

**As Passed by the House**

**132nd General Assembly**

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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, Kick, Henne, Gonzales, Celebrezze, Schuring, Slaby**

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**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.	7

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

<b>Section 1.</b> That section 149.43 of the Revised Code be	8
amended to read as follows:	9

<b>Sec. 149.43.</b> (A) As used in this section:	10
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(1) "Public record" means records kept by any public	11
office, including, but not limited to, state, county, city,	12
village, township, and school district units, and records	13
pertaining to the delivery of educational services by an	14

alternative school in this state kept by the nonprofit or for- 15  
profit entity operating the alternative school pursuant to 16  
section 3313.533 of the Revised Code. "Public record" does not 17  
mean any of the following: 18

(a) Medical records; 19

(b) Records pertaining to probation and parole proceedings 20  
or to proceedings related to the imposition of community control 21  
sanctions and post-release control sanctions; 22

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

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

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

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

(g) Trial preparation records; 37

(h) Confidential law enforcement investigatory records; 38

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

(j) DNA records stored in the DNA database pursuant to 41

section 109.573 of the Revised Code; 42

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

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

(m) Intellectual property records; 51

(n) Donor profile records; 52

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

(p) Peace officer, parole officer, probation officer, 55  
bailiff, prosecuting attorney, assistant prosecuting attorney, 56  
correctional employee, community-based correctional facility 57  
employee, youth services employee, firefighter, EMT, 58  
investigator of the bureau of criminal identification and 59  
investigation, or federal law enforcement officer residential 60  
and familial information; 61

(q) In the case of a county hospital operated pursuant to 62  
Chapter 339. of the Revised Code or a municipal hospital 63  
operated pursuant to Chapter 749. of the Revised Code, 64  
information that constitutes a trade secret, as defined in 65  
section 1333.61 of the Revised Code; 66

(r) Information pertaining to the recreational activities 67  
of a person under the age of eighteen; 68

(s) In the case of a child fatality review board acting 69

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

(t) Records provided to and statements made by the 81  
executive director of a public children services agency or a 82  
prosecuting attorney acting pursuant to section 5153.171 of the 83  
Revised Code other than the information released under that 84  
section; 85

(u) Test materials, examinations, or evaluation tools used 86  
in an examination for licensure as a nursing home administrator 87  
that the board of executives of long-term services and supports 88  
administers under section 4751.04 of the Revised Code or 89  
contracts under that section with a private or government entity 90  
to administer; 91

(v) Records the release of which is prohibited by state or 92  
federal law; 93

(w) Proprietary information of or relating to any person 94  
that is submitted to or compiled by the Ohio venture capital 95  
authority created under section 150.01 of the Revised Code; 96

(x) Financial statements and data any person submits for 97  
any purpose to the Ohio housing finance agency or the 98

controlling board in connection with applying for, receiving, or 99  
accounting for financial assistance from the agency, and 100  
information that identifies any individual who benefits directly 101  
or indirectly from financial assistance from the agency; 102

(y) Records listed in section 5101.29 of the Revised Code; 103

(z) Discharges recorded with a county recorder under 104  
section 317.24 of the Revised Code, as specified in division (B) 105  
(2) of that section; 106

(aa) Usage information including names and addresses of 107  
specific residential and commercial customers of a municipally 108  
owned or operated public utility; 109

(bb) Records described in division (C) of section 187.04 110  
of the Revised Code that are not designated to be made available 111  
to the public as provided in that division; 112

(cc) Information and records that are made confidential, 113  
privileged, and not subject to disclosure under divisions (B) 114  
and (C) of section 2949.221 of the Revised Code; 115

(dd) Personal information, as defined in section 149.45 of 116  
the Revised Code; 117

(ee) The confidential name, address, and other personally 118  
identifiable information of a program participant in the address 119  
confidentiality program established under sections 111.41 to 120  
111.47 of the Revised Code, including the contents of any 121  
application for absent voter's ballots, absent voter's ballot 122  
identification envelope statement of voter, or provisional 123  
ballot affirmation completed by a program participant who has a 124  
confidential voter registration record, and records or portions 125  
of records pertaining to that program that identify the number 126  
of program participants that reside within a precinct, ward, 127

township, municipal corporation, county, or any other geographic 128  
area smaller than the state. As used in this division, 129  
"confidential address" and "program participant" have the 130  
meaning defined in section 111.41 of the Revised Code. 131

(ff) Orders for active military service of an individual 132  
serving or with previous service in the armed forces of the 133  
United States, including a reserve component, or the Ohio 134  
organized militia, except that, such order becomes a public 135  
record on the day that is fifteen years after the published date 136  
or effective date of the call to order; 137

(gg) Any depiction by photograph, film, videotape, digital 138  
image, or visual or printed material under either of the 139  
following circumstances: 140

(i) The depiction is that of a victim of an offense the 141  
release of which would be, to a reasonable person of ordinary 142  
sensibilities, an offensive and objectionable intrusion into the 143  
victim's expectation of bodily privacy and integrity. 144

(ii) The depiction captures or depicts the victim of a 145  
sexually oriented offense, as defined in section 2950.01 of the 146  
Revised Code, at the actual occurrence of that offense. 147

(2) "Confidential law enforcement investigatory record" 148  
means any record that pertains to a law enforcement matter of a 149  
criminal, quasi-criminal, civil, or administrative nature, but 150  
only to the extent that the release of the record would create a 151  
high probability of disclosure of any of the following: 152

(a) The identity of a suspect who has not been charged 153  
with the offense to which the record pertains, or of an 154  
information source or witness to whom confidentiality has been 155  
reasonably promised; 156

(b) Information provided by an information source or 157  
witness to whom confidentiality has been reasonably promised, 158  
which information would reasonably tend to disclose the source's 159  
or witness's identity; 160

(c) Specific confidential investigatory techniques or 161  
procedures or specific investigatory work product; 162

(d) Information that would endanger the life or physical 163  
safety of law enforcement personnel, a crime victim, a witness, 164  
or a confidential information source. 165

(3) "Medical record" means any document or combination of 166  
documents, except births, deaths, and the fact of admission to 167  
or discharge from a hospital, that pertains to the medical 168  
history, diagnosis, prognosis, or medical condition of a patient 169  
and that is generated and maintained in the process of medical 170  
treatment. 171

(4) "Trial preparation record" means any record that 172  
contains information that is specifically compiled in reasonable 173  
anticipation of, or in defense of, a civil or criminal action or 174  
proceeding, including the independent thought processes and 175  
personal trial preparation of an attorney. 176

(5) "Intellectual property record" means a record, other 177  
than a financial or administrative record, that is produced or 178  
collected by or for faculty or staff of a state institution of 179  
higher learning in the conduct of or as a result of study or 180  
research on an educational, commercial, scientific, artistic, 181  
technical, or scholarly issue, regardless of whether the study 182  
or research was sponsored by the institution alone or in 183  
conjunction with a governmental body or private concern, and 184  
that has not been publicly released, published, or patented. 185

(6) "Donor profile record" means all records about donors 186  
or potential donors to a public institution of higher education 187  
except the names and reported addresses of the actual donors and 188  
the date, amount, and conditions of the actual donation. 189

(7) "Peace officer, parole officer, probation officer, 190  
bailiff, prosecuting attorney, assistant prosecuting attorney, 191  
correctional employee, community-based correctional facility 192  
employee, youth services employee, firefighter, EMT, 193  
investigator of the bureau of criminal identification and 194  
investigation, or federal law enforcement officer residential 195  
and familial information" means any information that discloses 196  
any of the following about a peace officer, parole officer, 197  
probation officer, bailiff, prosecuting attorney, assistant 198  
prosecuting attorney, correctional employee, community-based 199  
correctional facility employee, youth services employee, 200  
firefighter, EMT, investigator of the bureau of criminal 201  
identification and investigation, or federal law enforcement 202  
officer: 203

(a) The address of the actual personal residence of a 204  
peace officer, parole officer, probation officer, bailiff, 205  
assistant prosecuting attorney, correctional employee, 206  
community-based correctional facility employee, youth services 207  
employee, firefighter, EMT, an investigator of the bureau of 208  
criminal identification and investigation, or federal law 209  
enforcement officer, except for the state or political 210  
subdivision in which the peace officer, parole officer, 211  
probation officer, bailiff, assistant prosecuting attorney, 212  
correctional employee, community-based correctional facility 213  
employee, youth services employee, firefighter, EMT, 214  
investigator of the bureau of criminal identification and 215  
investigation, or federal law enforcement officer resides; 216



(b) Information compiled from referral to or participation 217  
in an employee assistance program; 218

(c) The social security number, the residential telephone 219  
number, any bank account, debit card, charge card, or credit 220  
card number, or the emergency telephone number of, or any 221  
medical information pertaining to, a peace officer, parole 222  
officer, probation officer, bailiff, prosecuting attorney, 223  
assistant prosecuting attorney, correctional employee, 224  
community-based correctional facility employee, youth services 225  
employee, firefighter, EMT, investigator of the bureau of 226  
criminal identification and investigation, or federal law 227  
enforcement officer; 228

(d) The name of any beneficiary of employment benefits, 229  
including, but not limited to, life insurance benefits, provided 230  
to a peace officer, parole officer, probation officer, bailiff, 231  
prosecuting attorney, assistant prosecuting attorney, 232  
correctional employee, community-based correctional facility 233  
employee, youth services employee, firefighter, EMT, 234  
investigator of the bureau of criminal identification and 235  
investigation, or federal law enforcement officer by the peace 236  
officer's, parole officer's, probation officer's, bailiff's, 237  
prosecuting attorney's, assistant prosecuting attorney's, 238  
correctional employee's, community-based correctional facility 239  
employee's, youth services employee's, firefighter's, EMT's, 240  
investigator of the bureau of criminal identification and 241  
investigation's, or federal law enforcement officer's employer; 242

(e) The identity and amount of any charitable or 243  
employment benefit deduction made by the peace officer's, parole 244  
officer's, probation officer's, bailiff's, prosecuting 245  
attorney's, assistant prosecuting attorney's, correctional 246

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

(f) The name, the residential address, the name of the 259  
employer, the address of the employer, the social security 260  
number, the residential telephone number, any bank account, 261  
debit card, charge card, or credit card number, or the emergency 262  
telephone number of the spouse, a former spouse, or any child of 263  
a peace officer, parole officer, probation officer, bailiff, 264  
prosecuting attorney, assistant prosecuting attorney, 265  
correctional employee, community-based correctional facility 266  
employee, youth services employee, firefighter, EMT, 267  
investigator of the bureau of criminal identification and 268  
investigation, or federal law enforcement officer; 269

(g) A photograph of a peace officer who holds a position 270  
or has an assignment that may include undercover or plain 271  
clothes positions or assignments as determined by the peace 272  
officer's appointing authority. 273

As used in divisions (A) (7) and (B) (9) of this section, 274  
"peace officer" has the same meaning as in section 109.71 of the 275  
Revised Code and also includes the superintendent and troopers 276

of the state highway patrol; it does not include the sheriff of 277  
a county or a supervisory employee who, in the absence of the 278  
sheriff, is authorized to stand in for, exercise the authority 279  
of, and perform the duties of the sheriff. 280

As used in divisions (A) (7) and (B) (9) of this section, 281  
"correctional employee" means any employee of the department of 282  
rehabilitation and correction who in the course of performing 283  
the employee's job duties has or has had contact with inmates 284  
and persons under supervision. 285

As used in divisions (A) (7) and (B) (9) of this section, 286  
"youth services employee" means any employee of the department 287  
of youth services who in the course of performing the employee's 288  
job duties has or has had contact with children committed to the 289  
custody of the department of youth services. 290

As used in divisions (A) (7) and (B) (9) of this section, 291  
"firefighter" means any regular, paid or volunteer, member of a 292  
lawfully constituted fire department of a municipal corporation, 293  
township, fire district, or village. 294

As used in divisions (A) (7) and (B) (9) of this section, 295  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 296  
emergency medical services for a public emergency medical 297  
service organization. "Emergency medical service organization," 298  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 299  
in section 4765.01 of the Revised Code. 300

As used in divisions (A) (7) and (B) (9) of this section, 301  
"investigator of the bureau of criminal identification and 302  
investigation" has the meaning defined in section 2903.11 of the 303  
Revised Code. 304

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

"federal law enforcement officer" has the meaning defined in 306  
section 9.88 of the Revised Code. 307

(8) "Information pertaining to the recreational activities 308  
of a person under the age of eighteen" means information that is 309  
kept in the ordinary course of business by a public office, that 310  
pertains to the recreational activities of a person under the 311  
age of eighteen years, and that discloses any of the following: 312

(a) The address or telephone number of a person under the 313  
age of eighteen or the address or telephone number of that 314  
person's parent, guardian, custodian, or emergency contact 315  
person; 316

(b) The social security number, birth date, or 317  
photographic image of a person under the age of eighteen; 318

(c) Any medical record, history, or information pertaining 319  
to a person under the age of eighteen; 320

(d) Any additional information sought or required about a 321  
person under the age of eighteen for the purpose of allowing 322  
that person to participate in any recreational activity 323  
conducted or sponsored by a public office or to use or obtain 324  
admission privileges to any recreational facility owned or 325  
operated by a public office. 326

(9) "Community control sanction" has the same meaning as 327  
in section 2929.01 of the Revised Code. 328

(10) "Post-release control sanction" has the same meaning 329  
as in section 2967.01 of the Revised Code. 330

(11) "Redaction" means obscuring or deleting any 331  
information that is exempt from the duty to permit public 332  
inspection or copying from an item that otherwise meets the 333

definition of a "record" in section 149.011 of the Revised Code. 334

(12) "Designee" and "elected official" have the same 335  
meanings as in section 109.43 of the Revised Code. 336

(B) (1) Upon request and subject to division (B) (8) of this 337  
section, all public records responsive to the request shall be 338  
promptly prepared and made available for inspection to any 339  
person at all reasonable times during regular business hours. 340  
Subject to division (B) (8) of this section, upon request, a 341  
public office or person responsible for public records shall 342  
make copies of the requested public record available at cost and 343  
within a reasonable period of time. If a public record contains 344  
information that is exempt from the duty to permit public 345  
inspection or to copy the public record, the public office or 346  
the person responsible for the public record shall make 347  
available all of the information within the public record that 348  
is not exempt. When making that public record available for 349  
public inspection or copying that public record, the public 350  
office or the person responsible for the public record shall 351  
notify the requester of any redaction or make the redaction 352  
plainly visible. A redaction shall be deemed a denial of a 353  
request to inspect or copy the redacted information, except if 354  
federal or state law authorizes or requires a public office to 355  
make the redaction. 356

(2) To facilitate broader access to public records, a 357  
public office or the person responsible for public records shall 358  
organize and maintain public records in a manner that they can 359  
be made available for inspection or copying in accordance with 360  
division (B) of this section. A public office also shall have 361  
available a copy of its current records retention schedule at a 362  
location readily available to the public. If a requester makes 363

an ambiguous or overly broad request or has difficulty in making 364  
a request for copies or inspection of public records under this 365  
section such that the public office or the person responsible 366  
for the requested public record cannot reasonably identify what 367  
public records are being requested, the public office or the 368  
person responsible for the requested public record may deny the 369  
request but shall provide the requester with an opportunity to 370  
revise the request by informing the requester of the manner in 371  
which records are maintained by the public office and accessed 372  
in the ordinary course of the public office's or person's 373  
duties. 374

(3) If a request is ultimately denied, in part or in 375  
whole, the public office or the person responsible for the 376  
requested public record shall provide the requester with an 377  
explanation, including legal authority, setting forth why the 378  
request was denied. If the initial request was provided in 379  
writing, the explanation also shall be provided to the requester 380  
in writing. The explanation shall not preclude the public office 381  
or the person responsible for the requested public record from 382  
relying upon additional reasons or legal authority in defending 383  
an action commenced under division (C) of this section. 384

(4) Unless specifically required or authorized by state or 385  
federal law or in accordance with division (B) of this section, 386  
no public office or person responsible for public records may 387  
limit or condition the availability of public records by 388  
requiring disclosure of the requester's identity or the intended 389  
use of the requested public record. Any requirement that the 390  
requester disclose the requester's identity or the intended use 391  
of the requested public record constitutes a denial of the 392  
request. 393

(5) A public office or person responsible for public 394  
records may ask a requester to make the request in writing, may 395  
ask for the requester's identity, and may inquire about the 396  
intended use of the information requested, but may do so only 397  
after disclosing to the requester that a written request is not 398  
mandatory and that the requester may decline to reveal the 399  
requester's identity or the intended use and when a written 400  
request or disclosure of the identity or intended use would 401  
benefit the requester by enhancing the ability of the public 402  
office or person responsible for public records to identify, 403  
locate, or deliver the public records sought by the requester. 404

(6) If any person chooses to obtain a copy of a public 405  
record in accordance with division (B) of this section, the 406  
public office or person responsible for the public record may 407  
require that person to pay in advance the cost involved in 408  
providing the copy of the public record in accordance with the 409  
choice made by the person seeking the copy under this division. 410  
The public office or the person responsible for the public 411  
record shall permit that person to choose to have the public 412  
record duplicated upon paper, upon the same medium upon which 413  
the public office or person responsible for the public record 414  
keeps it, or upon any other medium upon which the public office 415  
or person responsible for the public record determines that it 416  
reasonably can be duplicated as an integral part of the normal 417  
operations of the public office or person responsible for the 418  
public record. When the person seeking the copy makes a choice 419  
under this division, the public office or person responsible for 420  
the public record shall provide a copy of it in accordance with 421  
the choice made by the person seeking the copy. Nothing in this 422  
section requires a public office or person responsible for the 423  
public record to allow the person seeking a copy of the public 424

record to make the copies of the public record. 425

(7) (a) Upon a request made in accordance with division (B) 426  
of this section and subject to division (B) (6) of this section, 427  
a public office or person responsible for public records shall 428  
transmit a copy of a public record to any person by United 429  
States mail or by any other means of delivery or transmission 430  
within a reasonable period of time after receiving the request 431  
for the copy. The public office or person responsible for the 432  
public record may require the person making the request to pay 433  
in advance the cost of postage if the copy is transmitted by 434  
United States mail or the cost of delivery if the copy is 435  
transmitted other than by United States mail, and to pay in 436  
advance the costs incurred for other supplies used in the 437  
mailing, delivery, or transmission. 438

(b) Any public office may adopt a policy and procedures 439  
that it will follow in transmitting, within a reasonable period 440  
of time after receiving a request, copies of public records by 441  
United States mail or by any other means of delivery or 442  
transmission pursuant to division (B) (7) of this section. A 443  
public office that adopts a policy and procedures under division 444  
(B) (7) of this section shall comply with them in performing its 445  
duties under that division. 446

(c) In any policy and procedures adopted under division 447  
(B) (7) of this section: 448

(i) A public office may limit the number of records 449  
requested by a person that the office will physically deliver by 450  
United States mail or by another delivery service to ten per 451  
month, unless the person certifies to the office in writing that 452  
the person does not intend to use or forward the requested 453  
records, or the information contained in them, for commercial 454



purposes; 455

(ii) A public office that chooses to provide some or all 456  
of its public records on a web site that is fully accessible to 457  
and searchable by members of the public at all times, other than 458  
during acts of God outside the public office's control or 459  
maintenance, and that charges no fee to search, access, 460  
download, or otherwise receive records provided on the web site, 461  
may limit to ten per month the number of records requested by a 462  
person that the office will deliver in a digital format, unless 463  
the requested records are not provided on the web site and 464  
unless the person certifies to the office in writing that the 465  
person does not intend to use or forward the requested records, 466  
or the information contained in them, for commercial purposes. 467

(iii) For purposes of division (B) (7) of this section, 468  
"commercial" shall be narrowly construed and does not include 469  
reporting or gathering news, reporting or gathering information 470  
to assist citizen oversight or understanding of the operation or 471  
activities of government, or nonprofit educational research. 472

(8) A public office or person responsible for public 473  
records is not required to permit a person who is incarcerated 474  
pursuant to a criminal conviction or a juvenile adjudication to 475  
inspect or to obtain a copy of any public record concerning a 476  
criminal investigation or prosecution or concerning what would 477  
be a criminal investigation or prosecution if the subject of the 478  
investigation or prosecution were an adult, unless the request 479  
to inspect or to obtain a copy of the record is for the purpose 480  
of acquiring information that is subject to release as a public 481  
record under this section and the judge who imposed the sentence 482  
or made the adjudication with respect to the person, or the 483  
judge's successor in office, finds that the information sought 484

in the public record is necessary to support what appears to be 485  
a justiciable claim of the person. 486

(9) (a) Upon written request made and signed by a 487  
journalist on or after December 16, 1999, a public office, or 488  
person responsible for public records, having custody of the 489  
records of the agency employing a specified peace officer, 490  
parole officer, probation officer, bailiff, prosecuting 491  
attorney, assistant prosecuting attorney, correctional employee, 492  
community-based correctional facility employee, youth services 493  
employee, firefighter, EMT, investigator of the bureau of 494  
criminal identification and investigation, or federal law 495  
enforcement officer shall disclose to the journalist the address 496  
of the actual personal residence of the peace officer, parole 497  
officer, probation officer, bailiff, prosecuting attorney, 498  
assistant prosecuting attorney, correctional employee, 499  
community-based correctional facility employee, youth services 500  
employee, firefighter, EMT, investigator of the bureau of 501  
criminal identification and investigation, or federal law 502  
enforcement officer and, if the peace officer's, parole 503  
officer's, probation officer's, bailiff's, prosecuting 504  
attorney's, assistant prosecuting attorney's, correctional 505  
employee's, community-based correctional facility employee's, 506  
youth services employee's, firefighter's, EMT's, investigator of 507  
the bureau of criminal identification and investigation's, or 508  
federal law enforcement officer's spouse, former spouse, or 509  
child is employed by a public office, the name and address of 510  
the employer of the peace officer's, parole officer's, probation 511  
officer's, bailiff's, prosecuting attorney's, assistant 512  
prosecuting attorney's, correctional employee's, community-based 513  
correctional facility employee's, youth services employee's, 514  
firefighter's, EMT's, investigator of the bureau of criminal 515

identification and investigation's, or federal law enforcement 516  
officer's spouse, former spouse, or child. The request shall 517  
include the journalist's name and title and the name and address 518  
of the journalist's employer and shall state that disclosure of 519  
the information sought would be in the public interest. 520

(b) Division (B) (9) (a) of this section also applies to 521  
journalist requests for customer information maintained by a 522  
municipally owned or operated public utility, other than social 523  
security numbers and any private financial information such as 524  
credit reports, payment methods, credit card numbers, and bank 525  
account information. 526

(c) As used in division (B) (9) of this section, 527  
"journalist" means a person engaged in, connected with, or 528  
employed by any news medium, including a newspaper, magazine, 529  
press association, news agency, or wire service, a radio or 530  
television station, or a similar medium, for the purpose of 531  
gathering, processing, transmitting, compiling, editing, or 532  
disseminating information for the general public. 533

(10) Upon a request made by a victim, victim's attorney, 534  
or victim's representative, as that term is used in section 535  
2930.02 of the Revised Code, a public office or person 536  
responsible for public records shall transmit a copy of a 537  
depiction of the victim as described in division (A) (1) (gg) of 538  
this section to the victim, victim's attorney, or victim's 539  
representative. 540

(C) (1) If a person allegedly is aggrieved by the failure 541  
of a public office or the person responsible for public records 542  
to promptly prepare a public record and to make it available to 543  
the person for inspection in accordance with division (B) of 544  
this section or by any other failure of a public office or the 545

person responsible for public records to comply with an 546  
obligation in accordance with division (B) of this section, the 547  
person allegedly aggrieved may do only one of the following, and 548  
not both: 549

(a) File a complaint with the clerk of the court of claims 550  
or the clerk of the court of common pleas under section 2743.75 551  
of the Revised Code; 552

(b) Commence a mandamus action to obtain a judgment that 553  
orders the public office or the person responsible for the 554  
public record to comply with division (B) of this section, that 555  
awards court costs and reasonable attorney's fees to the person 556  
that instituted the mandamus action, and, if applicable, that 557  
includes an order fixing statutory damages under division (C) (2) 558  
of this section. The mandamus action may be commenced in the 559  
court of common pleas of the county in which division (B) of 560  
this section allegedly was not complied with, in the supreme 561  
court pursuant to its original jurisdiction under Section 2 of 562  
Article IV, Ohio Constitution, or in the court of appeals for 563  
the appellate district in which division (B) of this section 564  
allegedly was not complied with pursuant to its original 565  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 566

(2) If a requester transmits a written request by hand 567  
delivery or certified mail to inspect or receive copies of any 568  
public record in a manner that fairly describes the public 569  
record or class of public records to the public office or person 570  
responsible for the requested public records, except as 571  
otherwise provided in this section, the requester shall be 572  
entitled to recover the amount of statutory damages set forth in 573  
this division if a court determines that the public office or 574  
the person responsible for public records failed to comply with 575

an obligation in accordance with division (B) of this section. 576

The amount of statutory damages shall be fixed at one 577  
hundred dollars for each business day during which the public 578  
office or person responsible for the requested public records 579  
failed to comply with an obligation in accordance with division 580  
(B) of this section, beginning with the day on which the 581  
requester files a mandamus action to recover statutory damages, 582  
up to a maximum of one thousand dollars. The award of statutory 583  
damages shall not be construed as a penalty, but as compensation 584  
for injury arising from lost use of the requested information. 585  
The existence of this injury shall be conclusively presumed. The 586  
award of statutory damages shall be in addition to all other 587  
remedies authorized by this section. 588

The court may reduce an award of statutory damages or not 589  
award statutory damages if the court determines both of the 590  
following: 591

(a) That, based on the ordinary application of statutory 592  
law and case law as it existed at the time of the conduct or 593  
threatened conduct of the public office or person responsible 594  
for the requested public records that allegedly constitutes a 595  
failure to comply with an obligation in accordance with division 596  
(B) of this section and that was the basis of the mandamus 597  
action, a well-informed public office or person responsible for 598  
the requested public records reasonably would believe that the 599  
conduct or threatened conduct of the public office or person 600  
responsible for the requested public records did not constitute 601  
a failure to comply with an obligation in accordance with 602  
division (B) of this section; 603

(b) That a well-informed public office or person 604  
responsible for the requested public records reasonably would 605

believe that the conduct or threatened conduct of the public 606  
office or person responsible for the requested public records 607  
would serve the public policy that underlies the authority that 608  
is asserted as permitting that conduct or threatened conduct. 609

(3) In a mandamus action filed under division (C) (1) of 610  
this section, the following apply: 611

(a) (i) If the court orders the public office or the person 612  
responsible for the public record to comply with division (B) of 613  
this section, the court shall determine and award to the relator 614  
all court costs, which shall be construed as remedial and not 615  
punitive. 616

(ii) If the court makes a determination described in 617  
division (C) (3) (b) (iii) of this section, the court shall 618  
determine and award to the relator all court costs, which shall 619  
be construed as remedial and not punitive. 620

(b) If the court renders a judgment that orders the public 621  
office or the person responsible for the public record to comply 622  
with division (B) of this section or if the court determines any 623  
of the following, the court may award reasonable attorney's fees 624  
to the relator, subject to the provisions of division (C) (4) of 625  
this section: 626

(i) The public office or the person responsible for the 627  
public records failed to respond affirmatively or negatively to 628  
the public records request in accordance with the time allowed 629  
under division (B) of this section. 630

(ii) The public office or the person responsible for the 631  
public records promised to permit the relator to inspect or 632  
receive copies of the public records requested within a 633  
specified period of time but failed to fulfill that promise 634

within that specified period of time. 635

(iii) The public office or the person responsible for the 636  
public records acted in bad faith when the office or person 637  
voluntarily made the public records available to the relator for 638  
the first time after the relator commenced the mandamus action, 639  
but before the court issued any order concluding whether or not 640  
the public office or person was required to comply with division 641  
(B) of this section. No discovery may be conducted on the issue 642  
of the alleged bad faith of the public office or person 643  
responsible for the public records. This division shall not be 644  
construed as creating a presumption that the public office or 645  
the person responsible for the public records acted in bad faith 646  
when the office or person voluntarily made the public records 647  
available to the relator for the first time after the relator 648  
commenced the mandamus action, but before the court issued any 649  
order described in this division. 650

(c) The court shall not award attorney's fees to the 651  
relator if the court determines both of the following: 652

(i) That, based on the ordinary application of statutory 653  
law and case law as it existed at the time of the conduct or 654  
threatened conduct of the public office or person responsible 655  
for the requested public records that allegedly constitutes a 656  
failure to comply with an obligation in accordance with division 657  
(B) of this section and that was the basis of the mandamus 658  
action, a well-informed public office or person responsible for 659  
the requested public records reasonably would believe that the 660  
conduct or threatened conduct of the public office or person 661  
responsible for the requested public records did not constitute 662  
a failure to comply with an obligation in accordance with 663  
division (B) of this section; 664

(ii) That a well-informed public office or person 665  
responsible for the requested public records reasonably would 666  
believe that the conduct or threatened conduct of the public 667  
office or person responsible for the requested public records 668  
would serve the public policy that underlies the authority that 669  
is asserted as permitting that conduct or threatened conduct. 670

(4) All of the following apply to any award of reasonable 671  
attorney's fees awarded under division (C) (3) (b) of this 672  
section: 673

(a) The fees shall be construed as remedial and not 674  
punitive. 675

(b) The fees awarded shall not exceed the total of the 676  
reasonable attorney's fees incurred before the public record was 677  
made available to the relator and the fees described in division 678  
(C) (4) (c) of this section. 679

(c) Reasonable attorney's fees shall include reasonable 680  
fees incurred to produce proof of the reasonableness and amount 681  
of the fees and to otherwise litigate entitlement to the fees. 682

(d) The court may reduce the amount of fees awarded if the 683  
court determines that, given the factual circumstances involved 684  
with the specific public records request, an alternative means 685  
should have been pursued to more effectively and efficiently 686  
resolve the dispute that was subject to the mandamus action 687  
filed under division (C) (1) of this section. 688

(5) If the court does not issue a writ of mandamus under 689  
division (C) of this section and the court determines at that 690  
time that the bringing of the mandamus action was frivolous 691  
conduct as defined in division (A) of section 2323.51 of the 692  
Revised Code, the court may award to the public office all court 693



costs, expenses, and reasonable attorney's fees, as determined 694  
by the court. 695

(D) Chapter 1347. of the Revised Code does not limit the 696  
provisions of this section. 697

(E) (1) To ensure that all employees of public offices are 698  
appropriately educated about a public office's obligations under 699  
division (B) of this section, all elected officials or their 700  
appropriate designees shall attend training approved by the 701  
attorney general as provided in section 109.43 of the Revised 702  
Code. In addition, all public offices shall adopt a public 703  
records policy in compliance with this section for responding to 704  
public records requests. In adopting a public records policy 705  
under this division, a public office may obtain guidance from 706  
the model public records policy developed and provided to the 707  
public office by the attorney general under section 109.43 of 708  
the Revised Code. Except as otherwise provided in this section, 709  
the policy may not limit the number of public records that the 710  
public office will make available to a single person, may not 711  
limit the number of public records that it will make available 712  
during a fixed period of time, and may not establish a fixed 713  
period of time before it will respond to a request for 714  
inspection or copying of public records, unless that period is 715  
less than eight hours. 716

(2) The public office shall distribute the public records 717  
policy adopted by the public office under division (E) (1) of 718  
this section to the employee of the public office who is the 719  
records custodian or records manager or otherwise has custody of 720  
the records of that office. The public office shall require that 721  
employee to acknowledge receipt of the copy of the public 722  
records policy. The public office shall create a poster that 723

describes its public records policy and shall post the poster in 724  
a conspicuous place in the public office and in all locations 725  
where the public office has branch offices. The public office 726  
may post its public records policy on the internet web site of 727  
the public office if the public office maintains an internet web 728  
site. A public office that has established a manual or handbook 729  
of its general policies and procedures for all employees of the 730  
public office shall include the public records policy of the 731  
public office in the manual or handbook. 732

(F) (1) The bureau of motor vehicles may adopt rules 733  
pursuant to Chapter 119. of the Revised Code to reasonably limit 734  
the number of bulk commercial special extraction requests made 735  
by a person for the same records or for updated records during a 736  
calendar year. The rules may include provisions for charges to 737  
be made for bulk commercial special extraction requests for the 738  
actual cost of the bureau, plus special extraction costs, plus 739  
ten per cent. The bureau may charge for expenses for redacting 740  
information, the release of which is prohibited by law. 741

(2) As used in division (F) (1) of this section: 742

(a) "Actual cost" means the cost of depleted supplies, 743  
records storage media costs, actual mailing and alternative 744  
delivery costs, or other transmitting costs, and any direct 745  
equipment operating and maintenance costs, including actual 746  
costs paid to private contractors for copying services. 747

(b) "Bulk commercial special extraction request" means a 748  
request for copies of a record for information in a format other 749  
than the format already available, or information that cannot be 750  
extracted without examination of all items in a records series, 751  
class of records, or database by a person who intends to use or 752  
forward the copies for surveys, marketing, solicitation, or 753

resale for commercial purposes. "Bulk commercial special 754  
extraction request" does not include a request by a person who 755  
gives assurance to the bureau that the person making the request 756  
does not intend to use or forward the requested copies for 757  
surveys, marketing, solicitation, or resale for commercial 758  
purposes. 759

(c) "Commercial" means profit-seeking production, buying, 760  
or selling of any good, service, or other product. 761

(d) "Special extraction costs" means the cost of the time 762  
spent by the lowest paid employee competent to perform the task, 763  
the actual amount paid to outside private contractors employed 764  
by the bureau, or the actual cost incurred to create computer 765  
programs to make the special extraction. "Special extraction 766  
costs" include any charges paid to a public agency for computer 767  
or records services. 768

(3) For purposes of divisions (F)(1) and (2) of this 769  
section, "surveys, marketing, solicitation, or resale for 770  
commercial purposes" shall be narrowly construed and does not 771  
include reporting or gathering news, reporting or gathering 772  
information to assist citizen oversight or understanding of the 773  
operation or activities of government, or nonprofit educational 774  
research. 775

(G) A request by a defendant, counsel of a defendant, or 776  
any agent of a defendant in a criminal action that public 777  
records related to that action be made available under this 778  
section shall be considered a demand for discovery pursuant to 779  
the Criminal Rules, except to the extent that the Criminal Rules 780  
plainly indicate a contrary intent. The defendant, counsel of 781  
the defendant, or agent of the defendant making a request under 782  
this division shall serve a copy of the request on the 783

prosecuting attorney, director of law, or other chief legal 784  
officer responsible for prosecuting the action. 785

**Section 2.** That existing section 149.43 of the Revised 786  
Code is hereby repealed. 787

**Section 3.** This act shall be known as the "Victims Privacy 788  
and Protection Act." 789