

As Introduced

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H. B. No. 321

Representatives Duffey, Hagan, C.

**Cosponsors: Representatives Amstutz, Blair, Henne, Landis, Roegner,
Schuring, Sears, Stinziano, Terhar, Bishoff**

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A B I L L

To amend section 149.43 and to enact section 149.62 1
of the Revised Code to create the DataOhio Board, 2
and to specify requirements for posting public 3
records online. 4

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

Section 1. That section 149.43 be amended and section 149.62 5
of the Revised Code be enacted to read as follows: 6

Sec. 149.43. (A) As used in this section: 7

(1) "Public record" means records kept by any public office, 8
including, but not limited to, state, county, city, village, 9
township, and school district units, and records pertaining to the 10
delivery of educational services by an alternative school in this 11
state kept by the nonprofit or for-profit entity operating the 12
alternative school pursuant to section 3313.533 of the Revised 13
Code. "Public record" does not mean any of the following: 14

(a) Medical records; 15

(b) Records pertaining to probation and parole proceedings or 16
to proceedings related to the imposition of community control 17

sanctions and post-release control sanctions;	18
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	19 20 21
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;	22 23 24
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	25 26 27 28 29 30
(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	31 32 33
(g) Trial preparation records;	34
(h) Confidential law enforcement investigatory records;	35
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	36 37
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	38 39
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	40 41 42 43
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	44 45 46 47

(m) Intellectual property records;	48
(n) Donor profile records;	49
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	50 51
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	52 53 54 55 56 57
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	58 59 60 61 62
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	63 64
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	65 66 67 68 69 70 71 72
(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;	73 74 75 76
(u) Test materials, examinations, or evaluation tools used in	77

an examination for licensure as a nursing home administrator that 78
the board of executives of long-term services and supports 79
administers under section 4751.04 of the Revised Code or contracts 80
under that section with a private or government entity to 81
administer; 82

(v) Records the release of which is prohibited by state or 83
federal law; 84

(w) Proprietary information of or relating to any person that 85
is submitted to or compiled by the Ohio venture capital authority 86
created under section 150.01 of the Revised Code; 87

(x) Financial statements and data any person submits for any 88
purpose to the Ohio housing finance agency or the controlling 89
board in connection with applying for, receiving, or accounting 90
for financial assistance from the agency, and information that 91
identifies any individual who benefits directly or indirectly from 92
financial assistance from the agency; 93

(y) Records listed in section 5101.29 of the Revised Code; 94

(z) Discharges recorded with a county recorder under section 95
317.24 of the Revised Code, as specified in division (B)(2) of 96
that section; 97

(aa) Usage information including names and addresses of 98
specific residential and commercial customers of a municipally 99
owned or operated public utility; 100

(bb) Records described in division (C) of section 187.04 of 101
the Revised Code that are not designated to be made available to 102
the public as provided in that division. 103

(2) "Confidential law enforcement investigatory record" means 104
any record that pertains to a law enforcement matter of a 105
criminal, quasi-criminal, civil, or administrative nature, but 106
only to the extent that the release of the record would create a 107

high probability of disclosure of any of the following:	108
(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;	109 110 111 112
(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;	113 114 115 116
(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;	117 118
(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.	119 120 121
(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.	122 123 124 125 126
(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.	127 128 129 130 131
(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction	132 133 134 135 136 137 138

with a governmental body or private concern, and that has not been 139
publicly released, published, or patented. 140

(6) "Donor profile record" means all records about donors or 141
potential donors to a public institution of higher education 142
except the names and reported addresses of the actual donors and 143
the date, amount, and conditions of the actual donation. 144

(7) "Peace officer, parole officer, probation officer, 145
bailiff, prosecuting attorney, assistant prosecuting attorney, 146
correctional employee, community-based correctional facility 147
employee, youth services employee, firefighter, EMT, or 148
investigator of the bureau of criminal identification and 149
investigation residential and familial information" means any 150
information that discloses any of the following about a peace 151
officer, parole officer, probation officer, bailiff, prosecuting 152
attorney, assistant prosecuting attorney, correctional employee, 153
community-based correctional facility employee, youth services 154
employee, firefighter, EMT, or investigator of the bureau of 155
criminal identification and investigation: 156

(a) The address of the actual personal residence of a peace 157
officer, parole officer, probation officer, bailiff, assistant 158
prosecuting attorney, correctional employee, community-based 159
correctional facility employee, youth services employee, 160
firefighter, EMT, or an investigator of the bureau of criminal 161
identification and investigation, except for the state or 162
political subdivision in which the peace officer, parole officer, 163
probation officer, bailiff, assistant prosecuting attorney, 164
correctional employee, community-based correctional facility 165
employee, youth services employee, firefighter, EMT, or 166
investigator of the bureau of criminal identification and 167
investigation resides; 168

(b) Information compiled from referral to or participation in 169
an employee assistance program; 170

(c) The social security number, the residential telephone 171
number, any bank account, debit card, charge card, or credit card 172
number, or the emergency telephone number of, or any medical 173
information pertaining to, a peace officer, parole officer, 174
probation officer, bailiff, prosecuting attorney, assistant 175
prosecuting attorney, correctional employee, community-based 176
correctional facility employee, youth services employee, 177
firefighter, EMT, or investigator of the bureau of criminal 178
identification and investigation; 179

(d) The name of any beneficiary of employment benefits, 180
including, but not limited to, life insurance benefits, provided 181
to a peace officer, parole officer, probation officer, bailiff, 182
prosecuting attorney, assistant prosecuting attorney, correctional 183
employee, community-based correctional facility employee, youth 184
services employee, firefighter, EMT, or investigator of the bureau 185
of criminal identification and investigation by the peace 186
officer's, parole officer's, probation officer's, bailiff's, 187
prosecuting attorney's, assistant prosecuting attorney's, 188
correctional employee's, community-based correctional facility 189
employee's, youth services employee's, firefighter's, EMT's, or 190
investigator of the bureau of criminal identification and 191
investigation's employer; 192

(e) The identity and amount of any charitable or employment 193
benefit deduction made by the peace officer's, parole officer's, 194
probation officer's, bailiff's, prosecuting attorney's, assistant 195
prosecuting attorney's, correctional employee's, community-based 196
correctional facility employee's, youth services employee's, 197
firefighter's, EMT's, or investigator of the bureau of criminal 198
identification and investigation's employer from the peace 199
officer's, parole officer's, probation officer's, bailiff's, 200
prosecuting attorney's, assistant prosecuting attorney's, 201
correctional employee's, community-based correctional facility 202

employee's, youth services employee's, firefighter's, EMT's, or 203
investigator of the bureau of criminal identification and 204
investigation's compensation unless the amount of the deduction is 205
required by state or federal law; 206

(f) The name, the residential address, the name of the 207
employer, the address of the employer, the social security number, 208
the residential telephone number, any bank account, debit card, 209
charge card, or credit card number, or the emergency telephone 210
number of the spouse, a former spouse, or any child of a peace 211
officer, parole officer, probation officer, bailiff, prosecuting 212
attorney, assistant prosecuting attorney, correctional employee, 213
community-based correctional facility employee, youth services 214
employee, firefighter, EMT, or investigator of the bureau of 215
criminal identification and investigation; 216

(g) A photograph of a peace officer who holds a position or 217
has an assignment that may include undercover or plain clothes 218
positions or assignments as determined by the peace officer's 219
appointing authority. 220

As used in divisions (A)(7) and (B)(9) of this section, 221
"peace officer" has the same meaning as in section 109.71 of the 222
Revised Code and also includes the superintendent and troopers of 223
the state highway patrol; it does not include the sheriff of a 224
county or a supervisory employee who, in the absence of the 225
sheriff, is authorized to stand in for, exercise the authority of, 226
and perform the duties of the sheriff. 227

As used in divisions (A)(7) and (B)(5) of this section, 228
"correctional employee" means any employee of the department of 229
rehabilitation and correction who in the course of performing the 230
employee's job duties has or has had contact with inmates and 231
persons under supervision. 232

As used in divisions (A)(7) and (B)(5) of this section, 233

"youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

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

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

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

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

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

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

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

(d) Any additional information sought or required about a 264
person under the age of eighteen for the purpose of allowing that 265
person to participate in any recreational activity conducted or 266
sponsored by a public office or to use or obtain admission 267
privileges to any recreational facility owned or operated by a 268
public office. 269

(9) "Community control sanction" has the same meaning as in 270
section 2929.01 of the Revised Code. 271

(10) "Post-release control sanction" has the same meaning as 272
in section 2967.01 of the Revised Code. 273

(11) "Redaction" means obscuring or deleting any information 274
that is exempt from the duty to permit public inspection or 275
copying from an item that otherwise meets the definition of a 276
"record" in section 149.011 of the Revised Code. 277

(12) "Designee" and "elected official" have the same meanings 278
as in section 109.43 of the Revised Code. 279

(B)(1) Upon request and subject to division (B)(8) of this 280
section, all public records responsive to the request shall be 281
promptly prepared and made available for inspection to any person 282
at all reasonable times during regular business hours. Subject to 283
division (B)(8) of this section, upon request, a public office or 284
person responsible for public records shall make copies of the 285
requested public record available at cost and within a reasonable 286
period of time. If a public record contains information that is 287
exempt from the duty to permit public inspection or to copy the 288
public record, the public office or the person responsible for the 289
public record shall make available all of the information within 290
the public record that is not exempt. When making that public 291
record available for public inspection or copying that public 292
record, the public office or the person responsible for the public 293
record shall notify the requester of any redaction or make the 294

redaction plainly visible. A redaction shall be deemed a denial of 295
a request to inspect or copy the redacted information, except if 296
federal or state law authorizes or requires a public office to 297
make the redaction. 298

(2) To facilitate broader access to public records, a public 299
office or the person responsible for public records shall organize 300
and maintain public records in a manner that they can be made 301
available for inspection or copying in accordance with division 302
(B) of this section. A public office also shall have available a 303
copy of its current records retention schedule at a location 304
readily available to the public. If a requester makes an ambiguous 305
or overly broad request or has difficulty in making a request for 306
copies or inspection of public records under this section such 307
that the public office or the person responsible for the requested 308
public record cannot reasonably identify what public records are 309
being requested, the public office or the person responsible for 310
the requested public record may deny the request but shall provide 311
the requester with an opportunity to revise the request by 312
informing the requester of the manner in which records are 313
maintained by the public office and accessed in the ordinary 314
course of the public office's or person's duties. 315

(3) If a request is ultimately denied, in part or in whole, 316
the public office or the person responsible for the requested 317
public record shall provide the requester with an explanation, 318
including legal authority, setting forth why the request was 319
denied. If the initial request was provided in writing, the 320
explanation also shall be provided to the requester in writing. 321
The explanation shall not preclude the public office or the person 322
responsible for the requested public record from relying upon 323
additional reasons or legal authority in defending an action 324
commenced under division (C) of this section. 325

(4) Unless specifically required or authorized by state or 326

federal law or in accordance with division (B) of this section, no public office or person responsible for public records 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 requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(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 may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

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

the copy makes a choice under this division, the public office or 359
person responsible for the public record shall provide a copy of 360
it in accordance with the choice made by the person seeking the 361
copy. Nothing in this section requires a public office or person 362
responsible for the public record to allow the person seeking a 363
copy of the public record to make the copies of the public record. 364

(7) Upon a request made in accordance with division (B) of 365
this section and subject to division (B)(6) of this section, a 366
public office or person responsible for public records shall 367
transmit a copy of a public record to any person by United States 368
mail or by any other means of delivery or transmission within a 369
reasonable period of time after receiving the request for the 370
copy. The public office or person responsible for the public 371
record may require the person making the request to pay in advance 372
the cost of postage if the copy is transmitted by United States 373
mail or the cost of delivery if the copy is transmitted other than 374
by United States mail, and to pay in advance the costs incurred 375
for other supplies used in the mailing, delivery, or transmission. 376

Any public office may adopt a policy and procedures that it 377
will follow in transmitting, within a reasonable period of time 378
after receiving a request, copies of public records by United 379
States mail or by any other means of delivery or transmission 380
pursuant to this division. A public office that adopts a policy 381
and procedures under this division shall comply with them in 382
performing its duties under this division. 383

In any policy and procedures adopted under this division, a 384
public office may limit the number of records requested by a 385
person that the office will transmit by United States mail to ten 386
per month, unless the person certifies to the office in writing 387
that the person does not intend to use or forward the requested 388
records, or the information contained in them, for commercial 389
purposes. For purposes of this division, "commercial" shall be 390

narrowly construed and does not include reporting or gathering 391
news, reporting or gathering information to assist citizen 392
oversight or understanding of the operation or activities of 393
government, or nonprofit educational research. 394

(8) A public office or person responsible for public records 395
is not required to permit a person who is incarcerated pursuant to 396
a criminal conviction or a juvenile adjudication to inspect or to 397
obtain a copy of any public record concerning a criminal 398
investigation or prosecution or concerning what would be a 399
criminal investigation or prosecution if the subject of the 400
investigation or prosecution were an adult, unless the request to 401
inspect or to obtain a copy of the record is for the purpose of 402
acquiring information that is subject to release as a public 403
record under this section and the judge who imposed the sentence 404
or made the adjudication with respect to the person, or the 405
judge's successor in office, finds that the information sought in 406
the public record is necessary to support what appears to be a 407
justiciable claim of the person. 408

(9)(a) Upon written request made and signed by a journalist 409
on or after December 16, 1999, a public office, or person 410
responsible for public records, having custody of the records of 411
the agency employing a specified peace officer, parole officer, 412
probation officer, bailiff, prosecuting attorney, assistant 413
prosecuting attorney, correctional employee, community-based 414
correctional facility employee, youth services employee, 415
firefighter, EMT, or investigator of the bureau of criminal 416
identification and investigation shall disclose to the journalist 417
the address of the actual personal residence of the peace officer, 418
parole officer, probation officer, bailiff, prosecuting attorney, 419
assistant prosecuting attorney, correctional employee, 420
community-based correctional facility employee, youth services 421
employee, firefighter, EMT, or investigator of the bureau of 422

criminal identification and investigation and, if the peace 423
officer's, parole officer's, probation officer's, bailiff's, 424
prosecuting attorney's, assistant prosecuting attorney's, 425
correctional employee's, community-based correctional facility 426
employee's, youth services employee's, firefighter's, EMT's, or 427
investigator of the bureau of criminal identification and 428
investigation's spouse, former spouse, or child is employed by a 429
public office, the name and address of the employer of the peace 430
officer's, parole officer's, probation officer's, bailiff's, 431
prosecuting attorney's, assistant prosecuting attorney's, 432
correctional employee's, community-based correctional facility 433
employee's, youth services employee's, firefighter's, EMT's, or 434
investigator of the bureau of criminal identification and 435
investigation's spouse, former spouse, or child. The request shall 436
include the journalist's name and title and the name and address 437
of the journalist's employer and shall state that disclosure of 438
the information sought would be in the public interest. 439

(b) Division (B)(9)(a) of this section also applies to 440
journalist requests for customer information maintained by a 441
municipally owned or operated public utility, other than social 442
security numbers and any private financial information such as 443
credit reports, payment methods, credit card numbers, and bank 444
account information. 445

(c) As used in division (B)(9) of this section, "journalist" 446
means a person engaged in, connected with, or employed by any news 447
medium, including a newspaper, magazine, press association, news 448
agency, or wire service, a radio or television station, or a 449
similar medium, for the purpose of gathering, processing, 450
transmitting, compiling, editing, or disseminating information for 451
the general public. 452

(C)(1) If a person allegedly is aggrieved by the failure of a 453
public office or the person responsible for public records to 454

promptly prepare a public record and to make it available to the 455
person for inspection in accordance with division (B) of this 456
section or by any other failure of a public office or the person 457
responsible for public records to comply with an obligation in 458
accordance with division (B) of this section, the person allegedly 459
aggrieved may commence a mandamus action to obtain a judgment that 460
orders the public office or the person responsible for the public 461
record to comply with division (B) of this section, that awards 462
court costs and reasonable attorney's fees to the person that 463
instituted the mandamus action, and, if applicable, that includes 464
an order fixing statutory damages under division (C)(1) of this 465
section. The mandamus action may be commenced in the court of 466
common pleas of the county in which division (B) of this section 467
allegedly was not complied with, in the supreme court pursuant to 468
its original jurisdiction under Section 2 of Article IV, Ohio 469
Constitution, or in the court of appeals for the appellate 470
district in which division (B) of this section allegedly was not 471
complied with pursuant to its original jurisdiction under Section 472
3 of Article IV, Ohio Constitution. 473

If a requestor transmits a written request by hand delivery 474
or certified mail to inspect or receive copies of any public 475
record in a manner that fairly describes the public record or 476
class of public records to the public office or person responsible 477
for the requested public records, except as otherwise provided in 478
this section, the requestor shall be entitled to recover the 479
amount of statutory damages set forth in this division if a court 480
determines that the public office or the person responsible for 481
public records failed to comply with an obligation in accordance 482
with division (B) of this section. 483

The amount of statutory damages shall be fixed at one hundred 484
dollars for each business day during which the public office or 485
person responsible for the requested public records failed to 486

comply with an obligation in accordance with division (B) of this 487
section, beginning with the day on which the requester files a 488
mandamus action to recover statutory damages, up to a maximum of 489
one thousand dollars. The award of statutory damages shall not be 490
construed as a penalty, but as compensation for injury arising 491
from lost use of the requested information. The existence of this 492
injury shall be conclusively presumed. The award of statutory 493
damages shall be in addition to all other remedies authorized by 494
this section. 495

The court may reduce an award of statutory damages or not 496
award statutory damages if the court determines both of the 497
following: 498

(a) That, based on the ordinary application of statutory law 499
and case law as it existed at the time of the conduct or 500
threatened conduct of the public office or person responsible for 501
the requested public records that allegedly constitutes a failure 502
to comply with an obligation in accordance with division (B) of 503
this section and that was the basis of the mandamus action, a 504
well-informed public office or person responsible for the 505
requested public records reasonably would believe that the conduct 506
or threatened conduct of the public office or person responsible 507
for the requested public records did not constitute a failure to 508
comply with an obligation in accordance with division (B) of this 509
section; 510

(b) That a well-informed public office or person responsible 511
for the requested public records reasonably would believe that the 512
conduct or threatened conduct of the public office or person 513
responsible for the requested public records would serve the 514
public policy that underlies the authority that is asserted as 515
permitting that conduct or threatened conduct. 516

(2)(a) If the court issues a writ of mandamus that orders the 517
public office or the person responsible for the public record to 518

comply with division (B) of this section and determines that the 519
circumstances described in division (C)(1) of this section exist, 520
the court shall determine and award to the relator all court 521
costs. 522

(b) If the court renders a judgment that orders the public 523
office or the person responsible for the public record to comply 524
with division (B) of this section, the court may award reasonable 525
attorney's fees subject to reduction as described in division 526
(C)(2)(c) of this section. The court shall award reasonable 527
attorney's fees, subject to reduction as described in division 528
(C)(2)(c) of this section when either of the following applies: 529

(i) The public office or the person responsible for the 530
public records failed to respond affirmatively or negatively to 531
the public records request in accordance with the time allowed 532
under division (B) of this section. 533

(ii) The public office or the person responsible for the 534
public records promised to permit the relator to inspect or 535
receive copies of the public records requested within a specified 536
period of time but failed to fulfill that promise within that 537
specified period of time. 538

(c) Court costs and reasonable attorney's fees awarded under 539
this section shall be construed as remedial and not punitive. 540
Reasonable attorney's fees shall include reasonable fees incurred 541
to produce proof of the reasonableness and amount of the fees and 542
to otherwise litigate entitlement to the fees. The court may 543
reduce an award of attorney's fees to the relator or not award 544
attorney's fees to the relator if the court determines both of the 545
following: 546

(i) That, based on the ordinary application of statutory law 547
and case law as it existed at the time of the conduct or 548
threatened conduct of the public office or person responsible for 549

the requested public records that allegedly constitutes a failure 550
to comply with an obligation in accordance with division (B) of 551
this section and that was the basis of the mandamus action, a 552
well-informed public office or person responsible for the 553
requested public records reasonably would believe that the conduct 554
or threatened conduct of the public office or person responsible 555
for the requested public records did not constitute a failure to 556
comply with an obligation in accordance with division (B) of this 557
section; 558

(ii) That a well-informed public office or person responsible 559
for the requested public records reasonably would believe that the 560
conduct or threatened conduct of the public office or person 561
responsible for the requested public records as described in 562
division (C)(2)(c)(i) of this section would serve the public 563
policy that underlies the authority that is asserted as permitting 564
that conduct or threatened conduct. 565

(D) Chapter 1347. of the Revised Code does not limit the 566
provisions of this section. 567

(E)(1) To ensure that all employees of public offices are 568
appropriately educated about a public office's obligations under 569
division (B) of this section, all elected officials or their 570
appropriate designees shall attend training approved by the 571
attorney general as provided in section 109.43 of the Revised 572
Code. In addition, all public offices shall adopt a public records 573
policy in compliance with this section for responding to public 574
records requests. In adopting a public records policy under this 575
division, a public office may obtain guidance from the model 576
public records policy developed and provided to the public office 577
by the attorney general under section 109.43 of the Revised Code. 578
Except as otherwise provided in this section, the policy may not 579
limit the number of public records that the public office will 580
make available to a single person, may not limit the number of 581

public records that it will make available during a fixed period 582
of time, and may not establish a fixed period of time before it 583
will respond to a request for inspection or copying of public 584
records, unless that period is less than eight hours. 585

(2) The public office shall distribute the public records 586
policy adopted by the public office under division (E)(1) of this 587
section to the employee of the public office who is the records 588
custodian or records manager or otherwise has custody of the 589
records of that office. The public office shall require that 590
employee to acknowledge receipt of the copy of the public records 591
policy. The public office shall create a poster that describes its 592
public records policy and shall post the poster in a conspicuous 593
place in the public office and in all locations where the public 594
office has branch offices. The public office may post its public 595
records policy on the internet web site of the public office if 596
the public office maintains an internet web site. A public office 597
that has established a manual or handbook of its general policies 598
and procedures for all employees of the public office shall 599
include the public records policy of the public office in the 600
manual or handbook. 601

(F)(1) The bureau of motor vehicles may adopt rules pursuant 602
to Chapter 119. of the Revised Code to reasonably limit the number 603
of bulk commercial special extraction requests made by a person 604
for the same records or for updated records during a calendar 605
year. The rules may include provisions for charges to be made for 606
bulk commercial special extraction requests for the actual cost of 607
the bureau, plus special extraction costs, plus ten per cent. The 608
bureau may charge for expenses for redacting information, the 609
release of which is prohibited by law. 610

(2) As used in division (F)(1) of this section: 611

(a) "Actual cost" means the cost of depleted supplies, 612
records storage media costs, actual mailing and alternative 613

delivery costs, or other transmitting costs, and any direct 614
equipment operating and maintenance costs, including actual costs 615
paid to private contractors for copying services. 616

(b) "Bulk commercial special extraction request" means a 617
request for copies of a record for information in a format other 618
than the format already available, or information that cannot be 619
extracted without examination of all items in a records series, 620
class of records, or database by a person who intends to use or 621
forward the copies for surveys, marketing, solicitation, or resale 622
for commercial purposes. "Bulk commercial special extraction 623
request" does not include a request by a person who gives 624
assurance to the bureau that the person making the request does 625
not intend to use or forward the requested copies for surveys, 626
marketing, solicitation, or resale for commercial purposes. 627

(c) "Commercial" means profit-seeking production, buying, or 628
selling of any good, service, or other product. 629

(d) "Special extraction costs" means the cost of the time 630
spent by the lowest paid employee competent to perform the task, 631
the actual amount paid to outside private contractors employed by 632
the bureau, or the actual cost incurred to create computer 633
programs to make the special extraction. "Special extraction 634
costs" include any charges paid to a public agency for computer or 635
records services. 636

(3) For purposes of divisions (F)(1) and (2) of this section, 637
"surveys, marketing, solicitation, or resale for commercial 638
purposes" shall be narrowly construed and does not include 639
reporting or gathering news, reporting or gathering information to 640
assist citizen oversight or understanding of the operation or 641
activities of government, or nonprofit educational research. 642

(G)(1) Except as provided in division (G)(2) of this section, 643
a public office that posts a public record on its web site, or on 644

a public web site maintained by the state, shall post the record 645
in an open format so that the public record, or the data contained 646
in the public record, is capable of being searched, viewed, and 647
downloaded by the public, and is in a format that is machine 648
readable. 649

(2) A public office may claim a qualified exemption from the 650
requirements of division (G)(1) of this section, for a subset or 651
an entire category of records, for any of the following reasons if 652
the records commission claims the qualified exemption and amends 653
the public office's record retention policy to reflect that claim: 654

(a) Technical ability: The office lacks the technical ability 655
to post the records in an open format; 656

(b) Resources: The office lacks the financial or other 657
resources to post the records in an open format; 658

(c) Public policy: Conforming to the uniform standards is 659
contrary to the public policy of the public office. 660

A qualified exemption claimed under this division is not 661
subject to a challenge. But a resident of the state may petition 662
the public office to explain its claim to the qualified exemption. 663

Sec. 149.62. (A) As used in this section: 664

(1) "Local government" means bodies corporate and politic 665
responsible for governmental activities only in geographical areas 666
smaller than that of the state. 667

(2) "State agency" has the meaning defined in section 149.011 668
of the Revised Code. 669

(3) "Open format" has the meaning defined contextually in 670
section 149.43 of the Revised Code. 671

(B) The general assembly recognizes that public-use data from 672
government agencies offers an avenue toward open and transparent 673

government, stimulates business innovation, and can help 674
government agencies become more effective. It is declared to be a 675
public purpose and function of the state to facilitate the ability 676
of the public easily to find, download, and use data sets that are 677
generated and held by the state government and other public 678
offices. With these goals in mind, the general assembly creates 679
the DataOhio board to do all of the following: 680

(1) Recommend categories of public records that state 681
agencies and local governments should make available to the public 682
online in an open format; 683

(2) Recommend technology standards for open data use in the 684
state that reflect the most current standards nationally and 685
within other states; 686

(3) Recommend accounting standards for financial data in the 687
state to facilitate comparison across governmental units and 688
services; 689

(4) Recommend metadata definitional standards for 690
nonfinancial data in the state to facilitate comparison and use of 691
this data across governmental units; and 692

(5) Consider creation by the state of data.ohio.gov, an 693
online catalog of data sets made available by state agencies and 694
local governments, as well as collaboration with efforts underway 695
at the federal and state levels. 696

The board shall deliver a report of its findings and 697
recommendations to the general assembly not later than one year 698
after the effective date of this section, and thereafter shall 699
deliver a report of its recommendations by the thirty-first day of 700
March each year. 701

(C) The DataOhio board shall consist of the following members 702
or their designees: 703

<u>(1) The governor;</u>	704
<u>(2) The attorney general;</u>	705
<u>(3) The auditor of state;</u>	706
<u>(4) The secretary of state;</u>	707
<u>(5) The treasurer of state;</u>	708
<u>(6) The speaker of the house of representatives;</u>	709
<u>(7) The president of the senate;</u>	710
<u>(8) The minority leader of the house of representatives;</u>	711
<u>(9) The minority leader of the senate;</u>	712
<u>(10) The chancellor of the Ohio board of regents; and</u>	713
<u>(11) Three members who represent local governments to be</u>	714
<u>appointed by the chairperson after the chairperson has been</u>	715
<u>selected.</u>	716
<u>The board also shall consist of one or more ex officio,</u>	717
<u>nonvoting members or their designees appointed by the chairperson</u>	718
<u>after the chairperson is selected.</u>	719
<u>The board shall select a chairperson from among its members.</u>	720
<u>The chairperson shall select a member of the board to serve as the</u>	721
<u>board's secretary.</u>	722
<u>The director of administrative services shall provide</u>	723
<u>necessary meeting facilities to the board.</u>	724
<u>Members of the board shall serve without compensation.</u>	725
<u>All meetings of the board shall be held at the call of the</u>	726
<u>chairperson, but the board shall hold its initial meeting not</u>	727
<u>later than thirty days after the effective date of this section.</u>	728
<u>The presence of a majority of the members of the board</u>	729
<u>constitutes a quorum for the conduct of its business. The</u>	730
<u>concurrence of at least a majority of the members of the board is</u>	731

necessary for any action to be taken by the board. 732

Section 2. That existing section 149.43 of the Revised Code 733

is hereby repealed. 734