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Senator Roegner

Cosponsors: Senators Coley, Antonio, Craig, Eklund, Hoagland, Huffman, M., Huffman, S., Kunze, Lehner, O'Brien, Rulli, Sykes, Terhar, Thomas, Uecker, Wilson

A BILL

To amend sections 149.43 and 5913.01 of the Revised Code to include emergency service telecommunicators and certain Ohio National Guard members as individuals whose residential and familial information is exempt from disclosure under the Public Records Law. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 149.43 and 5913.01 of the Revised Code be amended to read as follows: 7
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Sec. 149.43. (A) As used in this section: 9

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following: 10
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(a) Medical records;	18
(b) Records pertaining to probation and parole proceedings, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to proceedings related to determinations under section 2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;	19 20 21 22 23 24
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	25 26 27
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	28 29 30
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	31 32 33 34 35 36
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	37 38
(g) Trial preparation records;	39
(h) Confidential law enforcement investigatory records;	40
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	41 42
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	43 44

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	45 46 47 48
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	49 50 51 52
(m) Intellectual property records;	53
(n) Donor profile records;	54
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	55 56
(p) Designated public service worker residential and familial information;	57 58
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	59 60 61 62 63
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	64 65
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of	66 67 68 69 70 71 72

the board or director, and in the case of a child fatality	73
review board, child fatality review data submitted by the board	74
to the department of health or a national child death review	75
database, other than the report prepared pursuant to division	76
(A) of section 307.626 of the Revised Code;	77
(t) Records provided to and statements made by the	78
executive director of a public children services agency or a	79
prosecuting attorney acting pursuant to section 5153.171 of the	80
Revised Code other than the information released under that	81
section;	82
(u) Test materials, examinations, or evaluation tools used	83
in an examination for licensure as a nursing home administrator	84
that the board of executives of long-term services and supports	85
administers under section 4751.04 of the Revised Code or	86
contracts under that section with a private or government entity	87
to administer;	88
(v) Records the release of which is prohibited by state or	89
federal law;	90
(w) Proprietary information of or relating to any person	91
that is submitted to or compiled by the Ohio venture capital	92
authority created under section 150.01 of the Revised Code;	93
(x) Financial statements and data any person submits for	94
any purpose to the Ohio housing finance agency or the	95
controlling board in connection with applying for, receiving, or	96
accounting for financial assistance from the agency, and	97
information that identifies any individual who benefits directly	98
or indirectly from financial assistance from the agency;	99
(y) Records listed in section 5101.29 of the Revised Code;	100
(z) Discharges recorded with a county recorder under	101

section 317.24 of the Revised Code, as specified in division (B)	102
(2) of that section;	103
(aa) Usage information including names and addresses of	104
specific residential and commercial customers of a municipally	105
owned or operated public utility;	106
(bb) Records described in division (C) of section 187.04	107
of the Revised Code that are not designated to be made available	108
to the public as provided in that division;	109
(cc) Information and records that are made confidential,	110
privileged, and not subject to disclosure under divisions (B)	111
and (C) of section 2949.221 of the Revised Code;	112
(dd) Personal information, as defined in section 149.45 of	113
the Revised Code;	114
(ee) The confidential name, address, and other personally	115
identifiable information of a program participant in the address	116
confidentiality program established under sections 111.41 to	117
111.47 of the Revised Code, including the contents of any	118
application for absent voter's ballots, absent voter's ballot	119
identification envelope statement of voter, or provisional	120
ballot affirmation completed by a program participant who has a	121
confidential voter registration record, and records or portions	122
of records pertaining to that program that identify the number	123
of program participants that reside within a precinct, ward,	124
township, municipal corporation, county, or any other geographic	125
area smaller than the state. As used in this division,	126
"confidential address" and "program participant" have the	127
meaning defined in section 111.41 of the Revised Code.	128
(ff) Orders for active military service of an individual	129
serving or with previous service in the armed forces of the	130

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

(gg) The name, address, contact information, or other 135
personal information of an individual who is less than eighteen 136
years of age that is included in any record related to a traffic 137
accident involving a school vehicle in which the individual was 138
an occupant at the time of the accident; 139

(hh) Protected health information, as defined in 45 C.F.R. 140
160.103, that is in a claim for payment for a health care 141
product, service, or procedure, as well as any other health 142
claims data in another document that reveals the identity of an 143
individual who is the subject of the data or could be used to 144
reveal that individual's identity; 145

(ii) Any depiction by photograph, film, videotape, or 146
printed or digital image under either of the following 147
circumstances: 148

(i) The depiction is that of a victim of an offense the 149
release of which would be, to a reasonable person of ordinary 150
sensibilities, an offensive and objectionable intrusion into the 151
victim's expectation of bodily privacy and integrity. 152

(ii) The depiction captures or depicts the victim of a 153
sexually oriented offense, as defined in section 2950.01 of the 154
Revised Code, at the actual occurrence of that offense. 155

(jj) Restricted portions of a body-worn camera or 156
dashboard camera recording. 157

A record that is not a public record under division (A) (1) 158
of this section and that, under law, is permanently retained 159

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

(2) "Confidential law enforcement investigatory record" 177
means any record that pertains to a law enforcement matter of a 178
criminal, quasi-criminal, civil, or administrative nature, but 179
only to the extent that the release of the record would create a 180
high probability of disclosure of any of the following: 181

(a) The identity of a suspect who has not been charged 182
with the offense to which the record pertains, or of an 183
information source or witness to whom confidentiality has been 184
reasonably promised; 185

(b) Information provided by an information source or 186
witness to whom confidentiality has been reasonably promised, 187
which information would reasonably tend to disclose the source's 188
or witness's identity; 189

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

(7) "Designated public service worker" means a peace	219
officer, parole officer, probation officer, bailiff, prosecuting	220
attorney, assistant prosecuting attorney, correctional employee,	221
county or multicounty corrections officer, community-based	222
correctional facility employee, <u>designated Ohio national guard</u>	223
<u>member</u> , youth services employee, firefighter, EMT, medical	224
director or member of a cooperating physician advisory board of	225
an emergency medical service organization, state board of	226
pharmacy employee, investigator of the bureau of criminal	227
identification and investigation, <u>emergency service</u>	228
<u>telecommunicator</u> , judge, magistrate, or federal law enforcement	229
officer.	230
(8) "Designated public service worker residential and	231
familial information" means any information that discloses any	232
of the following about a designated public service worker:	233
(a) The address of the actual personal residence of a	234
designated public service worker, except for the following	235
information:	236
(i) The address of the actual personal residence of a	237
prosecuting attorney or judge; and	238
(ii) The state or political subdivision in which a	239
designated public service worker resides.	240
(b) Information compiled from referral to or participation	241
in an employee assistance program;	242
(c) The social security number, the residential telephone	243
number, any bank account, debit card, charge card, or credit	244
card number, or the emergency telephone number of, or any	245
medical information pertaining to, a designated public service	246
worker;	247

(d) The name of any beneficiary of employment benefits, 248
including, but not limited to, life insurance benefits, provided 249
to a designated public service worker by the designated public 250
service worker's employer; 251

(e) The identity and amount of any charitable or 252
employment benefit deduction made by the designated public 253
service worker's employer from the designated public service 254
worker's compensation, unless the amount of the deduction is 255
required by state or federal law; 256

(f) The name, the residential address, the name of the 257
employer, the address of the employer, the social security 258
number, the residential telephone number, any bank account, 259
debit card, charge card, or credit card number, or the emergency 260
telephone number of the spouse, a former spouse, or any child of 261
a designated public service worker; 262

(g) A photograph of a peace officer who holds a position 263
or has an assignment that may include undercover or plain 264
clothes positions or assignments as determined by the peace 265
officer's appointing authority. 266

(9) As used in divisions (A) (7) and (15) to (17) of this 267
section: 268

"Peace officer" has the meaning defined in section 109.71 269
of the Revised Code and also includes the superintendent and 270
troopers of the state highway patrol; it does not include the 271
sheriff of a county or a supervisory employee who, in the 272
absence of the sheriff, is authorized to stand in for, exercise 273
the authority of, and perform the duties of the sheriff. 274

"Correctional employee" means any employee of the 275
department of rehabilitation and correction who in the course of 276

performing the employee's job duties has or has had contact with	277
inmates and persons under supervision.	278
"County or multicounty corrections officer" means any	279
corrections officer employed by any county or multicounty	280
correctional facility.	281
<u>"Designated Ohio national guard member" means a member of</u>	282
<u>the Ohio national guard who is participating in duties related</u>	283
<u>to remotely piloted aircraft, including but not limited to,</u>	284
<u>pilots, sensor operators, and mission intelligence personnel,</u>	285
<u>duties related to special forces operations, or duties related</u>	286
<u>to cybersecurity, and is designated by the adjutant general as a</u>	287
<u>designated public service worker for those purposes.</u>	288
"Youth services employee" means any employee of the	289
department of youth services who in the course of performing the	290
employee's job duties has or has had contact with children	291
committed to the custody of the department of youth services.	292
"Firefighter" means any regular, paid or volunteer, member	293
of a lawfully constituted fire department of a municipal	294
corporation, township, fire district, or village.	295
"EMT" means EMTs-basic, EMTs-I, and paramedics that	296
provide emergency medical services for a public emergency	297
medical service organization. "Emergency medical service	298
organization," "EMT-basic," "EMT-I," and "paramedic" have the	299
meanings defined in section 4765.01 of the Revised Code.	300
"Investigator of the bureau of criminal identification and	301
investigation" has the meaning defined in section 2903.11 of the	302
Revised Code.	303
<u>"Emergency service telecommunicator" has the meaning</u>	304
<u>defined in section 4742.01 of the Revised Code.</u>	305

"Federal law enforcement officer" has the meaning defined	306
in section 9.88 of the Revised Code.	307
(10) "Information pertaining to the recreational	308
activities of a person under the age of eighteen" means	309
information that is kept in the ordinary course of business by a	310
public office, that pertains to the recreational activities of a	311
person under the age of eighteen years, and that discloses any	312
of the following:	313
(a) The address or telephone number of a person under the	314
age of eighteen or the address or telephone number of that	315
person's parent, guardian, custodian, or emergency contact	316
person;	317
(b) The social security number, birth date, or	318
photographic image of a person under the age of eighteen;	319
(c) Any medical record, history, or information pertaining	320
to a person under the age of eighteen;	321
(d) Any additional information sought or required about a	322
person under the age of eighteen for the purpose of allowing	323
that person to participate in any recreational activity	324
conducted or sponsored by a public office or to use or obtain	325
admission privileges to any recreational facility owned or	326
operated by a public office.	327
(11) "Community control sanction" has the meaning defined	328
in section 2929.01 of the Revised Code.	329
(12) "Post-release control sanction" has the meaning	330
defined in section 2967.01 of the Revised Code.	331
(13) "Redaction" means obscuring or deleting any	332
information that is exempt from the duty to permit public	333

inspection or copying from an item that otherwise meets the 334
definition of a "record" in section 149.011 of the Revised Code. 335

(14) "Designee," "elected official," and "future official" 336
have the meanings defined in section 109.43 of the Revised Code. 337

(15) "Body-worn camera" means a visual and audio recording 338
device worn on the person of a peace officer while the peace 339
officer is engaged in the performance of the peace officer's 340
duties. 341

(16) "Dashboard camera" means a visual and audio recording 342
device mounted on a peace officer's vehicle or vessel that is 343
used while the peace officer is engaged in the performance of 344
the peace officer's duties. 345

(17) "Restricted portions of a body-worn camera or 346
dashboard camera recording" means any visual or audio portion of 347
a body-worn camera or dashboard camera recording that shows, 348
communicates, or discloses any of the following: 349

(a) The image or identity of a child or information that 350
could lead to the identification of a child who is a primary 351
subject of the recording when the law enforcement agency knows 352
or has reason to know the person is a child based on the law 353
enforcement agency's records or the content of the recording; 354

(b) The death of a person or a deceased person's body, 355
unless the death was caused by a peace officer or, subject to 356
division (H) (1) of this section, the consent of the decedent's 357
executor or administrator has been obtained; 358

(c) The death of a peace officer, firefighter, paramedic, 359
or other first responder, occurring while the decedent was 360
engaged in the performance of official duties, unless, subject 361
to division (H) (1) of this section, the consent of the 362

decedent's executor or administrator has been obtained; 363

(d) Grievous bodily harm, unless the injury was effected 364
by a peace officer or, subject to division (H)(1) of this 365
section, the consent of the injured person or the injured 366
person's guardian has been obtained; 367

(e) An act of severe violence against a person that 368
results in serious physical harm to the person, unless the act 369
and injury was effected by a peace officer or, subject to 370
division (H)(1) of this section, the consent of the injured 371
person or the injured person's guardian has been obtained; 372

(f) Grievous bodily harm to a peace officer, firefighter, 373
paramedic, or other first responder, occurring while the injured 374
person was engaged in the performance of official duties, 375
unless, subject to division (H)(1) of this section, the consent 376
of the injured person or the injured person's guardian has been 377
obtained; 378

(g) An act of severe violence resulting in serious 379
physical harm against a peace officer, firefighter, paramedic, 380
or other first responder, occurring while the injured person was 381
engaged in the performance of official duties, unless, subject 382
to division (H)(1) of this section, the consent of the injured 383
person or the injured person's guardian has been obtained; 384

(h) A person's nude body, unless, subject to division (H) 385
(1) of this section, the person's consent has been obtained; 386

(i) Protected health information, the identity of a person 387
in a health care facility who is not the subject of a law 388
enforcement encounter, or any other information in a health care 389
facility that could identify a person who is not the subject of 390
a law enforcement encounter; 391

(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;	392 393
(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;	394 395 396 397 398 399 400
(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;	401 402
(m) Proprietary police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;	403 404 405
(n) A personal conversation unrelated to work between peace officers or between a peace officer and an employee of a law enforcement agency;	406 407 408
(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;	409 410
(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a peace officer;	411 412 413
(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a peace officer occurs in that location.	414 415 416
As used in division (A) (17) of this section:	417
"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.	418 419

"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.	420 421
"Protected health information" has the same meaning as in 45 C.F.R. 160.103.	422 423
"Law enforcement agency" has the same meaning as in section 2925.61 of the Revised Code.	424 425
"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.	426 427 428 429
"Sex offense" has the same meaning as in section 2907.10 of the Revised Code.	430 431
"Firefighter," "paramedic," and "first responder" have the same meanings as in section 4765.01 of the Revised Code.	432 433
(B) (1) Upon request <u>by any person</u> and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person <u>the requester</u> at all reasonable times during regular business hours. Subject to division (B) (8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public	434 435 436 437 438 439 440 441 442 443 444 445 446 447 448

office or the person responsible for the public record shall 449
notify the requester of any redaction or make the redaction 450
plainly visible. A redaction shall be deemed a denial of a 451
request to inspect or copy the redacted information, except if 452
federal or state law authorizes or requires a public office to 453
make the redaction. 454

(2) To facilitate broader access to public records, a 455
public office or the person responsible for public records shall 456
organize and maintain public records in a manner that they can 457
be made available for inspection or copying in accordance with 458
division (B) of this section. A public office also shall have 459
available a copy of its current records retention schedule at a 460
location readily available to the public. If a requester makes 461
an ambiguous or overly broad request or has difficulty in making 462
a request for copies or inspection of public records under this 463
section such that the public office or the person responsible 464
for the requested public record cannot reasonably identify what 465
public records are being requested, the public office or the 466
person responsible for the requested public record may deny the 467
request but shall provide the requester with an opportunity to 468
revise the request by informing the requester of the manner in 469
which records are maintained by the public office and accessed 470
in the ordinary course of the public office's or person's 471
duties. 472

(3) If a request is ultimately denied, in part or in 473
whole, the public office or the person responsible for the 474
requested public record shall provide the requester with an 475
explanation, including legal authority, setting forth why the 476
request was denied. If the initial request was provided in 477
writing, the explanation also shall be provided to the requester 478
in writing. The explanation shall not preclude the public office 479

or the person responsible for the requested public record from 480
relying upon additional reasons or legal authority in defending 481
an action commenced under division (C) of this section. 482

(4) Unless specifically required or authorized by state or 483
federal law or in accordance with division (B) of this section, 484
no public office or person responsible for public records may 485
limit or condition the availability of public records by 486
requiring disclosure of the requester's identity or the intended 487
use of the requested public record. Any requirement that the 488
requester disclose the requester's identity or the intended use 489
of the requested public record constitutes a denial of the 490
request. 491

(5) A public office or person responsible for public 492
records may ask a requester to make the request in writing, may 493
ask for the requester's identity, and may inquire about the 494
intended use of the information requested, but may do so only 495
after disclosing to the requester that a written request is not 496
mandatory, that the requester may decline to reveal the 497
requester's identity or the intended use, and when a written 498
request or disclosure of the identity or intended use would 499
benefit the requester by enhancing the ability of the public 500
office or person responsible for public records to identify, 501
locate, or deliver the public records sought by the requester. 502

(6) If any person requests a copy of a public record in 503
accordance with division (B) of this section, the public office 504
or person responsible for the public record may require ~~that~~ 505
~~person the requester~~ to pay in advance the cost involved in 506
providing the copy of the public record in accordance with the 507
choice made by the ~~person requesting the copy requester~~ under 508
this division. The public office or the person responsible for 509

the public record shall permit ~~that person~~ the requester to 510
choose to have the public record duplicated upon paper, upon the 511
same medium upon which the public office or person responsible 512
for the public record keeps it, or upon any other medium upon 513
which the public office or person responsible for the public 514
record determines that it reasonably can be duplicated as an 515
integral part of the normal operations of the public office or 516
person responsible for the public record. When the ~~person~~ 517
~~requesting the copy~~ requester makes a choice under this 518
division, the public office or person responsible for the public 519
record shall provide a copy of it in accordance with the choice 520
made by ~~that person~~ the requester. Nothing in this section 521
requires a public office or person responsible for the public 522
record to allow the ~~person requesting~~ requester of a copy of the 523
public record to make the copies of the public record. 524

(7) (a) Upon a request made in accordance with division (B) 525
of this section and subject to division (B) (6) of this section, 526
a public office or person responsible for public records shall 527
transmit a copy of a public record to any person by United 528
States mail or by any other means of delivery or transmission 529
within a reasonable period of time after receiving the request 530
for the copy. The public office or person responsible for the 531
public record may require the person making the request to pay 532
in advance the cost of postage if the copy is transmitted by 533
United States mail or the cost of delivery if the copy is 534
transmitted other than by United States mail, and to pay in 535
advance the costs incurred for other supplies used in the 536
mailing, delivery, or transmission. 537

(b) Any public office may adopt a policy and procedures 538
that it will follow in transmitting, within a reasonable period 539
of time after receiving a request, copies of public records by 540

United States mail or by any other means of delivery or 541
transmission pursuant to division (B) (7) of this section. A 542
public office that adopts a policy and procedures under division 543
(B) (7) of this section shall comply with them in performing its 544
duties under that division. 545

(c) In any policy and procedures adopted under division 546
(B) (7) of this section: 547

(i) A public office may limit the number of records 548
requested by a person that the office will physically deliver by 549
United States mail or by another delivery service to ten per 550
month, unless the person certifies to the office in writing that 551
the person does not intend to use or forward the requested 552
records, or the information contained in them, for commercial 553
purposes; 554

(ii) A public office that chooses to provide some or all 555
of its public records on a web site that is fully accessible to 556
and searchable by members of the public at all times, other than 557
during acts of God outside the public office's control or 558
maintenance, and that charges no fee to search, access, 559
download, or otherwise receive records provided on the web site, 560
may limit to ten per month the number of records requested by a 561
person that the office will deliver in a digital format, unless 562
the requested records are not provided on the web site and 563
unless the person certifies to the office in writing that the 564
person does not intend to use or forward the requested records, 565
or the information contained in them, for commercial purposes. 566

(iii) For purposes of division (B) (7) of this section, 567
"commercial" shall be narrowly construed and does not include 568
reporting or gathering news, reporting or gathering information 569
to assist citizen oversight or understanding of the operation or 570

activities of government, or nonprofit educational research. 571

(8) A public office or person responsible for public 572
records is not required to permit a person who is incarcerated 573
pursuant to a criminal conviction or a juvenile adjudication to 574
inspect or to obtain a copy of any public record concerning a 575
criminal investigation or prosecution or concerning what would 576
be a criminal investigation or prosecution if the subject of the 577
investigation or prosecution were an adult, unless the request 578
to inspect or to obtain a copy of the record is for the purpose 579
of acquiring information that is subject to release as a public 580
record under this section and the judge who imposed the sentence 581
or made the adjudication with respect to the person, or the 582
judge's successor in office, finds that the information sought 583
in the public record is necessary to support what appears to be 584
a justiciable claim of the person. 585

(9) (a) Upon written request made and signed by a 586
journalist, a public office, or person responsible for public 587
records, having custody of the records of the agency employing a 588
specified designated public service worker shall disclose to the 589
journalist the address of the actual personal residence of the 590
designated public service worker and, if the designated public 591
service worker's spouse, former spouse, or child is employed by 592
a public office, the name and address of the employer of the 593
designated public service worker's spouse, former spouse, or 594
child. The request shall include the journalist's name and title 595
and the name and address of the journalist's employer and shall 596
state that disclosure of the information sought would be in the 597
public interest. 598

(b) Division (B) (9) (a) of this section also applies to 599
journalist requests for: 600

(i) Customer information maintained by a municipally owned 601
or operated public utility, other than social security numbers 602
and any private financial information such as credit reports, 603
payment methods, credit card numbers, and bank account 604
information; 605

(ii) Information about minors involved in a school vehicle 606
accident as provided in division (A) (1) (gg) of this section, 607
other than personal information as defined in section 149.45 of 608
the Revised Code. 609

(c) As used in division (B) (9) of this section, 610
"journalist" means a person engaged in, connected with, or 611
employed by any news medium, including a newspaper, magazine, 612
press association, news agency, or wire service, a radio or 613
television station, or a similar medium, for the purpose of 614
gathering, processing, transmitting, compiling, editing, or 615
disseminating information for the general public. 616

(10) Upon a request made by a victim, victim's attorney, 617
or victim's representative, as that term is used in section 618
2930.02 of the Revised Code, a public office or person 619
responsible for public records shall transmit a copy of a 620
depiction of the victim as described in division (A) (1) (gg) of 621
this section to the victim, victim's attorney, or victim's 622
representative. 623

(C) (1) If a person allegedly is aggrieved by the failure 624
of a public office or the person responsible for public records 625
to promptly prepare a public record and to make it available to 626
the person for inspection in accordance with division (B) of 627
this section or by any other failure of a public office or the 628
person responsible for public records to comply with an 629
obligation in accordance with division (B) of this section, the 630

person allegedly aggrieved may do only one of the following, and 631
not both: 632

(a) File a complaint with the clerk of the court of claims 633
or the clerk of the court of common pleas under section 2743.75 634
of the Revised Code; 635

(b) Commence a mandamus action to obtain a judgment that 636
orders the public office or the person responsible for the 637
public record to comply with division (B) of this section, that 638
awards court costs and reasonable attorney's fees to the person 639
that instituted the mandamus action, and, if applicable, that 640
includes an order fixing statutory damages under division (C) (2) 641
of this section. The mandamus action may be commenced in the 642
court of common pleas of the county in which division (B) of 643
this section allegedly was not complied with, in the supreme 644
court pursuant to its original jurisdiction under Section 2 of 645
Article IV, Ohio Constitution, or in the court of appeals for 646
the appellate district in which division (B) of this section 647
allegedly was not complied with pursuant to its original 648
jurisdiction under Section 3 of Article IV, Ohio Constitution. 649

(2) If a requester transmits a written request by hand 650
delivery, electronic submission, or certified mail to inspect or 651
receive copies of any public record in a manner that fairly 652
describes the public record or class of public records to the 653
public office or person responsible for the requested public 654
records, except as otherwise provided in this section, the 655
requester shall be entitled to recover the amount of statutory 656
damages set forth in this division if a court determines that 657
the public office or the person responsible for public records 658
failed to comply with an obligation in accordance with division 659
(B) of this section. 660

The amount of statutory damages shall be fixed at one 661
hundred dollars for each business day during which the public 662
office or person responsible for the requested public records 663
failed to comply with an obligation in accordance with division 664
(B) of this section, beginning with the day on which the 665
requester files a mandamus action to recover statutory damages, 666
up to a maximum of one thousand dollars. The award of statutory 667
damages shall not be construed as a penalty, but as compensation 668
for injury arising from lost use of the requested information. 669
The existence of this injury shall be conclusively presumed. The 670
award of statutory damages shall be in addition to all other 671
remedies authorized by this section. 672

The court may reduce an award of statutory damages or not 673
award statutory damages if the court determines both of the 674
following: 675

(a) That, based on the ordinary application of statutory 676
law and case law as it existed at the time of the conduct or 677
threatened conduct of the public office or person responsible 678
for the requested public records that allegedly constitutes a 679
failure to comply with an obligation in accordance with division 680
(B) of this section and that was the basis of the mandamus 681
action, a well-informed public office or person responsible for 682
the requested public records reasonably would believe that the 683
conduct or threatened conduct of the public office or person 684
responsible for the requested public records did not constitute 685
a failure to comply with an obligation in accordance with 686
division (B) of this section; 687

(b) That a well-informed public office or person 688
responsible for the requested public records reasonably would 689
believe that the conduct or threatened conduct of the public 690

office or person responsible for the requested public records 691
would serve the public policy that underlies the authority that 692
is asserted as permitting that conduct or threatened conduct. 693

(3) In a mandamus action filed under division (C)(1) of 694
this section, the following apply: 695

(a) (i) If the court orders the public office or the person 696
responsible for the public record to comply with division (B) of 697
this section, the court shall determine and award to the relator 698
all court costs, which shall be construed as remedial and not 699
punitive. 700

(ii) If the court makes a determination described in 701
division (C)(3)(b)(iii) of this section, the court shall 702
determine and award to the relator all court costs, which shall 703
be construed as remedial and not punitive. 704

(b) If the court renders a judgment that orders the public 705
office or the person responsible for the public record to comply 706
with division (B) of this section or if the court determines any 707
of the following, the court may award reasonable attorney's fees 708
to the relator, subject to division (C)(4) of this section: 709

(i) The public office or the person responsible for the 710
public records failed to respond affirmatively or negatively to 711
the public records request in accordance with the time allowed 712
under division (B) of this section. 713

(ii) The public office or the person responsible for the 714
public records promised to permit the relator to inspect or 715
receive copies of the public records requested within a 716
specified period of time but failed to fulfill that promise 717
within that specified period of time. 718

(iii) The public office or the person responsible for the 719

public records acted in bad faith when the office or person 720
voluntarily made the public records available to the relator for 721
the first time after the relator commenced the mandamus action, 722
but before the court issued any order concluding whether or not 723
the public office or person was required to comply with division 724
(B) of this section. No discovery may be conducted on the issue 725
of the alleged bad faith of the public office or person 726
responsible for the public records. This division shall not be 727
construed as creating a presumption that the public office or 728
the person responsible for the public records acted in bad faith 729
when the office or person voluntarily made the public records 730
available to the relator for the first time after the relator 731
commenced the mandamus action, but before the court issued any 732
order described in this division. 733

(c) The court shall not award attorney's fees to the 734
relator if the court determines both of the following: 735

(i) That, based on the ordinary application of statutory 736
law and case law as it existed at the time of the conduct or 737
threatened conduct of the public office or person responsible 738
for the requested public records that allegedly constitutes a 739
failure to comply with an obligation in accordance with division 740
(B) of this section and that was the basis of the mandamus 741
action, a well-informed public office or person responsible for 742
the requested public records reasonably would believe that the 743
conduct or threatened conduct of the public office or person 744
responsible for the requested public records did not constitute 745
a failure to comply with an obligation in accordance with 746
division (B) of this section; 747

(ii) That a well-informed public office or person 748
responsible for the requested public records reasonably would 749

believe that the conduct or threatened conduct of the public 750
office or person responsible for the requested public records 751
would serve the public policy that underlies the authority that 752
is asserted as permitting that conduct or threatened conduct. 753

(4) All of the following apply to any award of reasonable 754
attorney's fees awarded under division (C) (3) (b) of this 755
section: 756

(a) The fees shall be construed as remedial and not 757
punitive. 758

(b) The fees awarded shall not exceed the total of the 759
reasonable attorney's fees incurred before the public record was 760
made available to the relator and the fees described in division 761
(C) (4) (c) of this section. 762

(c) Reasonable attorney's fees shall include reasonable 763
fees incurred to produce proof of the reasonableness and amount 764
of the fees and to otherwise litigate entitlement to the fees. 765

(d) The court may reduce the amount of fees awarded if the 766
court determines that, given the factual circumstances involved 767
with the specific public records request, an alternative means 768
should have been pursued to more effectively and efficiently 769
resolve the dispute that was subject to the mandamus action 770
filed under division (C) (1) of this section. 771

(5) If the court does not issue a writ of mandamus under 772
division (C) of this section and the court determines at that 773
time that the bringing of the mandamus action was frivolous 774
conduct as defined in division (A) of section 2323.51 of the 775
Revised Code, the court may award to the public office all court 776
costs, expenses, and reasonable attorney's fees, as determined 777
by the court. 778

(D) Chapter 1347. of the Revised Code does not limit the 779
provisions of this section. 780

(E) (1) To ensure that all employees of public offices are 781
appropriately educated about a public office's obligations under 782
division (B) of this section, all elected officials or their 783
appropriate designees shall attend training approved by the 784
attorney general as provided in section 109.43 of the Revised 785
Code. A future official may satisfy the requirements of this 786
division by attending the training before taking office, 787
provided that the future official may not send a designee in the 788
future official's place. 789

(2) All public offices shall adopt a public records policy 790
in compliance with this section for responding to public records 791
requests. In adopting a public records policy under this 792
division, a public office may obtain guidance from the model 793
public records policy developed and provided to the public 794
office by the attorney general under section 109.43 of the 795
Revised Code. Except as otherwise provided in this section, the 796
policy may not limit the number of public records that the 797
public office will make available to a single person, may not 798
limit the number of public records that it will make available 799
during a fixed period of time, and may not establish a fixed 800
period of time before it will respond to a request for 801
inspection or copying of public records, unless that period is 802
less than eight hours. 803

The public office shall distribute the public records 804
policy adopted by the public office under this division to the 805
employee of the public office who is the records custodian or 806
records manager or otherwise has custody of the records of that 807
office. The public office shall require that employee to 808

acknowledge receipt of the copy of the public records policy. 809
The public office shall create a poster that describes its 810
public records policy and shall post the poster in a conspicuous 811
place in the public office and in all locations where the public 812
office has branch offices. The public office may post its public 813
records policy on the internet web site of the public office if 814
the public office maintains an internet web site. A public 815
office that has established a manual or handbook of its general 816
policies and procedures for all employees of the public office 817
shall include the public records policy of the public office in 818
the manual or handbook. 819

(F) (1) The bureau of motor vehicles may adopt rules 820
pursuant to Chapter 119. of the Revised Code to reasonably limit 821
the number of bulk commercial special extraction requests made 822
by a person for the same records or for updated records during a 823
calendar year. The rules may include provisions for charges to 824
be made for bulk commercial special extraction requests for the 825
actual cost of the bureau, plus special extraction costs, plus 826
ten per cent. The bureau may charge for expenses for redacting 827
information, the release of which is prohibited by law. 828

(2) As used in division (F) (1) of this section: 829

(a) "Actual cost" means the cost of depleted supplies, 830
records storage media costs, actual mailing and alternative 831
delivery costs, or other transmitting costs, and any direct 832
equipment operating and maintenance costs, including actual 833
costs paid to private contractors for copying services. 834

(b) "Bulk commercial special extraction request" means a 835
request for copies of a record for information in a format other 836
than the format already available, or information that cannot be 837
extracted without examination of all items in a records series, 838

class of records, or database by a person who intends to use or 839
forward the copies for surveys, marketing, solicitation, or 840
resale for commercial purposes. "Bulk commercial special 841
extraction request" does not include a request by a person who 842
gives assurance to the bureau that the person making the request 843
does not intend to use or forward the requested copies for 844
surveys, marketing, solicitation, or resale for commercial 845
purposes. 846

(c) "Commercial" means profit-seeking production, buying, 847
or selling of any good, service, or other product. 848

(d) "Special extraction costs" means the cost of the time 849
spent by the lowest paid employee competent to perform the task, 850
the actual amount paid to outside private contractors employed 851
by the bureau, or the actual cost incurred to create computer 852
programs to make the special extraction. "Special extraction 853
costs" include any charges paid to a public agency for computer 854
or records services. 855

(3) For purposes of divisions (F) (1) and (2) of this 856
section, "surveys, marketing, solicitation, or resale for 857
commercial purposes" shall be narrowly construed and does not 858
include reporting or gathering news, reporting or gathering 859
information to assist citizen oversight or understanding of the 860
operation or activities of government, or nonprofit educational 861
research. 862

(G) A request by a defendant, counsel of a defendant, or 863
any agent of a defendant in a criminal action that public 864
records related to that action be made available under this 865
section shall be considered a demand for discovery pursuant to 866
the Criminal Rules, except to the extent that the Criminal Rules 867
plainly indicate a contrary intent. The defendant, counsel of 868

the defendant, or agent of the defendant making a request under 869
this division shall serve a copy of the request on the 870
prosecuting attorney, director of law, or other chief legal 871
officer responsible for prosecuting the action. 872

(H) (1) Any portion of a body-worn camera or dashboard 873
camera recording described in divisions (A) (17) (b) to (h) of 874
this section may be released by consent of the subject of the 875
recording or a representative of that person, as specified in 876
those divisions, only if either of the following applies: 877

(a) The recording will not be used in connection with any 878
probable or pending criminal proceedings; 879

(b) The recording has been used in connection with a 880
criminal proceeding that was dismissed or for which a judgment 881
has been entered pursuant to Rule 32 of the Rules of Criminal 882
Procedure, and will not be used again in connection with any 883
probable or pending criminal proceedings. 884

(2) If a public office denies a request to release a 885
restricted portion of a body-worn camera or dashboard camera 886
recording, as defined in division (A) (17) of this section, any 887
person may file a mandamus action pursuant to this section or a 888
complaint with the clerk of the court of claims pursuant to 889
section 2743.75 of the Revised Code, requesting the court to 890
order the release of all or portions of the recording. If the 891
court considering the request determines that the filing 892
articulates by clear and convincing evidence that the public 893
interest in the recording substantially outweighs privacy 894
interests and other interests asserted to deny release, the 895
court shall order the public office to release the recording. 896

Sec. 5913.01. (A) The adjutant general is the commander 897

and administrative head of the Ohio organized militia. The 898
adjutant general shall: 899

(1) Be provided offices and shall keep them open during 900
usual business hours; 901

(2) Have and maintain custody of all military records, 902
correspondence, and other documents of the Ohio organized 903
militia; 904

(3) Superintend the preparation of all returns and reports 905
required by the United States from the state on military 906
matters; 907

(4) Keep a roster of all officers of the Ohio organized 908
militia, including retired officers; 909

(5) Whenever necessary, cause the military provisions of 910
the Revised Code and the orders, regulations, pamphlets, 911
circulars, and memorandums of the adjutant general's department 912
to be printed and distributed to the organizations of the Ohio 913
organized militia; 914

(6) Prepare and issue all necessary Ohio organized militia 915
forms and attest to all commissions issued to officers of the 916
Ohio organized militia; 917

(7) Have a seal, and all copies of orders, records, and 918
papers in the adjutant general's office certified and 919
authenticated with that seal shall be competent evidence in like 920
manner as if the originals were produced. All orders issued from 921
the adjutant general's office shall bear a duplicate of the 922
seal. 923

(8) Keep and preserve the arms, ordnance, equipment, and 924
all other military property belonging to the state or issued to 925

the state by the federal government and issue any regulations 926
necessary to keep, preserve, and repair the property as 927
conditions demand; 928

(9) Issue adjutant general's property to the units of the 929
Ohio organized militia as the necessity of the service or 930
organizational or allowance tables requires; 931

(10) Submit an annual report to the governor at such time 932
as the governor requires of the transaction of the adjutant 933
general's department, setting forth the strength and condition 934
of the Ohio organized militia and other matters that the 935
adjutant general chooses; 936

(11) Designate members of the Ohio national guard, who are 937
participating in duties related to remotely piloted aircraft, 938
including but not limited to, pilots, sensor operators, and 939
mission intelligence personnel, duties related to special forces 940
operations, or duties related to cybersecurity, as designated 941
public service workers under section 149.43 of the Revised Code; 942

(12) Command the joint force headquarters of the Ohio 943
national guard. 944

(B) The adjutant general shall issue and distribute all 945
orders issued in the name of the governor as the commander in 946
chief of the Ohio organized militia and perform the duties that 947
the governor directs and other duties prescribed by law. 948

(C) The adjutant general may enter into cooperative 949
agreements, contractual arrangements, or agreements for the 950
acceptance of grants with the United States or any agency or 951
department of the United States, other states, any department or 952
political subdivision of this state, or any person or body 953
politic, to accomplish the purposes of the adjutant general's 954

department. The adjutant general shall cooperate with, and not 955
infringe upon, the rights of other state departments, divisions, 956
boards, commissions, and agencies, political subdivisions, and 957
other public officials and public and private agencies when the 958
interests of the adjutant general's department and those other 959
entities overlap. 960

The funds made available by the United States for the 961
exclusive use of the department shall be expended only by the 962
department and only for the purposes for which the federal funds 963
were appropriated. In accepting federal funds, the department 964
agrees to abide by the terms and conditions of the grant or 965
cooperative agreement and further agrees to expend the federal 966
funds in accordance with the laws and regulations of the United 967
States. 968

Section 2. That existing sections 149.43 and 5913.01 of 969
the Revised Code are hereby repealed. 970

Section 3. Section 149.43 of the Revised Code is presented 971
in this act as a composite of the section as amended by Am. Sub. 972
H.B. 8, Sub. H.B. 34, Sub. H.B. 139, Sub. H.B. 312, Sub. H.B. 973
341, Sub. H.B. 425, Am. Sub. S.B. 201, Am. S.B. 214, and Sub. 974
S.B. 229, all of the 132nd General Assembly. The General 975
Assembly, applying the principle stated in division (B) of 976
section 1.52 of the Revised Code that amendments are to be 977
harmonized if reasonably capable of simultaneous operation, 978
finds that the composite is the resulting version of the section 979
in effect prior to the effective date of the section as 980
presented in this act. 981