

**As Reported by the House Policy and Legislative Oversight
Committee**

**130th General Assembly
Regular Session
2013-2014**

Am. H. B. No. 663

Representatives Buchy, Huffman

—

A B I L L

To amend section 149.43 and to enact sections	1
2949.221, 2949.222, and 2949.223 of the Revised	2
Code to provide confidentiality and license	3
protection for persons and entities involved in	4
executing a sentence of capital punishment by	5
lethal injection and to void as against public	6
policy any agreement that prevents the supplying	7
of any drug or drugs to be used in executing a	8
sentence of capital punishment by lethal	9
injection, and to amend the version of section	10
149.43 of the Revised Code that is scheduled to	11
take effect on March 20, 2015, to continue the	12
provisions of this act on and after that date.	13

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

Section 1. That section 149.43 be amended and sections	14
2949.221, 2949.222, and 2949.223 of the Revised Code be enacted to	15
read as follows:	16

Sec. 149.43. (A) As used in this section:	17
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(1) "Public record" means records kept by any public office,	18
including, but not limited to, state, county, city, village,	19

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

(k) Inmate records released by the department of 50
rehabilitation and correction to the department of youth services 51
or a court of record pursuant to division (E) of section 5120.21 52
of the Revised Code; 53

(l) Records maintained by the department of youth services 54
pertaining to children in its custody released by the department 55
of youth services to the department of rehabilitation and 56
correction pursuant to section 5139.05 of the Revised Code; 57

(m) Intellectual property records; 58

(n) Donor profile records; 59

(o) Records maintained by the department of job and family 60
services pursuant to section 3121.894 of the Revised Code; 61

(p) Peace officer, parole officer, probation officer, 62
bailiff, prosecuting attorney, assistant prosecuting attorney, 63
correctional employee, community-based correctional facility 64
employee, youth services employee, firefighter, EMT, or 65
investigator of the bureau of criminal identification and 66
investigation residential and familial information; 67

(q) In the case of a county hospital operated pursuant to 68
Chapter 339. of the Revised Code or a municipal hospital operated 69
pursuant to Chapter 749. of the Revised Code, information that 70
constitutes a trade secret, as defined in section 1333.61 of the 71
Revised Code; 72

(r) Information pertaining to the recreational activities of 73
a person under the age of eighteen; 74

(s) Records provided to, statements made by review board 75
members during meetings of, and all work products of a child 76
fatality review board acting under sections 307.621 to 307.629 of 77
the Revised Code, and child fatality review data submitted by the 78
child fatality review board to the department of health or a 79

national child death review database, other than the report 80
prepared pursuant to division (A) of section 307.626 of the 81
Revised Code; 82

(t) Records provided to and statements made by the executive 83
director of a public children services agency or a prosecuting 84
attorney acting pursuant to section 5153.171 of the Revised Code 85
other than the information released under that section; 86

(u) Test materials, examinations, or evaluation tools used in 87
an examination for licensure as a nursing home administrator that 88
the board of executives of long-term services and supports 89
administers under section 4751.04 of the Revised Code or contracts 90
under that section with a private or government entity to 91
administer; 92

(v) Records the release of which is prohibited by state or 93
federal law; 94

(w) Proprietary information of or relating to any person that 95
is submitted to or compiled by the Ohio venture capital authority 96
created under section 150.01 of the Revised Code; 97

(x) Financial statements and data any person submits for any 98
purpose to the Ohio housing finance agency or the controlling 99
board in connection with applying for, receiving, or accounting 100
for financial assistance from the agency, and information that 101
identifies any individual who benefits directly or indirectly from 102
financial assistance from the agency; 103

(y) Records listed in section 5101.29 of the Revised Code; 104

(z) Discharges recorded with a county recorder under section 105
317.24 of the Revised Code, as specified in division (B)(2) of 106
that section; 107

(aa) Usage information including names and addresses of 108
specific residential and commercial customers of a municipally 109

owned or operated public utility;	110
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	111 112 113
<u>(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.222 of the Revised Code.</u>	114 115 116
(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:	117 118 119 120 121
(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;	122 123 124 125
(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;	126 127 128 129
(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;	130 131
(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.	132 133 134
(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.	135 136 137 138 139

(4) "Trial preparation record" means any record that contains 140
information that is specifically compiled in reasonable 141
anticipation of, or in defense of, a civil or criminal action or 142
proceeding, including the independent thought processes and 143
personal trial preparation of an attorney. 144

(5) "Intellectual property record" means a record, other than 145
a financial or administrative record, that is produced or 146
collected by or for faculty or staff of a state institution of 147
higher learning in the conduct of or as a result of study or 148
research on an educational, commercial, scientific, artistic, 149
technical, or scholarly issue, regardless of whether the study or 150
research was sponsored by the institution alone or in conjunction 151
with a governmental body or private concern, and that has not been 152
publicly released, published, or patented. 153

(6) "Donor profile record" means all records about donors or 154
potential donors to a public institution of higher education 155
except the names and reported addresses of the actual donors and 156
the date, amount, and conditions of the actual donation. 157

(7) "Peace officer, parole officer, probation officer, 158
bailiff, prosecuting attorney, assistant prosecuting attorney, 159
correctional employee, community-based correctional facility 160
employee, youth services employee, firefighter, EMT, or 161
investigator of the bureau of criminal identification and 162
investigation residential and familial information" means any 163
information that discloses any of the following about a peace 164
officer, parole officer, probation officer, bailiff, prosecuting 165
attorney, assistant prosecuting attorney, correctional employee, 166
community-based correctional facility employee, youth services 167
employee, firefighter, EMT, or investigator of the bureau of 168
criminal identification and investigation: 169

(a) The address of the actual personal residence of a peace 170
officer, parole officer, probation officer, bailiff, assistant 171

prosecuting attorney, correctional employee, community-based	172
correctional facility employee, youth services employee,	173
firefighter, EMT, or an investigator of the bureau of criminal	174
identification and investigation, except for the state or	175
political subdivision in which the peace officer, parole officer,	176
probation officer, bailiff, assistant prosecuting attorney,	177
correctional employee, community-based correctional facility	178
employee, youth services employee, firefighter, EMT, or	179
investigator of the bureau of criminal identification and	180
investigation resides;	181
(b) Information compiled from referral to or participation in	182
an employee assistance program;	183
(c) The social security number, the residential telephone	184
number, any bank account, debit card, charge card, or credit card	185
number, or the emergency telephone number of, or any medical	186
information pertaining to, a peace officer, parole officer,	187
probation officer, bailiff, prosecuting attorney, assistant	188
prosecuting attorney, correctional employee, community-based	189
correctional facility employee, youth services employee,	190
firefighter, EMT, or investigator of the bureau of criminal	191
identification and investigation;	192
(d) The name of any beneficiary of employment benefits,	193
including, but not limited to, life insurance benefits, provided	194
to a peace officer, parole officer, probation officer, bailiff,	195
prosecuting attorney, assistant prosecuting attorney, correctional	196
employee, community-based correctional facility employee, youth	197
services employee, firefighter, EMT, or investigator of the bureau	198
of criminal identification and investigation by 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 employer; 205

(e) The identity and amount of any charitable or employment 206
benefit deduction made by the peace officer's, parole officer's, 207
probation officer's, bailiff's, prosecuting attorney's, assistant 208
prosecuting attorney's, correctional employee's, community-based 209
correctional facility employee's, youth services employee's, 210
firefighter's, EMT's, or investigator of the bureau of criminal 211
identification and investigation's employer from the peace 212
officer's, parole officer's, probation officer's, bailiff's, 213
prosecuting attorney's, assistant prosecuting attorney's, 214
correctional employee's, community-based correctional facility 215
employee's, youth services employee's, firefighter's, EMT's, or 216
investigator of the bureau of criminal identification and 217
investigation's compensation unless the amount of the deduction is 218
required by state or federal law; 219

(f) The name, the residential address, the name of the 220
employer, the address of the employer, the social security number, 221
the residential telephone number, any bank account, debit card, 222
charge card, or credit card number, or the emergency telephone 223
number of the spouse, a former spouse, or any child of a peace 224
officer, parole officer, probation officer, bailiff, prosecuting 225
attorney, assistant prosecuting attorney, correctional employee, 226
community-based correctional facility employee, youth services 227
employee, firefighter, EMT, or investigator of the bureau of 228
criminal identification and investigation; 229

(g) A photograph of a peace officer who holds a position or 230
has an assignment that may include undercover or plain clothes 231
positions or assignments as determined by the peace officer's 232
appointing authority. 233

As used in divisions (A)(7) and (B)(9) of this section, 234
"peace officer" has the same meaning as in section 109.71 of the 235

Revised Code and also includes the superintendent and troopers of 236
the state highway patrol; it does not include the sheriff of a 237
county or a supervisory employee who, in the absence of the 238
sheriff, is authorized to stand in for, exercise the authority of, 239
and perform the duties of the sheriff. 240

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, 241
"correctional employee" means any employee of the department of 242
rehabilitation and correction who in the course of performing the 243
employee's job duties has or has had contact with inmates and 244
persons under supervision. 245

As used in divisions (A)(7) and (B)~~(5)~~(9) of this section, 246
"youth services employee" means any employee of the department of 247
youth services who in the course of performing the employee's job 248
duties has or has had contact with children committed to the 249
custody of the department of youth services. 250

As used in divisions (A)(7) and (B)(9) of this section, 251
"firefighter" means any regular, paid or volunteer, member of a 252
lawfully constituted fire department of a municipal corporation, 253
township, fire district, or village. 254

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 255
means EMTs-basic, EMTs-I, and paramedics that provide emergency 256
medical services for a public emergency medical service 257
organization. "Emergency medical service organization," 258
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 259
section 4765.01 of the Revised Code. 260

As used in divisions (A)(7) and (B)(9) of this section, 261
"investigator of the bureau of criminal identification and 262
investigation" has the meaning defined in section 2903.11 of the 263
Revised Code. 264

(8) "Information pertaining to the recreational activities of 265
a person under the age of eighteen" means information that is kept 266

in the ordinary course of business by a public office, that 267
pertains to the recreational activities of a person under the age 268
of eighteen years, and that discloses any of the following: 269

(a) The address or telephone number of a person under the age 270
of eighteen or the address or telephone number of that person's 271
parent, guardian, custodian, or emergency contact person; 272

(b) The social security number, birth date, or photographic 273
image of a person under the age of eighteen; 274

(c) Any medical record, history, or information pertaining to 275
a person under the age of eighteen; 276

(d) Any additional information sought or required about a 277
person under the age of eighteen for the purpose of allowing that 278
person to participate in any recreational activity conducted or 279
sponsored by a public office or to use or obtain admission 280
privileges to any recreational facility owned or operated by a 281
public office. 282

(9) "Community control sanction" has the same meaning as in 283
section 2929.01 of the Revised Code. 284

(10) "Post-release control sanction" has the same meaning as 285
in section 2967.01 of the Revised Code. 286

(11) "Redaction" means obscuring or deleting any information 287
that is exempt from the duty to permit public inspection or 288
copying from an item that otherwise meets the definition of a 289
"record" in section 149.011 of the Revised Code. 290

(12) "Designee" and "elected official" have the same meanings 291
as in section 109.43 of the Revised Code. 292

(B)(1) Upon request and subject to division (B)(8) of this 293
section, all public records responsive to the request shall be 294
promptly prepared and made available for inspection to any person 295
at all reasonable times during regular business hours. Subject to 296

division (B)(8) of this section, upon request, a public office or 297
person responsible for public records shall make copies of the 298
requested public record available at cost and within a reasonable 299
period of time. If a public record contains information that is 300
exempt from the duty to permit public inspection or to copy the 301
public record, the public office or the person responsible for the 302
public record shall make available all of the information within 303
the public record that is not exempt. When making that public 304
record available for public inspection or copying that public 305
record, the public office or the person responsible for the public 306
record shall notify the requester of any redaction or make the 307
redaction plainly visible. A redaction shall be deemed a denial of 308
a request to inspect or copy the redacted information, except if 309
federal or state law authorizes or requires a public office to 310
make the redaction. 311

(2) To facilitate broader access to public records, a public 312
office or the person responsible for public records shall organize 313
and maintain public records in a manner that they can be made 314
available for inspection or copying in accordance with division 315
(B) of this section. A public office also shall have available a 316
copy of its current records retention schedule at a location 317
readily available to the public. If a requester makes an ambiguous 318
or overly broad request or has difficulty in making a request for 319
copies or inspection of public records under this section such 320
that the public office or the person responsible for the requested 321
public record cannot reasonably identify what public records are 322
being requested, the public office or the person responsible for 323
the requested public record may deny the request but shall provide 324
the requester with an opportunity to revise the request by 325
informing the requester of the manner in which records are 326
maintained by the public office and accessed in the ordinary 327
course of the public office's or person's duties. 328

(3) If a request is ultimately denied, in part or in whole, 329
the public office or the person responsible for the requested 330
public record shall provide the requester with an explanation, 331
including legal authority, setting forth why the request was 332
denied. If the initial request was provided in writing, the 333
explanation also shall be provided to the requester in writing. 334
The explanation shall not preclude the public office or the person 335
responsible for the requested public record from relying upon 336
additional reasons or legal authority in defending an action 337
commenced under division (C) of this section. 338

(4) Unless specifically required or authorized by state or 339
federal law or in accordance with division (B) of this section, no 340
public office or person responsible for public records may limit 341
or condition the availability of public records by requiring 342
disclosure of the requester's identity or the intended use of the 343
requested public record. Any requirement that the requester 344
disclose the requestor's identity or the intended use of the 345
requested public record constitutes a denial of the request. 346

(5) A public office or person responsible for public records 347
may ask a requester to make the request in writing, may ask for 348
the requester's identity, and may inquire about the intended use 349
of the information requested, but may do so only after disclosing 350
to the requester that a written request is not mandatory and that 351
the requester may decline to reveal the requester's identity or 352
the intended use and when a written request or disclosure of the 353
identity or intended use would benefit the requester by enhancing 354
the ability of the public office or person responsible for public 355
records to identify, locate, or deliver the public records sought 356
by the requester. 357

(6) If any person chooses to obtain a copy of a public record 358
in accordance with division (B) of this section, the public office 359
or person responsible for the public record may require that 360

person to pay in advance the cost involved in providing the copy 361
of the public record in accordance with the choice made by the 362
person seeking the copy under this division. The public office or 363
the person responsible for the public record shall permit that 364
person to choose to have the public record duplicated upon paper, 365
upon the same medium upon which the public office or person 366
responsible for the public record keeps it, or upon any other 367
medium upon which the public office or person responsible for the 368
public record determines that it reasonably can be duplicated as 369
an integral part of the normal operations of the public office or 370
person responsible for the public record. When the person seeking 371
the copy makes a choice under this division, the public office or 372
person responsible for the public record shall provide a copy of 373
it in accordance with the choice made by the person seeking the 374
copy. Nothing in this section requires a public office or person 375
responsible for the public record to allow the person seeking a 376
copy of the public record to make the copies of the public record. 377

(7) Upon a request made in accordance with division (B) of 378
this section and subject to division (B)(6) of this section, a 379
public office or person responsible for public records shall 380
transmit a copy of a public record to any person by United States 381
mail or by any other means of delivery or transmission within a 382
reasonable period of time after receiving the request for the 383
copy. The public office or person responsible for the public 384
record may require the person making the request to pay in advance 385
the cost of postage if the copy is transmitted by United States 386
mail or the cost of delivery if the copy is transmitted other than 387
by United States mail, and to pay in advance the costs incurred 388
for other supplies used in the mailing, delivery, or transmission. 389

Any public office may adopt a policy and procedures that it 390
will follow in transmitting, within a reasonable period of time 391
after receiving a request, copies of public records by United 392

States mail or by any other means of delivery or transmission 393
pursuant to this division. A public office that adopts a policy 394
and procedures under this division shall comply with them in 395
performing its duties under this division. 396

In any policy and procedures adopted under this division, a 397
public office may limit the number of records requested by a 398
person that the office will transmit by United States mail to ten 399
per month, unless the person certifies to the office in writing 400
that the person does not intend to use or forward the requested 401
records, or the information contained in them, for commercial 402
purposes. For purposes of this division, "commercial" shall be 403
narrowly construed and does not include reporting or gathering 404
news, reporting or gathering information to assist citizen 405
oversight or understanding of the operation or activities of 406
government, or nonprofit educational research. 407

(8) A public office or person responsible for public records 408
is not required to permit a person who is incarcerated pursuant to 409
a criminal conviction or a juvenile adjudication to inspect or to 410
obtain a copy of any public record concerning a criminal 411
investigation or prosecution or concerning what would be a 412
criminal investigation or prosecution if the subject of the 413
investigation or prosecution were an adult, unless the request to 414
inspect or to obtain a copy of the record is for the purpose of 415
acquiring information that is subject to release as a public 416
record under this section and the judge who imposed the sentence 417
or made the adjudication with respect to the person, or the 418
judge's successor in office, finds that the information sought in 419
the public record is necessary to support what appears to be a 420
justiciable claim of the person. 421

(9)(a) Upon written request made and signed by a journalist 422
on or after December 16, 1999, a public office, or person 423
responsible for public records, having custody of the records of 424

the agency employing a specified peace officer, parole officer, 425
probation officer, bailiff, prosecuting attorney, assistant 426
prosecuting attorney, correctional employee, community-based 427
correctional facility employee, youth services employee, 428
firefighter, EMT, or investigator of the bureau of criminal 429
identification and investigation shall disclose to the journalist 430
the address of the actual personal residence of the peace officer, 431
parole officer, probation officer, bailiff, prosecuting attorney, 432
assistant prosecuting attorney, correctional employee, 433
community-based correctional facility employee, youth services 434
employee, firefighter, EMT, or investigator of the bureau of 435
criminal identification and investigation and, if the peace 436
officer's, parole officer's, probation officer's, bailiff's, 437
prosecuting attorney's, assistant prosecuting attorney's, 438
correctional employee's, community-based correctional facility 439
employee's, youth services employee's, firefighter's, EMT's, or 440
investigator of the bureau of criminal identification and 441
investigation's spouse, former spouse, or child is employed by a 442
public office, the name and address of the employer of the peace 443
officer's, parole officer's, probation officer's, bailiff's, 444
prosecuting attorney's, assistant prosecuting attorney's, 445
correctional employee's, community-based correctional facility 446
employee's, youth services employee's, firefighter's, EMT's, or 447
investigator of the bureau of criminal identification and 448
investigation's spouse, former spouse, or child. The request shall 449
include the journalist's name and title and the name and address 450
of the journalist's employer and shall state that disclosure of 451
the information sought would be in the public interest. 452

(b) Division (B)(9)(a) of this section also applies to 453
journalist requests for customer information maintained by a 454
municipally owned or operated public utility, other than social 455
security numbers and any private financial information such as 456
credit reports, payment methods, credit card numbers, and bank 457

account information. 458

(c) As used in division (B)(9) of this section, "journalist" 459
means a person engaged in, connected with, or employed by any news 460
medium, including a newspaper, magazine, press association, news 461
agency, or wire service, a radio or television station, or a 462
similar medium, for the purpose of gathering, processing, 463
transmitting, compiling, editing, or disseminating information for 464
the general public. 465

(C)(1) If a person allegedly is aggrieved by the failure of a 466
public office or the person responsible for public records to 467
promptly prepare a public record and to make it available to the 468
person for inspection in accordance with division (B) of this 469
section or by any other failure of a public office or the person 470
responsible for public records to comply with an obligation in 471
accordance with division (B) of this section, the person allegedly 472
aggrieved may commence a mandamus action to obtain a judgment that 473
orders the public office or the person responsible for the public 474
record to comply with division (B) of this section, that awards 475
court costs and reasonable attorney's fees to the person that 476
instituted the mandamus action, and, if applicable, that includes 477
an order fixing statutory damages under division (C)(1) of this 478
section. The mandamus action may be commenced in the court of 479
common pleas of the county in which division (B) of this section 480
allegedly was not complied with, in the supreme court pursuant to 481
its original jurisdiction under Section 2 of Article IV, Ohio 482
Constitution, or in the court of appeals for the appellate 483
district in which division (B) of this section allegedly was not 484
complied with pursuant to its original jurisdiction under Section 485
3 of Article IV, Ohio Constitution. 486

If a requestor transmits a written request by hand delivery 487
or certified mail to inspect or receive copies of any public 488
record in a manner that fairly describes the public record or 489

class of public records to the public office or person responsible 490
for the requested public records, except as otherwise provided in 491
this section, the requestor shall be entitled to recover the 492
amount of statutory damages set forth in this division if a court 493
determines that the public office or the person responsible for 494
public records failed to comply with an obligation in accordance 495
with division (B) of this section. 496

The amount of statutory damages shall be fixed at one hundred 497
dollars for each business day during which the public office or 498
person responsible for the requested public records failed to 499
comply with an obligation in accordance with division (B) of this 500
section, beginning with the day on which the requester files a 501
mandamus action to recover statutory damages, up to a maximum of 502
one thousand dollars. The award of statutory damages shall not be 503
construed as a penalty, but as compensation for injury arising 504
from lost use of the requested information. The existence of this 505
injury shall be conclusively presumed. The award of statutory 506
damages shall be in addition to all other remedies authorized by 507
this section. 508

The court may reduce an award of statutory damages or not 509
award statutory damages if the court determines both of the 510
following: 511

(a) That, based on the ordinary application of statutory law 512
and case law as it existed at the time of the conduct or 513
threatened conduct of the public office or person responsible for 514
the requested public records that allegedly constitutes a failure 515
to comply with an obligation in accordance with division (B) of 516
this section and that was the basis of the mandamus action, a 517
well-informed public office or person responsible for the 518
requested public records reasonably would believe that the conduct 519
or threatened conduct of the public office or person responsible 520
for the requested public records did not constitute a failure to 521

comply with an obligation in accordance with division (B) of this 522
section; 523

(b) That a well-informed public office or person responsible 524
for the requested public records reasonably would believe that the 525
conduct or threatened conduct of the public office or person 526
responsible for the requested public records would serve the 527
public policy that underlies the authority that is asserted as 528
permitting that conduct or threatened conduct. 529

(2)(a) If the court issues a writ of mandamus that orders the 530
public office or the person responsible for the public record to 531
comply with division (B) of this section and determines that the 532
circumstances described in division (C)(1) of this section exist, 533
the court shall determine and award to the relator all court 534
costs. 535

(b) If the court renders a judgment that orders the public 536
office or the person responsible for the public record to comply 537
with division (B) of this section, the court may award reasonable 538
attorney's fees subject to reduction as described in division 539
(C)(2)(c) of this section. The court shall award reasonable 540
attorney's fees, subject to reduction as described in division 541
(C)(2)(c) of this section when either of the following applies: 542

(i) The public office or the person responsible for the 543
public records failed to respond affirmatively or negatively to 544
the public records request in accordance with the time allowed 545
under division (B) of this section. 546

(ii) The public office or the person responsible for the 547
public records promised to permit the relator to inspect or 548
receive copies of the public records requested within a specified 549
period of time but failed to fulfill that promise within that 550
specified period of time. 551

(c) Court costs and reasonable attorney's fees awarded under 552

this section shall be construed as remedial and not punitive. 553
Reasonable attorney's fees shall include reasonable fees incurred 554
to produce proof of the reasonableness and amount of the fees and 555
to otherwise litigate entitlement to the fees. The court may 556
reduce an award of attorney's fees to the relator or not award 557
attorney's fees to the relator if the court determines both of the 558
following: 559

(i) That, based on the ordinary application of statutory law 560
and case law as it existed at the time of the conduct or 561
threatened conduct of the public office or person responsible for 562
the requested public records that allegedly constitutes a failure 563
to comply with an obligation in accordance with division (B) of 564
this section and that was the basis of the mandamus action, a 565
well-informed public office or person responsible for the 566
requested public records reasonably would believe that the conduct 567
or threatened conduct of the public office or person responsible 568
for the requested public records did not constitute a failure to 569
comply with an obligation in accordance with division (B) of this 570
section; 571

(ii) That a well-informed public office or person responsible 572
for the requested public records reasonably would believe that the 573
conduct or threatened conduct of the public office or person 574
responsible for the requested public records as described in 575
division (C)(2)(c)(i) of this section would serve the public 576
policy that underlies the authority that is asserted as permitting 577
that conduct or threatened conduct. 578

(D) Chapter 1347. of the Revised Code does not limit the 579
provisions of this section. 580

(E)(1) To ensure that all employees of public offices are 581
appropriately educated about a public office's obligations under 582
division (B) of this section, all elected officials or their 583
appropriate designees shall attend training approved by the 584

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

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

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number

of bulk commercial special extraction requests made by a person 617
for the same records or for updated records during a calendar 618
year. The rules may include provisions for charges to be made for 619
bulk commercial special extraction requests for the actual cost of 620
the bureau, plus special extraction costs, plus ten per cent. The 621
bureau may charge for expenses for redacting information, the 622
release of which is prohibited by law. 623

(2) As used in division (F)(1) of this section: 624

(a) "Actual cost" means the cost of depleted supplies, 625
records storage media costs, actual mailing and alternative 626
delivery costs, or other transmitting costs, and any direct 627
equipment operating and maintenance costs, including actual costs 628
paid to private contractors for copying services. 629

(b) "Bulk commercial special extraction request" means a 630
request for copies of a record for information in a format other 631
than the format already available, or information that cannot be 632
extracted without examination of all items in a records series, 633
class of records, or database by a person who intends to use or 634
forward the copies for surveys, marketing, solicitation, or resale 635
for commercial purposes. "Bulk commercial special extraction 636
request" does not include a request by a person who gives 637
assurance to the bureau that the person making the request does 638
not intend to use or forward the requested copies for surveys, 639
marketing, solicitation, or resale for commercial purposes. 640

(c) "Commercial" means profit-seeking production, buying, or 641
selling of any good, service, or other product. 642

(d) "Special extraction costs" means the cost of the time 643
spent by the lowest paid employee competent to perform the task, 644
the actual amount paid to outside private contractors employed by 645
the bureau, or the actual cost incurred to create computer 646
programs to make the special extraction. "Special extraction 647

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

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

Sec. 2949.221. (A) As used in this section, "lethal injection" means the application of a lethal injection of drugs or a combination of drugs in carrying out a sentence of death.

(B) The general assembly hereby determines and declares that it recognizes and finds all of the following:

(1) To protect the identities of persons who assist the department of rehabilitation and correction in carrying out a court-ordered sentence of death by lethal injection, and to protect those persons from harassment and potential physical harm, it is necessary to keep their identities anonymous and absolutely confidential.

(2) In other states that carry out death sentences by lethal injection, persons who provide assistance in the lethal injection process, and their businesses, have been subjected to actual threats of physical harm and to harassment, and the persons have been subjected to risks to personal safety.

(3) Absent protections of confidentiality and anonymity, the department of rehabilitation and correction cannot obtain the necessary assistance of persons in carrying out a court-ordered sentence of death by lethal injection or the drugs needed to administer such a sentence.

(4) This section and section 2949.222 of the Revised Code are

designed to prevent and preclude foreign and domestic 678
corporations, partnerships, companies, or persons from obstructing 679
justice by interfering with the lawful enforcement of state court 680
judgments, which enforcement is a fundamental task of any 681
sovereignty, as implemented by division (A) of section 2949.22 of 682
the Revised Code, by entering into contracts designed to prevent 683
the department of rehabilitation and correction from obtaining the 684
drugs, or combination of drugs, necessary to carry out lawful 685
executions by lethal injection ordered by the courts of this 686
state. 687

Sec. 2949.222. (A) As used in this section: 688

(1) "Person" has the same meaning as in section 1.59 of the 689
Revised Code. 690

(2) "Licensing authority" means an entity, board, department, 691
commission, association, or agency that issues a license to a 692
person or entity. 693

(B) If a person manufactures, compounds, imports, transports, 694
distributes, supplies, prescribes, prepares, administers, uses, or 695
tests any of the compounding equipment or components, the active 696
pharmaceutical ingredients, the drugs or combination of drugs, the 697
medical supplies, or the medical equipment used in the application 698
of a lethal injection of a drug or combination of drugs in the 699
administration of a death sentence by lethal injection as provided 700
for in division (A) of section 2949.22 of the Revised Code, 701
notwithstanding any provision of law to the contrary, all of the 702
following apply regarding any information or record that 703
identifies or reasonably leads to the identification of the 704
person: 705

(1) The information or record shall be classified as 706
confidential, is privileged under law, and is not subject to 707
disclosure by any person, state agency, governmental entity, 708

board, or commission or any political subdivision as a public 709
record under section 149.43 of the Revised Code or otherwise. 710

(2) The information or record shall not be subject to 711
disclosure by or during any judicial proceeding, inquiry, or 712
process, except as described in section 2949.223 of the Revised 713
Code. 714

(3) The information or record shall not be subject to 715
discovery, subpoena, or any other means of legal compulsion for 716
disclosure to any person or entity, except as described in section 717
2949.223 of the Revised Code. 718

(C)(1) If an employee or former employee of the department of 719
rehabilitation and correction or any other individual selected or 720
designated by the director of the department participates or 721
participated in the administration of a sentence of death by 722
lethal injection, as provided for in division (A) of section 723
2949.22 of the Revised Code, subject to division (C)(2) of this 724
section and notwithstanding any other provision of law to the 725
contrary, the protections and limitations specified in divisions 726
(B)(1), (2), and (3) of this section shall apply regarding any 727
information or record that identifies or reasonably leads to the 728
identification of the employee, former employee, or other 729
individual described in this division. 730

(2) Division (C)(1) of this section does not apply with 731
respect to information or a record that identifies or reasonably 732
leads to the identification of the director of rehabilitation and 733
correction or the warden of the state correctional institution in 734
which the administration of the sentence of death takes place. 735

(D) The protections and limitations specified in divisions 736
(B)(1), (2), and (3) of this section regarding information and 737
records that identify or may reasonably lead to the identification 738
of a person described in divisions (B) or (C) of this section are 739

rights that shall be recognized as follows: 740

(1) With respect to a person that is an individual, without 741
any requirement for the person to take any action or specifically 742
apply for recognition of such rights. 743

(2) With respect to a person that is not an individual, the 744
rights do not exist unless the person requests to have the rights 745
recognized by applying to the director of rehabilitation and 746
correction. 747

The director of rehabilitation and correction by rule shall 748
establish the procedure according to which a person who is not an 749
individual may apply in writing for the rights described in 750
divisions (B)(1), (2), and (3) of this section. The director shall 751
approve an application that is submitted in compliance with the 752
rules. A person whose application is approved is entitled to the 753
rights for twenty years after the person ceases the qualifying 754
activity as contemplated by the first paragraph of division (B) of 755
this section. The director shall notify any person, who is not an 756
individual and who is entitled to the rights, of the application 757
procedures. 758

(E) If a person or entity that participates in, consults 759
regarding, performs any function with respect to, including any 760
activity described in division (B) of this section, or provides 761
any expert opinion testimony regarding an execution by lethal 762
injection conducted in accordance with division (A) of section 763
2949.22 of the Revised Code is licensed by a licensing authority, 764
notwithstanding any provision of law to the contrary, the 765
licensing authority shall not do any of the following as a result 766
of that participation, consultation, performance, activity, or 767
testimony by the person or entity: 768

(1) Challenge, reprimand, suspend, or revoke the person's or 769
entity's license; 770

(2) Take any disciplinary action against the person or entity 771
or the person's or entity's licensure. 772

(F) A person may not, without the approval of the director of 773
rehabilitation and correction, knowingly disclose the identity of 774
any person to whom division (B) of this section applies or of an 775
employee, former employee, or other individual to whom division 776
(C)(1) of this section applies. Any person, employee, former 777
employee, or individual whose identity is disclosed in violation 778
of this division has a civil cause of action against any person 779
who discloses the identity in violation of this division. In a 780
civil action brought under this division, the plaintiff is 781
entitled to recover from the defendant actual damages, punitive or 782
exemplary damages upon a showing of a willful violation of this 783
division, and reasonable attorney's fees and court costs. 784

(G) Notwithstanding any provision of law to the contrary, any 785
contract, subcontract, agreement, addendum, or understanding, or 786
any portion of any such document or understanding, that does 787
either of the following is void and unenforceable as against 788
public policy, as a matter of law, and shall not be recognized or 789
enforced by any court against any entity, including, but not 790
limited to, the state, state agency, governmental entity, or 791
political subdivision that is a party to the document, 792
understanding, or portion, any private corporation, or any person: 793

(1) Any such document, understanding, or portion that 794
prohibits the sale, distribution, or transfer of any drug or 795
combination of drugs to the state or to a state agency, 796
governmental entity, or political subdivision for use in the 797
administration of a death sentence by lethal injection as provided 798
for in division (A) of section 2949.22 of the Revised Code; 799

(2) Any such document, understanding, or portion that is 800
designed to prevent the state or a state agency, governmental 801
entity, or political subdivision from obtaining any drug or 802

combination of drugs for a use described in division (G)(1) of 803
this section. 804

Sec. 2949.223. (A) As used in this section, "seal a record" 805
means to remove a record from the main file of similar records and 806
to secure it in a separate file that contains only sealed records 807
accessible only to the court. 808

(B) The court promptly shall order the immediate sealing of 809
records pertaining to information that identifies or may 810
reasonably lead to the identification of a person described in 811
division (B) or (C) of section 2949.222 of the Revised Code 812
whenever the records come into the court's possession. 813

(C) If a record containing information that identifies or may 814
reasonably lead to the identification of a person described in 815
division (B) or (C) of section 2949.222 of the Revised Code is 816
subpoenaed or requested by a court order, the director of 817
rehabilitation and correction shall provide the record. If the 818
court determines that the record is necessary for just 819
adjudication, the court shall order the director to appear at a 820
private hearing with a copy of the record and any other relevant 821
evidence. The information is not otherwise subject to disclosure 822
unless the court, through clear and convincing evidence presented 823
in the private hearing, finds that the person whose identity is 824
protected appears to have acted unlawfully with respect to the 825
person's involvement in the administration of a lethal injection 826
as contemplated by the first paragraph of division (B) and by 827
division (C)(1) of section 2949.222 of the Revised Code. 828

Section 2. That existing section 149.43 of the Revised Code 829
is hereby repealed. 830

Section 3. That the version of section 149.43 of the Revised 831

Code that is scheduled to take effect on March 20, 2015, be 832
amended to read as follows: 833

Sec. 149.43. (A) As used in this section: 834

(1) "Public record" means records kept by any public office, 835
including, but not limited to, state, county, city, village, 836
township, and school district units, and records pertaining to the 837
delivery of educational services by an alternative school in this 838
state kept by the nonprofit or for-profit entity operating the 839
alternative school pursuant to section 3313.533 of the Revised 840
Code. "Public record" does not mean any of the following: 841

(a) Medical records; 842

(b) Records pertaining to probation and parole proceedings or 843
to proceedings related to the imposition of community control 844
sanctions and post-release control sanctions; 845

(c) Records pertaining to actions under section 2151.85 and 846
division (C) of section 2919.121 of the Revised Code and to 847
appeals of actions arising under those sections; 848

(d) Records pertaining to adoption proceedings, including the 849
contents of an adoption file maintained by the department of 850
health under sections 3705.12 to 3705.124 of the Revised Code; 851

(e) Information in a record contained in the putative father 852
registry established by section 3107.062 of the Revised Code, 853
regardless of whether the information is held by the department of 854
job and family services or, pursuant to section 3111.69 of the 855
Revised Code, the office of child support in the department or a 856
child support enforcement agency; 857

(f) Records specified in division (A) of section 3107.52 of 858
the Revised Code; 859

(g) Trial preparation records; 860

(h) Confidential law enforcement investigatory records;	861
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	862 863
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	864 865
(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;	866 867 868 869
(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;	870 871 872 873
(m) Intellectual property records;	874
(n) Donor profile records;	875
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	876 877
(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;	878 879 880 881 882 883
(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;	884 885 886 887 888
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	889 890

(s) Records provided to, statements made by review board 891
members during meetings of, and all work products of a child 892
fatality review board acting under sections 307.621 to 307.629 of 893
the Revised Code, and child fatality review data submitted by the 894
child fatality review board to the department of health or a 895
national child death review database, other than the report 896
prepared pursuant to division (A) of section 307.626 of the 897
Revised Code; 898

(t) Records provided to and statements made by the executive 899
director of a public children services agency or a prosecuting 900
attorney acting pursuant to section 5153.171 of the Revised Code 901
other than the information released under that section; 902

(u) Test materials, examinations, or evaluation tools used in 903
an examination for licensure as a nursing home administrator that 904
the board of executives of long-term services and supports 905
administers under section 4751.04 of the Revised Code or contracts 906
under that section with a private or government entity to 907
administer; 908

(v) Records the release of which is prohibited by state or 909
federal law; 910

(w) Proprietary information of or relating to any person that 911
is submitted to or compiled by the Ohio venture capital authority 912
created under section 150.01 of the Revised Code; 913

(x) Financial statements and data any person submits for any 914
purpose to the Ohio housing finance agency or the controlling 915
board in connection with applying for, receiving, or accounting 916
for financial assistance from the agency, and information that 917
identifies any individual who benefits directly or indirectly from 918
financial assistance from the agency; 919

(y) Records listed in section 5101.29 of the Revised Code; 920

(z) Discharges recorded with a county recorder under section 921

317.24 of the Revised Code, as specified in division (B)(2) of 922
that section; 923

(aa) Usage information including names and addresses of 924
specific residential and commercial customers of a municipally 925
owned or operated public utility; 926

(bb) Records described in division (C) of section 187.04 of 927
the Revised Code that are not designated to be made available to 928
the public as provided in that division; 929

(cc) Information and records that are made confidential, 930
privileged, and not subject to disclosure under divisions (B) and 931
(C) of section 2949.222 of the Revised Code. 932

(2) "Confidential law enforcement investigatory record" means 933
any record that pertains to a law enforcement matter of a 934
criminal, quasi-criminal, civil, or administrative nature, but 935
only to the extent that the release of the record would create a 936
high probability of disclosure of any of the following: 937

(a) The identity of a suspect who has not been charged with 938
the offense to which the record pertains, or of an information 939
source or witness to whom confidentiality has been reasonably 940
promised; 941

(b) Information provided by an information source or witness 942
to whom confidentiality has been reasonably promised, which 943
information would reasonably tend to disclose the source's or 944
witness's identity; 945

(c) Specific confidential investigatory techniques or 946
procedures or specific investigatory work product; 947

(d) Information that would endanger the life or physical 948
safety of law enforcement personnel, a crime victim, a witness, or 949
a confidential information source. 950

(3) "Medical record" means any document or combination of 951

documents, except births, deaths, and the fact of admission to or 952
discharge from a hospital, that pertains to the medical history, 953
diagnosis, prognosis, or medical condition of a patient and that 954
is generated and maintained in the process of medical treatment. 955

(4) "Trial preparation record" means any record that contains 956
information that is specifically compiled in reasonable 957
anticipation of, or in defense of, a civil or criminal action or 958
proceeding, including the independent thought processes and 959
personal trial preparation of an attorney. 960

(5) "Intellectual property record" means a record, other than 961
a financial or administrative record, that is produced or 962
collected by or for faculty or staff of a state institution of 963
higher learning in the conduct of or as a result of study or 964
research on an educational, commercial, scientific, artistic, 965
technical, or scholarly issue, regardless of whether the study or 966
research was sponsored by the institution alone or in conjunction 967
with a governmental body or private concern, and that has not been 968
publicly released, published, or patented. 969

(6) "Donor profile record" means all records about donors or 970
potential donors to a public institution of higher education 971
except the names and reported addresses of the actual donors and 972
the date, amount, and conditions of the actual donation. 973

(7) "Peace officer, parole officer, probation officer, 974
bailiff, prosecuting attorney, assistant prosecuting attorney, 975
correctional employee, community-based correctional facility 976
employee, youth services employee, firefighter, EMT, or 977
investigator of the bureau of criminal identification and 978
investigation residential and familial information" means any 979
information that discloses any of the following about a peace 980
officer, parole officer, probation officer, bailiff, prosecuting 981
attorney, assistant prosecuting attorney, correctional employee, 982
community-based correctional facility employee, youth services 983

employee, firefighter, EMT, or investigator of the bureau of 984
criminal identification and investigation: 985

(a) The address of the actual personal residence of a peace 986
officer, parole officer, probation officer, bailiff, assistant 987
prosecuting attorney, correctional employee, community-based 988
correctional facility employee, youth services employee, 989
firefighter, EMT, or an investigator of the bureau of criminal 990
identification and investigation, except for the state or 991
political subdivision in which the peace officer, parole officer, 992
probation officer, bailiff, assistant prosecuting attorney, 993
correctional employee, community-based correctional facility 994
employee, youth services employee, firefighter, EMT, or 995
investigator of the bureau of criminal identification and 996
investigation resides; 997

(b) Information compiled from referral to or participation in 998
an employee assistance program; 999

(c) The social security number, the residential telephone 1000
number, any bank account, debit card, charge card, or credit card 1001
number, or the emergency telephone number of, or any medical 1002
information pertaining to, a peace officer, parole officer, 1003
probation officer, bailiff, prosecuting attorney, assistant 1004
prosecuting attorney, correctional employee, community-based 1005
correctional facility employee, youth services employee, 1006
firefighter, EMT, or investigator of the bureau of criminal 1007
identification and investigation; 1008

(d) The name of any beneficiary of employment benefits, 1009
including, but not limited to, life insurance benefits, provided 1010
to a peace officer, parole officer, probation officer, bailiff, 1011
prosecuting attorney, assistant prosecuting attorney, correctional 1012
employee, community-based correctional facility employee, youth 1013
services employee, firefighter, EMT, or investigator of the bureau 1014
of criminal identification and investigation by the peace 1015

officer's, parole officer's, probation officer's, bailiff's, 1016
prosecuting attorney's, assistant prosecuting attorney's, 1017
correctional employee's, community-based correctional facility 1018
employee's, youth services employee's, firefighter's, EMT's, or 1019
investigator of the bureau of criminal identification and 1020
investigation's employer; 1021

(e) The identity and amount of any charitable or employment 1022
benefit deduction made by the peace officer's, parole officer's, 1023
probation officer's, bailiff's, prosecuting attorney's, assistant 1024
prosecuting attorney's, correctional employee's, community-based 1025
correctional facility employee's, youth services employee's, 1026
firefighter's, EMT's, or investigator of the bureau of criminal 1027
identification and investigation's employer from the peace 1028
officer's, parole officer's, probation officer's, bailiff's, 1029
prosecuting attorney's, assistant prosecuting attorney's, 1030
correctional employee's, community-based correctional facility 1031
employee's, youth services employee's, firefighter's, EMT's, or 1032
investigator of the bureau of criminal identification and 1033
investigation's compensation unless the amount of the deduction is 1034
required by state or federal law; 1035

(f) The name, the residential address, the name of the 1036
employer, the address of the employer, the social security number, 1037
the residential telephone number, any bank account, debit card, 1038
charge card, or credit card number, or the emergency telephone 1039
number of the spouse, a former spouse, or any child of a peace 1040
officer, parole officer, probation officer, bailiff, prosecuting 1041
attorney, assistant prosecuting attorney, correctional employee, 1042
community-based correctional facility employee, youth services 1043
employee, firefighter, EMT, or investigator of the bureau of 1044
criminal identification and investigation; 1045

(g) A photograph of a peace officer who holds a position or 1046
has an assignment that may include undercover or plain clothes 1047

positions or assignments as determined by the peace officer's 1048
appointing authority. 1049

As used in divisions (A)(7) and (B)(9) of this section, 1050
"peace officer" has the same meaning as in section 109.71 of the 1051
Revised Code and also includes the superintendent and troopers of 1052
the state highway patrol; it does not include the sheriff of a 1053
county or a supervisory employee who, in the absence of the 1054
sheriff, is authorized to stand in for, exercise the authority of, 1055
and perform the duties of the sheriff. 1056

As used in divisions (A)(7) and (B)(9) of this section, 1057
"correctional employee" means any employee of the department of 1058
rehabilitation and correction who in the course of performing the 1059
employee's job duties has or has had contact with inmates and 1060
persons under supervision. 1061

As used in divisions (A)(7) and (B)(9) of this section, 1062
"youth services employee" means any employee of the department of 1063
youth services who in the course of performing the employee's job 1064
duties has or has had contact with children committed to the 1065
custody of the department of youth services. 1066

As used in divisions (A)(7) and (B)(9) of this section, 1067
"firefighter" means any regular, paid or volunteer, member of a 1068
lawfully constituted fire department of a municipal corporation, 1069
township, fire district, or village. 1070

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 1071
means EMTs-basic, EMTs-I, and paramedics that provide emergency 1072
medical services for a public emergency medical service 1073
organization. "Emergency medical service organization," 1074
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 1075
section 4765.01 of the Revised Code. 1076

As used in divisions (A)(7) and (B)(9) of this section, 1077
"investigator of the bureau of criminal identification and 1078

investigation" has the meaning defined in section 2903.11 of the Revised Code. 1079
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(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: 1081
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(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; 1086
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1088

(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 1089
1090

(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 1091
1092

(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. 1093
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(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 1099
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(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 1101
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(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. 1103
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(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code. 1107
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(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 exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by

informing the requester of the manner in which records are 1142
maintained by the public office and accessed in the ordinary 1143
course of the public office's or person's duties. 1144

(3) If a request is ultimately denied, in part or in whole, 1145
the public office or the person responsible for the requested 1146
public record shall provide the requester with an explanation, 1147
including legal authority, setting forth why the request was 1148
denied. If the initial request was provided in writing, the 1149
explanation also shall be provided to the requester in writing. 1150
The explanation shall not preclude the public office or the person 1151
responsible for the requested public record from relying upon 1152
additional reasons or legal authority in defending an action 1153
commenced under division (C) of this section. 1154

(4) Unless specifically required or authorized by state or 1155
federal law or in accordance with division (B) of this section, no 1156
public office or person responsible for public records may limit 1157
or condition the availability of public records by requiring 1158
disclosure of the requester's identity or the intended use of the 1159
requested public record. Any requirement that the requester 1160
disclose the requestor's identity or the intended use of the 1161
requested public record constitutes a denial of the request. 1162

(5) A public office or person responsible for public records 1163
may ask a requester to make the request in writing, may ask for 1164
the requester's identity, and may inquire about the intended use 1165
of the information requested, but may do so only after disclosing 1166
to the requester that a written request is not mandatory and that 1167
the requester may decline to reveal the requester's identity or 1168
the intended use and when a written request or disclosure of the 1169
identity or intended use would benefit the requester by enhancing 1170
the ability of the public office or person responsible for public 1171
records to identify, locate, or deliver the public records sought 1172
by the requester. 1173

(6) If any person chooses to obtain a copy of a public record 1174
in accordance with division (B) of this section, the public office 1175
or person responsible for the public record may require that 1176
person to pay in advance the cost involved in providing the copy 1177
of the public record in accordance with the choice made by the 1178
person seeking the copy under this division. The public office or 1179
the person responsible for the public record shall permit that 1180
person to choose to have the public record duplicated upon paper, 1181
upon the same medium upon which the public office or person 1182
responsible for the public record keeps it, or upon any other 1183
medium upon which the public office or person responsible for the 1184
public record determines that it reasonably can be duplicated as 1185
an integral part of the normal operations of the public office or 1186
person responsible for the public record. When the person seeking 1187
the copy makes a choice under this division, the public office or 1188
person responsible for the public record shall provide a copy of 1189
it in accordance with the choice made by the person seeking the 1190
copy. Nothing in this section requires a public office or person 1191
responsible for the public record to allow the person seeking a 1192
copy of the public record to make the copies of the public record. 1193

(7) Upon a request made in accordance with division (B) of 1194
this section and subject to division (B)(6) of this section, a 1195
public office or person responsible for public records shall 1196
transmit a copy of a public record to any person by United States 1197
mail or by any other means of delivery or transmission within a 1198
reasonable period of time after receiving the request for the 1199
copy. The public office or person responsible for the public 1200
record may require the person making the request to pay in advance 1201
the cost of postage if the copy is transmitted by United States 1202
mail or the cost of delivery if the copy is transmitted other than 1203
by United States mail, and to pay in advance the costs incurred 1204
for other supplies used in the mailing, delivery, or transmission. 1205

Any public office may adopt a policy and procedures that it 1206
will follow in transmitting, within a reasonable period of time 1207
after receiving a request, copies of public records by United 1208
States mail or by any other means of delivery or transmission 1209
pursuant to this division. A public office that adopts a policy 1210
and procedures under this division shall comply with them in 1211
performing its duties under this division. 1212

In any policy and procedures adopted under this division, a 1213
public office may limit the number of records requested by a 1214
person that the office will transmit by United States mail to ten 1215
per month, unless the person certifies to the office in writing 1216
that the person does not intend to use or forward the requested 1217
records, or the information contained in them, for commercial 1218
purposes. For purposes of this division, "commercial" shall be 1219
narrowly construed and does not include reporting or gathering 1220
news, reporting or gathering information to assist citizen 1221
oversight or understanding of the operation or activities of 1222
government, or nonprofit educational research. 1223

(8) A public office or person responsible for public records 1224
is not required to permit a person who is incarcerated pursuant to 1225
a criminal conviction or a juvenile adjudication to inspect or to 1226
obtain a copy of any public record concerning a criminal 1227
investigation or prosecution or concerning what would be a 1228
criminal investigation or prosecution if the subject of the 1229
investigation or prosecution were an adult, unless the request to 1230
inspect or to obtain a copy of the record is for the purpose of 1231
acquiring information that is subject to release as a public 1232
record under this section and the judge who imposed the sentence 1233
or made the adjudication with respect to the person, or the 1234
judge's successor in office, finds that the information sought in 1235
the public record is necessary to support what appears to be a 1236
justiciable claim of the person. 1237

(9)(a) Upon written request made and signed by a journalist 1238
on or after December 16, 1999, a public office, or person 1239
responsible for public records, having custody of the records of 1240
the agency employing a specified peace officer, parole officer, 1241
probation officer, bailiff, prosecuting attorney, assistant 1242
prosecuting attorney, correctional employee, community-based 1243
correctional facility employee, youth services employee, 1244
firefighter, EMT, or investigator of the bureau of criminal 1245
identification and investigation shall disclose to the journalist 1246
the address of the actual personal residence of the peace officer, 1247
parole officer, probation officer, bailiff, prosecuting attorney, 1248
assistant prosecuting attorney, correctional employee, 1249
community-based correctional facility employee, youth services 1250
employee, firefighter, EMT, or investigator of the bureau of 1251
criminal identification and investigation and, if the peace 1252
officer's, parole officer's, probation officer's, bailiff's, 1253
prosecuting attorney's, assistant prosecuting attorney's, 1254
correctional employee's, community-based correctional facility 1255
employee's, youth services employee's, firefighter's, EMT's, or 1256
investigator of the bureau of criminal identification and 1257
investigation's spouse, former spouse, or child is employed by a 1258
public office, the name and address of the employer of the peace 1259
officer's, parole officer's, probation officer's, bailiff's, 1260
prosecuting attorney's, assistant prosecuting attorney's, 1261
correctional employee's, community-based correctional facility 1262
employee's, youth services employee's, firefighter's, EMT's, or 1263
investigator of the bureau of criminal identification and 1264
investigation's spouse, former spouse, or child. The request shall 1265
include the journalist's name and title and the name and address 1266
of the journalist's employer and shall state that disclosure of 1267
the information sought would be in the public interest. 1268

(b) Division (B)(9)(a) of this section also applies to 1269
journalist requests for customer information maintained by a 1270

municipally owned or operated public utility, other than social 1271
security numbers and any private financial information such as 1272
credit reports, payment methods, credit card numbers, and bank 1273
account information. 1274

(c) As used in division (B)(9) of this section, "journalist" 1275
means a person engaged in, connected with, or employed by any news 1276
medium, including a newspaper, magazine, press association, news 1277
agency, or wire service, a radio or television station, or a 1278
similar medium, for the purpose of gathering, processing, 1279
transmitting, compiling, editing, or disseminating information for 1280
the general public. 1281

(C)(1) If a person allegedly is aggrieved by the failure of a 1282
public office or the person responsible for public records to 1283
promptly prepare a public record and to make it available to the 1284
person for inspection in accordance with division (B) of this 1285
section or by any other failure of a public office or the person 1286
responsible for public records to comply with an obligation in 1287
accordance with division (B) of this section, the person allegedly 1288
aggrieved may commence a mandamus action to obtain a judgment that 1289
orders the public office or the person responsible for the public 1290
record to comply with division (B) of this section, that awards 1291
court costs and reasonable attorney's fees to the person that 1292
instituted the mandamus action, and, if applicable, that includes 1293
an order fixing statutory damages under division (C)(1) of this 1294
section. The mandamus action may be commenced in the court of 1295
common pleas of the county in which division (B) of this section 1296
allegedly was not complied with, in the supreme court pursuant to 1297
its original jurisdiction under Section 2 of Article IV, Ohio 1298
Constitution, or in the court of appeals for the appellate 1299
district in which division (B) of this section allegedly was not 1300
complied with pursuant to its original jurisdiction under Section 1301
3 of Article IV, Ohio Constitution. 1302

If a requestor transmits a written request by hand delivery 1303
or certified mail to inspect or receive copies of any public 1304
record in a manner that fairly describes the public record or 1305
class of public records to the public office or person responsible 1306
for the requested public records, except as otherwise provided in 1307
this section, the requestor shall be entitled to recover the 1308
amount of statutory damages set forth in this division if a court 1309
determines that the public office or the person responsible for 1310
public records failed to comply with an obligation in accordance 1311
with division (B) of this section. 1312

The amount of statutory damages shall be fixed at one hundred 1313
dollars for each business day during which the public office or 1314
person responsible for the requested public records failed to 1315
comply with an obligation in accordance with division (B) of this 1316
section, beginning with the day on which the requester files a 1317
mandamus action to recover statutory damages, up to a maximum of 1318
one thousand dollars. The award of statutory damages shall not be 1319
construed as a penalty, but as compensation for injury arising 1320
from lost use of the requested information. The existence of this 1321
injury shall be conclusively presumed. The award of statutory 1322
damages shall be in addition to all other remedies authorized by 1323
this section. 1324

The court may reduce an award of statutory damages or not 1325
award statutory damages if the court determines both of the 1326
following: 1327

(a) That, based on the ordinary application of statutory law 1328
and case law as it existed at the time of the conduct or 1329
threatened conduct of the public office or person responsible for 1330
the requested public records that allegedly constitutes a failure 1331
to comply with an obligation in accordance with division (B) of 1332
this section and that was the basis of the mandamus action, a 1333
well-informed public office or person responsible for the 1334

requested public records reasonably would believe that the conduct 1335
or threatened conduct of the public office or person responsible 1336
for the requested public records did not constitute a failure to 1337
comply with an obligation in accordance with division (B) of this 1338
section; 1339

(b) That a well-informed public office or person responsible 1340
for the requested public records reasonably would believe that the 1341
conduct or threatened conduct of the public office or person 1342
responsible for the requested public records would serve the 1343
public policy that underlies the authority that is asserted as 1344
permitting that conduct or threatened conduct. 1345

(2)(a) If the court issues a writ of mandamus that orders the 1346
public office or the person responsible for the public record to 1347
comply with division (B) of this section and determines that the 1348
circumstances described in division (C)(1) of this section exist, 1349
the court shall determine and award to the relator all court 1350
costs. 1351

(b) If the court renders a judgment that orders the public 1352
office or the person responsible for the public record to comply 1353
with division (B) of this section, the court may award reasonable 1354
attorney's fees subject to reduction as described in division 1355
(C)(2)(c) of this section. The court shall award reasonable 1356
attorney's fees, subject to reduction as described in division 1357
(C)(2)(c) of this section when either of the following applies: 1358

(i) The public office or the person responsible for the 1359
public records failed to respond affirmatively or negatively to 1360
the public records request in accordance with the time allowed 1361
under division (B) of this section. 1362

(ii) The public office or the person responsible for the 1363
public records promised to permit the relator to inspect or 1364
receive copies of the public records requested within a specified 1365

period of time but failed to fulfill that promise within that 1366
specified period of time. 1367

(c) Court costs and reasonable attorney's fees awarded under 1368
this section shall be construed as remedial and not punitive. 1369
Reasonable attorney's fees shall include reasonable fees incurred 1370
to produce proof of the reasonableness and amount of the fees and 1371
to otherwise litigate entitlement to the fees. The court may 1372
reduce an award of attorney's fees to the relator or not award 1373
attorney's fees to the relator if the court determines both of the 1374
following: 1375

(i) That, based on the ordinary application of statutory law 1376
and case law as it existed at the time of the conduct or 1377
threatened conduct of the public office or person responsible for 1378
the requested public records that allegedly constitutes a failure 1379
to comply with an obligation in accordance with division (B) of 1380
this section and that was the basis of the mandamus action, a 1381
well-informed public office or person responsible for the 1382
requested public records reasonably would believe that the conduct 1383
or threatened conduct of the public office or person responsible 1384
for the requested public records did not constitute a failure to 1385
comply with an obligation in accordance with division (B) of this 1386
section; 1387

(ii) That a well-informed public office or person responsible 1388
for the requested public records reasonably would believe that the 1389
conduct or threatened conduct of the public office or person 1390
responsible for the requested public records as described in 1391
division (C)(2)(c)(i) of this section would serve the public 1392
policy that underlies the authority that is asserted as permitting 1393
that conduct or threatened conduct. 1394

(D) Chapter 1347. of the Revised Code does not limit the 1395
provisions of this section. 1396

(E)(1) To ensure that all employees of public offices are 1397
appropriately educated about a public office's obligations under 1398
division (B) of this section, all elected officials or their 1399
appropriate designees shall attend training approved by the 1400
attorney general as provided in section 109.43 of the Revised 1401
Code. In addition, all public offices shall adopt a public records 1402
policy in compliance with this section for responding to public 1403
records requests. In adopting a public records policy under this 1404
division, a public office may obtain guidance from the model 1405
public records policy developed and provided to the public office 1406
by the attorney general under section 109.43 of the Revised Code. 1407
Except as otherwise provided in this section, the policy may not 1408
limit the number of public records that the public office will 1409
make available to a single person, may not limit the number of 1410
public records that it will make available during a fixed period 1411
of time, and may not establish a fixed period of time before it 1412
will respond to a request for inspection or copying of public 1413
records, unless that period is less than eight hours. 1414

(2) The public office shall distribute the public records 1415
policy adopted by the public office under division (E)(1) of this 1416
section to the employee of the public office who is the records 1417
custodian or records manager or otherwise has custody of the 1418
records of that office. The public office shall require that 1419
employee to acknowledge receipt of the copy of the public records 1420
policy. The public office shall create a poster that describes its 1421
public records policy and shall post the poster in a conspicuous 1422
place in the public office and in all locations where the public 1423
office has branch offices. The public office may post its public 1424
records policy on the internet web site of the public office if 1425
the public office maintains an internet web site. A public office 1426
that has established a manual or handbook of its general policies 1427
and procedures for all employees of the public office shall 1428
include the public records policy of the public office in the 1429

manual or handbook. 1430

(F)(1) The bureau of motor vehicles may adopt rules pursuant 1431
to Chapter 119. of the Revised Code to reasonably limit the number 1432
of bulk commercial special extraction requests made by a person 1433
for the same records or for updated records during a calendar 1434
year. The rules may include provisions for charges to be made for 1435
bulk commercial special extraction requests for the actual cost of 1436
the bureau, plus special extraction costs, plus ten per cent. The 1437
bureau may charge for expenses for redacting information, the 1438
release of which is prohibited by law. 1439

(2) As used in division (F)(1) of this section: 1440

(a) "Actual cost" means the cost of depleted supplies, 1441
records storage media costs, actual mailing and alternative 1442
delivery costs, or other transmitting costs, and any direct 1443
equipment operating and maintenance costs, including actual costs 1444
paid to private contractors for copying services. 1445

(b) "Bulk commercial special extraction request" means a 1446
request for copies of a record for information in a format other 1447
than the format already available, or information that cannot be 1448
extracted without examination of all items in a records series, 1449
class of records, or database by a person who intends to use or 1450
forward the copies for surveys, marketing, solicitation, or resale 1451
for commercial purposes. "Bulk commercial special extraction 1452
request" does not include a request by a person who gives 1453
assurance to the bureau that the person making the request does 1454
not intend to use or forward the requested copies for surveys, 1455
marketing, solicitation, or resale for commercial purposes. 1456

(c) "Commercial" means profit-seeking production, buying, or 1457
selling of any good, service, or other product. 1458

(d) "Special extraction costs" means the cost of the time 1459
spent by the lowest paid employee competent to perform the task, 1460

the actual amount paid to outside private contractors employed by 1461
the bureau, or the actual cost incurred to create computer 1462
programs to make the special extraction. "Special extraction 1463
costs" include any charges paid to a public agency for computer or 1464
records services. 1465

(3) For purposes of divisions (F)(1) and (2) of this section, 1466
"surveys, marketing, solicitation, or resale for commercial 1467
purposes" shall be narrowly construed and does not include 1468
reporting or gathering news, reporting or gathering information to 1469
assist citizen oversight or understanding of the operation or 1470
activities of government, or nonprofit educational research. 1471

Section 4. That the existing version of section 149.43 of the 1472
Revised Code that is scheduled to take effect on March 20, 2015, 1473
is hereby repealed. 1474

Section 5. Sections 3 and 4 of this act shall take effect on 1475
March 20, 2015. 1476