

**As Introduced**

**126th General Assembly  
Regular Session  
2005-2006**

**H. B. No. 9**

**Representatives Oelslager, Flowers, Buehrer, White, Trakas**

**A BILL**

To amend sections 149.011 and 149.43 and to enact 1  
section 109.43 of the Revised Code to revise the 2  
Public Records Law. 3

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

**Section 1.** That sections 149.011 and 149.43 be amended and 4  
section 109.43 of the Revised Code be enacted to read as follows: 5

Sec. 109.43. (A) The attorney general shall develop, provide, 6  
and certify training programs and seminars for all officials 7  
elected to a local or statewide office in order to enhance the 8  
officials' knowledge of the duty to provide access to public 9  
records as required by section 149.43 of the Revised Code. The 10  
training shall provide elected officials with guidance in 11  
developing and updating their offices' policies as required under 12  
section 149.43 of the Revised Code. An elected official's 13  
successful completion every two years of the training requirements 14  
established by the attorney general under this section shall 15  
satisfy the biennial education requirements imposed on elected 16  
officials under division (F) of section 149.43 of the Revised 17  
Code. 18

(B) The attorney general may charge a reasonable fee for the 19  
actual and necessary expenses associated with the training 20

programs and seminars. The attorney general may allow the  
attendance of any other interested persons to any of the training  
programs or seminars that the attorney general conducts under this  
section, provided that the persons pay a registration fee to the  
attorney general before attending the training program or seminar.

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(C) The attorney general may provide any other appropriate  
training or educational programs about Ohio's "Sunshine Laws,"  
sections 121.22 and 149.43 of the Revised Code, as may be  
developed and offered by the attorney general or by the attorney  
general in collaboration with one or more other state agencies,  
political subdivisions, or other public or private entities.

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(D) The auditor of state, in the course of an annual or  
biennial audit of a public office pursuant to Chapter 117. of the  
Revised Code, shall audit the public office for compliance with  
this section and division (F) of section 149.43 of the Revised  
Code.

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**Sec. 149.011.** As used in this chapter:

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(A) "Public office" includes any state agency, public  
institution, political subdivision, or other organized body,  
office, agency, institution, or entity established by the laws of  
this state for the exercise of any function of government.

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(B) "State agency" includes every department, bureau, board,  
commission, office, or other organized body established by the  
constitution and laws of this state for the exercise of any  
function of state government, including any state-supported  
institution of higher education, the general assembly, any  
legislative agency, any court or judicial agency, or any political  
subdivision or agency of a political subdivision.

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(C) "Public money" includes all money received or collected  
by or due a public official, whether in accordance with or under

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authority of any law, ordinance, resolution, or order, under color  
of office, or otherwise. It also includes any money collected by  
any individual on behalf of a public office or as a purported  
representative or agent of the public office.

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

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

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

(G) "Records" includes any document, device, or item,  
regardless of physical form or characteristic, ~~including an  
electronic record as defined in section 1306.01 of the Revised  
Code,~~ created or received by or coming under the jurisdiction of  
any public office of the state or its political subdivisions,  
which serves to document the organization, functions, policies,  
decisions, procedures, operations, or other activities of the  
office. "Records" also includes any document, device, or item,  
regardless of physical form or characteristic, created or received  
by or coming under the jurisdiction of any public office of the  
state or its political subdivisions which documents the depletion,  
expenditure, or depreciation of the resources of a public office  
even if unauthorized by that office.

**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

<u>this state</u> kept by a <u>the</u> nonprofit or for profit entity operating	81
<del>such</del> <u>the</u> alternative school pursuant to section 3313.533 of the	82
Revised Code. "Public record" does not mean any of the following:	83
(a) Medical records;	84
(b) Records pertaining to probation and parole proceedings or	85
to proceedings related to the imposition of community control	86
sanctions and post-release control sanctions;	87
(c) Records pertaining to actions under section 2151.85 and	88
division (C) of section 2919.121 of the Revised Code and to	89
appeals of actions arising under those sections;	90
(d) Records pertaining to adoption proceedings, including the	91
contents of an adoption file maintained by the department of	92
health under section 3705.12 of the Revised Code;	93
(e) Information in a record contained in the putative father	94
registry established by section 3107.062 of the Revised Code,	95
regardless of whether the information is held by the department of	96
job and family services or, pursuant to section 3111.69 of the	97
Revised Code, the office of child support in the department or a	98
child support enforcement agency;	99
(f) Records listed in division (A) of section 3107.42 of the	100
Revised Code or specified in division (A) of section 3107.52 of	101
the Revised Code;	102
(g) Trial preparation records;	103
(h) Confidential law enforcement investigatory records;	104
(i) Records containing information that is confidential under	105
section 2317.023 or 4112.05 of the Revised Code;	106
(j) DNA records stored in the DNA database pursuant to	107
section 109.573 of the Revised Code;	108
(k) Inmate records released by the department of	109
rehabilitation and correction to the department of youth services	110

or a court of record pursuant to division (E) of section 5120.21	111
of the Revised Code;	112
(l) Records maintained by the department of youth services	113
pertaining to children in its custody released by the department	114
of youth services to the department of rehabilitation and	115
correction pursuant to section 5139.05 of the Revised Code;	116
(m) Intellectual property records;	117
(n) Donor profile records;	118
(o) Records maintained by the department of job and family	119
services pursuant to section 3121.894 of the Revised Code;	120
(p) Peace officer, firefighter, or EMT residential and	121
familial information;	122
(q) In the case of a county hospital operated pursuant to	123
Chapter 339. of the Revised Code, information that constitutes a	124
trade secret, as defined in section 1333.61 of the Revised Code;	125
(r) Information pertaining to the recreational activities of	126
a person under the age of eighteen;	127
(s) Records provided to, statements made by review board	128
members during meetings of, and all work products of a child	129
fatality review board acting under sections 307.621 to 307.629 of	130
the Revised Code, other than the report prepared pursuant to	131
section 307.626 of the Revised Code;	132
(t) Records provided to and statements made by the executive	133
director of a public children services agency or a prosecuting	134
attorney acting pursuant to section 5153.171 of the Revised Code	135
other than the information released under that section;	136
(u) Test materials, examinations, or evaluation tools used in	137
an examination for licensure as a nursing home administrator that	138
the board of examiners of nursing home administrators administers	139
under section 4751.04 of the Revised Code or contracts under that	140

section with a private or government entity to administer;	141
(v) Records the release of which is prohibited by state or federal law;	142 143
(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;	144 145 146
(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code.	147 148
(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:	149 150 151 152 153
(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;	154 155 156 157
(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;	158 159 160 161
(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;	162 163
(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.	164 165 166
(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	167 168 169 170

is generated and maintained in the process of medical treatment. 171

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

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

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

(7) "Peace officer, firefighter, or EMT residential and 190  
familial information" means either of the following: 191

(a) Any information maintained in a personnel record of a 192  
peace officer, firefighter, or EMT that discloses any of the 193  
following: 194

(i) The address of the actual personal residence of a peace 195  
officer, firefighter, or EMT, except for the state or political 196  
subdivision in which the peace officer, firefighter, or EMT 197  
resides; 198

(ii) Information compiled from referral to or participation 199  
in an employee assistance program; 200

(iii) 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, firefighter, or EMT;

(iv) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, firefighter, or EMT by the peace officer's, firefighter's, or EMT's employer;

(v) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, firefighter's, or EMT's employer from the peace officer's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

(vi) 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, firefighter, or EMT.

(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)~~(9) 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)~~(9) of this section,



"firefighter" means any regular, paid or volunteer, member of a 232  
lawfully constituted fire department of a municipal corporation, 233  
township, fire district, or village. 234

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, 235  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 236  
emergency medical services for a public emergency medical service 237  
organization. "Emergency medical service organization," 238  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 239  
section 4765.01 of the Revised Code. 240

(8) "Information pertaining to the recreational activities of 241  
a person under the age of eighteen" means information that is kept 242  
in the ordinary course of business by a public office, that 243  
pertains to the recreational activities of a person under the age 244  
of eighteen years, and that discloses any of the following: 245

(a) The address or telephone number of a person under the age 246  
of eighteen or the address or telephone number of that person's 247  
parent, guardian, custodian, or emergency contact person; 248

(b) The social security number, birth date, or photographic 249  
image of a person under the age of eighteen; 250

(c) Any medical record, history, or information pertaining to 251  
a person under the age of eighteen; 252

(d) Any additional information sought or required about a 253  
person under the age of eighteen for the purpose of allowing that 254  
person to participate in any recreational activity conducted or 255  
sponsored by a public office or to use or obtain admission 256  
privileges to any recreational facility owned or operated by a 257  
public office. 258

(9) "Community control sanction" has the same meaning as in 259  
section 2929.01 of the Revised Code. 260

(10) "Post-release control sanction" has the same meaning as 261

in section 2967.01 of the Revised Code.

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(11) "Judicial records or other constitutionally protected records" include all records presumed to be open for public inspection or copying under the common law, the First Amendment to the United States Constitution, or Sections 11 and 16 of Article I, Ohio Constitution, including all records kept by or on behalf of a court acting in its adjudicative capacity or otherwise exercising judicial power as conferred by or derived from Article IV of the Ohio Constitution.

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

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~~(B)(1) Subject~~ Upon request and subject to division (B)~~(4)~~(8) of this section, all public records responsive to the request 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)~~(8) 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. If a public record contains information that is exempt from the duty to permit public inspection or copying, the public office shall make available all of the information within the public record that is not exempt. When making that information available for public inspection or copying, the public office shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information.~~

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(2) To facilitate broader access to public records, a public office shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous request or has difficulty in making a request for copies or inspection of public records under this section such that the public office cannot reasonably identify what public records are being requested, the public office may deny the request, but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's duties. 293  
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(3) If a request is ultimately denied, in part or in whole, the public office shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section. 307  
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(4) Unless specifically required by state or federal law or in accordance with division (B) of this section, no public office may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any such requirement constitutes a denial of the request. 315  
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(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but only after disclosing to the 321  
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requester that a written request is not mandatory and that the 325  
requester may decline to reveal the requester's identity or the 326  
intended use, and only when a written request or disclosure of the 327  
identity or intended use would benefit the requester by enhancing 328  
the ability of the public office or person responsible for public 329  
records to identify, locate, or deliver the public records sought 330  
by the requester. 331

~~(2)~~(6) If any person chooses to obtain a copy of a public 332  
record in accordance with division (B)~~(1)~~ of this section, the 333  
public office or person responsible for the public record shall 334  
permit that person to choose to have the public record duplicated 335  
upon paper, upon the same medium upon which the public office or 336  
person responsible for the public record keeps it, or upon any 337  
other medium upon which the public office or person responsible 338  
for the public record determines that it reasonably can be 339  
duplicated as an integral part of the normal operations of the 340  
public office or person responsible for the public record. When 341  
the person seeking the copy makes a choice under this division, 342  
the public office or person responsible for the public record 343  
shall provide a copy of it in accordance with the choice made by 344  
the person seeking the copy. 345

~~(3)~~(7) Upon a request made in accordance with division (B)~~(1)~~ 346  
of this section, a public office or person responsible for public 347  
records shall transmit a copy of a public record to any person by 348  
United States mail within a reasonable period of time after 349  
receiving the request for the copy. The public office or person 350  
responsible for the public record may require the person making 351  
the request to pay in advance the cost of postage and other 352  
supplies used in the mailing. 353

Any public office may adopt a policy and procedures that it 354  
will follow in transmitting, within a reasonable period of time 355  
after receiving a request, copies of public records by United 356

States mail pursuant to this division. A public office that adopts 357  
a policy and procedures under this division shall comply with them 358  
in performing its duties under this division. 359

In any policy and procedures adopted under this division, a 360  
public office may limit the number of records requested by a 361  
person that the office will transmit by United States mail to ten 362  
per month, unless the person certifies to the office in writing 363  
that the person does not intend to use or forward the requested 364  
records, or the information contained in them, for commercial 365  
purposes. For purposes of this division, "commercial" shall be 366  
narrowly construed and does not include reporting or gathering 367  
news, reporting or gathering information to assist citizen 368  
oversight or understanding of the operation or activities of 369  
government, or nonprofit educational research. 370

~~(4)~~(8) A public office or person responsible for public 371  
records is not required to permit a person who is incarcerated 372  
pursuant to a criminal conviction or a juvenile adjudication to 373  
inspect or to obtain a copy of any public record concerning a 374  
criminal investigation or prosecution or concerning what would be 375  
a criminal investigation or prosecution if the subject of the 376  
investigation or prosecution were an adult, unless the request to 377  
inspect or to obtain a copy of the record is for the purpose of 378  
acquiring information that is subject to release as a public 379  
record under this section and the judge who imposed the sentence 380  
or made the adjudication with respect to the person, or the 381  
judge's successor in office, finds that the information sought in 382  
the public record is necessary to support what appears to be a 383  
justiciable claim of the person. 384

~~(5)~~(9) Upon written request made and signed by a journalist 385  
on or after December 16, 1999, a public office, or person 386  
responsible for public records, having custody of the records of 387  
the agency employing a specified peace officer, firefighter, or 388

EMT shall disclose to the journalist the address of the actual 389  
personal residence of the peace officer, firefighter, or EMT and, 390  
if the peace officer's, firefighter's, or EMT's spouse, former 391  
spouse, or child is employed by a public office, the name and 392  
address of the employer of the peace officer's, firefighter's, or 393  
EMT's spouse, former spouse, or child. The request shall include 394  
the journalist's name and title and the name and address of the 395  
journalist's employer and shall state that disclosure of the 396  
information sought would be in the public interest. 397

As used in this division ~~(B)(5) of this section~~, "journalist" 398  
means a person engaged in, connected with, or employed by any news 399  
medium, including a newspaper, magazine, press association, news 400  
agency, or wire service, a radio or television station, or a 401  
similar medium, for the purpose of gathering, processing, 402  
transmitting, compiling, editing, or disseminating information for 403  
the general public. 404

(C)(1) If a person allegedly is aggrieved by the failure of a 405  
public office to promptly prepare a public record and to make it 406  
available to the person for inspection in accordance with division 407  
(B) of this section, ~~or if a person who has requested a copy of a~~ 408  
~~public record allegedly is aggrieved by the~~ any other failure of a 409  
public office ~~or the person responsible for the public record to~~ 410  
~~make a copy available to the person allegedly aggrieved to comply~~ 411  
with an obligation in accordance with division (B) of this 412  
section, the person allegedly aggrieved may commence a mandamus 413  
action to obtain a judgment that orders the public office or the 414  
person responsible for the public record to comply with division 415  
(B) of this section ~~and~~, that awards court costs and reasonable 416  
attorney's fees to the person that instituted the mandamus action, 417  
and, if applicable, that includes an order fixing statutory 418  
damages under division (C)(2) of this section, an order awarding a 419  
punitive civil forfeiture under division (C)(3) of this section, 420

or both of those orders. The mandamus action may be commenced in 421  
the court of common pleas of the county in which division (B) of 422  
this section allegedly was not complied with, in the supreme court 423  
pursuant to its original jurisdiction under Section 2 of Article 424  
IV, Ohio Constitution, or in the court of appeals for the 425  
appellate district in which division (B) of this section allegedly 426  
was not complied with pursuant to its original jurisdiction under 427  
Section 3 of Article IV, Ohio Constitution. 428

(2) If a person makes a written request to inspect or copy 429  
any public record in a manner that fairly describes the public 430  
record or class of public records requested, and the person does 431  
not request receipt of copies by mail, the person shall be 432  
entitled to recover the amount of statutory damages set forth in 433  
this division if a court determines all of the following: 434

(a) The person filed a mandamus action authorized by this 435  
section to compel compliance more than ten business days after 436  
transmitting the request by hand delivery or certified mail to the 437  
public office or person responsible for the requested public 438  
records, or the person filed the mandamus action after the 439  
expiration of any additional period of time for compliance 440  
consented to by that person. 441

(b) The request was not fulfilled before the date on which 442  
the mandamus action was filed. 443

(c) The public office or person responsible for the requested 444  
public records was reasonably capable of fulfilling the request 445  
before the person filed the mandamus action. 446

The amount of statutory damages shall be fixed at two hundred 447  
fifty dollars for each business day during which the public office 448  
or person responsible for the requested public records failed to 449  
make one or more requested public records available, beginning 450  
with the first day on which this division authorizes the requester 451

to file a mandamus action to recover statutory damages, up to a maximum of five thousand dollars. The statutory damages shall not be construed as penalties, but as compensation for injury arising from lost use of the requested information; the existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

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(3) The court shall determine whether an egregious violation of this section has occurred. If the court finds an egregious violation, the court, in its discretion, may award a punitive civil forfeiture of up to one thousand dollars per day for any delay in providing access to the requested public records. An egregious violation shall be found to have occurred upon a showing by the relator that the public office acted in bad faith, with malicious purpose, or in a wanton manner to cause a delay or denial of a public records request.

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(4) The court shall determine and award to the relator all court costs and, subject to reduction as described in this division, reasonable attorney's fees. Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce or deny an award of attorney's fees to the relator only if the court determines that, based on the ordinary application of statutory and case law as it existed when the public office or person responsible for public records denied the relator's request to inspect or obtain a copy of the contested public record or otherwise comply with a duty imposed by this section, the public office or person responsible for public records had substantial likelihood of prevailing on the merits of its denial.

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(D) Chapter 1347. of the Revised Code does not limit the 484  
provisions of this section. 485

(E) No provision of this section or any provision of law 486  
creating an exception to this section shall be construed to limit 487  
or abrogate the public's qualified right under the common law, the 488  
Constitution of Ohio, and the Constitution of the United States to 489  
inspect or copy judicial records or other constitutionally 490  
protected records, or to limit or abrogate the availability of 491  
extraordinary relief, including a writ of mandamus issued pursuant 492  
to division (C) of this section to compel a court or other public 493  
office to permit public inspection and copying of a judicial 494  
record or other constitutionally protected record. 495

(F) To ensure that all employees of public offices are 496  
appropriately educated about a public office's obligations under 497  
division (B) of this section, all state and local elected public 498  
officials shall attend training approved by the attorney general 499  
as provided in section 109.43 of the Revised Code at least once 500  
every two years. In addition, all public offices shall adopt a 501  
public records policy in compliance with this section for 502  
responding to public records requests. The public records policy 503  
shall be distributed to all employees of the public office. The 504  
public office shall require all employees to acknowledge receipt 505  
of the copy of the public records policy. Except as otherwise 506  
provided in this section, the policy may not limit the number of 507  
public records that the public office will make available to a 508  
single person, may not limit the number of public records that it 509  
will make available during a fixed period of time, and may not 510  
establish a fixed period of time before it will respond to a 511  
request for inspection or copying of public records, unless that 512  
period is less than eight hours. 513

~~(E)~~(G)(1) The bureau of motor vehicles may adopt rules 514  
pursuant to Chapter 119. of the Revised Code to reasonably limit 515

the number of bulk commercial special extraction requests made by 516  
a person for the same records or for updated records during a 517  
calendar year. The rules may include provisions for charges to be 518  
made for bulk commercial special extraction requests for the 519  
actual cost of the bureau, plus special extraction costs, plus ten 520  
per cent. The bureau may charge for expenses for redacting 521  
information, the release of which is prohibited by law. 522

(2) As used in divisions (B)(3) and ~~(E)~~(G)(1) of this 523  
section: 524

(a) "Actual cost" means the cost of depleted supplies, 525  
records storage media costs, actual mailing and alternative 526  
delivery costs, or other transmitting costs, and any direct 527  
equipment operating and maintenance costs, including actual costs 528  
paid to private contractors for copying services. 529

(b) "Bulk commercial special extraction request" means a 530  
request for copies of a record for information in a format other 531  
than the format already available, or information that cannot be 532  
extracted without examination of all items in a records series, 533  
class of records, or data base by a person who intends to use or 534  
forward the copies for surveys, marketing, solicitation, or resale 535  
for commercial purposes. "Bulk commercial special extraction 536  
request" does not include a request by a person who gives 537  
assurance to the bureau that the person making the request does 538  
not intend to use or forward the requested copies for surveys, 539  
marketing, solicitation, or resale for commercial purposes. 540

(c) "Commercial" means profit-seeking production, buying, or 541  
selling of any good, service, or other product. 542

(d) "Special extraction costs" means the cost of the time 543  
spent by the lowest paid employee competent to perform the task, 544  
the actual amount paid to outside private contractors employed by 545  
the bureau, or the actual cost incurred to create computer 546

programs to make the special extraction. "Special extraction 547  
costs" include any charges paid to a public agency for computer or 548  
records services. 549

(3) For purposes of divisions ~~(E)~~(G)(1) and (2) of this 550  
section, "~~commercial~~ surveys, marketing, solicitation, or resale 551  
for commercial purposes" shall be narrowly construed and does not 552  
include reporting or gathering news, reporting or gathering 553  
information to assist citizen oversight or understanding of the 554  
operation or activities of government, or nonprofit educational 555  
research. 556

**Section 2.** That existing sections 149.011 and 149.43 of the 557  
Revised Code are hereby repealed. 558