

As Introduced

131st General Assembly

Regular Session

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H. B. No. 76

**Representative Patmon
Cosponsors: Representative Schaffer**

A BILL

To amend sections 149.011 and 149.43 of the Revised Code to include in the definition of public record records kept by a police department established by a qualified nonprofit corporation or a campus police department established by a private college or university.

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

Section 1. That sections 149.011 and 149.43 of the Revised Code be amended to read as follows:

Sec. 149.011. As used in this chapter, except as otherwise provided:

(A) "Public office" includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government. "Public office" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

(B) "State agency" includes every department, bureau, board, commission, office, or other organized body established

by the constitution and laws of this state for the exercise of 19
any function of state government, including any state-supported 20
institution of higher education, the general assembly, any 21
legislative agency, any court or judicial agency, or any 22
political subdivision or agency of a political subdivision. 23
"State agency" does not include the nonprofit corporation formed 24
under section 187.01 of the Revised Code. 25

(C) "Public money" includes all money received or 26
collected by or due a public official, whether in accordance 27
with or under authority of any law, ordinance, resolution, or 28
order, under color of office, or otherwise. It also includes any 29
money collected by any individual on behalf of a public office 30
or as a purported representative or agent of the public office. 31

(D) "Public official" includes all officers, employees, or 32
duly authorized representatives or agents of a public office. 33

(E) "Color of office" includes any act purported or 34
alleged to be done under any law, ordinance, resolution, order, 35
or other pretension to official right, power, or authority. 36

(F) "Archive" includes any public record that is 37
transferred to the state archives or other designated archival 38
institutions because of the historical information contained on 39
it. 40

(G) "Records" includes any document, device, or item, 41
regardless of physical form or characteristic, including an 42
electronic record as defined in section 1306.01 of the Revised 43
Code, created or received by or coming under the jurisdiction of 44
any public office of the state or its political subdivisions, a 45
police department established by a qualified nonprofit 46
corporation under section 1702.80 of the Revised Code, or a 47

campus police department established by a private college or 48
university under section 1713.50 of the Revised Code when the 49
board of trustees of the private college or university has 50
entered into an agreement with a political subdivision under 51
division (C) of section 1713.50 of the Revised Code that grants 52
the campus police department with powers and authority outside 53
the property of the college or university, which serves to 54
document the organization, functions, policies, decisions, 55
procedures, operations, or other activities of the office. 56

Sec. 149.43. (A) As used in this section: 57

(1) "Public record" means records kept by any public 58
office, including, but not limited to, state, county, city, 59
village, township, and school district units, records kept by a 60
police department established by a qualified nonprofit 61
corporation under section 1702.80 of the Revised Code, records 62
kept by a campus police department established by a private 63
college or university under section 1713.50 of the Revised Code 64
when the board of trustees of the private college or university 65
has entered into an agreement with a political subdivision under 66
division (C) of section 1713.50 of the Revised Code that grants 67
the campus police department with powers and authority outside 68
the property of the college or university, and records 69
pertaining to the delivery of educational services by an 70
alternative school in this state kept by the nonprofit or for- 71
profit entity operating the alternative school pursuant to 72
section 3313.533 of the Revised Code. "Public record" does not 73
mean any of the following: 74

(a) Medical records; 75

(b) Records pertaining to probation and parole proceedings 76
or to proceedings related to the imposition of community control 77

sanctions and post-release control sanctions;	78
(c) Records pertaining to actions under section 2151.85	79
and division (C) of section 2919.121 of the Revised Code and to	80
appeals of actions arising under those sections;	81
(d) Records pertaining to adoption proceedings, including	82
the contents of an adoption file maintained by the department of	83
health under sections 3705.12 to 3705.124 of the Revised Code;	84
(e) Information in a record contained in the putative	85
father registry established by section 3107.062 of the Revised	86
Code, regardless of whether the information is held by the	87
department of job and family services or, pursuant to section	88
3111.69 of the Revised Code, the office of child support in the	89
department or a child support enforcement agency;	90
(f) Records specified in division (A) of section 3107.52	91
of the Revised Code;	92
(g) Trial preparation records;	93
(h) Confidential law enforcement investigatory records;	94
(i) Records containing information that is confidential	95
under section 2710.03 or 4112.05 of the Revised Code;	96
(j) DNA records stored in the DNA database pursuant to	97
section 109.573 of the Revised Code;	98
(k) Inmate records released by the department of	99
rehabilitation and correction to the department of youth	100
services or a court of record pursuant to division (E) of	101
section 5120.21 of the Revised Code;	102
(l) Records maintained by the department of youth services	103
pertaining to children in its custody released by the department	104

of youth services to the department of rehabilitation and	105
correction pursuant to section 5139.05 of the Revised Code;	106
(m) Intellectual property records;	107
(n) Donor profile records;	108
(o) Records maintained by the department of job and family	109
services pursuant to section 3121.894 of the Revised Code;	110
(p) Peace officer, parole officer, probation officer,	111
bailiff, prosecuting attorney, assistant prosecuting attorney,	112
correctional employee, community-based correctional facility	113
employee, youth services employee, firefighter, EMT, or	114
investigator of the bureau of criminal identification and	115
investigation residential and familial information;	116
(q) In the case of a county hospital operated pursuant to	117
Chapter 339. of the Revised Code or a municipal hospital	118
operated pursuant to Chapter 749. of the Revised Code,	119
information that constitutes a trade secret, as defined in	120
section 1333.61 of the Revised Code;	121
(r) Information pertaining to the recreational activities	122
of a person under the age of eighteen;	123
(s) Records provided to, statements made by review board	124
members during meetings of, and all work products of a child	125
fatality review board acting under sections 307.621 to 307.629	126
of the Revised Code, and child fatality review data submitted by	127
the child fatality review board to the department of health or a	128
national child death review database, other than the report	129
prepared pursuant to division (A) of section 307.626 of the	130
Revised Code;	131
(t) Records provided to and statements made by the	132

executive director of a public children services agency or a
prosecuting attorney acting pursuant to section 5153.171 of the
Revised Code other than the information released under that
section;

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

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

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

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

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

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

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

(bb) Records described in division (C) of section 187.04 161
of the Revised Code that are not designated to be made available 162
to the public as provided in that division. 163

(2) "Confidential law enforcement investigatory record" 164
means any record that pertains to a law enforcement matter of a 165
criminal, quasi-criminal, civil, or administrative nature, but 166
only to the extent that the release of the record would create a 167
high probability of disclosure of any of the following: 168

(a) The identity of a suspect who has not been charged 169
with the offense to which the record pertains, or of an 170
information source or witness to whom confidentiality has been 171
reasonably promised; 172

(b) Information provided by an information source or 173
witness to whom confidentiality has been reasonably promised, 174
which information would reasonably tend to disclose the source's 175
or witness's identity; 176

(c) Specific confidential investigatory techniques or 177
procedures or specific investigatory work product; 178

(d) Information that would endanger the life or physical 179
safety of law enforcement personnel, a crime victim, a witness, 180
or a confidential information source. 181

(3) "Medical record" means any document or combination of 182
documents, except births, deaths, and the fact of admission to 183
or discharge from a hospital, that pertains to the medical 184
history, diagnosis, prognosis, or medical condition of a patient 185
and that is generated and maintained in the process of medical 186
treatment. 187

(4) "Trial preparation record" means any record that 188
contains information that is specifically compiled in reasonable 189

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

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

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

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff,

assistant prosecuting attorney, correctional employee, 220
community-based correctional facility employee, youth services 221
employee, firefighter, EMT, or an investigator of the bureau of 222
criminal identification and investigation, except for the state 223
or political subdivision in which the peace officer, parole 224
officer, probation officer, bailiff, assistant prosecuting 225
attorney, correctional employee, community-based correctional 226
facility employee, youth services employee, firefighter, EMT, or 227
investigator of the bureau of criminal identification and 228
investigation resides; 229

(b) Information compiled from referral to or participation 230
in an employee assistance program; 231

(c) The social security number, the residential telephone 232
number, any bank account, debit card, charge card, or credit 233
card number, or the emergency telephone number of, or any 234
medical information pertaining to, a peace officer, parole 235
officer, probation officer, bailiff, prosecuting attorney, 236
assistant prosecuting attorney, correctional employee, 237
community-based correctional facility employee, youth services 238
employee, firefighter, EMT, or investigator of the bureau of 239
criminal identification and investigation; 240

(d) The name of any beneficiary of employment benefits, 241
including, but not limited to, life insurance benefits, provided 242
to a peace officer, parole officer, probation officer, bailiff, 243
prosecuting attorney, assistant prosecuting attorney, 244
correctional employee, community-based correctional facility 245
employee, youth services employee, firefighter, EMT, or 246
investigator of the bureau of criminal identification and 247
investigation by the peace officer's, parole officer's, 248
probation officer's, bailiff's, prosecuting attorney's, 249

assistant prosecuting attorney's, correctional employee's, 250
community-based correctional facility employee's, youth services 251
employee's, firefighter's, EMT's, or investigator of the bureau 252
of criminal identification and investigation's employer; 253

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

(f) The name, the residential address, the name of the 268
employer, the address of the employer, the social security 269
number, the residential telephone number, any bank account, 270
debit card, charge card, or credit card number, or the emergency 271
telephone number of the spouse, a former spouse, or any child of 272
a peace officer, parole officer, probation officer, bailiff, 273
prosecuting attorney, assistant prosecuting attorney, 274
correctional employee, community-based correctional facility 275
employee, youth services employee, firefighter, EMT, or 276
investigator of the bureau of criminal identification and 277
investigation; 278

(g) A photograph of a peace officer who holds a position 279

or has an assignment that may include undercover or plain 280
clothes positions or assignments as determined by the peace 281
officer's appointing authority. 282

As used in divisions (A) (7) and (B) (9) of this section, 283
"peace officer" has the same meaning as in section 109.71 of the 284
Revised Code and also includes the superintendent and troopers 285
of the state highway patrol; it does not include the sheriff of 286
a county or a supervisory employee who, in the absence of the 287
sheriff, is authorized to stand in for, exercise the authority 288
of, and perform the duties of the sheriff. 289

As used in divisions (A) (7) and (B) (9) of this section, 290
"correctional employee" means any employee of the department of 291
rehabilitation and correction who in the course of performing 292
the employee's job duties has or has had contact with inmates 293
and persons under supervision. 294

As used in divisions (A) (7) and (B) (9) of this section, 295
"youth services employee" means any employee of the department 296
of youth services who in the course of performing the employee's 297
job duties has or has had contact with children committed to the 298
custody of the department of youth services. 299

As used in divisions (A) (7) and (B) (9) of this section, 300
"firefighter" means any regular, paid or volunteer, member of a 301
lawfully constituted fire department of a municipal corporation, 302
township, fire district, or village. 303

As used in divisions (A) (7) and (B) (9) of this section, 304
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 305
emergency medical services for a public emergency medical 306
service organization. "Emergency medical service organization," 307
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 308

in section 4765.01 of the Revised Code. 309

As used in divisions (A) (7) and (B) (9) of this section, 310
"investigator of the bureau of criminal identification and 311
investigation" has the meaning defined in section 2903.11 of the 312
Revised Code. 313

(8) "Information pertaining to the recreational activities 314
of a person under the age of eighteen" means information that is 315
kept in the ordinary course of business by a public office, that 316
pertains to the recreational activities of a person under the 317
age of eighteen years, and that discloses any of the following: 318

(a) The address or telephone number of a person under the 319
age of eighteen or the address or telephone number of that 320
person's parent, guardian, custodian, or emergency contact 321
person; 322

(b) The social security number, birth date, or 323
photographic image of a person under the age of eighteen; 324

(c) Any medical record, history, or information pertaining 325
to a person under the age of eighteen; 326

(d) Any additional information sought or required about a 327
person under the age of eighteen for the purpose of allowing 328
that person to participate in any recreational activity 329
conducted or sponsored by a public office or to use or obtain 330
admission privileges to any recreational facility owned or 331
operated by a public office. 332

(9) "Community control sanction" has the same meaning as 333
in section 2929.01 of the Revised Code. 334

(10) "Post-release control sanction" has the same meaning 335
as in section 2967.01 of the Revised Code. 336

(11) "Redaction" means obscuring or deleting any 337
information that is exempt from the duty to permit public 338
inspection or copying from an item that otherwise meets the 339
definition of a "record" in section 149.011 of the Revised Code. 340

(12) "Designee" and "elected official" have the same 341
meanings as in section 109.43 of the Revised Code. 342

(B) (1) Upon request and subject to division (B) (8) of this 343
section, all public records responsive to the request shall be 344
promptly prepared and made available for inspection to any 345
person at all reasonable times during regular business hours. 346
Subject to division (B) (8) of this section, upon request, a 347
public office or person responsible for public records shall 348
make copies of the requested public record available at cost and 349
within a reasonable period of time. If a public record contains 350
information that is exempt from the duty to permit public 351
inspection or to copy the public record, the public office or 352
the person responsible for the public record shall make 353
available all of the information within the public record that 354
is not exempt. When making that public record available for 355
public inspection or copying that public record, the public 356
office or the person responsible for the public record shall 357
notify the requester of any redaction or make the redaction 358
plainly visible. A redaction shall be deemed a denial of a 359
request to inspect or copy the redacted information, except if 360
federal or state law authorizes or requires a public office to 361
make the redaction. 362

(2) To facilitate broader access to public records, a 363
public office or the person responsible for public records shall 364
organize and maintain public records in a manner that they can 365
be made available for inspection or copying in accordance with 366

division (B) of this section. A public office also shall have 367
available a copy of its current records retention schedule at a 368
location readily available to the public. If a requester makes 369
an ambiguous or overly broad request or has difficulty in making 370
a request for copies or inspection of public records under this 371
section such that the public office or the person responsible 372
for the requested public record cannot reasonably identify what 373
public records are being requested, the public office or the 374
person responsible for the requested public record may deny the 375
request but shall provide the requester with an opportunity to 376
revise the request by informing the requester of the manner in 377
which records are maintained by the public office and accessed 378
in the ordinary course of the public office's or person's 379
duties. 380

(3) If a request is ultimately denied, in part or in 381
whole, the public office or the person responsible for the 382
requested public record shall provide the requester with an 383
explanation, including legal authority, setting forth why the 384
request was denied. If the initial request was provided in 385
writing, the explanation also shall be provided to the requester 386
in writing. The explanation shall not preclude the public office 387
or the person responsible for the requested public record from 388
relying upon additional reasons or legal authority in defending 389
an action commenced under division (C) of this section. 390

(4) Unless specifically required or authorized by state or 391
federal law or in accordance with division (B) of this section, 392
no public office or person responsible for public records may 393
limit or condition the availability of public records by 394
requiring disclosure of the requester's identity or the intended 395
use of the requested public record. Any requirement that the 396
requester disclose the requestor's identity or the intended use 397

of the requested public record constitutes a denial of the 398
request. 399

(5) A public office or person responsible for public 400
records may ask a requester to make the request in writing, may 401
ask for the requester's identity, and may inquire about the 402
intended use of the information requested, but may do so only 403
after disclosing to the requester that a written request is not 404
mandatory and that the requester may decline to reveal the 405
requester's identity or the intended use and when a written 406
request or disclosure of the identity or intended use would 407
benefit the requester by enhancing the ability of the public 408
office or person responsible for public records to identify, 409
locate, or deliver the public records sought by the requester. 410

(6) If any person chooses to obtain a copy of a public 411
record in accordance with division (B) of this section, the 412
public office or person responsible for the public record may 413
require that person to pay in advance the cost involved in 414
providing the copy of the public record in accordance with the 415
choice made by the person seeking the copy under this division. 416
The public office or the person responsible for the public 417
record shall permit that person to choose to have the public 418
record duplicated upon paper, upon the same medium upon which 419
the public office or person responsible for the public record 420
keeps it, or upon any other medium upon which the public office 421
or person responsible for the public record determines that it 422
reasonably can be duplicated as an integral part of the normal 423
operations of the public office or person responsible for the 424
public record. When the person seeking the copy makes a choice 425
under this division, the public office or person responsible for 426
the public record shall provide a copy of it in accordance with 427
the choice made by the person seeking the copy. Nothing in this 428

section requires a public office or person responsible for the 429
public record to allow the person seeking a copy of the public 430
record to make the copies of the public record. 431

(7) Upon a request made in accordance with division (B) of 432
this section and subject to division (B)(6) of this section, a 433
public office or person responsible for public records shall 434
transmit a copy of a public record to any person by United 435
States mail or by any other means of delivery or transmission 436
within a reasonable period of time after receiving the request 437
for the copy. The public office or person responsible for the 438
public record may require the person making the request to pay 439
in advance the cost of postage if the copy is transmitted by 440
United States mail or the cost of delivery if the copy is 441
transmitted other than by United States mail, and to pay in 442
advance the costs incurred for other supplies used in the 443
mailing, delivery, or transmission. 444

Any public office may adopt a policy and procedures that 445
it will follow in transmitting, within a reasonable period of 446
time after receiving a request, copies of public records by 447
United States mail or by any other means of delivery or 448
transmission pursuant to this division. A public office that 449
adopts a policy and procedures under this division shall comply 450
with them in performing its duties under this division. 451

In any policy and procedures adopted under this division, 452
a public office may limit the number of records requested by a 453
person that the office will transmit by United States mail to 454
ten per month, unless the person certifies to the office in 455
writing that the person does not intend to use or forward the 456
requested records, or the information contained in them, for 457
commercial purposes. For purposes of this division, "commercial" 458

shall be narrowly construed and does not include reporting or 459
gathering news, reporting or gathering information to assist 460
citizen oversight or understanding of the operation or 461
activities of government, or nonprofit educational research. 462

(8) A public office or person responsible for public 463
records is not required to permit a person who is incarcerated 464
pursuant to a criminal conviction or a juvenile adjudication to 465
inspect or to obtain a copy of any public record concerning a 466
criminal investigation or prosecution or concerning what would 467
be a criminal investigation or prosecution if the subject of the 468
investigation or prosecution were an adult, unless the request 469
to inspect or to obtain a copy of the record is for the purpose 470
of acquiring information that is subject to release as a public 471
record under this section and the judge who imposed the sentence 472
or made the adjudication with respect to the person, or the 473
judge's successor in office, finds that the information sought 474
in the public record is necessary to support what appears to be 475
a justiciable claim of the person. 476

(9) (a) Upon written request made and signed by a 477
journalist on or after December 16, 1999, a public office, or 478
person responsible for public records, having custody of the 479
records of the agency employing a specified peace officer, 480
parole officer, probation officer, bailiff, prosecuting 481
attorney, assistant prosecuting attorney, correctional employee, 482
community-based correctional facility employee, youth services 483
employee, firefighter, EMT, or investigator of the bureau of 484
criminal identification and investigation shall disclose to the 485
journalist the address of the actual personal residence of the 486
peace officer, parole officer, probation officer, bailiff, 487
prosecuting attorney, assistant prosecuting attorney, 488
correctional employee, community-based correctional facility 489

employee, youth services employee, firefighter, EMT, or 490
investigator of the bureau of criminal identification and 491
investigation and, if the peace officer's, parole officer's, 492
probation officer's, bailiff's, prosecuting attorney's, 493
assistant prosecuting attorney's, correctional employee's, 494
community-based correctional facility employee's, youth services 495
employee's, firefighter's, EMT's, or investigator of the bureau 496
of criminal identification and investigation's spouse, former 497
spouse, or child is employed by a public office, the name and 498
address of the employer of the peace officer's, parole 499
officer's, probation officer's, bailiff's, prosecuting 500
attorney's, assistant prosecuting attorney's, correctional 501
employee's, community-based correctional facility employee's, 502
youth services employee's, firefighter's, EMT's, or investigator 503
of the bureau of criminal identification and investigation's 504
spouse, former spouse, or child. The request shall include the 505
journalist's name and title and the name and address of the 506
journalist's employer and shall state that disclosure of the 507
information sought would be in the public interest. 508

(b) Division (B) (9) (a) of this section also applies to 509
journalist requests for customer information maintained by a 510
municipally owned or operated public utility, other than social 511
security numbers and any private financial information such as 512
credit reports, payment methods, credit card numbers, and bank 513
account information. 514

(c) As used in division (B) (9) of this section, 515
"journalist" means a person engaged in, connected with, or 516
employed by any news medium, including a newspaper, magazine, 517
press association, news agency, or wire service, a radio or 518
television station, or a similar medium, for the purpose of 519
gathering, processing, transmitting, compiling, editing, or 520

disseminating information for the general public. 521

(C) (1) If a person allegedly is aggrieved by the failure 522
of a public office or the person responsible for public records 523
to promptly prepare a public record and to make it available to 524
the person for inspection in accordance with division (B) of 525
this section or by any other failure of a public office or the 526
person responsible for public records to comply with an 527
obligation in accordance with division (B) of this section, the 528
person allegedly aggrieved may commence a mandamus action to 529
obtain a judgment that orders the public office or the person 530
responsible for the public record to comply with division (B) of 531
this section, that awards court costs and reasonable attorney's 532
fees to the person that instituted the mandamus action, and, if 533
applicable, that includes an order fixing statutory damages 534
under division (C) (1) of this section. The mandamus action may 535
be commenced in the court of common pleas of the county in which 536
division (B) of this section allegedly was not complied with, in 537
the supreme court pursuant to its original jurisdiction under 538
Section 2 of Article IV, Ohio Constitution, or in the court of 539
appeals for the appellate district in which division (B) of this 540
section allegedly was not complied with pursuant to its original 541
jurisdiction under Section 3 of Article IV, Ohio Constitution. 542

If a requestor transmits a written request by hand 543
delivery or certified mail to inspect or receive copies of any 544
public record in a manner that fairly describes the public 545
record or class of public records to the public office or person 546
responsible for the requested public records, except as 547
otherwise provided in this section, the requestor shall be 548
entitled to recover the amount of statutory damages set forth in 549
this division if a court determines that the public office or 550
the person responsible for public records failed to comply with 551

an obligation in accordance with division (B) of this section. 552

The amount of statutory damages shall be fixed at one 553
hundred dollars for each business day during which the public 554
office or person responsible for the requested public records 555
failed to comply with an obligation in accordance with division 556
(B) of this section, beginning with the day on which the 557
requester files a mandamus action to recover statutory damages, 558
up to a maximum of one thousand dollars. The award of statutory 559
damages shall not be construed as a penalty, but as compensation 560
for injury arising from lost use of the requested information. 561
The existence of this injury shall be conclusively presumed. The 562
award of statutory damages shall be in addition to all other 563
remedies authorized by this section. 564

The court may reduce an award of statutory damages or not 565
award statutory damages if the court determines both of the 566
following: 567

(a) That, based on the ordinary application of statutory 568
law and case law as it existed at the time of the conduct or 569
threatened conduct of the public office or person responsible 570
for the requested public records that allegedly constitutes a 571
failure to comply with an obligation in accordance with division 572
(B) of this section and that was the basis of the mandamus 573
action, a well-informed public office or person responsible for 574
the requested public records reasonably would believe that the 575
conduct or threatened conduct of the public office or person 576
responsible for the requested public records did not constitute 577
a failure to comply with an obligation in accordance with 578
division (B) of this section; 579

(b) That a well-informed public office or person 580
responsible for the requested public records reasonably would 581

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

(2) (a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C) (1) of this section exist, the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C) (2) (c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C) (2) (c) of this section when either of the following applies:

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

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

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not

punitive. Reasonable attorney's fees shall include reasonable 611
fees incurred to produce proof of the reasonableness and amount 612
of the fees and to otherwise litigate entitlement to the fees. 613
The court may reduce an award of attorney's fees to the relator 614
or not award attorney's fees to the relator if the court 615
determines both of the following: 616

(i) That, based on the ordinary application of statutory 617
law and case law as it existed at the time of the conduct or 618
threatened conduct of the public office or person responsible 619
for the requested public records that allegedly constitutes a 620
failure to comply with an obligation in accordance with division 621
(B) of this section and that was the basis of the mandamus 622
action, a well-informed public office or person responsible for 623
the requested public records reasonably would believe that the 624
conduct or threatened conduct of the public office or person 625
responsible for the requested public records did not constitute 626
a failure to comply with an obligation in accordance with 627
division (B) of this section; 628

(ii) That a well-informed public office or person 629
responsible for the requested public records reasonably would 630
believe that the conduct or threatened conduct of the public 631
office or person responsible for the requested public records as 632
described in division (C) (2) (c) (i) of this section would serve 633
the public policy that underlies the authority that is asserted 634
as permitting that conduct or threatened conduct. 635

(D) Chapter 1347. of the Revised Code does not limit the 636
provisions of this section. 637

(E) (1) To ensure that all employees of public offices are 638
appropriately educated about a public office's obligations under 639
division (B) of this section, all elected officials or their 640

appropriate designees shall attend training approved by the 641
attorney general as provided in section 109.43 of the Revised 642
Code. In addition, all public offices shall adopt a public 643
records policy in compliance with this section for responding to 644
public records requests. In adopting a public records policy 645
under this division, a public office may obtain guidance from 646
the model public records policy developed and provided to the 647
public office by the attorney general under section 109.43 of 648
the Revised Code. Except as otherwise provided in this section, 649
the policy may not limit the number of public records that the 650
public office will make available to a single person, may not 651
limit the number of public records that it will make available 652
during a fixed period of time, and may not establish a fixed 653
period of time before it will respond to a request for 654
inspection or copying of public records, unless that period is 655
less than eight hours. 656

(2) The public office shall distribute the public records 657
policy adopted by the public office under division (E) (1) of 658
this section to the employee of the public office who is the 659
records custodian or records manager or otherwise has custody of 660
the records of that office. The public office shall require that 661
employee to acknowledge receipt of the copy of the public 662
records policy. The public office shall create a poster that 663
describes its public records policy and shall post the poster in 664
a conspicuous place in the public office and in all locations 665
where the public office has branch offices. The public office 666
may post its public records policy on the internet web site of 667
the public office if the public office maintains an internet web 668
site. A public office that has established a manual or handbook 669
of its general policies and procedures for all employees of the 670
public office shall include the public records policy of the 671

public office in the manual or handbook. 672

(F) (1) The bureau of motor vehicles may adopt rules 673
pursuant to Chapter 119. of the Revised Code to reasonably limit 674
the number of bulk commercial special extraction requests made 675
by a person for the same records or for updated records during a 676
calendar year. The rules may include provisions for charges to 677
be made for bulk commercial special extraction requests for the 678
actual cost of the bureau, plus special extraction costs, plus 679
ten per cent. The bureau may charge for expenses for redacting 680
information, the release of which is prohibited by law. 681

(2) As used in division (F) (1) of this section: 682

(a) "Actual cost" means the cost of depleted supplies, 683
records storage media costs, actual mailing and alternative 684
delivery costs, or other transmitting costs, and any direct 685
equipment operating and maintenance costs, including actual 686
costs paid to private contractors for copying services. 687

(b) "Bulk commercial special extraction request" means a 688
request for copies of a record for information in a format other 689
than the format already available, or information that cannot be 690
extracted without examination of all items in a records series, 691
class of records, or database by a person who intends to use or 692
forward the copies for surveys, marketing, solicitation, or 693
resale for commercial purposes. "Bulk commercial special 694
extraction request" does not include a request by a person who 695
gives assurance to the bureau that the person making the request 696
does not intend to use or forward the requested copies for 697
surveys, marketing, solicitation, or resale for commercial 698
purposes. 699

(c) "Commercial" means profit-seeking production, buying, 700

or selling of any good, service, or other product. 701

(d) "Special extraction costs" means the cost of the time 702
spent by the lowest paid employee competent to perform the task, 703
the actual amount paid to outside private contractors employed 704
by the bureau, or the actual cost incurred to create computer 705
programs to make the special extraction. "Special extraction 706
costs" include any charges paid to a public agency for computer 707
or records services. 708

(3) For purposes of divisions (F)(1) and (2) of this 709
section, "surveys, marketing, solicitation, or resale for 710
commercial purposes" shall be narrowly construed and does not 711
include reporting or gathering news, reporting or gathering 712
information to assist citizen oversight or understanding of the 713
operation or activities of government, or nonprofit educational 714
research. 715

Section 2. That existing sections 149.011 and 149.43 of 716
the Revised Code are hereby repealed. 717

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