

**As Reported by the House Civil Justice Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 61**

**Representatives Lanese, Liston**

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

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**A BILL**

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

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

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

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

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

section 109.573 of the Revised Code; 45

(k) Inmate records released by the department of 46  
rehabilitation and correction to the department of youth 47  
services or a court of record pursuant to division (E) of 48  
section 5120.21 of the Revised Code; 49

(l) Records maintained by the department of youth services 50  
pertaining to children in its custody released by the department 51  
of youth services to the department of rehabilitation and 52  
correction pursuant to section 5139.05 of the Revised Code; 53

(m) Intellectual property records; 54

(n) Donor profile records; 55

(o) Records maintained by the department of job and family 56  
services pursuant to section 3121.894 of the Revised Code; 57

(p) Designated public service worker residential and 58  
familial information; 59

(q) In the case of a county hospital operated pursuant to 60  
Chapter 339. of the Revised Code or a municipal hospital 61  
operated pursuant to Chapter 749. of the Revised Code, 62  
information that constitutes a trade secret, as defined in 63  
section 1333.61 of the Revised Code; 64

(r) Information pertaining to the recreational activities 65  
of a person under the age of eighteen; 66

(s) In the case of a child fatality review board acting 67  
under sections 307.621 to 307.629 of the Revised Code or a 68  
review conducted pursuant to guidelines established by the 69  
director of health under section 3701.70 of the Revised Code, 70  
records provided to the board or director, statements made by 71  
board members during meetings of the board or by persons 72

participating in the director's review, and all work products of 73  
the board or director, and in the case of a child fatality 74  
review board, child fatality review data submitted by the board 75  
to the department of health or a national child death review 76  
database, other than the report prepared pursuant to division 77  
(A) of section 307.626 of the Revised Code; 78

(t) Records provided to and statements made by the 79  
executive director of a public children services agency or a 80  
prosecuting attorney acting pursuant to section 5153.171 of the 81  
Revised Code other than the information released under that 82  
section; 83

(u) Test materials, examinations, or evaluation tools used 84  
in an examination for licensure as a nursing home administrator 85  
that the board of executives of long-term services and supports 86  
administers under section 4751.04 of the Revised Code or 87  
contracts under that section with a private or government entity 88  
to administer; 89

(v) Records the release of which is prohibited by state or 90  
federal law; 91

(w) Proprietary information of or relating to any person 92  
that is submitted to or compiled by the Ohio venture capital 93  
authority created under section 150.01 of the Revised Code; 94

(x) Financial statements and data any person submits for 95  
any purpose to the Ohio housing finance agency or the 96  
controlling board in connection with applying for, receiving, or 97  
accounting for financial assistance from the agency, and 98  
information that identifies any individual who benefits directly 99  
or indirectly from financial assistance from the agency; 100

(y) Records listed in section 5101.29 of the Revised Code; 101

(z) Discharges recorded with a county recorder under 102  
section 317.24 of the Revised Code, as specified in division (B) 103  
(2) of that section; 104

(aa) Usage information including names and addresses of 105  
specific residential and commercial customers of a municipally 106  
owned or operated public utility; 107

(bb) Records described in division (C) of section 187.04 108  
of the Revised Code that are not designated to be made available 109  
to the public as provided in that division; 110

(cc) Information and records that are made confidential, 111  
privileged, and not subject to disclosure under divisions (B) 112  
and (C) of section 2949.221 of the Revised Code; 113

(dd) Personal information, as defined in section 149.45 of 114  
the Revised Code; 115

(ee) The confidential name, address, and other personally 116  
identifiable information of a program participant in the address 117  
confidentiality program established under sections 111.41 to 118  
111.47 of the Revised Code, including the contents of any 119  
application for absent voter's ballots, absent voter's ballot 120  
identification envelope statement of voter, or provisional 121  
ballot affirmation completed by a program participant who has a 122  
confidential voter registration record, and records or portions 123  
of records pertaining to that program that identify the number 124  
of program participants that reside within a precinct, ward, 125  
township, municipal corporation, county, or any other geographic 126  
area smaller than the state. As used in this division, 127  
"confidential address" and "program participant" have the 128  
meaning defined in section 111.41 of the Revised Code. 129

(ff) Orders for active military service of an individual 130

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

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

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

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

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

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

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

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

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

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

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

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

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



the date, amount, and conditions of the actual donation. 219

(7) "Designated public service worker" means a peace 220  
officer, parole officer, probation officer, bailiff, prosecuting 221  
attorney, assistant prosecuting attorney, correctional employee, 222  
county or multicounty corrections officer, community-based 223  
correctional facility employee, youth services employee, 224  
firefighter, EMT, medical director or member of a cooperating 225  
physician advisory board of an emergency medical service 226  
organization, state board of pharmacy employee, investigator of 227  
the bureau of criminal identification and investigation, 228  
forensic mental health provider, mental health evaluation 229  
provider, regional psychiatric hospital employee, judge, 230  
magistrate, or federal law enforcement officer. 231

(8) "Designated public service worker residential and 232  
familial information" means any information that discloses any 233  
of the following about a designated public service worker: 234

(a) The address of the actual personal residence of a 235  
designated public service worker, except for the following 236  
information: 237

(i) The address of the actual personal residence of a 238  
prosecuting attorney or judge; and 239

(ii) The state or political subdivision in which a 240  
designated public service worker resides. 241

(b) Information compiled from referral to or participation 242  
in an employee assistance program; 243

(c) The social security number, the residential telephone 244  
number, any bank account, debit card, charge card, or credit 245  
card number, or the emergency telephone number of, or any 246  
medical information pertaining to, a designated public service 247

worker; 248

(d) The name of any beneficiary of employment benefits, 249  
including, but not limited to, life insurance benefits, provided 250  
to a designated public service worker by the designated public 251  
service worker's employer; 252

(e) The identity and amount of any charitable or 253  
employment benefit deduction made by the designated public 254  
service worker's employer from the designated public service 255  
worker's compensation, unless the amount of the deduction is 256  
required by state or federal law; 257

(f) The name, the residential address, the name of the 258  
employer, the address of the employer, the social security 259  
number, the residential telephone number, any bank account, 260  
debit card, charge card, or credit card number, or the emergency 261  
telephone number of the spouse, a former spouse, or any child of 262  
a designated public service worker; 263

(g) A photograph of a peace officer who holds a position 264  
or has an assignment that may include undercover or plain 265  
clothes positions or assignments as determined by the peace 266  
officer's appointing authority. 267

(9) As used in divisions (A) (7) and (15) to (17) of this 268  
section: 269

"Peace officer" has the meaning defined in section 109.71 270  
of the Revised Code and also includes the superintendent and 271  
troopers of the state highway patrol; it does not include the 272  
sheriff of a county or a supervisory employee who, in the 273  
absence of the sheriff, is authorized to stand in for, exercise 274  
the authority of, and perform the duties of the sheriff. 275

"Correctional employee" means any employee of the 276

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

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

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

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

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

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

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

"Mental health evaluation provider" means an individual 305

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) A conversation between a peace officer and a member of 421  
the public that does not concern law enforcement activities; 422

(p) The interior of a residence, unless the interior of a 423  
residence is the location of an adversarial encounter with, or a 424  
use of force by, a peace officer; 425

(q) Any portion of the interior of a private business that 426  
is not open to the public, unless an adversarial encounter with, 427  
or a use of force by, a peace officer occurs in that location. 428

As used in division (A) (17) of this section: 429

"Grievous bodily harm" has the same meaning as in section 430  
5924.120 of the Revised Code. 431

"Health care facility" has the same meaning as in section 432  
1337.11 of the Revised Code. 433

"Protected health information" has the same meaning as in 434  
45 C.F.R. 160.103. 435

"Law enforcement agency" has the same meaning as in 436  
section 2925.61 of the Revised Code. 437

"Personal information" means any government-issued 438  
identification number, date of birth, address, financial 439  
information, or criminal justice information from the law 440  
enforcement automated data system or similar databases. 441

"Sex offense" has the same meaning as in section 2907.10 442  
of the Revised Code. 443

"Firefighter," "paramedic," and "first responder" have the 444  
same meanings as in section 4765.01 of the Revised Code. 445

(B) (1) Upon request by any person and subject to division 446  
(B) (8) of this section, all public records responsive to the 447



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

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

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

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

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

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

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

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

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

transmit a copy of a public record to any person by United 540  
States mail or by any other means of delivery or transmission 541  
within a reasonable period of time after receiving the request 542  
for the copy. The public office or person responsible for the 543  
public record may require the person making the request to pay 544  
in advance the cost of postage if the copy is transmitted by 545  
United States mail or the cost of delivery if the copy is 546  
transmitted other than by United States mail, and to pay in 547  
advance the costs incurred for other supplies used in the 548  
mailing, delivery, or transmission. 549

(b) Any public office may adopt a policy and procedures 550  
that it will follow in transmitting, within a reasonable period 551  
of time after receiving a request, copies of public records by 552  
United States mail or by any other means of delivery or 553  
transmission pursuant to division (B) (7) of this section. A 554  
public office that adopts a policy and procedures under division 555  
(B) (7) of this section shall comply with them in performing its 556  
duties under that division. 557

(c) In any policy and procedures adopted under division 558  
(B) (7) of this section: 559

(i) A public office may limit the number of records 560  
requested by a person that the office will physically deliver by 561  
United States mail or by another delivery service to ten per 562  
month, unless the person certifies to the office in writing that 563  
the person does not intend to use or forward the requested 564  
records, or the information contained in them, for commercial 565  
purposes; 566

(ii) A public office that chooses to provide some or all 567  
of its public records on a web site that is fully accessible to 568  
and searchable by members of the public at all times, other than 569

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(i) That, based on the ordinary application of statutory 748  
law and case law as it existed at the time of the conduct or 749  
threatened conduct of the public office or person responsible 750  
for the requested public records that allegedly constitutes a 751  
failure to comply with an obligation in accordance with division 752  
(B) of this section and that was the basis of the mandamus 753  
action, a well-informed public office or person responsible for 754  
the requested public records reasonably would believe that the 755  
conduct or threatened conduct of the public office or person 756  
responsible for the requested public records did not constitute 757  
a failure to comply with an obligation in accordance with 758  
division (B) of this section; 759

(ii) That a well-informed public office or person 760  
responsible for the requested public records reasonably would 761  
believe that the conduct or threatened conduct of the public 762  
office or person responsible for the requested public records 763  
would serve the public policy that underlies the authority that 764  
is asserted as permitting that conduct or threatened conduct. 765

(4) All of the following apply to any award of reasonable 766  
attorney's fees awarded under division (C) (3) (b) of this 767  
section: 768

(a) The fees shall be construed as remedial and not 769  
punitive. 770

(b) The fees awarded shall not exceed the total of the 771  
reasonable attorney's fees incurred before the public record was 772  
made available to the relator and the fees described in division 773  
(C) (4) (c) of this section. 774

(c) Reasonable attorney's fees shall include reasonable 775  
fees incurred to produce proof of the reasonableness and amount 776

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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