

AN ACT

To amend sections 149.43, 2921.24, 2921.25, and 4501.271 of the Revised Code to give parole officers, prosecuting attorneys in most cases, assistant prosecuting attorneys, and certain correctional and youth services employees the same options as peace officers with respect to confidentiality of certain personal information; to expand the materials excluded from the definition of "public record" to also include a photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority; and to eliminate the exclusion from the definition of "public record" that currently applies to a record that identifies a person's occupation as a peace officer, firefighter, or EMT and is not related to the Campaign Finance Law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 149.43, 2921.24, 2921.25, and 4501.271 of the Revised Code be amended to read as follows:

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

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

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

post-release control sanctions;

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

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

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

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

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

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

(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;

(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;

(m) Intellectual property records;

(n) Donor profile records;

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

(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information;

(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;

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

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;

(t) Records provided to and statements made by the 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 examiners of nursing home administrators 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) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;

(y) 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.

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

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

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

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

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

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

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable 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, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information" means ~~either of the following:~~

~~(a) Any any information maintained in a personnel record of that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT that discloses any of the following:~~

~~(i)(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT resides;~~

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

~~(iii)(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the~~

emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT;

~~(iv)~~(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer;

~~(v)~~(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

~~(vi)~~(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT;

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

~~(b) Any record that identifies a person's occupation as a peace officer, firefighter, or EMT other than statements required to include the disclosure of that fact under the campaign finance law.~~

As used in divisions (A)(7) and (B)(5) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and

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

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(5) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(5) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

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

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

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

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

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

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

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

(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of

time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division.

(2) If any person chooses to obtain a copy of a public record in accordance with division (B)(1) of this section, the public office or person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy.

(3) Upon a request made in accordance with division (B)(1) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage and other supplies used in the mailing.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(4) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or

concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(5) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

As used in division (B)(5) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C) If a person allegedly is aggrieved by the failure of a public office to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or if a person who has requested a copy of a public record allegedly is aggrieved by the failure of a public office or the person responsible for the public record to make a copy available to the person allegedly aggrieved in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the

person responsible for the public record to comply with division (B) of this section and that awards reasonable attorney's fees to the person that instituted the mandamus action. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

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

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

(2) As used in divisions (B)(3) and (E)(1) of this section:

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

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

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

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

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

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

Sec. 2921.24. (A) No officer or employee of a law enforcement agency or court, or of the office of the clerk of any court, shall disclose during the pendency of any criminal case the home address of any peace officer, ~~as defined in section 2935.01 of the Revised Code~~, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, or youth services employee who is a witness or arresting officer in the case.

(B) Division (A) of this section does not prohibit a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, or youth services employee from disclosing ~~his~~ the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, or youth services employee's own home address, and does not apply to any person who discloses the home address of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, or youth services employee pursuant to a court-ordered disclosure under division (C) of this section.

(C) The court in which any criminal case is pending may order the disclosure of the home address of any peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, or youth services employee who is a witness or arresting officer in the case, if the court determines after a written request for the disclosure that good cause exists for disclosing the home address of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, or youth services employee.

(D) Whoever violates division (A) of this section is guilty of disclosure of confidential information, a misdemeanor of the fourth degree.

(E) As used in this section:

(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(2) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 2921.25. (A) No judge of a court of record, or mayor presiding over a mayor's court, shall order a peace officer, ~~as defined in section 2935.01 of the Revised Code~~, parole officer, prosecuting attorney, assistant

prosecuting attorney, correctional employee, or youth services employee who is a witness in a criminal case, to disclose ~~his~~ the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, or youth services employee's home address during ~~his~~ the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, or youth services employee's examination in the case, unless the judge or mayor determines that the defendant has a right to the disclosure.

(B) As used in this section:

(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(2) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 4501.271. (A)(1) A peace officer, correctional employee, or youth services employee may file a written request with the bureau of motor vehicles to do either or both of the following:

(a) Prohibit disclosure of the ~~peace officer's~~ or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the ~~peace officer's~~ or employee's driver's license or certificate of registration, or both.

(2) The ~~peace officer~~ or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the ~~peace officer~~ or employee that the bureau obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the ~~peace officer~~ or employee from the record before making the record available for inspection or copying. The business address of the ~~peace officer~~ or employee may be

made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to ~~a peace~~ an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address, including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, procedures for ensuring that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee, and any other procedures the registrar considers necessary. The rules of the registrar may require ~~a peace~~ an officer or employee to surrender any

certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), or (13) of section 109.71 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, and any assistant sergeant at arms appointed under division (C)(1) of section 101.311 of the Revised Code. "Peace officer" includes state highway patrol troopers but does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(3) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

SECTION 2. That existing sections 149.43, 2921.24, 2921.25, and 4501.271 of the Revised Code are hereby repealed.

SECTION 3. Section 149.43 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 303, Am. Sub. H.B. 431, and Sub. S.B. 222, all of the 125th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____