

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 631

Representative Henne

Cosponsors: Representatives Bishoff, Derickson, Ruhl

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A B I L L

To amend sections 149.43 and 3319.111 and to enact 1
section 3319.113 of the Revised Code and to amend 2
the version of section 149.43 of the Revised Code 3
that is scheduled to take effect on March 20, 4
2015, to continue the provisions of this act on 5
and after that effective date to exclude 6
evaluations conducted pursuant to the Ohio Teacher 7
Evaluation System from the Public Records Law and 8
to exempt teachers participating in the Ohio 9
Teacher Residency Program from those evaluations. 10

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

Section 1. That sections 149.43 and 3319.111 of the Revised 11
Code be amended and section 3319.113 of the Revised Code be 12
enacted to read as follows: 13

Sec. 149.43. (A) As used in this section: 14

(1) "Public record" means records kept by any public office, 15
including, but not limited to, state, county, city, village, 16
township, and school district units, and records pertaining to the 17
delivery of educational services by an alternative school in this 18
state kept by the nonprofit or for-profit entity operating the 19

alternative school pursuant to section 3313.533 of the Revised	20
Code. "Public record" does not mean any of the following:	21
(a) Medical records;	22
(b) Records pertaining to probation and parole proceedings or	23
to proceedings related to the imposition of community control	24
sanctions and post-release control sanctions;	25
(c) Records pertaining to actions under section 2151.85 and	26
division (C) of section 2919.121 of the Revised Code and to	27
appeals of actions arising under those sections;	28
(d) Records pertaining to adoption proceedings, including the	29
contents of an adoption file maintained by the department of	30
health under section 3705.12 of the Revised Code;	31
(e) Information in a record contained in the putative father	32
registry established by section 3107.062 of the Revised Code,	33
regardless of whether the information is held by the department of	34
job and family services or, pursuant to section 3111.69 of the	35
Revised Code, the office of child support in the department or a	36
child support enforcement agency;	37
(f) Records listed in division (A) of section 3107.42 of the	38
Revised Code or specified in division (A) of section 3107.52 of	39
the Revised Code;	40
(g) Trial preparation records;	41
(h) Confidential law enforcement investigatory records;	42
(i) Records containing information that is confidential under	43
section 2710.03 or 4112.05 of the Revised Code;	44
(j) DNA records stored in the DNA database pursuant to	45
section 109.573 of the Revised Code;	46
(k) Inmate records released by the department of	47
rehabilitation and correction to the department of youth services	48
or a court of record pursuant to division (E) of section 5120.21	49

of the Revised Code;	50
(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;	51 52 53 54
(m) Intellectual property records;	55
(n) Donor profile records;	56
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	57 58
(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;	59 60 61 62 63 64
(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;	65 66 67 68 69
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	70 71
(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;	72 73 74 75 76 77 78 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 executives of long-term services and supports 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 89
(v) Records the release of which is prohibited by state or federal law;	90 91
(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;	92 93 94
(x) 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;	95 96 97 98 99 100
(y) Records listed in section 5101.29 of the Revised Code;	101
(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;	102 103 104
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	105 106 107
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to	108 109

the public as provided in that division; 110

(cc) Any record associated with the evaluation of a teacher 111
pursuant to division (C) of section 3319.111 of the Revised Code, 112
including any written report of the results of an evaluation. 113

(2) "Confidential law enforcement investigatory record" means 114
any record that pertains to a law enforcement matter of a 115
criminal, quasi-criminal, civil, or administrative nature, but 116
only to the extent that the release of the record would create a 117
high probability of disclosure of any of the following: 118

(a) The identity of a suspect who has not been charged with 119
the offense to which the record pertains, or of an information 120
source or witness to whom confidentiality has been reasonably 121
promised; 122

(b) Information provided by an information source or witness 123
to whom confidentiality has been reasonably promised, which 124
information would reasonably tend to disclose the source's or 125
witness's identity; 126

(c) Specific confidential investigatory techniques or 127
procedures or specific investigatory work product; 128

(d) Information that would endanger the life or physical 129
safety of law enforcement personnel, a crime victim, a witness, or 130
a confidential information source. 131

(3) "Medical record" means any document or combination of 132
documents, except births, deaths, and the fact of admission to or 133
discharge from a hospital, that pertains to the medical history, 134
diagnosis, prognosis, or medical condition of a patient and that 135
is generated and maintained in the process of medical treatment. 136

(4) "Trial preparation record" means any record that contains 137
information that is specifically compiled in reasonable 138
anticipation of, or in defense of, a civil or criminal action or 139

proceeding, including the independent thought processes and 140
personal trial preparation of an attorney. 141

(5) "Intellectual property record" means a record, other than 142
a financial or administrative record, that is produced or 143
collected by or for faculty or staff of a state institution of 144
higher learning in the conduct of or as a result of study or 145
research on an educational, commercial, scientific, artistic, 146
technical, or scholarly issue, regardless of whether the study or 147
research was sponsored by the institution alone or in conjunction 148
with a governmental body or private concern, and that has not been 149
publicly released, published, or patented. 150

(6) "Donor profile record" means all records about donors or 151
potential donors to a public institution of higher education 152
except the names and reported addresses of the actual donors and 153
the date, amount, and conditions of the actual donation. 154

(7) "Peace officer, parole officer, probation officer, 155
bailiff, prosecuting attorney, assistant prosecuting attorney, 156
correctional employee, community-based correctional facility 157
employee, youth services employee, firefighter, EMT, or 158
investigator of the bureau of criminal identification and 159
investigation residential and familial information" means any 160
information that discloses any of the following about a peace 161
officer, parole officer, probation officer, bailiff, prosecuting 162
attorney, assistant prosecuting attorney, correctional employee, 163
community-based correctional facility employee, youth services 164
employee, firefighter, EMT, or investigator of the bureau of 165
criminal identification and investigation: 166

(a) The address of the actual personal residence of a peace 167
officer, parole officer, probation officer, bailiff, assistant 168
prosecuting attorney, correctional employee, community-based 169
correctional facility employee, youth services employee, 170
firefighter, EMT, or an investigator of the bureau of criminal 171

identification and investigation, except for the state or 172
political subdivision in which the peace officer, parole officer, 173
probation officer, bailiff, assistant prosecuting attorney, 174
correctional employee, community-based correctional facility 175
employee, youth services employee, firefighter, EMT, or 176
investigator of the bureau of criminal identification and 177
investigation resides; 178

(b) Information compiled from referral to or participation in 179
an employee assistance program; 180

(c) The social security number, the residential telephone 181
number, any bank account, debit card, charge card, or credit card 182
number, or the emergency telephone number of, or any medical 183
information pertaining to, a peace officer, parole officer, 184
probation officer, bailiff, prosecuting attorney, assistant 185
prosecuting attorney, correctional employee, community-based 186
correctional facility employee, youth services employee, 187
firefighter, EMT, or investigator of the bureau of criminal 188
identification and investigation; 189

(d) The name of any beneficiary of employment benefits, 190
including, but not limited to, life insurance benefits, provided 191
to a peace officer, parole officer, probation officer, bailiff, 192
prosecuting attorney, assistant prosecuting attorney, correctional 193
employee, community-based correctional facility employee, youth 194
services employee, firefighter, EMT, or investigator of the bureau 195
of criminal identification and investigation by the peace 196
officer's, parole officer's, probation officer's, bailiff's, 197
prosecuting attorney's, assistant prosecuting attorney's, 198
correctional employee's, community-based correctional facility 199
employee's, youth services employee's, firefighter's, EMT's, or 200
investigator of the bureau of criminal identification and 201
investigation's employer; 202

(e) The identity and amount of any charitable or employment 203

benefit deduction made by the peace officer's, parole officer's, 204
probation officer's, bailiff's, prosecuting attorney's, assistant 205
prosecuting attorney's, correctional employee's, community-based 206
correctional facility employee's, youth services employee's, 207
firefighter's, EMT's, or investigator of the bureau of criminal 208
identification and investigation's employer from the peace 209
officer's, parole officer's, probation officer's, bailiff's, 210
prosecuting attorney's, assistant prosecuting attorney's, 211
correctional employee's, community-based correctional facility 212
employee's, youth services employee's, firefighter's, EMT's, or 213
investigator of the bureau of criminal identification and 214
investigation's compensation unless the amount of the deduction is 215
required by state or federal law; 216

(f) The name, the residential address, the name of the 217
employer, the address of the employer, the social security number, 218
the residential telephone number, any bank account, debit card, 219
charge card, or credit card number, or the emergency telephone 220
number of the spouse, a former spouse, or any child of a peace 221
officer, parole officer, probation officer, bailiff, prosecuting 222
attorney, assistant prosecuting attorney, correctional employee, 223
community-based correctional facility employee, youth services 224
employee, firefighter, EMT, or investigator of the bureau of 225
criminal identification and investigation; 226

(g) A photograph of a peace officer who holds a position or 227
has an assignment that may include undercover or plain clothes 228
positions or assignments as determined by the peace officer's 229
appointing authority. 230

As used in divisions (A)(7) and (B)(9) of this section, 231
"peace officer" has the same meaning as in section 109.71 of the 232
Revised Code and also includes the superintendent and troopers of 233
the state highway patrol; it does not include the sheriff of a 234
county or a supervisory employee who, in the absence of the 235

sheriff, is authorized to stand in for, exercise the authority of, 236
and perform the duties of the sheriff. 237

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, 238
"correctional employee" means any employee of the department of 239
rehabilitation and correction who in the course of performing the 240
employee's job duties has or has had contact with inmates and 241
persons under supervision. 242

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, 243
"youth services employee" means any employee of the department of 244
youth services who in the course of performing the employee's job 245
duties has or has had contact with children committed to the 246
custody of the department of youth services. 247

As used in divisions (A)(7) and (B)(9) of this section, 248
"firefighter" means any regular, paid or volunteer, member of a 249
lawfully constituted fire department of a municipal corporation, 250
township, fire district, or village. 251

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 252
means EMTs-basic, EMTs-I, and paramedics that provide emergency 253
medical services for a public emergency medical service 254
organization. "Emergency medical service organization," 255
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 256
section 4765.01 of the Revised Code. 257

As used in divisions (A)(7) and (B)(9) of this section, 258
"investigator of the bureau of criminal identification and 259
investigation" has the meaning defined in section 2903.11 of the 260
Revised Code. 261

(8) "Information pertaining to the recreational activities of 262
a person under the age of eighteen" means information that is kept 263
in the ordinary course of business by a public office, that 264
pertains to the recreational activities of a person under the age 265
of eighteen years, and that discloses any of the following: 266

(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;	267 268 269
(b) The social security number, birth date, or photographic image of a person under the age of eighteen;	270 271
(c) Any medical record, history, or information pertaining to a person under the age of eighteen;	272 273
(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.	274 275 276 277 278 279
(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	280 281
(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	282 283
(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.	284 285 286 287
(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.	288 289
(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable	290 291 292 293 294 295 296

period of time. If a public record contains information that is 297
exempt from the duty to permit public inspection or to copy the 298
public record, the public office or the person responsible for the 299
public record shall make available all of the information within 300
the public record that is not exempt. When making that public 301
record available for public inspection or copying that public 302
record, the public office or the person responsible for the public 303
record shall notify the requester of any redaction or make the 304
redaction plainly visible. A redaction shall be deemed a denial of 305
a request to inspect or copy the redacted information, except if 306
federal or state law authorizes or requires a public office to 307
make the redaction. 308

(2) To facilitate broader access to public records, a public 309
office or the person responsible for public records shall organize 310
and maintain public records in a manner that they can be made 311
available for inspection or copying in accordance with division 312
(B) of this section. A public office also shall have available a 313
copy of its current records retention schedule at a location 314
readily available to the public. If a requester makes an ambiguous 315
or overly broad request or has difficulty in making a request for 316
copies or inspection of public records under this section such 317
that the public office or the person responsible for the requested 318
public record cannot reasonably identify what public records are 319
being requested, the public office or the person responsible for 320
the requested public record may deny the request but shall provide 321
the requester with an opportunity to revise the request by 322
informing the requester of the manner in which records are 323
maintained by the public office and accessed in the ordinary 324
course of the public office's or person's duties. 325

(3) If a request is ultimately denied, in part or in whole, 326
the public office or the person responsible for the requested 327
public record shall provide the requester with an explanation, 328

including legal authority, setting forth why the request was 329
denied. If the initial request was provided in writing, the 330
explanation also shall be provided to the requester in writing. 331
The explanation shall not preclude the public office or the person 332
responsible for the requested public record from relying upon 333
additional reasons or legal authority in defending an action 334
commenced under division (C) of this section. 335

(4) Unless specifically required or authorized by state or 336
federal law or in accordance with division (B) of this section, no 337
public office or person responsible for public records may limit 338
or condition the availability of public records by requiring 339
disclosure of the requester's identity or the intended use of the 340
requested public record. Any requirement that the requester 341
disclose the requestor's identity or the intended use of the 342
requested public record constitutes a denial of the request. 343

(5) A public office or person responsible for public records 344
may ask a requester to make the request in writing, may ask for 345
the requester's identity, and may inquire about the intended use 346
of the information requested, but may do so only after disclosing 347
to the requester that a written request is not mandatory and that 348
the requester may decline to reveal the requester's identity or 349
the intended use and when a written request or disclosure of the 350
identity or intended use would benefit the requester by enhancing 351
the ability of the public office or person responsible for public 352
records to identify, locate, or deliver the public records sought 353
by the requester. 354

(6) If any person chooses to obtain a copy of a public record 355
in accordance with division (B) of this section, the public office 356
or person responsible for the public record may require that 357
person to pay in advance the cost involved in providing the copy 358
of the public record in accordance with the choice made by the 359
person seeking the copy under this division. The public office or 360

the person responsible for the public record shall permit that 361
person to choose to have the public record duplicated upon paper, 362
upon the same medium upon which the public office or person 363
responsible for the public record keeps it, or upon any other 364
medium upon which the public office or person responsible for the 365
public record determines that it reasonably can be duplicated as 366
an integral part of the normal operations of the public office or 367
person responsible for the public record. When the person seeking 368
the copy makes a choice under this division, the public office or 369
person responsible for the public record shall provide a copy of 370
it in accordance with the choice made by the person seeking the 371
copy. Nothing in this section requires a public office or person 372
responsible for the public record to allow the person seeking a 373
copy of the public record to make the copies of the public record. 374

(7) Upon a request made in accordance with division (B) of 375
this section and subject to division (B)(6) of this section, a 376
public office or person responsible for public records shall 377
transmit a copy of a public record to any person by United States 378
mail or by any other means of delivery or transmission within a 379
reasonable period of time after receiving the request for the 380
copy. The public office or person responsible for the public 381
record may require the person making the request to pay in advance 382
the cost of postage if the copy is transmitted by United States 383
mail or the cost of delivery if the copy is transmitted other than 384
by United States mail, and to pay in advance the costs incurred 385
for other supplies used in the mailing, delivery, or transmission. 386

Any public office may adopt a policy and procedures that it 387
will follow in transmitting, within a reasonable period of time 388
after receiving a request, copies of public records by United 389
States mail or by any other means of delivery or transmission 390
pursuant to this division. A public office that adopts a policy 391
and procedures under this division shall comply with them in 392

performing its duties under this division. 393

In any policy and procedures adopted under this division, a 394
public office may limit the number of records requested by a 395
person that the office will transmit by United States mail to ten 396
per month, unless the person certifies to the office in writing 397
that the person does not intend to use or forward the requested 398
records, or the information contained in them, for commercial 399
purposes. For purposes of this division, "commercial" shall be 400
narrowly construed and does not include reporting or gathering 401
news, reporting or gathering information to assist citizen 402
oversight or understanding of the operation or activities of 403
government, or nonprofit educational research. 404

(8) A public office or person responsible for public records 405
is not required to permit a person who is incarcerated pursuant to 406
a criminal conviction or a juvenile adjudication to inspect or to 407
obtain a copy of any public record concerning a criminal 408
investigation or prosecution or concerning what would be a 409
criminal investigation or prosecution if the subject of the 410
investigation or prosecution were an adult, unless the request to 411
inspect or to obtain a copy of the record is for the purpose of 412
acquiring information that is subject to release as a public 413
record under this section and the judge who imposed the sentence 414
or made the adjudication with respect to the person, or the 415
judge's successor in office, finds that the information sought in 416
the public record is necessary to support what appears to be a 417
justiciable claim of the person. 418

(9)(a) Upon written request made and signed by a journalist 419
on or after December 16, 1999, a public office, or person 420
responsible for public records, having custody of the records of 421
the agency employing a specified peace officer, parole officer, 422
probation officer, bailiff, prosecuting attorney, assistant 423
prosecuting attorney, correctional employee, community-based 424

correctional facility employee, youth services employee, 425
firefighter, EMT, or investigator of the bureau of criminal 426
identification and investigation shall disclose to the journalist 427
the address of the actual personal residence of the peace officer, 428
parole officer, probation officer, bailiff, prosecuting attorney, 429
assistant prosecuting attorney, correctional employee, 430
community-based correctional facility employee, youth services 431
employee, firefighter, EMT, or investigator of the bureau of 432
criminal identification and investigation and, if the peace 433
officer's, parole officer's, probation officer's, bailiff's, 434
prosecuting attorney's, assistant prosecuting attorney's, 435
correctional employee's, community-based correctional facility 436
employee's, youth services employee's, firefighter's, EMT's, or 437
investigator of the bureau of criminal identification and 438
investigation's spouse, former spouse, or child is employed by a 439
public office, the name and address of the employer of the peace 440
officer's, parole officer's, probation officer's, bailiff's, 441
prosecuting attorney's, assistant prosecuting attorney's, 442
correctional employee's, community-based correctional facility 443
employee's, youth services employee's, firefighter's, EMT's, or 444
investigator of the bureau of criminal identification and 445
investigation's spouse, former spouse, or child. The request shall 446
include the journalist's name and title and the name and address 447
of the journalist's employer and shall state that disclosure of 448
the information sought would be in the public interest. 449

(b) Division (B)(9)(a) of this section also applies to 450
journalist requests for customer information maintained by a 451
municipally owned or operated public utility, other than social 452
security numbers and any private financial information such as 453
credit reports, payment methods, credit card numbers, and bank 454
account information. 455

(c) As used in division (B)(9) of this section, "journalist" 456

means a person engaged in, connected with, or employed by any news 457
medium, including a newspaper, magazine, press association, news 458
agency, or wire service, a radio or television station, or a 459
similar medium, for the purpose of gathering, processing, 460
transmitting, compiling, editing, or disseminating information for 461
the general public. 462

(C)(1) If a person allegedly is aggrieved by the failure of a 463
public office or the person responsible for public records to 464
promptly prepare a public record and to make it available to the 465
person for inspection in accordance with division (B) of this 466
section or by any other failure of a public office or the person 467
responsible for public records to comply with an obligation in 468
accordance with division (B) of this section, the person allegedly 469
aggrieved may commence a mandamus action to obtain a judgment that 470
orders the public office or the person responsible for the public 471
record to comply with division (B) of this section, that awards 472
court costs and reasonable attorney's fees to the person that 473
instituted the mandamus action, and, if applicable, that includes 474
an order fixing statutory damages under division (C)(1) of this 475
section. The mandamus action may be commenced in the court of 476
common pleas of the county in which division (B) of this section 477
allegedly was not complied with, in the supreme court pursuant to 478
its original jurisdiction under Section 2 of Article IV, Ohio 479
Constitution, or in the court of appeals for the appellate 480
district in which division (B) of this section allegedly was not 481
complied with pursuant to its original jurisdiction under Section 482
3 of Article IV, Ohio Constitution. 483

If a requestor transmits a written request by hand delivery 484
or certified mail to inspect or receive copies of any public 485
record in a manner that fairly describes the public record or 486
class of public records to the public office or person responsible 487
for the requested public records, except as otherwise provided in 488

this section, the requestor shall be entitled to recover the 489
amount of statutory damages set forth in this division if a court 490
determines that the public office or the person responsible for 491
public records failed to comply with an obligation in accordance 492
with division (B) of this section. 493

The amount of statutory damages shall be fixed at one hundred 494
dollars for each business day during which the public office or 495
person responsible for the requested public records failed to 496
comply with an obligation in accordance with division (B) of this 497
section, beginning with the day on which the requester files a 498
mandamus action to recover statutory damages, up to a maximum of 499
one thousand dollars. The award of statutory damages shall not be 500
construed as a penalty, but as compensation for injury arising 501
from lost use of the requested information. The existence of this 502
injury shall be conclusively presumed. The award of statutory 503
damages shall be in addition to all other remedies authorized by 504
this section. 505

The court may reduce an award of statutory damages or not 506
award statutory damages if the court determines both of the 507
following: 508

(a) That, based on the ordinary application of statutory law 509
and case law as it existed at the time of the conduct or 510
threatened conduct of the public office or person responsible for 511
the requested public records that allegedly constitutes a failure 512
to comply with an obligation in accordance with division (B) of 513
this section and that was the basis of the mandamus action, a 514
well-informed public office or person responsible for the 515
requested public records reasonably would believe that the conduct 516
or threatened conduct of the public office or person responsible 517
for the requested public records did not constitute a failure to 518
comply with an obligation in accordance with division (B) of this 519
section; 520

(b) That a well-informed public office or person responsible 521
for the requested public records reasonably would believe that the 522
conduct or threatened conduct of the public office or person 523
responsible for the requested public records would serve the 524
public policy that underlies the authority that is asserted as 525
permitting that conduct or threatened conduct. 526

(2)(a) If the court issues a writ of mandamus that orders the 527
public office or the person responsible for the public record to 528
comply with division (B) of this section and determines that the 529
circumstances described in division (C)(1) of this section exist, 530
the court shall determine and award to the relator all court 531
costs. 532

(b) If the court renders a judgment that orders the public 533
office or the person responsible for the public record to comply 534
with division (B) of this section, the court may award reasonable 535
attorney's fees subject to reduction as described in division 536
(C)(2)(c) of this section. The court shall award reasonable 537
attorney's fees, subject to reduction as described in division 538
(C)(2)(c) of this section when either of the following applies: 539

(i) The public office or the person responsible for the 540
public records failed to respond affirmatively or negatively to 541
the public records request in accordance with the time allowed 542
under division (B) of this section. 543

(ii) The public office or the person responsible for the 544
public records promised to permit the relator to inspect or 545
receive copies of the public records requested within a specified 546
period of time but failed to fulfill that promise within that 547
specified period of time. 548

(c) Court costs and reasonable attorney's fees awarded under 549
this section shall be construed as remedial and not punitive. 550
Reasonable attorney's fees shall include reasonable fees incurred 551

to produce proof of the reasonableness and amount of the fees and 552
to otherwise litigate entitlement to the fees. The court may 553
reduce an award of attorney's fees to the relator or not award 554
attorney's fees to the relator if the court determines both of the 555
following: 556

(i) That, based on the ordinary application of statutory law 557
and case law as it existed at the time of the conduct or 558
threatened conduct of the public office or person responsible for 559
the requested public records that allegedly constitutes a failure 560
to comply with an obligation in accordance with division (B) of 561
this section and that was the basis of the mandamus action, a 562
well-informed public office or person responsible for the 563
requested public records reasonably would believe that the conduct 564
or threatened conduct of the public office or person responsible 565
for the requested public records did not constitute a failure to 566
comply with an obligation in accordance with division (B) of this 567
section; 568

(ii) That a well-informed public office or person responsible 569
for the requested public records reasonably would believe that the 570
conduct or threatened conduct of the public office or person 571
responsible for the requested public records as described in 572
division (C)(2)(c)(i) of this section would serve the public 573
policy that underlies the authority that is asserted as permitting 574
that conduct or threatened conduct. 575

(D) Chapter 1347. of the Revised Code does not limit the 576
provisions of this section. 577

(E)(1) To ensure that all employees of public offices are 578
appropriately educated about a public office's obligations under 579
division (B) of this section, all elected officials or their 580
appropriate designees shall attend training approved by the 581
attorney general as provided in section 109.43 of the Revised 582
Code. In addition, all public offices shall adopt a public records 583

policy in compliance with this section for responding to public 584
records requests. In adopting a public records policy under this 585
division, a public office may obtain guidance from the model 586
public records policy developed and provided to the public office 587
by the attorney general under section 109.43 of the Revised Code. 588
Except as otherwise provided in this section, the policy may not 589
limit the number of public records that the public office will 590
make available to a single person, may not limit the number of 591
public records that it will make available during a fixed period 592
of time, and may not establish a fixed period of time before it 593
will respond to a request for inspection or copying of public 594
records, unless that period is less than eight hours. 595

(2) The public office shall distribute the public records 596
policy adopted by the public office under division (E)(1) of this 597
section to the employee of the public office who is the records 598
custodian or records manager or otherwise has custody of the 599
records of that office. The public office shall require that 600
employee to acknowledge receipt of the copy of the public records 601
policy. The public office shall create a poster that describes its 602
public records policy and shall post the poster in a conspicuous 603
place in the public office and in all locations where the public 604
office has branch offices. The public office may post its public 605
records policy on the internet web site of the public office if 606
the public office maintains an internet web site. A public office 607
that has established a manual or handbook of its general policies 608
and procedures for all employees of the public office shall 609
include the public records policy of the public office in the 610
manual or handbook. 611

(F)(1) The bureau of motor vehicles may adopt rules pursuant 612
to Chapter 119. of the Revised Code to reasonably limit the number 613
of bulk commercial special extraction requests made by a person 614
for the same records or for updated records during a calendar 615

year. The rules may include provisions for charges to be made for 616
bulk commercial special extraction requests for the actual cost of 617
the bureau, plus special extraction costs, plus ten per cent. The 618
bureau may charge for expenses for redacting information, the 619
release of which is prohibited by law. 620

(2) As used in division (F)(1) of this section: 621

(a) "Actual cost" means the cost of depleted supplies, 622
records storage media costs, actual mailing and alternative 623
delivery costs, or other transmitting costs, and any direct 624
equipment operating and maintenance costs, including actual costs 625
paid to private contractors for copying services. 626

(b) "Bulk commercial special extraction request" means a 627
request for copies of a record for information in a format other 628
than the format already available, or information that cannot be 629
extracted without examination of all items in a records series, 630
class of records, or database by a person who intends to use or 631
forward the copies for surveys, marketing, solicitation, or resale 632
for commercial purposes. "Bulk commercial special extraction 633
request" does not include a request by a person who gives 634
assurance to the bureau that the person making the request does 635
not intend to use or forward the requested copies for surveys, 636
marketing, solicitation, or resale for commercial purposes. 637

(c) "Commercial" means profit-seeking production, buying, or 638
selling of any good, service, or other product. 639

(d) "Special extraction costs" means the cost of the time 640
spent by the lowest paid employee competent to perform the task, 641
the actual amount paid to outside private contractors employed by 642
the bureau, or the actual cost incurred to create computer 643
programs to make the special extraction. "Special extraction 644
costs" include any charges paid to a public agency for computer or 645
records services. 646

(3) For purposes of divisions (F)(1) and (2) of this section, 647
"surveys, marketing, solicitation, or resale for commercial 648
purposes" shall be narrowly construed and does not include 649
reporting or gathering news, reporting or gathering information to 650
assist citizen oversight or understanding of the operation or 651
activities of government, or nonprofit educational research. 652

Sec. 3319.111. Notwithstanding section 3319.09 and subject to 653
section 3319.113 of the Revised Code, this section applies to any 654
person who is employed under a teacher license issued under this 655
chapter, or under a professional or permanent teacher's 656
certificate issued under former section 3319.222 of the Revised 657
Code, and who spends at least fifty per cent of the time employed 658
providing student instruction. However, this section does not 659
apply to any person who is employed as a substitute teacher or as 660
an instructor of adult education. 661

(A) Not later than July 1, 2013, the board of education of 662
each school district, in consultation with teachers employed by 663
the board, shall adopt a standards-based teacher evaluation policy 664
that conforms with the framework for evaluation of teachers 665
developed under section 3319.112 of the Revised Code. The policy 666
shall become operative at the expiration of any collective 667
bargaining agreement covering teachers employed by the board that 668
is in effect on September 29, 2011, and shall be included in any 669
renewal or extension of such an agreement. 670

(B) When using measures of student academic growth as a 671
component of a teacher's evaluation, those measures shall include 672
the value-added progress dimension prescribed by section 3302.021 673
of the Revised Code or an alternative student academic progress 674
measure if adopted under division (C)(1)(e) of section 3302.03 of 675
the Revised Code. For teachers of grade levels and subjects for 676
which the value-added progress dimension or alternative student 677

academic progress measure is not applicable, the board shall 678
administer assessments on the list developed under division (B)(2) 679
of section 3319.112 of the Revised Code. 680

(C)(1) The board shall conduct an evaluation of each teacher 681
employed by the board at least once each school year, except as 682
provided in division (C)(2) of this section. The evaluation shall 683
be completed by the first day of May and the teacher shall receive 684
a written report of the results of the evaluation by the tenth day 685
of May. 686

(2)(a) The board may evaluate each teacher who received a 687
rating of accomplished on the teacher's most recent evaluation 688
conducted under this section once every three school years, so 689
long as the teacher's student academic growth measure, for the 690
most recent school year for which data is available, is average or 691
higher, as determined by the department of education. 692

(b) The board may evaluate each teacher who received a rating 693
of skilled on the teacher's most recent evaluation conducted under 694
this section once every two years, so long as the teacher's 695
student academic growth measure, for the most recent school year 696
for which data is available, is average or higher, as determined 697
by the department of education. 698

(c) For each teacher who is evaluated pursuant to division 699
(C)(2) of this section, the evaluation shall be completed by the 700
first day of May of the applicable school year, and the teacher 701
shall receive a written report of the results of the evaluation by 702
the tenth day of May of that school year. 703

(d) Beginning with the 2014-2015 school year, the board may 704
elect not to conduct an evaluation of a teacher who meets one of 705
the following requirements: 706

(i) The teacher was on leave from the school district for 707
fifty per cent or more of the school year, as calculated by the 708

board. 709

(ii) The teacher has submitted notice of retirement and that 710
notice has been accepted by the board not later than the first day 711
of December of the school year in which the evaluation is 712
otherwise scheduled to be conducted. 713

(3) In any year that a teacher is not formally evaluated 714
pursuant to division (C) of this section as a result of receiving 715
a rating of accomplished or skilled on the teacher's most recent 716
evaluation, an individual qualified to evaluate a teacher under 717
division (D) of this section shall conduct at least one 718
observation of the teacher and hold at least one conference with 719
the teacher. 720

(D) Each evaluation conducted pursuant to this section shall 721
be conducted by one or more of the following persons who hold a 722
credential established by the department of education for being an 723
evaluator: 724

(1) A person who is under contract with the board pursuant to 725
section 3319.01 or 3319.02 of the Revised Code and holds a license 726
designated for being a superintendent, assistant superintendent, 727
or principal issued under section 3319.22 of the Revised Code; 728

(2) A person who is under contract with the board pursuant to 729
section 3319.02 of the Revised Code and holds a license designated 730
for being a vocational director, administrative specialist, or 731
supervisor in any educational area issued under section 3319.22 of 732
the Revised Code; 733

(3) A person designated to conduct evaluations under an 734
agreement entered into by the board, including an agreement 735
providing for peer review entered into by the board and 736
representatives of teachers employed by the board; 737

(4) A person who is employed by an entity contracted by the 738
board to conduct evaluations and who holds a license designated 739

for being a superintendent, assistant superintendent, principal, 740
vocational director, administrative specialist, or supervisor in 741
any educational area issued under section 3319.22 of the Revised 742
Code or is qualified to conduct evaluations. 743

(E) Notwithstanding division (A)(3) of section 3319.112 of 744
the Revised Code: 745

(1) The board shall require at least three formal 746
observations of each teacher who is under consideration for 747
nonrenewal and with whom the board has entered into a limited 748
contract or an extended limited contract under section 3319.11 of 749
the Revised Code. 750

(2) The board may elect, by adoption of a resolution, to 751
require only one formal observation of a teacher who received a 752
rating of accomplished on the teacher's most recent evaluation 753
conducted under this section, provided the teacher completes a 754
project that has been approved by the board to demonstrate the 755
teacher's continued growth and practice at the accomplished level. 756

(F) The board shall include in its evaluation policy 757
procedures for using the evaluation results for retention and 758
promotion decisions and for removal of poorly performing teachers. 759
Seniority shall not be the basis for a decision to retain a 760
teacher, except when making a decision between teachers who have 761
comparable evaluations. 762

(G) For purposes of section 3333.0411 of the Revised Code, 763
the board annually shall report to the department of education the 764
number of teachers for whom an evaluation was conducted under this 765
section and the number of teachers assigned each rating prescribed 766
under division (B)(1) of section 3319.112 of the Revised Code, 767
aggregated by the teacher preparation programs from which and the 768
years in which the teachers graduated. The department shall 769
establish guidelines for reporting the information required by 770

this division. The guidelines shall not permit or require that the 771
name of, or any other personally identifiable information about, 772
any teacher be reported under this division. 773

(H) Notwithstanding any provision to the contrary in Chapter 774
4117. of the Revised Code, the requirements of this section 775
prevail over any conflicting provisions of a collective bargaining 776
agreement entered into on or after September 24, 2012. 777

Sec. 3319.113. The board of education of a school district 778
shall not conduct an evaluation pursuant to section 3319.111 of 779
the Revised Code of any teacher during the time in which that 780
teacher is participating in the Ohio teacher residency program 781
established by section 3319.223 of the Revised Code. 782

Section 2. That existing sections 149.43 and 3319.111 of the 783
Revised Code are hereby repealed. 784

Section 3. That the version of section 149.43 of the Revised 785
Code that is scheduled to take effect on March 20, 2015, be 786
amended to read as follows: 787

Sec. 149.43. (A) As used in this section: 788

(1) "Public record" means records kept by any public office, 789
including, but not limited to, state, county, city, village, 790
township, and school district units, and records pertaining to the 791
delivery of educational services by an alternative school in this 792
state kept by the nonprofit or for-profit entity operating the 793
alternative school pursuant to section 3313.533 of the Revised 794
Code. "Public record" does not mean any of the following: 795

(a) Medical records; 796

(b) Records pertaining to probation and parole proceedings or 797

to proceedings related to the imposition of community control	798
sanctions and post-release control sanctions;	799
(c) Records pertaining to actions under section 2151.85 and	800
division (C) of section 2919.121 of the Revised Code and to	801
appeals of actions arising under those sections;	802
(d) Records pertaining to adoption proceedings, including the	803
contents of an adoption file maintained by the department of	804
health under sections 3705.12 to 3705.124 of the Revised Code;	805
(e) Information in a record contained in the putative father	806
registry established by section 3107.062 of the Revised Code,	807
regardless of whether the information is held by the department of	808
job and family services or, pursuant to section 3111.69 of the	809
Revised Code, the office of child support in the department or a	810
child support enforcement agency;	811
(f) Records specified in division (A) of section 3107.52 of	812
the Revised Code;	813
(g) Trial preparation records;	814
(h) Confidential law enforcement investigatory records;	815
(i) Records containing information that is confidential under	816
section 2710.03 or 4112.05 of the Revised Code;	817
(j) DNA records stored in the DNA database pursuant to	818
section 109.573 of the Revised Code;	819
(k) Inmate records released by the department of	820
rehabilitation and correction to the department of youth services	821
or a court of record pursuant to division (E) of section 5120.21	822
of the Revised Code;	823
(l) Records maintained by the department of youth services	824
pertaining to children in its custody released by the department	825
of youth services to the department of rehabilitation and	826

correction pursuant to section 5139.05 of the Revised Code;	827
(m) Intellectual property records;	828
(n) Donor profile records;	829
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	830 831
(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;	832 833 834 835 836 837
(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;	838 839 840 841 842
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	843 844
(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;	845 846 847 848 849 850 851 852
(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;	853 854 855 856

(u) Test materials, examinations, or evaluation tools used in 857
an examination for licensure as a nursing home administrator that 858
the board of executives of long-term services and supports 859
administers under section 4751.04 of the Revised Code or contracts 860
under that section with a private or government entity to 861
administer; 862

(v) Records the release of which is prohibited by state or 863
federal law; 864

(w) Proprietary information of or relating to any person that 865
is submitted to or compiled by the Ohio venture capital authority 866
created under section 150.01 of the Revised Code; 867

(x) Financial statements and data any person submits for any 868
purpose to the Ohio housing finance agency or the controlling 869
board in connection with applying for, receiving, or accounting 870
for financial assistance from the agency, and information that 871
identifies any individual who benefits directly or indirectly from 872
financial assistance from the agency; 873

(y) Records listed in section 5101.29 of the Revised Code; 874

(z) Discharges recorded with a county recorder under section 875
317.24 of the Revised Code, as specified in division (B)(2) of 876
that section; 877

(aa) Usage information including names and addresses of 878
specific residential and commercial customers of a municipally 879
owned or operated public utility; 880

(bb) Records described in division (C) of section 187.04 of 881
the Revised Code that are not designated to be made available to 882
the public as provided in that division; 883

(cc) Any record associated with the evaluation of a teacher 884
pursuant to division (C) of section 3319.111 of the Revised Code, 885
including any written report of the results of an evaluation. 886

(2) "Confidential law enforcement investigatory record" means 887
any record that pertains to a law enforcement matter of a 888
criminal, quasi-criminal, civil, or administrative nature, but 889
only to the extent that the release of the record would create a 890
high probability of disclosure of any of the following: 891

(a) The identity of a suspect who has not been charged with 892
the offense to which the record pertains, or of an information 893
source or witness to whom confidentiality has been reasonably 894
promised; 895

(b) Information provided by an information source or witness 896
to whom confidentiality has been reasonably promised, which 897
information would reasonably tend to disclose the source's or 898
witness's identity; 899

(c) Specific confidential investigatory techniques or 900
procedures or specific investigatory work product; 901

(d) Information that would endanger the life or physical 902
safety of law enforcement personnel, a crime victim, a witness, or 903
a confidential information source. 904

(3) "Medical record" means any document or combination of 905
documents, except births, deaths, and the fact of admission to or 906
discharge from a hospital, that pertains to the medical history, 907
diagnosis, prognosis, or medical condition of a patient and that 908
is generated and maintained in the process of medical treatment. 909

(4) "Trial preparation record" means any record that contains 910
information that is specifically compiled in reasonable 911
anticipation of, or in defense of, a civil or criminal action or 912
proceeding, including the independent thought processes and 913
personal trial preparation of an attorney. 914

(5) "Intellectual property record" means a record, other than 915
a financial or administrative record, that is produced or 916

collected by or for faculty or staff of a state institution of 917
higher learning in the conduct of or as a result of study or 918
research on an educational, commercial, scientific, artistic, 919
technical, or scholarly issue, regardless of whether the study or 920
research was sponsored by the institution alone or in conjunction 921
with a governmental body or private concern, and that has not been 922
publicly released, published, or patented. 923

(6) "Donor profile record" means all records about donors or 924
potential donors to a public institution of higher education 925
except the names and reported addresses of the actual donors and 926
the date, amount, and conditions of the actual donation. 927

(7) "Peace officer, parole officer, probation officer, 928
bailiff, prosecuting attorney, assistant prosecuting attorney, 929
correctional employee, community-based correctional facility 930
employee, youth services employee, firefighter, EMT, or 931
investigator of the bureau of criminal identification and 932
investigation residential and familial information" means any 933
information that discloses any of the following about a peace 934
officer, parole officer, probation officer, bailiff, prosecuting 935
attorney, assistant prosecuting attorney, correctional employee, 936
community-based correctional facility employee, youth services 937
employee, firefighter, EMT, or investigator of the bureau of 938
criminal identification and investigation: 939

(a) The address of the actual personal residence of a peace 940
officer, parole officer, probation officer, bailiff, assistant 941
prosecuting attorney, correctional employee, community-based 942
correctional facility employee, youth services employee, 943
firefighter, EMT, or an investigator of the bureau of criminal 944
identification and investigation, except for the state or 945
political subdivision in which the peace officer, parole officer, 946
probation officer, bailiff, assistant prosecuting attorney, 947

correctional employee, community-based correctional facility 948
employee, youth services employee, firefighter, EMT, or 949
investigator of the bureau of criminal identification and 950
investigation resides; 951

(b) Information compiled from referral to or participation in 952
an employee assistance program; 953

(c) The social security number, the residential telephone 954
number, any bank account, debit card, charge card, or credit card 955
number, or the emergency telephone number of, or any medical 956
information pertaining to, a peace officer, parole officer, 957
probation officer, bailiff, prosecuting attorney, assistant 958
prosecuting attorney, correctional employee, community-based 959
correctional facility employee, youth services employee, 960
firefighter, EMT, or investigator of the bureau of criminal 961
identification and investigation; 962

(d) The name of any beneficiary of employment benefits, 963
including, but not limited to, life insurance benefits, provided 964
to a peace officer, parole officer, probation officer, bailiff, 965
prosecuting attorney, assistant prosecuting attorney, correctional 966
employee, community-based correctional facility employee, youth 967
services employee, firefighter, EMT, or investigator of the bureau 968
of criminal identification and investigation by the peace 969
officer's, parole officer's, probation officer's, bailiff's, 970
prosecuting attorney's, assistant prosecuting attorney's, 971
correctional employee's, community-based correctional facility 972
employee's, youth services employee's, firefighter's, EMT's, or 973
investigator of the bureau of criminal identification and 974
investigation's employer; 975

(e) The identity and amount of any charitable or employment 976
benefit deduction made by the peace officer's, parole officer's, 977
probation officer's, bailiff's, prosecuting attorney's, assistant 978

prosecuting attorney's, correctional employee's, community-based 979
correctional facility employee's, youth services employee's, 980
firefighter's, EMT's, or investigator of the bureau of criminal 981
identification and investigation's employer from the peace 982
officer's, parole officer's, probation officer's, bailiff's, 983
prosecuting attorney's, assistant prosecuting attorney's, 984
correctional employee's, community-based correctional facility 985
employee's, youth services employee's, firefighter's, EMT's, or 986
investigator of the bureau of criminal identification and 987
investigation's compensation unless the amount of the deduction is 988
required by state or federal law; 989

(f) The name, the residential address, the name of the 990
employer, the address of the employer, the social security number, 991
the residential telephone number, any bank account, debit card, 992
charge card, or credit card number, or the emergency telephone 993
number of the spouse, a former spouse, or any child of a peace 994
officer, parole officer, probation officer, bailiff, prosecuting 995
attorney, assistant prosecuting attorney, correctional employee, 996
community-based correctional facility employee, youth services 997
employee, firefighter, EMT, or investigator of the bureau of 998
criminal identification and investigation; 999

(g) A photograph of a peace officer who holds a position or 1000
has an assignment that may include undercover or plain clothes 1001
positions or assignments as determined by the peace officer's 1002
appointing authority. 1003

As used in divisions (A)(7) and (B)(9) of this section, 1004
"peace officer" has the same meaning as in section 109.71 of the 1005
Revised Code and also includes the superintendent and troopers of 1006
the state highway patrol; it does not include the sheriff of a 1007
county or a supervisory employee who, in the absence of the 1008
sheriff, is authorized to stand in for, exercise the authority of, 1009

and perform the duties of the sheriff. 1010

As used in divisions (A)(7) and (B)(9) of this section, 1011
"correctional employee" means any employee of the department of 1012
rehabilitation and correction who in the course of performing the 1013
employee's job duties has or has had contact with inmates and 1014
persons under supervision. 1015

As used in divisions (A)(7) and (B)(9) of this section, 1016
"youth services employee" means any employee of the department of 1017
youth services who in the course of performing the employee's job 1018
duties has or has had contact with children committed to the 1019
custody of the department of youth services. 1020

As used in divisions (A)(7) and (B)(9) of this section, 1021
"firefighter" means any regular, paid or volunteer, member of a 1022
lawfully constituted fire department of a municipal corporation, 1023
township, fire district, or village. 1024

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 1025
means EMTs-basic, EMTs-I, and paramedics that provide emergency 1026
medical services for a public emergency medical service 1027
organization. "Emergency medical service organization," 1028
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 1029
section 4765.01 of the Revised Code. 1030

As used in divisions (A)(7) and (B)(9) of this section, 1031
"investigator of the bureau of criminal identification and 1032
investigation" has the meaning defined in section 2903.11 of the 1033
Revised Code. 1034

(8) "Information pertaining to the recreational activities of 1035
a person under the age of eighteen" means information that is kept 1036
in the ordinary course of business by a public office, that 1037
pertains to the recreational activities of a person under the age 1038
of eighteen years, and that discloses any of the following: 1039

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

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

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

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

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

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

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

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

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable

period of time. If a public record contains information that is 1070
exempt from the duty to permit public inspection or to copy the 1071
public record, the public office or the person responsible for the 1072
public record shall make available all of the information within 1073
the public record that is not exempt. When making that public 1074
record available for public inspection or copying that public 1075
record, the public office or the person responsible for the public 1076
record shall notify the requester of any redaction or make the 1077
redaction plainly visible. A redaction shall be deemed a denial of 1078
a request to inspect or copy the redacted information, except if 1079
federal or state law authorizes or requires a public office to 1080
make the redaction. 1081

(2) To facilitate broader access to public records, a public 1082
office or the person responsible for public records shall organize 1083
and maintain public records in a manner that they can be made 1084
available for inspection or copying in accordance with division 1085
(B) of this section. A public office also shall have available a 1086
copy of its current records retention schedule at a location 1087
readily available to the public. If a requester makes an ambiguous 1088
or overly broad request or has difficulty in making a request for 1089
copies or inspection of public records under this section such 1090
that the public office or the person responsible for the requested 1091
public record cannot reasonably identify what public records are 1092
being requested, the public office or the person responsible for 1093
the requested public record may deny the request but shall provide 1094
the requester with an opportunity to revise the request by 1095
informing the requester of the manner in which records are 1096
maintained by the public office and accessed in the ordinary 1097
course of the public office's or person's duties. 1098

(3) If a request is ultimately denied, in part or in whole, 1099
the public office or the person responsible for the requested 1100
public record shall provide the requester with an explanation, 1101

including legal authority, setting forth why the request was 1102
denied. If the initial request was provided in writing, the 1103
explanation also shall be provided to the requester in writing. 1104
The explanation shall not preclude the public office or the person 1105
responsible for the requested public record from relying upon 1106
additional reasons or legal authority in defending an action 1107
commenced under division (C) of this section. 1108

(4) Unless specifically required or authorized by state or 1109
federal law or in accordance with division (B) of this section, no 1110
public office or person responsible for public records may limit 1111
or condition the availability of public records by requiring 1112
disclosure of the requester's identity or the intended use of the 1113
requested public record. Any requirement that the requester 1114
disclose the requestor's identity or the intended use of the 1115
requested public record constitutes a denial of the request. 1116

(5) A public office or person responsible for public records 1117
may ask a requester to make the request in writing, may ask for 1118
the requester's identity, and may inquire about the intended use 1119
of the information requested, but may do so only after disclosing 1120
to the requester that a written request is not mandatory and that 1121
the requester may decline to reveal the requester's identity or 1122
the intended use and when a written request or disclosure of the 1123
identity or intended use would benefit the requester by enhancing 1124
the ability of the public office or person responsible for public 1125
records to identify, locate, or deliver the public records sought 1126
by the requester. 1127

(6) If any person chooses to obtain a copy of a public record 1128
in accordance with division (B) of this section, the public office 1129
or person responsible for the public record may require that 1130
person to pay in advance the cost involved in providing the copy 1131
of the public record in accordance with the choice made by the 1132

person seeking the copy under this division. The public office or 1133
the person responsible for the public record shall permit that 1134
person to choose to have the public record duplicated upon paper, 1135
upon the same medium upon which the public office or person 1136
responsible for the public record keeps it, or upon any other 1137
medium upon which the public office or person responsible for the 1138
public record determines that it reasonably can be duplicated as 1139
an integral part of the normal operations of the public office or 1140
person responsible for the public record. When the person seeking 1141
the copy makes a choice under this division, the public office or 1142
person responsible for the public record shall provide a copy of 1143
it in accordance with the choice made by the person seeking the 1144
copy. Nothing in this section requires a public office or person 1145
responsible for the public record to allow the person seeking a 1146
copy of the public record to make the copies of the public record. 1147

(7) Upon a request made in accordance with division (B) of 1148
this section and subject to division (B)(6) of this section, a 1149
public office or person responsible for public records shall 1150
transmit a copy of a public record to any person by United States 1151
mail or by any other means of delivery or transmission within a 1152
reasonable period of time after receiving the request for the 1153
copy. The public office or person responsible for the public 1154
record may require the person making the request to pay in advance 1155
the cost of postage if the copy is transmitted by United States 1156
mail or the cost of delivery if the copy is transmitted other than 1157
by United States mail, and to pay in advance the costs incurred 1158
for other supplies used in the mailing, delivery, or transmission. 1159

Any public office may adopt a policy and procedures that it 1160
will follow in transmitting, within a reasonable period of time 1161
after receiving a request, copies of public records by United 1162
States mail or by any other means of delivery or transmission 1163
pursuant to this division. A public office that adopts a policy 1164

and procedures under this division shall comply with them in 1165
performing its duties under this division. 1166

In any policy and procedures adopted under this division, a 1167
public office may limit the number of records requested by a 1168
person that the office will transmit by United States mail to ten 1169
per month, unless the person certifies to the office in writing 1170
that the person does not intend to use or forward the requested 1171
records, or the information contained in them, for commercial 1172
purposes. For purposes of this division, "commercial" shall be 1173
narrowly construed and does not include reporting or gathering 1174
news, reporting or gathering information to assist citizen 1175
oversight or understanding of the operation or activities of 1176
government, or nonprofit educational research. 1177

(8) A public office or person responsible for public records 1178
is not required to permit a person who is incarcerated pursuant to 1179
a criminal conviction or a juvenile adjudication to inspect or to 1180
obtain a copy of any public record concerning a criminal 1181
investigation or prosecution or concerning what would be a 1182
criminal investigation or prosecution if the subject of the 1183
investigation or prosecution were an adult, unless the request to 1184
inspect or to obtain a copy of the record is for the purpose of 1185
acquiring information that is subject to release as a public 1186
record under this section and the judge who imposed the sentence 1187
or made the adjudication with respect to the person, or the 1188
judge's successor in office, finds that the information sought in 1189
the public record is necessary to support what appears to be a 1190
justiciable claim of the person. 1191

(9)(a) Upon written request made and signed by a journalist 1192
on or after December 16, 1999, a public office, or person 1193
responsible for public records, having custody of the records of 1194
the agency employing a specified peace officer, parole officer, 1195

probation officer, bailiff, prosecuting attorney, assistant 1196
prosecuting attorney, correctional employee, community-based 1197
correctional facility employee, youth services employee, 1198
firefighter, EMT, or investigator of the bureau of criminal 1199
identification and investigation shall disclose to the journalist 1200
the address of the actual personal residence of the peace officer, 1201
parole officer, probation officer, bailiff, prosecuting attorney, 1202
assistant prosecuting attorney, correctional employee, 1203
community-based correctional facility employee, youth services 1204
employee, firefighter, EMT, or investigator of the bureau of 1205
criminal identification and investigation and, if the peace 1206
officer's, parole officer's, probation officer's, bailiff's, 1207
prosecuting attorney's, assistant prosecuting attorney's, 1208
correctional employee's, community-based correctional facility 1209
employee's, youth services employee's, firefighter's, EMT's, or 1210
investigator of the bureau of criminal identification and 1211
investigation's spouse, former spouse, or child is employed by a 1212
public office, the name and address of the employer of the peace 1213
officer's, parole officer's, probation officer's, bailiff's, 1214
prosecuting attorney's, assistant prosecuting attorney's, 1215
correctional employee's, community-based correctional facility 1216
employee's, youth services employee's, firefighter's, EMT's, or 1217
investigator of the bureau of criminal identification and 1218
investigation's spouse, former spouse, or child. The request shall 1219
include the journalist's name and title and the name and address 1220
of the journalist's employer and shall state that disclosure of 1221
the information sought would be in the public interest. 1222

(b) Division (B)(9)(a) of this section also applies to 1223
journalist requests for customer information maintained by a 1224
municipally owned or operated public utility, other than social 1225
security numbers and any private financial information such as 1226
credit reports, payment methods, credit card numbers, and bank 1227

account information. 1228

(c) As used in division (B)(9) of this section, "journalist" 1229
means a person engaged in, connected with, or employed by any news 1230
medium, including a newspaper, magazine, press association, news 1231
agency, or wire service, a radio or television station, or a 1232
similar medium, for the purpose of gathering, processing, 1233
transmitting, compiling, editing, or disseminating information for 1234
the general public. 1235

(C)(1) If a person allegedly is aggrieved by the failure of a 1236
public office or the person responsible for public records to 1237
promptly prepare a public record and to make it available to the 1238
person for inspection in accordance with division (B) of this 1239
section or by any other failure of a public office or the person 1240
responsible for public records to comply with an obligation in 1241
accordance with division (B) of this section, the person allegedly 1242
aggrieved may commence a mandamus action to obtain a judgment that 1243
orders the public office or the person responsible for the public 1244
record to comply with division (B) of this section, that awards 1245
court costs and reasonable attorney's fees to the person that 1246
instituted the mandamus action, and, if applicable, that includes 1247
an order fixing statutory damages under division (C)(1) of this 1248
section. The mandamus action may be commenced in the court of 1249
common pleas of the county in which division (B) of this section 1250
allegedly was not complied with, in the supreme court pursuant to 1251
its original jurisdiction under Section 2 of Article IV, Ohio 1252
Constitution, or in the court of appeals for the appellate 1253
district in which division (B) of this section allegedly was not 1254
complied with pursuant to its original jurisdiction under Section 1255
3 of Article IV, Ohio Constitution. 1256

If a requestor transmits a written request by hand delivery 1257
or certified mail to inspect or receive copies of any public 1258

record in a manner that fairly describes the public record or 1259
class of public records to the public office or person responsible 1260
for the requested public records, except as otherwise provided in 1261
this section, the requestor shall be entitled to recover the 1262
amount of statutory damages set forth in this division if a court 1263
determines that the public office or the person responsible for 1264
public records failed to comply with an obligation in accordance 1265
with division (B) of this section. 1266

The amount of statutory damages shall be fixed at one hundred 1267
dollars for each business day during which the public office or 1268
person responsible for the requested public records failed to 1269
comply with an obligation in accordance with division (B) of this 1270
section, beginning with the day on which the requester files a 1271
mandamus action to recover statutory damages, up to a maximum of 1272
one thousand dollars. The award of statutory damages shall not be 1273
construed as a penalty, but as compensation for injury arising 1274
from lost use of the requested information. The existence of this 1275
injury shall be conclusively presumed. The award of statutory 1276
damages shall be in addition to all other remedies authorized by 1277
this section. 1278

The court may reduce an award of statutory damages or not 1279
award statutory damages if the court determines both of the 1280
following: 1281

(a) That, based on the ordinary application of statutory law 1282
and case law as it existed at the time of the conduct or 1283
threatened conduct of the public office or person responsible for 1284
the requested public records that allegedly constitutes a failure 1285
to comply with an obligation in accordance with division (B) of 1286
this section and that was the basis of the mandamus action, a 1287
well-informed public office or person responsible for the 1288
requested public records reasonably would believe that the conduct 1289

or threatened conduct of the public office or person responsible 1290
for the requested public records did not constitute a failure to 1291
comply with an obligation in accordance with division (B) of this 1292
section; 1293

(b) That a well-informed public office or person responsible 1294
for the requested public records reasonably would believe that the 1295
conduct or threatened conduct of the public office or person 1296
responsible for the requested public records would serve the 1297
public policy that underlies the authority that is asserted as 1298
permitting that conduct or threatened conduct. 1299

(2)(a) If the court issues a writ of mandamus that orders the 1300
public office or the person responsible for the public record to 1301
comply with division (B) of this section and determines that the 1302
circumstances described in division (C)(1) of this section exist, 1303
the court shall determine and award to the relator all court 1304
costs. 1305

(b) If the court renders a judgment that orders the public 1306
office or the person responsible for the public record to comply 1307
with division (B) of this section, the court may award reasonable 1308
attorney's fees subject to reduction as described in division 1309
(C)(2)(c) of this section. The court shall award reasonable 1310
attorney's fees, subject to reduction as described in division 1311
(C)(2)(c) of this section when either of the following applies: 1312

(i) The public office or the person responsible for the 1313
public records failed to respond affirmatively or negatively to 1314
the public records request in accordance with the time allowed 1315
under division (B) of this section. 1316

(ii) The public office or the person responsible for the 1317
public records promised to permit the relator to inspect or 1318
receive copies of the public records requested within a specified 1319
period of time but failed to fulfill that promise within that 1320

specified period of time. 1321

(c) Court costs and reasonable attorney's fees awarded under 1322
this section shall be construed as remedial and not punitive. 1323
Reasonable attorney's fees shall include reasonable fees incurred 1324
to produce proof of the reasonableness and amount of the fees and 1325
to otherwise litigate entitlement to the fees. The court may 1326
reduce an award of attorney's fees to the relator or not award 1327
attorney's fees to the relator if the court determines both of the 1328
following: 1329

(i) That, based on the ordinary application of statutory law 1330
and case law as it existed at the time of the conduct or 1331
threatened conduct of the public office or person responsible for 1332
the requested public records that allegedly constitutes a failure 1333
to comply with an obligation in accordance with division (B) of 1334
this section and that was the basis of the mandamus action, a 1335
well-informed public office or person responsible for the 1336
requested public records reasonably would believe that the conduct 1337
or threatened conduct of the public office or person responsible 1338
for the requested public records did not constitute a failure to 1339
comply with an obligation in accordance with division (B) of this 1340
section; 1341

(ii) That a well-informed public office or person responsible 1342
for the requested public records reasonably would believe that the 1343
conduct or threatened conduct of the public office or person 1344
responsible for the requested public records as described in 1345
division (C)(2)(c)(i) of this section would serve the public 1346
policy that underlies the authority that is asserted as permitting 1347
that conduct or threatened conduct. 1348

(D) Chapter 1347. of the Revised Code does not limit the 1349
provisions of this section. 1350

(E)(1) To ensure that all employees of public offices are 1351

appropriately educated about a public office's obligations under 1352
division (B) of this section, all elected officials or their 1353
appropriate designees shall attend training approved by the 1354
attorney general as provided in section 109.43 of the Revised 1355
Code. In addition, all public offices shall adopt a public records 1356
policy in compliance with this section for responding to public 1357
records requests. In adopting a public records policy under this 1358
division, a public office may obtain guidance from the model 1359
public records policy developed and provided to the public office 1360
by the attorney general under section 109.43 of the Revised Code. 1361
Except as otherwise provided in this section, the policy may not 1362
limit the number of public records that the public office will 1363
make available to a single person, may not limit the number of 1364
public records that it will make available during a fixed period 1365
of time, and may not establish a fixed period of time before it 1366
will respond to a request for inspection or copying of public 1367
records, unless that period is less than eight hours. 1368

(2) The public office shall distribute the public records 1369
policy adopted by the public office under division (E)(1) of this 1370
section to the employee of the public office who is the records 1371
custodian or records manager or otherwise has custody of the 1372
records of that office. The public office shall require that 1373
employee to acknowledge receipt of the copy of the public records 1374
policy. The public office shall create a poster that describes its 1375
public records policy and shall post the poster in a conspicuous 1376
place in the public office and in all locations where the public 1377
office has branch offices. The public office may post its public 1378
records policy on the internet web site of the public office if 1379
the public office maintains an internet web site. A public office 1380
that has established a manual or handbook of its general policies 1381
and procedures for all employees of the public office shall 1382
include the public records policy of the public office in the 1383

manual or handbook. 1384

(F)(1) The bureau of motor vehicles may adopt rules pursuant 1385
to Chapter 119. of the Revised Code to reasonably limit the number 1386
of bulk commercial special extraction requests made by a person 1387
for the same records or for updated records during a calendar 1388
year. The rules may include provisions for charges to be made for 1389
bulk commercial special extraction requests for the actual cost of 1390
the bureau, plus special extraction costs, plus ten per cent. The 1391
bureau may charge for expenses for redacting information, the 1392
release of which is prohibited by law. 1393

(2) As used in division (F)(1) of this section: 1394

(a) "Actual cost" means the cost of depleted supplies, 1395
records storage media costs, actual mailing and alternative 1396
delivery costs, or other transmitting costs, and any direct 1397
equipment operating and maintenance costs, including actual costs 1398
paid to private contractors for copying services. 1399

(b) "Bulk commercial special extraction request" means a 1400
request for copies of a record for information in a format other 1401
than the format already available, or information that cannot be 1402
extracted without examination of all items in a records series, 1403
class of records, or database by a person who intends to use or 1404
forward the copies for surveys, marketing, solicitation, or resale 1405
for commercial purposes. "Bulk commercial special extraction 1406
request" does not include a request by a person who gives 1407
assurance to the bureau that the person making the request does 1408
not intend to use or forward the requested copies for surveys, 1409
marketing, solicitation, or resale for commercial purposes. 1410

(c) "Commercial" means profit-seeking production, buying, or 1411
selling of any good, service, or other product. 1412

(d) "Special extraction costs" means the cost of the time 1413

spent by the lowest paid employee competent to perform the task, 1414
the actual amount paid to outside private contractors employed by 1415
the bureau, or the actual cost incurred to create computer 1416
programs to make the special extraction. "Special extraction 1417
costs" include any charges paid to a public agency for computer or 1418
records services. 1419

(3) For purposes of divisions (F)(1) and (2) of this section, 1420
"surveys, marketing, solicitation, or resale for commercial 1421
purposes" shall be narrowly construed and does not include 1422
reporting or gathering news, reporting or gathering information to 1423
assist citizen oversight or understanding of the operation or 1424
activities of government, or nonprofit educational research. 1425

Section 4. That the existing version of section 149.43 of the 1426
Revised Code that is scheduled to take effect on March 20, 2015, 1427
is hereby repealed. 1428

Section 5. Sections 3 and 4 of this act take effect on March 1429
20, 2015. 1430