" in section 149.011 of the Revised Code. 335

(12) "Designee" and "elected official" have the same 336
meanings as in section 109.43 of the Revised Code. 337

(B) (1) Upon request and subject to division (B) (8) of this 338
section, all public records responsive to the request shall be 339
promptly prepared and made available for inspection to any 340
person at all reasonable times during regular business hours. 341
Subject to division (B) (8) of this section, upon request, a 342
public office or person responsible for public records shall 343
make copies of the requested public record available at cost and 344
within a reasonable period of time. If a public record contains 345
information that is exempt from the duty to permit public 346
inspection or to copy the public record, the public office or 347
the person responsible for the public record shall make 348
available all of the information within the public record that 349
is not exempt. When making that public record available for 350
public inspection or copying that public record, the public 351
office or the person responsible for the public record shall 352
notify the requester of any redaction or make the redaction 353
plainly visible. A redaction shall be deemed a denial of a 354
request to inspect or copy the redacted information, except if 355
federal or state law authorizes or requires a public office to 356
make the redaction. 357

(2) To facilitate broader access to public records, a 358
public office or the person responsible for public records shall 359

organize and maintain public records in a manner that they can 360
be made available for inspection or copying in accordance with 361
division (B) of this section. A public office also shall have 362
available a copy of its current records retention schedule at a 363
location readily available to the public. If a requester makes 364
an ambiguous or overly broad request or has difficulty in making 365
a request for copies or inspection of public records under this 366
section such that the public office or the person responsible 367
for the requested public record cannot reasonably identify what 368
public records are being requested, the public office or the 369
person responsible for the requested public record may deny the 370
request but shall provide the requester with an opportunity to 371
revise the request by informing the requester of the manner in 372
which records are maintained by the public office and accessed 373
in the ordinary course of the public office's or person's 374
duties. 375

(3) If a request is ultimately denied, in part or in 376
whole, the public office or the person responsible for the 377
requested public record shall provide the requester with an 378
explanation, including legal authority, setting forth why the 379
request was denied. If the initial request was provided in 380
writing, the explanation also shall be provided to the requester 381
in writing. The explanation shall not preclude the public office 382
or the person responsible for the requested public record from 383
relying upon additional reasons or legal authority in defending 384
an action commenced under division (C) of this section. 385

(4) Unless specifically required or authorized by state or 386
federal law or in accordance with division (B) of this section, 387
no public office or person responsible for public records may 388
limit or condition the availability of public records by 389
requiring disclosure of the requester's identity or the intended 390

use of the requested public record. Any requirement that the 391
requester disclose the requester's identity or the intended use 392
of the requested public record constitutes a denial of the 393
request. 394

(5) A public office or person responsible for public 395
records may ask a requester to make the request in writing, may 396
ask for the requester's identity, and may inquire about the 397
intended use of the information requested, but may do so only 398
after disclosing to the requester that a written request is not 399
mandatory and that the requester may decline to reveal the 400
requester's identity or the intended use and when a written 401
request or disclosure of the identity or intended use would 402
benefit the requester by enhancing the ability of the public 403
office or person responsible for public records to identify, 404
locate, or deliver the public records sought by the requester. 405

(6) If any person chooses to obtain a copy of a public 406
record in accordance with division (B) of this section, the 407
public office or person responsible for the public record may 408
require that person to pay in advance the cost involved in 409
providing the copy of the public record in accordance with the 410
choice made by the person seeking the copy under this division. 411
The public office or the person responsible for the public 412
record shall permit that person to choose to have the public 413
record duplicated upon paper, upon the same medium upon which 414
the public office or person responsible for the public record 415
keeps it, or upon any other medium upon which the public office 416
or person responsible for the public record determines that it 417
reasonably can be duplicated as an integral part of the normal 418
operations of the public office or person responsible for the 419
public record. When the person seeking the copy makes a choice 420
under this division, the public office or person responsible for 421

the public record shall provide a copy of it in accordance with 422
the choice made by the person seeking the copy. Nothing in this 423
section requires a public office or person responsible for the 424
public record to allow the person seeking a copy of the public 425
record to make the copies of the public record. 426

(7) (a) Upon a request made in accordance with division (B) 427
of this section and subject to division (B) (6) of this section, 428
a public office or person responsible for public records shall 429
transmit a copy of a public record to any person by United 430
States mail or by any other means of delivery or transmission 431
within a reasonable period of time after receiving the request 432
for the copy. The public office or person responsible for the 433
public record may require the person making the request to pay 434
in advance the cost of postage if the copy is transmitted by 435
United States mail or the cost of delivery if the copy is 436
transmitted other than by United States mail, and to pay in 437
advance the costs incurred for other supplies used in the 438
mailing, delivery, or transmission. 439

(b) Any public office may adopt a policy and procedures 440
that it will follow in transmitting, within a reasonable period 441
of time after receiving a request, copies of public records by 442
United States mail or by any other means of delivery or 443
transmission pursuant to division (B) (7) of this section. A 444
public office that adopts a policy and procedures under division 445
(B) (7) of this section shall comply with them in performing its 446
duties under that division. 447

(c) In any policy and procedures adopted under division 448
(B) (7) of this section: 449

(i) A public office may limit the number of records 450
requested by a person that the office will physically deliver by 451

United States mail or by another delivery service to ten per 452
month, unless the person certifies to the office in writing that 453
the person does not intend to use or forward the requested 454
records, or the information contained in them, for commercial 455
purposes; 456

(ii) A public office that chooses to provide some or all 457
of its public records on a web site that is fully accessible to 458
and searchable by members of the public at all times, other than 459
during acts of God outside the public office's control or 460
maintenance, and that charges no fee to search, access, 461
download, or otherwise receive records provided on the web site, 462
may limit to ten per month the number of records requested by a 463
person that the office will deliver in a digital format, unless 464
the requested records are not provided on the web site and 465
unless the person certifies to the office in writing that the 466
person does not intend to use or forward the requested records, 467
or the information contained in them, for commercial purposes. 468

(iii) For purposes of division (B)(7) of this section, 469
"commercial" shall be narrowly construed and does not include 470
reporting or gathering news, reporting or gathering information 471
to assist citizen oversight or understanding of the operation or 472
activities of government, or nonprofit educational research. 473

(8) A public office or person responsible for public 474
records is not required to permit a person who is incarcerated 475
pursuant to a criminal conviction or a juvenile adjudication to 476
inspect or to obtain a copy of any public record concerning a 477
criminal investigation or prosecution or concerning what would 478
be a criminal investigation or prosecution if the subject of the 479
investigation or prosecution were an adult, unless the request 480
to inspect or to obtain a copy of the record is for the purpose 481

of acquiring information that is subject to release as a public 482
record under this section and the judge who imposed the sentence 483
or made the adjudication with respect to the person, or the 484
judge's successor in office, finds that the information sought 485
in the public record is necessary to support what appears to be 486
a justiciable claim of the person. 487

(9) (a) Upon written request made and signed by a 488
journalist on or after December 16, 1999, a public office, or 489
person responsible for public records, having custody of the 490
records of the agency employing a specified peace officer, 491
parole officer, probation officer, bailiff, prosecuting 492
attorney, assistant prosecuting attorney, correctional employee, 493
community-based correctional facility employee, youth services 494
employee, firefighter, EMT, investigator of the bureau of 495
criminal identification and investigation, or federal law 496
enforcement officer shall disclose to the journalist the address 497
of the actual personal residence of the peace officer, parole 498
officer, probation officer, bailiff, prosecuting attorney, 499
assistant prosecuting attorney, correctional employee, 500
community-based correctional facility employee, youth services 501
employee, firefighter, EMT, investigator of the bureau of 502
criminal identification and investigation, or federal law 503
enforcement officer and, if the peace officer's, parole 504
officer's, probation officer's, bailiff's, prosecuting 505
attorney's, assistant prosecuting attorney's, correctional 506
employee's, community-based correctional facility employee's, 507
youth services employee's, firefighter's, EMT's, investigator of 508
the bureau of criminal identification and investigation's, or 509
federal law enforcement officer's spouse, former spouse, or 510
child is employed by a public office, the name and address of 511
the employer of the peace officer's, parole officer's, probation 512

officer's, bailiff's, prosecuting attorney's, assistant 513
prosecuting attorney's, correctional employee's, community-based 514
correctional facility employee's, youth services employee's, 515
firefighter's, EMT's, investigator of the bureau of criminal 516
identification and investigation's, or federal law enforcement 517
officer's spouse, former spouse, or child. The request shall 518
include the journalist's name and title and the name and address 519
of the journalist's employer and shall state that disclosure of 520
the information sought would be in the public interest. 521

(b) Division (B) (9) (a) of this section also applies to 522
journalist requests for customer information maintained by a 523
municipally owned or operated public utility, other than social 524
security numbers and any private financial information such as 525
credit reports, payment methods, credit card numbers, and bank 526
account information. 527

(c) As used in division (B) (9) of this section, 528
"journalist" means a person engaged in, connected with, or 529
employed by any news medium, including a newspaper, magazine, 530
press association, news agency, or wire service, a radio or 531
television station, or a similar medium, for the purpose of 532
gathering, processing, transmitting, compiling, editing, or 533
disseminating information for the general public. 534

(10) Upon a request made by a victim, victim's attorney, 535
or victim's representative, as that term is used in section 536
2930.02 of the Revised Code, a public office or person 537
responsible for public records shall transmit a copy of a 538
depiction of the victim as described in division (A) (1) (gg) of 539
this section to the victim, victim's attorney, or victim's 540
representative. 541

(C) (1) If a person allegedly is aggrieved by the failure 542

of a public office or the person responsible for public records 543
to promptly prepare a public record and to make it available to 544
the person for inspection in accordance with division (B) of 545
this section or by any other failure of a public office or the 546
person responsible for public records to comply with an 547
obligation in accordance with division (B) of this section, the 548
person allegedly aggrieved may do only one of the following, and 549
not both: 550

(a) File a complaint with the clerk of the court of claims 551
or the clerk of the court of common pleas under section 2743.75 552
of the Revised Code; 553

(b) Commence a mandamus action to obtain a judgment that 554
orders the public office or the person responsible for the 555
public record to comply with division (B) of this section, that 556
awards court costs and reasonable attorney's fees to the person 557
that instituted the mandamus action, and, if applicable, that 558
includes an order fixing statutory damages under division (C) (2) 559
of this section. The mandamus action may be commenced in the 560
court of common pleas of the county in which division (B) of 561
this section allegedly was not complied with, in the supreme 562
court pursuant to its original jurisdiction under Section 2 of 563
Article IV, Ohio Constitution, or in the court of appeals for 564
the appellate district in which division (B) of this section 565
allegedly was not complied with pursuant to its original 566
jurisdiction under Section 3 of Article IV, Ohio Constitution. 567

(2) If a requester transmits a written request by hand 568
delivery or certified mail to inspect or receive copies of any 569
public record in a manner that fairly describes the public 570
record or class of public records to the public office or person 571
responsible for the requested public records, except as 572

otherwise provided in this section, the requester shall be 573
entitled to recover the amount of statutory damages set forth in 574
this division if a court determines that the public office or 575
the person responsible for public records failed to comply with 576
an obligation in accordance with division (B) of this section. 577

The amount of statutory damages shall be fixed at one 578
hundred dollars for each business day during which the public 579
office or person responsible for the requested public records 580
failed to comply with an obligation in accordance with division 581
(B) of this section, beginning with the day on which the 582
requester files a mandamus action to recover statutory damages, 583
up to a maximum of one thousand dollars. The award of statutory 584
damages shall not be construed as a penalty, but as compensation 585
for injury arising from lost use of the requested information. 586
The existence of this injury shall be conclusively presumed. The 587
award of statutory damages shall be in addition to all other 588
remedies authorized by this section. 589

The court may reduce an award of statutory damages or not 590
award statutory damages if the court determines both of the 591
following: 592

(a) That, based on the ordinary application of statutory 593
law and case law as it existed at the time of the conduct or 594
threatened conduct of the public office or person responsible 595
for the requested public records that allegedly constitutes a 596
failure to comply with an obligation in accordance with division 597
(B) of this section and that was the basis of the mandamus 598
action, a well-informed public office or person responsible for 599
the requested public records reasonably would believe that the 600
conduct or threatened conduct of the public office or person 601
responsible for the requested public records did not constitute 602

a failure to comply with an obligation in accordance with 603
division (B) of this section; 604

(b) That a well-informed public office or person 605
responsible for the requested public records reasonably would 606
believe that the conduct or threatened conduct of the public 607
office or person responsible for the requested public records 608
would serve the public policy that underlies the authority that 609
is asserted as permitting that conduct or threatened conduct. 610

(3) In a mandamus action filed under division (C) (1) of 611
this section, the following apply: 612

(a) (i) If the court orders the public office or the person 613
responsible for the public record to comply with division (B) of 614
this section, the court shall determine and award to the relator 615
all court costs, which shall be construed as remedial and not 616
punitive. 617

(ii) If the court makes a determination described in 618
division (C) (3) (b) (iii) of this section, the court shall 619
determine and award to the relator all court costs, which shall 620
be construed as remedial and not punitive. 621

(b) If the court renders a judgment that orders the public 622
office or the person responsible for the public record to comply 623
with division (B) of this section or if the court determines any 624
of the following, the court may award reasonable attorney's fees 625
to the relator, subject to the provisions of division (C) (4) of 626
this section: 627

(i) The public office or the person responsible for the 628
public records failed to respond affirmatively or negatively to 629
the public records request in accordance with the time allowed 630
under division (B) of this section. 631

(ii) The public office or the person responsible for the 632
public records promised to permit the relator to inspect or 633
receive copies of the public records requested within a 634
specified period of time but failed to fulfill that promise 635
within that specified period of time. 636

(iii) The public office or the person responsible for the 637
public records acted in bad faith when the office or person 638
voluntarily made the public records available to the relator for 639
the first time after the relator commenced the mandamus action, 640
but before the court issued any order concluding whether or not 641
the public office or person was required to comply with division 642
(B) of this section. No discovery may be conducted on the issue 643
of the alleged bad faith of the public office or person 644
responsible for the public records. This division shall not be 645
construed as creating a presumption that the public office or 646
the person responsible for the public records acted in bad faith 647
when the office or person voluntarily made the public records 648
available to the relator for the first time after the relator 649
commenced the mandamus action, but before the court issued any 650
order described in this division. 651

(c) The court shall not award attorney's fees to the 652
relator if the court determines both of the following: 653

(i) That, based on the ordinary application of statutory 654
law and case law as it existed at the time of the conduct or 655
threatened conduct of the public office or person responsible 656
for the requested public records that allegedly constitutes a 657
failure to comply with an obligation in accordance with division 658
(B) of this section and that was the basis of the mandamus 659
action, a well-informed public office or person responsible for 660
the requested public records reasonably would believe that the 661

conduct or threatened conduct of the public office or person 662
responsible for the requested public records did not constitute 663
a failure to comply with an obligation in accordance with 664
division (B) of this section; 665

(ii) That a well-informed public office or person 666
responsible for the requested public records reasonably would 667
believe that the conduct or threatened conduct of the public 668
office or person responsible for the requested public records 669
would serve the public policy that underlies the authority that 670
is asserted as permitting that conduct or threatened conduct. 671

(4) All of the following apply to any award of reasonable 672
attorney's fees awarded under division (C) (3) (b) of this 673
section: 674

(a) The fees shall be construed as remedial and not 675
punitive. 676

(b) The fees awarded shall not exceed the total of the 677
reasonable attorney's fees incurred before the public record was 678
made available to the relator and the fees described in division 679
(C) (4) (c) of this section. 680

(c) Reasonable attorney's fees shall include reasonable 681
fees incurred to produce proof of the reasonableness and amount 682
of the fees and to otherwise litigate entitlement to the fees. 683

(d) The court may reduce the amount of fees awarded if the 684
court determines that, given the factual circumstances involved 685
with the specific public records request, an alternative means 686
should have been pursued to more effectively and efficiently 687
resolve the dispute that was subject to the mandamus action 688
filed under division (C) (1) of this section. 689

(5) If the court does not issue a writ of mandamus under 690

division (C) of this section and the court determines at that 691
time that the bringing of the mandamus action was frivolous 692
conduct as defined in division (A) of section 2323.51 of the 693
Revised Code, the court may award to the public office all court 694
costs, expenses, and reasonable attorney's fees, as determined 695
by the court. 696

(D) Chapter 1347. of the Revised Code does not limit the 697
provisions of this section. 698

(E) (1) To ensure that all employees of public offices are 699
appropriately educated about a public office's obligations under 700
division (B) of this section, all elected officials or their 701
appropriate designees shall attend training approved by the 702
attorney general as provided in section 109.43 of the Revised 703
Code. In addition, all public offices shall adopt a public 704
records policy in compliance with this section for responding to 705
public records requests. In adopting a public records policy 706
under this division, a public office may obtain guidance from 707
the model public records policy developed and provided to the 708
public office by the attorney general under section 109.43 of 709
the Revised Code. Except as otherwise provided in this section, 710
the policy may not limit the number of public records that the 711
public office will make available to a single person, may not 712
limit the number of public records that it will make available 713
during a fixed period of time, and may not establish a fixed 714
period of time before it will respond to a request for 715
inspection or copying of public records, unless that period is 716
less than eight hours. 717

(2) The public office shall distribute the public records 718
policy adopted by the public office under division (E) (1) of 719
this section to the employee of the public office who is the 720

records custodian or records manager or otherwise has custody of 721
the records of that office. The public office shall require that 722
employee to acknowledge receipt of the copy of the public 723
records policy. The public office shall create a poster that 724
describes its public records policy and shall post the poster in 725
a conspicuous place in the public office and in all locations 726
where the public office has branch offices. The public office 727
may post its public records policy on the internet web site of 728
the public office if the public office maintains an internet web 729
site. A public office that has established a manual or handbook 730
of its general policies and procedures for all employees of the 731
public office shall include the public records policy of the 732
public office in the manual or handbook. 733

(F) (1) The bureau of motor vehicles may adopt rules 734
pursuant to Chapter 119. of the Revised Code to reasonably limit 735
the number of bulk commercial special extraction requests made 736
by a person for the same records or for updated records during a 737
calendar year. The rules may include provisions for charges to 738
be made for bulk commercial special extraction requests for the 739
actual cost of the bureau, plus special extraction costs, plus 740
ten per cent. The bureau may charge for expenses for redacting 741
information, the release of which is prohibited by law. 742

(2) As used in division (F) (1) of this section: 743

(a) "Actual cost" means the cost of depleted supplies, 744
records storage media costs, actual mailing and alternative 745
delivery costs, or other transmitting costs, and any direct 746
equipment operating and maintenance costs, including actual 747
costs paid to private contractors for copying services. 748

(b) "Bulk commercial special extraction request" means a 749
request for copies of a record for information in a format other 750

than the format already available, or information that cannot be 751
extracted without examination of all items in a records series, 752
class of records, or database by a person who intends to use or 753
forward the copies for surveys, marketing, solicitation, or 754
resale for commercial purposes. "Bulk commercial special 755
extraction request" does not include a request by a person who 756
gives assurance to the bureau that the person making the request 757
does not intend to use or forward the requested copies for 758
surveys, marketing, solicitation, or resale for commercial 759
purposes. 760

(c) "Commercial" means profit-seeking production, buying, 761
or selling of any good, service, or other product. 762

(d) "Special extraction costs" means the cost of the time 763
spent by the lowest paid employee competent to perform the task, 764
the actual amount paid to outside private contractors employed 765
by the bureau, or the actual cost incurred to create computer 766
programs to make the special extraction. "Special extraction 767
costs" include any charges paid to a public agency for computer 768
or records services. 769

(3) For purposes of divisions (F) (1) and (2) of this 770
section, "surveys, marketing, solicitation, or resale for 771
commercial purposes" shall be narrowly construed and does not 772
include reporting or gathering news, reporting or gathering 773
information to assist citizen oversight or understanding of the 774
operation or activities of government, or nonprofit educational 775
research. 776

(G) A request by a defendant, counsel of a defendant, or 777
any agent of a defendant in a criminal action that public 778
records related to that action be made available under this 779
section shall be considered a demand for discovery pursuant to 780

the Criminal Rules, except to the extent that the Criminal Rules 781
plainly indicate a contrary intent. The defendant, counsel of 782
the defendant, or agent of the defendant making a request under 783
this division shall serve a copy of the request on the 784
prosecuting attorney, director of law, or other chief legal 785
officer responsible for prosecuting the action. 786

Section 2. That existing section 149.43 of the Revised 787
Code is hereby repealed. 788

Section 3. This act shall be known as the "Victims Privacy 789
and Protection Act." 790

Section 4. This act is hereby declared to be an emergency 791
measure necessary for the immediate preservation of the public 792
peace, health, and safety. The reason for such necessity is to 793
immediately ensure that the Public Records Law cannot be used to 794
violate a victim's bodily privacy and integrity. Therefore, this 795
act shall go into immediate effect. 796