

As Introduced

**129th General Assembly
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Representative Fende

**Cosponsors: Representatives Combs, Yuko, O'Brien, Maag, Hackett, Buchy,
Mallory, Blessing, Szollosi, DeGeeter, Bulp, Boyd, Winburn**

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A B I L L

To amend sections 149.43, 2903.01, 2903.11, 2903.12, 1
2903.13, 2903.21, and 2929.04 and to enact section 2
2903.23 of the Revised Code to provide that 3
residential and familial information of a 4
probation officer is not a public record, to 5
increase the penalties for certain offenses when a 6
judge or magistrate is the victim, to prohibit a 7
person from threatening a judge or magistrate, and 8
to make the killing of a judge or magistrate an 9
aggravating circumstance for the imposition of the 10
death penalty for aggravated murder. 11

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

Section 1. That sections 149.43, 2903.01, 2903.11, 2903.12, 12
2903.13, 2903.21, and 2929.04 be amended and section 2903.23 of 13
the Revised Code be enacted to read as follows: 14

Sec. 149.43. (A) As used in this section: 15

(1) "Public record" means records kept by any public office, 16
including, but not limited to, state, county, city, village, 17
township, and school district units, and records pertaining to the 18

delivery of educational services by an alternative school in this	19
state kept by the nonprofit or for-profit entity operating the	20
alternative school pursuant to section 3313.533 of the Revised	21
Code. "Public record" does not mean any of the following:	22
(a) Medical records;	23
(b) Records pertaining to probation and parole proceedings or	24
to proceedings related to the imposition of community control	25
sanctions and post-release control sanctions;	26
(c) Records pertaining to actions under section 2151.85 and	27
division (C) of section 2919.121 of the Revised Code and to	28
appeals of actions arising under those sections;	29
(d) Records pertaining to adoption proceedings, including the	30
contents of an adoption file maintained by the department of	31
health under section 3705.12 of the Revised Code;	32
(e) Information in a record contained in the putative father	33
registry established by section 3107.062 of the Revised Code,	34
regardless of whether the information is held by the department of	35
job and family services or, pursuant to section 3111.69 of the	36
Revised Code, the office of child support in the department or a	37
child support enforcement agency;	38
(f) Records listed in division (A) of section 3107.42 of the	39
Revised Code or specified in division (A) of section 3107.52 of	40
the Revised Code;	41
(g) Trial preparation records;	42
(h) Confidential law enforcement investigatory records;	43
(i) Records containing information that is confidential under	44
section 2710.03 or 4112.05 of the Revised Code;	45
(j) DNA records stored in the DNA database pursuant to	46
section 109.573 of the Revised Code;	47
(k) Inmate records released by the department of	48

rehabilitation and correction to the department of youth services 49
or a court of record pursuant to division (E) of section 5120.21 50
of the Revised Code; 51

(l) Records maintained by the department of youth services 52
pertaining to children in its custody released by the department 53
of youth services to the department of rehabilitation and 54
correction pursuant to section 5139.05 of the Revised Code; 55

(m) Intellectual property records; 56

(n) Donor profile records; 57

(o) Records maintained by the department of job and family 58
services pursuant to section 3121.894 of the Revised Code; 59

(p) Peace officer, parole officer, probation officer, 60
prosecuting attorney, assistant prosecuting attorney, correctional 61
employee, youth services employee, firefighter, EMT, or 62
investigator of the bureau of criminal identification and 63
investigation residential and familial information; 64

(q) In the case of a county hospital operated pursuant to 65
Chapter 339. of the Revised Code or a municipal hospital operated 66
pursuant to Chapter 749. of the Revised Code, information that 67
constitutes a trade secret, as defined in section 1333.61 of the 68
Revised Code; 69

(r) Information pertaining to the recreational activities of 70
a person under the age of eighteen; 71

(s) Records provided to, statements made by review board 72
members during meetings of, and all work products of a child 73
fatality review board acting under sections 307.621 to 307.629 of 74
the Revised Code, and child fatality review data submitted by the 75
child fatality review board to the department of health or a 76
national child death review database, other than the report 77
prepared pursuant to division (A) of section 307.626 of the 78

Revised Code;	79
(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;	80 81 82 83
(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;	84 85 86 87 88
(v) Records the release of which is prohibited by state or federal law;	89 90
(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;	91 92 93
(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;	94 95
(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;	96 97 98 99 100 101
(z) Records listed in section 5101.29 of the Revised Code.	102
(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section.	103 104 105
(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	106 107 108

only to the extent that the release of the record would create a 109
high probability of disclosure of any of the following: 110

(a) The identity of a suspect who has not been charged with 111
the offense to which the record pertains, or of an information 112
source or witness to whom confidentiality has been reasonably 113
promised; 114

(b) Information provided by an information source or witness 115
to whom confidentiality has been reasonably promised, which 116
information would reasonably tend to disclose the source's or 117
witness's identity; 118

(c) Specific confidential investigatory techniques or 119
procedures or specific investigatory work product; 120

(d) Information that would endanger the life or physical 121
safety of law enforcement personnel, a crime victim, a witness, or 122
a confidential information source. 123

(3) "Medical record" means any document or combination of 124
documents, except births, deaths, and the fact of admission to or 125
discharge from a hospital, that pertains to the medical history, 126
diagnosis, prognosis, or medical condition of a patient and that 127
is generated and maintained in the process of medical treatment. 128

(4) "Trial preparation record" means any record that contains 129
information that is specifically compiled in reasonable 130
anticipation of, or in defense of, a civil or criminal action or 131
proceeding, including the independent thought processes and 132
personal trial preparation of an attorney. 133

(5) "Intellectual property record" means a record, other than 134
a financial or administrative record, that is produced or 135
collected by or for faculty or staff of a state institution of 136
higher learning in the conduct of or as a result of study or 137
research on an educational, commercial, scientific, artistic, 138
technical, or scholarly issue, regardless of whether the study or 139

research was sponsored by the institution alone or in conjunction 140
with a governmental body or private concern, and that has not been 141
publicly released, published, or patented. 142

(6) "Donor profile record" means all records about donors or 143
potential donors to a public institution of higher education 144
except the names and reported addresses of the actual donors and 145
the date, amount, and conditions of the actual donation. 146

(7) "Peace officer, parole officer, probation officer, 147
prosecuting attorney, assistant prosecuting attorney, correctional 148
employee, youth services employee, firefighter, EMT, or 149
investigator of the bureau of criminal identification and 150
investigation residential and familial information" means any 151
information that discloses any of the following about a peace 152
officer, parole officer, probation officer, prosecuting attorney, 153
assistant prosecuting attorney, correctional employee, youth 154
services employee, firefighter, EMT, or investigator of the bureau 155
of criminal identification and investigation: 156

(a) The address of the actual personal residence of a peace 157
officer, parole officer, probation officer, assistant prosecuting 158
attorney, correctional employee, youth services employee, 159
firefighter, EMT, or an investigator of the bureau of criminal 160
identification and investigation, except for the state or 161
political subdivision in which the peace officer, parole officer, 162
probation officer, assistant prosecuting attorney, correctional 163
employee, youth services employee, firefighter, EMT, or 164
investigator of the bureau of criminal identification and 165
investigation resides; 166

(b) Information compiled from referral to or participation in 167
an employee assistance program; 168

(c) The social security number, the residential telephone 169
number, any bank account, debit card, charge card, or credit card 170

number, or the emergency telephone number of, or any medical 171
information pertaining to, a peace officer, parole officer, 172
probation officer, prosecuting attorney, assistant prosecuting 173
attorney, correctional employee, youth services employee, 174
firefighter, EMT, or investigator of the bureau of criminal 175
identification and investigation; 176

(d) The name of any beneficiary of employment benefits, 177
including, but not limited to, life insurance benefits, provided 178
to a peace officer, parole officer, probation officer, prosecuting 179
attorney, assistant prosecuting attorney, correctional employee, 180
youth services employee, firefighter, EMT, or investigator of the 181
bureau of criminal identification and investigation by the peace 182
officer's, parole officer's, probation officer's, prosecuting 183
attorney's, assistant prosecuting attorney's, correctional 184
employee's, youth services employee's, firefighter's, EMT's, or 185
investigator of the bureau of criminal identification and 186
investigation's employer; 187

(e) The identity and amount of any charitable or employment 188
benefit deduction made by the peace officer's, parole officer's, 189
probation officer's, prosecuting attorney's, assistant prosecuting 190
attorney's, correctional employee's, youth services employee's, 191
firefighter's, EMT's, or investigator of the bureau of criminal 192
identification and investigation's employer from the peace 193
officer's, parole officer's, probation officer's, prosecuting 194
attorney's, assistant prosecuting attorney's, correctional 195
employee's, youth services employee's, firefighter's, EMT's, or 196
investigator of the bureau of criminal identification and 197
investigation's compensation unless the amount of the deduction is 198
required by state or federal law; 199

(f) The name, the residential address, the name of the 200
employer, the address of the employer, the social security number, 201
the residential telephone number, any bank account, debit card, 202

charge card, or credit card number, or the emergency telephone 203
number of the spouse, a former spouse, or any child of a peace 204
officer, parole officer, probation officer, prosecuting attorney, 205
assistant prosecuting attorney, correctional employee, youth 206
services employee, firefighter, EMT, or investigator of the bureau 207
of criminal identification and investigation; 208

(g) A photograph of a peace officer who holds a position or 209
has an assignment that may include undercover or plain clothes 210
positions or assignments as determined by the peace officer's 211
appointing authority. 212

As used in divisions (A)(7) and (B)(9) of this section, 213
"peace officer" has the same meaning as in section 109.71 of the 214
Revised Code and also includes the superintendent and troopers of 215
the state highway patrol; it does not include the sheriff of a 216
county or a supervisory employee who, in the absence of the 217
sheriff, is authorized to stand in for, exercise the authority of, 218
and perform the duties of the sheriff. 219

As used in divisions (A)(7) and (B)(5) of this section, 220
"correctional employee" means any employee of the department of 221
rehabilitation and correction who in the course of performing the 222
employee's job duties has or has had contact with inmates and 223
persons under supervision. 224

As used in divisions (A)(7) and (B)(5) of this section, 225
"youth services employee" means any employee of the department of 226
youth services who in the course of performing the employee's job 227
duties has or has had contact with children committed to the 228
custody of the department of youth services. 229

As used in divisions (A)(7) and (B)(9) of this section, 230
"firefighter" means any regular, paid or volunteer, member of a 231
lawfully constituted fire department of a municipal corporation, 232
township, fire district, or village. 233

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 234
means EMTs-basic, EMTs-I, and paramedics that provide emergency 235
medical services for a public emergency medical service 236
organization. "Emergency medical service organization," 237
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 238
section 4765.01 of the Revised Code. 239

As used in divisions (A)(7) and (B)(9) of this section, 240
"investigator of the bureau of criminal identification and 241
investigation" has the meaning defined in section 2903.11 of the 242
Revised Code. 243

(8) "Information pertaining to the recreational activities of 244
a person under the age of eighteen" means information that is kept 245
in the ordinary course of business by a public office, that 246
pertains to the recreational activities of a person under the age 247
of eighteen years, and that discloses any of the following: 248

(a) The address or telephone number of a person under the age 249
of eighteen or the address or telephone number of that person's 250
parent, guardian, custodian, or emergency contact person; 251

(b) The social security number, birth date, or photographic 252
image of a person under the age of eighteen; 253

(c) Any medical record, history, or information pertaining to 254
a person under the age of eighteen; 255

(d) Any additional information sought or required about a 256
person under the age of eighteen for the purpose of allowing that 257
person to participate in any recreational activity conducted or 258
sponsored by a public office or to use or obtain admission 259
privileges to any recreational facility owned or operated by a 260
public office. 261

(9) "Community control sanction" has the same meaning as in 262
section 2929.01 of the Revised Code. 263

(10) "Post-release control sanction" has the same meaning as 264
in section 2967.01 of the Revised Code. 265

(11) "Redaction" means obscuring or deleting any information 266
that is exempt from the duty to permit public inspection or 267
copying from an item that otherwise meets the definition of a 268
"record" in section 149.011 of the Revised Code. 269

(12) "Designee" and "elected official" have the same meanings 270
as in section 109.43 of the Revised Code. 271

(B)(1) Upon request and subject to division (B)(8) of this 272
section, all public records responsive to the request shall be 273
promptly prepared and made available for inspection to any person 274
at all reasonable times during regular business hours. Subject to 275
division (B)(8) of this section, upon request, a public office or 276
person responsible for public records shall make copies of the 277
requested public record available at cost and within a reasonable 278
period of time. If a public record contains information that is 279
exempt from the duty to permit public inspection or to copy the 280
public record, the public office or the person responsible for the 281
public record shall make available all of the information within 282
the public record that is not exempt. When making that public 283
record available for public inspection or copying that public 284
record, the public office or the person responsible for the public 285
record shall notify the requester of any redaction or make the 286
redaction plainly visible. A redaction shall be deemed a denial of 287
a request to inspect or copy the redacted information, except if 288
federal or state law authorizes or requires a public office to 289
make the redaction. 290

(2) To facilitate broader access to public records, a public 291
office or the person responsible for public records shall organize 292
and maintain public records in a manner that they can be made 293
available for inspection or copying in accordance with division 294
(B) of this section. A public office also shall have available a 295

copy of its current records retention schedule at a location 296
readily available to the public. If a requester makes an ambiguous 297
or overly broad request or has difficulty in making a request for 298
copies or inspection of public records under this section such 299
that the public office or the person responsible for the requested 300
public record cannot reasonably identify what public records are 301
being requested, the public office or the person responsible for 302
the requested public record may deny the request but shall provide 303
the requester with an opportunity to revise the request by 304
informing the requester of the manner in which records are 305
maintained by the public office and accessed in the ordinary 306
course of the public office's or person's duties. 307

(3) If a request is ultimately denied, in part or in whole, 308
the public office or the person responsible for the requested 309
public record shall provide the requester with an explanation, 310
including legal authority, setting forth why the request was 311
denied. If the initial request was provided in writing, the 312
explanation also shall be provided to the requester in writing. 313
The explanation shall not preclude the public office or the person 314
responsible for the requested public record from relying upon 315
additional reasons or legal authority in defending an action 316
commenced under division (C) of this section. 317

(4) Unless specifically required or authorized by state or 318
federal law or in accordance with division (B) of this section, no 319
public office or person responsible for public records may limit 320
or condition the availability of public records by requiring 321
disclosure of the requester's identity or the intended use of the 322
requested public record. Any requirement that the requester 323
disclose the requestor's identity or the intended use of the 324
requested public record constitutes a denial of the request. 325

(5) A public office or person responsible for public records 326
may ask a requester to make the request in writing, may ask for 327

the requester's identity, and may inquire about the intended use 328
of the information requested, but may do so only after disclosing 329
to the requester that a written request is not mandatory and that 330
the requester may decline to reveal the requester's identity or 331
the intended use and when a written request or disclosure of the 332
identity or intended use would benefit the requester by enhancing 333
the ability of the public office or person responsible for public 334
records to identify, locate, or deliver the public records sought 335
by the requester. 336

(6) If any person chooses to obtain a copy of a public record 337
in accordance with division (B) of this section, the public office 338
or person responsible for the public record may require that 339
person to pay in advance the cost involved in providing the copy 340
of the public record in accordance with the choice made by the 341
person seeking the copy under this division. The public office or 342
the person responsible for the public record shall permit that 343
person to choose to have the public record duplicated upon paper, 344
upon the same medium upon which the public office or person 345
responsible for the public record keeps it, or upon any other 346
medium upon which the public office or person responsible for the 347
public record determines that it reasonably can be duplicated as 348
an integral part of the normal operations of the public office or 349
person responsible for the public record. When the person seeking 350
the copy makes a choice under this division, the public office or 351
person responsible for the public record shall provide a copy of 352
it in accordance with the choice made by the person seeking the 353
copy. Nothing in this section requires a public office or person 354
responsible for the public record to allow the person seeking a 355
copy of the public record to make the copies of the public record. 356

(7) Upon a request made in accordance with division (B) of 357
this section and subject to division (B)(6) of this section, a 358
public office or person responsible for public records shall 359

transmit a copy of a public record to any person by United States 360
mail or by any other means of delivery or transmission within a 361
reasonable period of time after receiving the request for the 362
copy. The public office or person responsible for the public 363
record may require the person making the request to pay in advance 364
the cost of postage if the copy is transmitted by United States 365
mail or the cost of delivery if the copy is transmitted other than 366
by United States mail, and to pay in advance the costs incurred 367
for other supplies used in the mailing, delivery, or transmission. 368

Any public office may adopt a policy and procedures that it 369
will follow in transmitting, within a reasonable period of time 370
after receiving a request, copies of public records by United 371
States mail or by any other means of delivery or transmission 372
pursuant to this division. A public office that adopts a policy 373
and procedures under this division shall comply with them in 374
performing its duties under this division. 375

In any policy and procedures adopted under this division, a 376
public office may limit the number of records requested by a 377
person that the office will transmit by United States mail to ten 378
per month, unless the person certifies to the office in writing 379
that the person does not intend to use or forward the requested 380
records, or the information contained in them, for commercial 381
purposes. For purposes of this division, "commercial" shall be 382
narrowly construed and does not include reporting or gathering 383
news, reporting or gathering information to assist citizen 384
oversight or understanding of the operation or activities of 385
government, or nonprofit educational research. 386

(8) A public office or person responsible for public records 387
is not required to permit a person who is incarcerated pursuant to 388
a criminal conviction or a juvenile adjudication to inspect or to 389
obtain a copy of any public record concerning a criminal 390
investigation or prosecution or concerning what would be a 391

criminal investigation or prosecution if the subject of the 392
investigation or prosecution were an adult, unless the request to 393
inspect or to obtain a copy of the record is for the purpose of 394
acquiring information that is subject to release as a public 395
record under this section and the judge who imposed the sentence 396
or made the adjudication with respect to the person, or the 397
judge's successor in office, finds that the information sought in 398
the public record is necessary to support what appears to be a 399
justiciable claim of the person. 400

(9) Upon written request made and signed by a journalist on 401
or after December 16, 1999, a public office, or person responsible 402
for public records, having custody of the records of the agency 403
employing a specified peace officer, parole officer, prosecuting 404
attorney, assistant prosecuting attorney, correctional employee, 405
youth services employee, firefighter, EMT, or investigator of the 406
bureau of criminal identification and investigation shall disclose 407
to the journalist the address of the actual personal residence of 408
the peace officer, parole officer, prosecuting attorney, assistant 409
prosecuting attorney, correctional employee, youth services 410
employee, firefighter, EMT, or investigator of the bureau of 411
criminal identification and investigation and, if the peace 412
officer's, parole officer's, prosecuting attorney's, assistant 413
prosecuting attorney's, correctional employee's, youth services 414
employee's, firefighter's, EMT's, or investigator of the bureau of 415
criminal identification and investigation's spouse, former spouse, 416
or child is employed by a public office, the name and address of 417
the employer of the peace officer's, parole officer's, prosecuting 418
attorney's, assistant prosecuting attorney's, correctional 419
employee's, youth services employee's, firefighter's, EMT's, or 420
investigator of the bureau of criminal identification and 421
investigation's spouse, former spouse, or child. The request shall 422
include the journalist's name and title and the name and address 423
of the journalist's employer and shall state that disclosure of 424

the information sought would be in the public interest. 425

As used in this division, "journalist" means a person engaged 426
in, connected with, or employed by any news medium, including a 427
newspaper, magazine, press association, news agency, or wire 428
service, a radio or television station, or a similar medium, for 429
the purpose of gathering, processing, transmitting, compiling, 430
editing, or disseminating information for the general public. 431

(C)(1) If a person allegedly is aggrieved by the failure of a 432
public office or the person responsible for public records to 433
promptly prepare a public record and to make it available to the 434
person for inspection in accordance with division (B) of this 435
section or by any other failure of a public office or the person 436
responsible for public records to comply with an obligation in 437
accordance with division (B) of this section, the person allegedly 438
aggrieved may commence a mandamus action to obtain a judgment that 439
orders the public office or the person responsible for the public 440
record to comply with division (B) of this section, that awards 441
court costs and reasonable attorney's fees to the person that 442
instituted the mandamus action, and, if applicable, that includes 443
an order fixing statutory damages under division (C)(1) of this 444
section. The mandamus action may be commenced in the court of 445
common pleas of the county in which division (B) of this section 446
allegedly was not complied with, in the supreme court pursuant to 447
its original jurisdiction under Section 2 of Article IV, Ohio 448
Constitution, or in the court of appeals for the appellate 449
district in which division (B) of this section allegedly was not 450
complied with pursuant to its original jurisdiction under Section 451
3 of Article IV, Ohio Constitution. 452

If a requestor transmits a written request by hand delivery 453
or certified mail to inspect or receive copies of any public 454
record in a manner that fairly describes the public record or 455
class of public records to the public office or person responsible 456

for the requested public records, except as otherwise provided in 457
this section, the requestor shall be entitled to recover the 458
amount of statutory damages set forth in this division if a court 459
determines that the public office or the person responsible for 460
public records failed to comply with an obligation in accordance 461
with division (B) of this section. 462

The amount of statutory damages shall be fixed at one hundred 463
dollars for each business day during which the public office or 464
person responsible for the requested public records failed to 465
comply with an obligation in accordance with division (B) of this 466
section, beginning with the day on which the requester files a 467
mandamus action to recover statutory damages, up to a maximum of 468
one thousand dollars. The award of statutory damages shall not be 469
construed as a penalty, but as compensation for injury arising 470
from lost use of the requested information. The existence of this 471
injury shall be conclusively presumed. The award of statutory 472
damages shall be in addition to all other remedies authorized by 473
this section. 474

The court may reduce an award of statutory damages or not 475
award statutory damages if the court determines both of the 476
following: 477

(a) That, based on the ordinary application of statutory law 478
and case law as it existed at the time of the conduct or 479
threatened conduct of the public office or person responsible for 480
the requested public records that allegedly constitutes a failure 481
to comply with an obligation in accordance with division (B) of 482
this section and that was the basis of the mandamus action, a 483
well-informed public office or person responsible for the 484
requested public records reasonably would believe that the conduct 485
or threatened conduct of the public office or person responsible 486
for the requested public records did not constitute a failure to 487
comply with an obligation in accordance with division (B) of this 488

section; 489

(b) That a well-informed public office or person responsible 490
for the requested public records reasonably would believe that the 491
conduct or threatened conduct of the public office or person 492
responsible for the requested public records would serve the 493
public policy that underlies the authority that is asserted as 494
permitting that conduct or threatened conduct. 495

(2)(a) If the court issues a writ of mandamus that orders the 496
public office or the person responsible for the public record to 497
comply with division (B) of this section and determines that the 498
circumstances described in division (C)(1) of this section exist, 499
the court shall determine and award to the relator all court 500
costs. 501

(b) If the court renders a judgment that orders the public 502
office or the person responsible for the public record to comply 503
with division (B) of this section, the court may award reasonable 504
attorney's fees subject to reduction as described in division 505
(C)(2)(c) of this section. The court shall award reasonable 506
attorney's fees, subject to reduction as described in division 507
(C)(2)(c) of this section when either of the following applies: 508

(i) The public office or the person responsible for the 509
public records failed to respond affirmatively or negatively to 510
the public records request in accordance with the time allowed 511
under division (B) of this section. 512

(ii) The public office or the person responsible for the 513
public records promised to permit the relator to inspect or 514
receive copies of the public records requested within a specified 515
period of time but failed to fulfill that promise within that 516
specified period of time. 517

(c) Court costs and reasonable attorney's fees awarded under 518
this section shall be construed as remedial and not punitive. 519

Reasonable attorney's fees shall include reasonable fees incurred 520
to produce proof of the reasonableness and amount of the fees and 521
to otherwise litigate entitlement to the fees. The court may 522
reduce an award of attorney's fees to the relator or not award 523
attorney's fees to the relator if the court determines both of the 524
following: 525

(i) That, based on the ordinary application of statutory law 526
and case law as it existed at the time of the conduct or 527
threatened conduct of the public office or person responsible for 528
the requested public records that allegedly constitutes a failure 529
to comply with an obligation in accordance with division (B) of 530
this section and that was the basis of the mandamus action, a 531
well-informed public office or person responsible for the 532
requested public records reasonably would believe that the conduct 533
or threatened conduct of the public office or person responsible 534
for the requested public records did not constitute a failure to 535
comply with an obligation in accordance with division (B) of this 536
section; 537

(ii) That a well-informed public office or person responsible 538
for the requested public records reasonably would believe that the 539
conduct or threatened conduct of the public office or person 540
responsible for the requested public records as described in 541
division (C)(2)(c)(i) of this section would serve the public 542
policy that underlies the authority that is asserted as permitting 543
that conduct or threatened conduct. 544

(D) Chapter 1347. of the Revised Code does not limit the 545
provisions of this section. 546

(E)(1) To ensure that all employees of public offices are 547
appropriately educated about a public office's obligations under 548
division (B) of this section, all elected officials or their 549
appropriate designees shall attend training approved by the 550
attorney general as provided in section 109.43 of the Revised 551

Code. In addition, all public offices shall adopt a public records 552
policy in compliance with this section for responding to public 553
records requests. In adopting a public records policy under this 554
division, a public office may obtain guidance from the model 555
public records policy developed and provided to the public office 556
by the attorney general under section 109.43 of the Revised Code. 557
Except as otherwise provided in this section, the policy may not 558
limit the number of public records that the public office will 559
make available to a single person, may not limit the number of 560
public records that it will make available during a fixed period 561
of time, and may not establish a fixed period of time before it 562
will respond to a request for inspection or copying of public 563
records, unless that period is less than eight hours. 564

(2) The public office shall distribute the public records 565
policy adopted by the public office under division (E)(1) of this 566
section to the employee of the public office who is the records 567
custodian or records manager or otherwise has custody of the 568
records of that office. The public office shall require that 569
employee to acknowledge receipt of the copy of the public records 570
policy. The public office shall create a poster that describes its 571
public records policy and shall post the poster in a conspicuous 572
place in the public office and in all locations where the public 573
office has branch offices. The public office may post its public 574
records policy on the internet web site of the public office if 575
the public office maintains an internet web site. A public office 576
that has established a manual or handbook of its general policies 577
and procedures for all employees of the public office shall 578
include the public records policy of the public office in the 579
manual or handbook. 580

(F)(1) The bureau of motor vehicles may adopt rules pursuant 581
to Chapter 119. of the Revised Code to reasonably limit the number 582
of bulk commercial special extraction requests made by a person 583

for the same records or for updated records during a calendar 584
year. The rules may include provisions for charges to be made for 585
bulk commercial special extraction requests for the actual cost of 586
the bureau, plus special extraction costs, plus ten per cent. The 587
bureau may charge for expenses for redacting information, the 588
release of which is prohibited by law. 589

(2) As used in division (F)(1) of this section: 590

(a) "Actual cost" means the cost of depleted supplies, 591
records storage media costs, actual mailing and alternative 592
delivery costs, or other transmitting costs, and any direct 593
equipment operating and maintenance costs, including actual costs 594
paid to private contractors for copying services. 595

(b) "Bulk commercial special extraction request" means a 596
request for copies of a record for information in a format other 597
than the format already available, or information that cannot be 598
extracted without examination of all items in a records series, 599
class of records, or data base by a person who intends to use or 600
forward the copies for surveys, marketing, solicitation, or resale 601
for commercial purposes. "Bulk commercial special extraction 602
request" does not include a request by a person who gives 603
assurance to the bureau that the person making the request does 604
not intend to use or forward the requested copies for surveys, 605
marketing, solicitation, or resale for commercial purposes. 606

(c) "Commercial" means profit-seeking production, buying, or 607
selling of any good, service, or other product. 608

(d) "Special extraction costs" means the cost of the time 609
spent by the lowest paid employee competent to perform the task, 610
the actual amount paid to outside private contractors employed by 611
the bureau, or the actual cost incurred to create computer 612
programs to make the special extraction. "Special extraction 613
costs" include any charges paid to a public agency for computer or 614

records services. 615

(3) For purposes of divisions (F)(1) and (2) of this section, 616
"surveys, marketing, solicitation, or resale for commercial 617
purposes" shall be narrowly construed and does not include 618
reporting or gathering news, reporting or gathering information to 619
assist citizen oversight or understanding of the operation or 620
activities of government, or nonprofit educational research. 621

Sec. 2903.01. (A) No person shall purposely, and with prior 622
calculation and design, cause the death of another or the unlawful 623
termination of another's pregnancy. 624

(B) No person shall purposely cause the death of another or 625
the unlawful termination of another's pregnancy while committing 626
or attempting to commit, or while fleeing immediately after 627
committing or attempting to commit, kidnapping, rape, aggravated 628
arson, arson, aggravated robbery, robbery, aggravated burglary, 629
burglary, terrorism, or escape. 630

(C) No person shall purposely cause the death of another who 631
is under thirteen years of age at the time of the commission of 632
the offense. 633

(D) No person who is under detention as a result of having 634
been found guilty of or having pleaded guilty to a felony or who 635
breaks that detention shall purposely cause the death of another. 636

(E) No person shall purposely cause the death of a judge, 637
magistrate, or law enforcement officer whom the offender knows or 638
has reasonable cause to know is a judge, magistrate, or law 639
enforcement officer when either of the following applies: 640

(1) The victim, at the time of the commission of the offense, 641
is engaged in the victim's duties. 642

(2) It is the offender's specific purpose to kill a judge, 643
magistrate, or law enforcement officer. 644

(F) Whoever violates this section is guilty of aggravated murder, and shall be punished as provided in section 2929.02 of the Revised Code.

(G) As used in this section:

(1) "Detention" has the same meaning as in section 2921.01 of the Revised Code.

(2) "Law enforcement officer" has the same meaning as in section 2911.01 of the Revised Code.

(3) "Judge" means a judge of a court created under the constitution or statutes of this state or of a United States court located in this state.

(4) "Magistrate" means a magistrate of a court created under the constitution or statutes of this state or of a United States court located in this state.

Sec. 2903.11. (A) No person shall knowingly do either of the following:

(1) Cause serious physical harm to another or to another's unborn;

(2) Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall knowingly do any of the following:

(1) Engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;

(2) Engage in sexual conduct with a person whom the offender

knows or has reasonable cause to believe lacks the mental capacity 674
to appreciate the significance of the knowledge that the offender 675
has tested positive as a carrier of a virus that causes acquired 676
immunodeficiency syndrome; 677

(3) Engage in sexual conduct with a person under eighteen 678
years of age who is not the spouse of the offender. 679

(C) The prosecution of a person under this section does not 680
preclude prosecution of that person under section 2907.02 of the 681
Revised Code. 682

(D)(1)(a) Whoever violates this section is guilty of 683
felonious assault. Except as otherwise provided in this division 684
or division (D)(1)(b) of this section, felonious assault is a 685
felony of the second degree. If the victim of a violation of 686
division (A) of this section is a judge, magistrate, peace 687
officer, or ~~an~~ investigator of the bureau of criminal 688
identification and investigation, felonious assault is a felony of 689
the first degree. 690

(b) Regardless of whether the felonious assault is a felony 691
of the first or second degree under division (D)(1)(a) of this 692
section, if the offender also is convicted of or pleads guilty to 693
a specification as described in section 2941.1423 of the Revised 694
Code that was included in the indictment, count in the indictment, 695
or information charging the offense, except as otherwise provided 696
in this division or unless a longer prison term is required under 697
any other provision of law, the court shall sentence the offender 698
to a mandatory prison term as provided in division (D)(8) of 699
section 2929.14 of the Revised Code. If the victim of the offense 700
is a judge, magistrate, peace officer, or ~~an~~ investigator of the 701
bureau of criminal identification and investigation, and if the 702
victim suffered serious physical harm as a result of the 703
commission of the offense, felonious assault is a felony of the 704
first degree, and the court, pursuant to division (F) of section 705

2929.13 of the Revised Code, shall impose as a mandatory prison 706
term one of the prison terms prescribed for a felony of the first 707
degree. 708

(2) In addition to any other sanctions imposed pursuant to 709
division (D)(1) of this section for felonious assault committed in 710
violation of division (A)(2) of this section, if the deadly weapon 711
used in the commission of the violation is a motor vehicle, the 712
court shall impose upon the offender a class two suspension of the 713
offender's driver's license, commercial driver's license, 714
temporary instruction permit, probationary license, or nonresident 715
operating privilege as specified in division (A)(2) of section 716
4510.02 of the Revised Code. 717

(E) As used in this section: 718

(1) "Deadly weapon" and "dangerous ordnance" have the same 719
meanings as in section 2923.11 of the Revised Code. 720

(2) "Motor vehicle" has the same meaning as in section 721
4501.01 of the Revised Code. 722

(3) "Peace officer" has the same meaning as in section 723
2935.01 of the Revised Code. 724

(4) "Sexual conduct" has the same meaning as in section 725
2907.01 of the Revised Code, except that, as used in this section, 726
it does not include the insertion of an instrument, apparatus, or 727
other object that is not a part of the body into the vaginal or 728
anal opening of another, unless the offender knew at the time of 729
the insertion that the instrument, apparatus, or other object 730
carried the offender's bodily fluid. 731

(5) "Investigator of the bureau of criminal identification 732
and investigation" means an investigator of the bureau of criminal 733
identification and investigation who is commissioned by the 734
superintendent of the bureau as a special agent for the purpose of 735
assisting law enforcement officers or providing emergency 736

assistance to peace officers pursuant to authority granted under 737
section 109.541 of the Revised Code. 738

(6) "Investigator" has the same meaning as in section 109.541 739
of the Revised Code. 740

(7) "Judge" and "magistrate" have the same meanings as in 741
section 2903.01 of the Revised Code. 742

Sec. 2903.12. (A) No person, while under the influence of 743
sudden passion or in a sudden fit of rage, either of which is 744
brought on by serious provocation occasioned by the victim that is 745
reasonably sufficient to incite the person into using deadly 746
force, shall knowingly: 747

(1) Cause serious physical harm to another or to another's 748
unborn; 749

(2) Cause or attempt to cause physical harm to another or to 750
another's unborn by means of a deadly weapon or dangerous 751
ordnance, as defined in section 2923.11 of the Revised Code. 752

(B) Whoever violates this section is guilty of aggravated 753
assault. Except as otherwise provided in this division, aggravated 754
assault is a felony of the fourth degree. If the victim of the 755
offense is a judge, magistrate, peace officer, or ~~an~~ investigator 756
of the bureau of criminal identification and investigation, 757
aggravated assault is a felony of the third degree. Regardless of 758
whether the offense is a felony of the third or fourth degree 759
under this division, if the offender also is convicted of or 760
pleads guilty to a specification as described in section 2941.1423 761
of the Revised Code that was included in the indictment, count in 762
the indictment, or information charging the offense, except as 763
otherwise provided in this division, the court shall sentence the 764
offender to a mandatory prison term as provided in division (D)(8) 765
of section 2929.14 of the Revised Code. If the victim of the 766

offense is a judge, magistrate, peace officer, or an investigator 767
of the bureau of criminal identification and investigation, and if 768
the victim suffered serious physical harm as a result of the 769
commission of the offense, aggravated assault is a felony of the 770
third degree, and the court, pursuant to division (F) of section 771
2929.13 of the Revised Code, shall impose as a mandatory prison 772
term one of the prison terms prescribed for a felony of the third 773
degree. 774

(C) As used in this section: 775

(1) "Investigator of the bureau of criminal identification 776
and investigation" has the same meaning as in section 2903.11 of 777
the Revised Code. 778

(2) "Peace officer" has the same meaning as in section 779
2935.01 of the Revised Code. 780

(3) "Judge" and "magistrate" have the same meanings as in 781
section 2903.01 of the Revised Code. 782

Sec. 2903.13. (A) No person shall knowingly cause or attempt 783
to cause physical harm to another or to another's unborn. 784

(B) No person shall recklessly cause serious physical harm to 785
another or to another's unborn. 786

(C) Whoever violates this section is guilty of assault, and 787
the court shall sentence the offender as provided in this division 788
and divisions (C)(1), (2), (3), (4), (5), and (6) of this section. 789
Except as otherwise provided in division (C)(1), (2), (3), (4), or 790
(5) of this section, assault is a misdemeanor of the first degree. 791

(1) Except as otherwise provided in this division, if the 792
offense is committed by a caretaker against a functionally 793
impaired person under the caretaker's care, assault is a felony of 794
the fourth degree. If the offense is committed by a caretaker 795
against a functionally impaired person under the caretaker's care, 796

if the offender previously has been convicted of or pleaded guilty 797
to a violation of this section or section 2903.11 or 2903.16 of 798
the Revised Code, and if in relation to the previous conviction 799
the offender was a caretaker and the victim was a functionally 800
impaired person under the offender's care, assault is a felony of 801
the third degree. 802

(2) If the offense is committed in any of the following 803
circumstances, assault is a felony of the fifth degree: 804

(a) The offense occurs in or on the grounds of a state 805
correctional institution or an institution of the department of 806
youth services, the victim of the offense is an employee of the 807
department of rehabilitation and correction, the department of 808
youth services, or a probation department or is on the premises of 809
the particular institution for business purposes or as a visitor, 810
and the offense is committed by a person incarcerated in the state 811
correctional institution, by a person institutionalized in the 812
department of youth services institution pursuant to a commitment 813
to the department of youth services, by a parolee, by an offender 814
under transitional control, under a community control sanction, or 815
on an escorted visit, by a person under post-release control, or 816
by an offender under any other type of supervision by a government 817
agency. 818

(b) The offense occurs in or on the grounds of a local 819
correctional facility, the victim of the offense is an employee of 820
the local correctional facility or a probation department or is on 821
the premises of the facility for business purposes or as a 822
visitor, and the offense is committed by a person who is under 823
custody in the facility subsequent to the person's arrest for any 824
crime or delinquent act, subsequent to the person's being charged 825
with or convicted of any crime, or subsequent to the person's 826
being alleged to be or adjudicated a delinquent child. 827

(c) The offense occurs off the grounds of a state 828

correctional institution and off the grounds of an institution of 829
the department of youth services, the victim of the offense is an 830
employee of the department of rehabilitation and correction, the 831
department of youth services, or a probation department, the 832
offense occurs during the employee's official work hours and while 833
the employee is engaged in official work responsibilities, and the 834
offense is committed by a person incarcerated in a state 835
correctional institution or institutionalized in the department of 836
youth services who temporarily is outside of the institution for 837
any purpose, by a parolee, by an offender under transitional 838
control, under a community control sanction, or on an escorted 839
visit, by a person under post-release control, or by an offender 840
under any other type of supervision by a government agency. 841

(d) The offense occurs off the grounds of a local 842
correctional facility, the victim of the offense is an employee of 843
the local correctional facility or a probation department, the 844
offense occurs during the employee's official work hours and while 845
the employee is engaged in official work responsibilities, and the 846
offense is committed by a person who is under custody in the 847
facility subsequent to the person's arrest for any crime or 848
delinquent act, subsequent to the person being charged with or 849
convicted of any crime, or subsequent to the person being alleged 850
to be or adjudicated a delinquent child and who temporarily is 851
outside of the facility for any purpose or by a parolee, by an 852
offender under transitional control, under a community control 853
sanction, or on an escorted visit, by a person under post-release 854
control, or by an offender under any other type of supervision by 855
a government agency. 856

(e) The victim of the offense is a school teacher or 857
administrator or a school bus operator, and the offense occurs in 858
a school, on school premises, in a school building, on a school 859
bus, or while the victim is outside of school premises or a school 860

bus and is engaged in duties or official responsibilities 861
associated with the victim's employment or position as a school 862
teacher or administrator or a school bus operator, including, but 863
not limited to, driving, accompanying, or chaperoning students at 864
or on class or field trips, athletic events, or other school 865
extracurricular activities or functions outside of school 866
premises. 867

(3) If the victim of the offense is a judge, magistrate, 868
peace officer, or ~~an~~ investigator of the bureau of criminal 869
identification and investigation, a firefighter, or a person 870
performing emergency medical service, while in the performance of 871
their official duties, assault is a felony of the fourth degree. 872

(4) If the victim of the offense is a judge, magistrate, 873
peace officer, or ~~an~~ investigator of the bureau of criminal 874
identification and investigation and if the victim suffered 875
serious physical harm as a result of the commission of the 876
offense, assault is a felony of the fourth degree, and the court, 877
pursuant to division (F) of section 2929.13 of the Revised Code, 878
shall impose as a mandatory prison term one of the prison terms 879
prescribed for a felony of the fourth degree that is at least 880
twelve months in duration. 881

(5) If the victim of the offense is an officer or employee of 882
a public children services agency or a private child placing 883
agency and the offense relates to the officer's or employee's 884
performance or anticipated performance of official 885
responsibilities or duties, assault is either a felony of the 886
fifth degree or, if the offender previously has been convicted of 887
or pleaded guilty to an offense of violence, the victim of that 888
prior offense was an officer or employee of a public children 889
services agency or private child placing agency, and that prior 890
offense related to the officer's or employee's performance or 891
anticipated performance of official responsibilities or duties, a 892

felony of the fourth degree. 893

(6) If an offender who is convicted of or pleads guilty to 894
assault when it is a misdemeanor also is convicted of or pleads 895
guilty to a specification as described in section 2941.1423 of the 896
Revised Code that was included in the indictment, count in the 897
indictment, or information charging the offense, the court shall 898
sentence the offender to a mandatory jail term as provided in 899
division (G) of section 2929.24 of the Revised Code. 900

If an offender who is convicted of or pleads guilty to 901
assault when it is a felony also is convicted of or pleads guilty 902
to a specification as described in section 2941.1423 of the 903
Revised Code that was included in the indictment, count in the 904
indictment, or information charging the offense, except as 905
otherwise provided in division (C)(4) of this section, the court 906
shall sentence the offender to a mandatory prison term as provided 907
in division (D)(8) of section 2929.14 of the Revised Code. 908

(D) As used in this section: 909

(1) "Peace officer" has the same meaning as in section 910
2935.01 of the Revised Code. 911

(2) "Firefighter" has the same meaning as in section 3937.41 912
of the Revised Code. 913

(3) "Emergency medical service" has the same meaning as in 914
section 4765.01 of the Revised Code. 915

(4) "Local correctional facility" means a county, 916
multicounty, municipal, municipal-county, or multicounty-municipal 917
jail or workhouse, a minimum security jail established under 918
section 341.23 or 753.21 of the Revised Code, or another county, 919
multicounty, municipal, municipal-county, or multicounty-municipal 920
facility used for the custody of persons arrested for any crime or 921
delinquent act, persons charged with or convicted of any crime, or 922
persons alleged to be or adjudicated a delinquent child. 923

(5) "Employee of a local correctional facility" means a 924
person who is an employee of the political subdivision or of one 925
or more of the affiliated political subdivisions that operates the 926
local correctional facility and who operates or assists in the 927
operation of the facility. 928

(6) "School teacher or administrator" means either of the 929
following: 930

(a) A person who is employed in the public schools of the 931
state under a contract described in section 3319.08 of the Revised 932
Code in a position in which the person is required to have a 933
certificate issued pursuant to sections 3319.22 to 3319.311 of the 934
Revised Code. 935

(b) A person who is employed by a nonpublic school for which 936
the state board of education prescribes minimum standards under 937
section 3301.07 of the Revised Code and who is certificated in 938
accordance with section 3301.071 of the Revised Code. 939

(7) "Community control sanction" has the same meaning as in 940
section 2929.01 of the Revised Code. 941

(8) "Escorted visit" means an escorted visit granted under 942
section 2967.27 of the Revised Code. 943

(9) "Post-release control" and "transitional control" have 944
the same meanings as in section 2967.01 of the Revised Code. 945

(10) "Investigator of the bureau of criminal identification 946
and investigation" has the same meaning as in section 2903.11 of 947
the Revised Code. 948

(11) "Judge" and "magistrate" have the same meanings as in 949
section 2903.01 of the Revised Code. 950

Sec. 2903.21. (A) No person shall knowingly cause another to 951
believe that the offender will cause serious physical harm to the 952
person or property of the other person, the other person's unborn, 953

or a member of the other person's immediate family. 954

(B) Whoever violates this section is guilty of aggravated 955
menacing. Except as otherwise provided in this division, 956
aggravated menacing is a misdemeanor of the first degree. If the 957
victim of the offense is a judge or magistrate or an officer or 958
employee of a public children services agency or a private child 959
placing agency and the offense relates to the judge's, 960
magistrate's, officer's, or employee's performance or anticipated 961
performance of official responsibilities or duties, aggravated 962
menacing is a felony of the fifth degree or, if the offender 963
previously has been convicted of or pleaded guilty to an offense 964
of violence, the victim of that prior offense was a judge or 965
magistrate or an officer or employee of a public children services 966
agency or private child placing agency, and that prior offense 967
related to the judge's, magistrate's, officer's, or employee's 968
performance or anticipated performance of official 969
responsibilities or duties, a felony of the fourth degree. 970

(C) As used in this section, "judge" and "magistrate" have 971
the same meanings as in section 2903.01 of the Revised Code. 972

Sec. 2903.23. (A) As used in this section: 973

(1) "Immediate family" includes a person's spouse, brothers 974
and sisters of the whole or half blood, children, including 975
adopted children and stepchildren, parents, and grandparents. 976

(2) "Judge" and "magistrate" have the same meanings as in 977
section 2903.01 of the Revised Code. 978

(B) No person, with intent to influence or interfere with a 979
judge or magistrate in the performance of the judge's or 980
magistrate's official duties or to retaliate against a judge or 981
magistrate for any decision made or action taken in the 982
performance of the judge's or magistrate's official duties, shall 983

knowingly threaten a judge or magistrate with physical harm to the 984
person or property of the judge or magistrate, the judge's or 985
magistrate's unborn, or a member of the judge's or magistrate's 986
immediate family. 987

(C) Whoever violates division (B) of this section is guilty 988
of threatening a judge or magistrate, a felony of the fifth 989
degree. 990

Sec. 2929.04. (A) Imposition of the death penalty for 991
aggravated murder is precluded unless one or more of the following 992
is specified in the indictment or count in the indictment pursuant 993
to section 2941.14 of the Revised Code and proved beyond a 994
reasonable doubt: 995

(1) The offense was the assassination of the president of the 996
United States or a person in line of succession to the presidency, 997
the governor or lieutenant governor of this state, the 998
president-elect or vice president-elect of the United States, the 999
governor-elect or lieutenant governor-elect of this state, or a 1000
candidate for any of the offices described in this division. For 1001
purposes of this division, a person is a candidate if the person 1002
has been nominated for election according to law, if the person 1003
has filed a petition or petitions according to law to have the 1004
person's name placed on the ballot in a primary or general 1005
election, or if the person campaigns as a write-in candidate in a 1006
primary or general election. 1007

(2) The offense was committed for hire. 1008

(3) The offense was committed for the purpose of escaping 1009
detection, apprehension, trial, or punishment for another offense 1010
committed by the offender. 1011

(4) The offense was committed while the offender was under 1012
detention or while the offender was at large after having broken 1013

detention. As used in division (A)(4) of this section, "detention" 1014
has the same meaning as in section 2921.01 of the Revised Code, 1015
except that detention does not include hospitalization, 1016
institutionalization, or confinement in a mental health facility 1017
or mental retardation and developmentally disabled facility unless 1018
at the time of the commission of the offense either of the 1019
following circumstances apply: 1020

(a) The offender was in the facility as a result of being 1021
charged with a violation of a section of the Revised Code. 1022

(b) The offender was under detention as a result of being 1023
convicted of or pleading guilty to a violation of a section of the 1024
Revised Code. 1025

(5) Prior to the offense at bar, the offender was convicted 1026
of an offense an essential element of which was the purposeful 1027
killing of or attempt to kill another, or the offense at bar was 1028
part of a course of conduct involving the purposeful killing of or 1029
attempt to kill two or more persons by the offender. 1030

(6) The victim of the offense was a law enforcement officer, 1031
as defined in section 2911.01 of the Revised Code, or a judge or 1032
magistrate, as defined in section 2903.01 of the Revised Code, 1033
whom the offender had reasonable cause to know or knew to be a law 1034
enforcement officer or a judge or magistrate as so defined, and 1035
either the victim, at the time of the commission of the offense, 1036
was engaged in the victim's duties, or it was the offender's 1037
specific purpose to kill a law enforcement officer or a judge or 1038
magistrate as so defined. 1039

(7) The offense was committed while the offender was 1040
committing, attempting to commit, or fleeing immediately after 1041
committing or attempting to commit kidnapping, rape, aggravated 1042
arson, aggravated robbery, or aggravated burglary, and either the 1043
offender was the principal offender in the commission of the 1044

aggravated murder or, if not the principal offender, committed the 1045
aggravated murder with prior calculation and design. 1046

(8) The victim of the aggravated murder was a witness to an 1047
offense who was purposely killed to prevent the victim's testimony 1048
in any criminal proceeding and the aggravated murder was not 1049
committed during the commission, attempted commission, or flight 1050
immediately after the commission or attempted commission of the 1051
offense to which the victim was a witness, or the victim of the 1052
aggravated murder was a witness to an offense and was purposely 1053
killed in retaliation for the victim's testimony in any criminal 1054
proceeding. 1055

(9) The offender, in the commission of the offense, 1056
purposefully caused the death of another who was under thirteen 1057
years of age at the time of the commission of the offense, and 1058
either the offender was the principal offender in the commission 1059
of the offense or, if not the principal offender, committed the 1060
offense with prior calculation and design. 1061

(10) The offense was committed while the offender was 1062
committing, attempting to commit, or fleeing immediately after 1063
committing or attempting to commit terrorism. 1064

(B) If one or more of the aggravating circumstances listed in 1065
division (A) of this section is specified in the indictment or 1066
count in the indictment and proved beyond a reasonable doubt, and 1067
if the offender did not raise the matter of age pursuant to 1068
section 2929.023 of the Revised Code or if the offender, after 1069
raising the matter of age, was found at trial to have been 1070
eighteen years of age or older at the time of the commission of 1071
the offense, the court, trial jury, or panel of three judges shall 1072
consider, and weigh against the aggravating circumstances proved 1073
beyond a reasonable doubt, the nature and circumstances of the 1074
offense, the history, character, and background of the offender, 1075
and all of the following factors: 1076

(1) Whether the victim of the offense induced or facilitated it;	1077 1078
(2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation;	1079 1080 1081
(3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of the offender's conduct or to conform the offender's conduct to the requirements of the law;	1082 1083 1084 1085 1086
(4) The youth of the offender;	1087
(5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;	1088 1089
(6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;	1090 1091 1092 1093
(7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.	1094 1095
(C) The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death.	1096 1097 1098 1099
The existence of any of the mitigating factors listed in division (B) of this section does not preclude the imposition of a sentence of death on the offender but shall be weighed pursuant to divisions (D)(2) and (3) of section 2929.03 of the Revised Code by the trial court, trial jury, or the panel of three judges against the aggravating circumstances the offender was found guilty of committing.	1100 1101 1102 1103 1104 1105 1106

Section 2. That existing sections 149.43, 2903.01, 2903.11,	1107
2903.12, 2903.13, 2903.21, and 2929.04 of the Revised Code are	1108
hereby repealed.	1109