

**OHIO PUBLIC RECORDS LAW  
PROPOSED STATUTORY REVISIONS**

**149.011. Definitions.**

As used in this chapter, except as otherwise provided:

(A) “Public office” includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government. “Public office” includes any other body which is created by state or local authority or which is primarily funded by or through state or local authority.

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

(C) “Public money” includes all money received or collected by or due a public official, whether in accordance with or under authority of any law, ordinance, resolution, or order, under color of office, or otherwise. It also includes any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office.

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

(E) “Head of the public office” means the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public office, or such person’s duly authorized designee.

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

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

~~(H)~~ “Records” includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

**149.43 Availability of public records for inspection and copying.**

(A) As used in this section:

(1) “Public record” means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. “Public records” includes, but is expressly not limited to: (i) administrative manuals, procedural rules, and instructions to staff, unless exempted by this chapter; (ii) final opinions and orders made in the adjudication of cases, except an educational institution’s adjudication of student or employee grievance or disciplinary cases; (iii) substantive rules; (iv) statements and interpretations of policy which have been adopted by a public office; (v) final planning policies, recommendations, and decisions; (vi) factual reports, inspection reports, and studies whether prepared by or for the public office; (vii) all information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds of public bodies; (viii) the names, salaries, titles, dates of employment, and employment contracts of all employees and officers of public bodies; (ix) materials containing opinions concerning the rights of the state, the public, a subdivision of state or a local government, or of any private persons; (x) the name of every official and the final records of voting in all proceedings of public bodies; (xi) applications for any contract, permit, grant, or agreement except as exempted from disclosure by this chapter; (xii) each report, document, study, or publication prepared by independent consultants or other independent contractors for the public office; (xiii) all other information required by law to be made available for public inspection or copying; (xiv) any record produced or collected under a contract entered into by the public office with a person other than a public office to the same extent as if the record were maintained by the public office; and (xv) contracts and all supporting information relating to any grant or contract made by or between a public office and another public office or private organization.

If a public office enters into a contract with a private person to perform any of its functions, the public office shall include in the contract terms that make it clear that all of the data created, collected, received, stored, used, maintained, or disseminated by the private person in performing those functions is subject to the requirements of this chapter and that the private person must comply with those requirements as if it were a public office.

“Public record” does not mean any of the following:

- (a) Medical records;
- (b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;
- (c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

- (d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;
- (e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;
- (f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;
- (g) Trial preparation records;
- (h) Confidential law enforcement investigatory records;
- (i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;
- (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;
- (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;
- (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;
- (m) Intellectual property records;
- (n) Donor profile records;
- (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;
- (p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information;
- (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;

- (r) Information pertaining to the recreational activities of a person under the age of eighteen;
  - (s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;
  - (t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;
  - (u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;
  - (v) Records the release of which is prohibited by state or federal law;
  - (w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;
  - (x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;
  - (y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;
  - (z) Records listed in section 5101.29 of the Revised Code.
- (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:
- (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;
  - (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;

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

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

(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.

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

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

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

(7) “Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information” means any information that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT:

(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT resides;

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

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney,

assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared within seven business days 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 seven business days~~within a reasonable period of time~~. If a public office denies any part of a public records request, it must issue a written denial by letter within seven business days subject to division (B)(1)(i)-(ii) of this section.

(i) Each public office or head of a public office denying a request for public records shall notify by letter the person making the request of the decision to deny such, the reasons for the denial, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public office shall also inform such person of his right to appeal to the head of the public office. Each notice of denial of an appeal by the head of a public office shall inform such person of his right to judicial review under this chapter.

(ii) When a request for public records is denied on the grounds that the records are exempt under this chapter, the notice of denial shall specify the exemption claimed to authorize the denial. Copies of all notices of denial shall be retained by each public office in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested. Failure to respond to a written request for records within seven working days after its receipt shall be considered a denial of the request.

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. The public office shall fulfill the requirements of this section regardless of whether the person requesting information under this chapter specifically requests that this section apply to his or her request. 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)(a) 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

maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(b) Copies of public records shall be furnished without charge if the person requesting the records states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if: the requestor is the news media; the requestor is a non-profit organization; or if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In setting the amount of the waiver or reduction, the public office may take into consideration the amount of materials requested and the cost of copying them. No public records request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request, unless the person seeks a waiver or reduction in fee. In such case, the requesting person must be offered the option of either providing identifying information or stating the purpose of the request, or forfeiting the waiver or reduction in fee.

(3)(a) Each public office shall make available for public inspection and copying copies of all records, regardless of form or format, which have been released to any person under this chapter and which, because of the nature of their subject matter, the public office determines have become or are likely to become the subject of subsequent requests for substantially the same records.

(b) Each public office shall calculate and disclose the actual cost of reproduction for reproducing documents, but in any event may not exceed \$.20 per page for reproducing and certifying public records and for the use, by any person, of the equipment of the public office to copy records.

(c) In making any record available to a person under this Section, a public office shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each public office shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section. This chapter requires a public office to create a new public record if the public office can create the record by reasonable use or manipulation of software, electronic records or Internet website records. For purposes of this section, a public office's maintaining of records includes access to its electronic records or accounts maintained on Internet websites. If the public office maintains a website, each public office shall make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued or adopted.

(4) Documents shall be furnished without charge or at a reasonable reduced charge, as determined by the public office, if the person requesting the documents asks that the documents be provided in electronic form. For purposes of this subsection, "reasonable reduced charge" means the actual cost of any media used in providing the information, including but not limited to, computer disks and CDROMs, as well as the use, by any person, of the equipment of the public office to create such records, but excludes the

costs of any search for and review of the documents. If the public records request is made in person, the public office must notify the requestor if any of the requested records are available through electronic mail.

(5) A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable.

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

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

~~(58) Unless a requestor specifically seeks a fee waiver or reduction subject to division (B)(2)(b) of this section, a public office may not make an inquiry as to the nature of the request, unless it is for the purpose of assisting an individual in identifying public records sought. No public records request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request, unless the person seeks a waiver or reduction in fee. In such case, the requesting person must be offered the option of either providing identifying information or stating the purpose of the request, or forfeiting the waiver or reduction in fee. A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.~~

(69) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance half of the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record

keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

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

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

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

Each public office shall, promptly, either comply with or deny a written request for public records within 7 working days after its receipt. Denial shall be by letter. Failure to respond to a written request within 7 working days after its receipt shall be considered a denial of the request.

~~(118) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or~~

~~made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person. has full coverage of this chapter.~~

(129) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

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

(13) A public office that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public office's Public Records Law coordinator. The Public Records Law coordinator shall be responsible for accepting and processing requests for the public office's public records under this act and shall be responsible for approving a denial. For all other public bodies, the chief administrative officer of the respective public office is designated the public office's Public Records Law coordinator. A Public Records Law coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public office's public records, and in approving a denial.

(C)(1) Any person denied access to inspect or copy any public record may appeal a denial by sending a written notice of appeal to the head of the public office. Upon receipt of such notice the head of the public office shall promptly review the public record, determine whether under the provisions of this chapter such record is open to inspection and copying, and notify the person making the appeal of such determination within 7 working days after the notice of appeal. Each public office or head of a public office denying a request for public records shall notify by letter the person making the request of the decision to deny such, the reasons for the denial, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public office shall also inform such person of his right to appeal to the head of the public office.

Each notice of denial of an appeal by the head of a public office shall inform such person of his or her right to judicial review under this chapter and advise the person of the right to receive attorneys' fees and damages as provided in this section if, after judicial review, the court determines that the public body has not complied with this section and orders disclosure of all or a portion of a public record.

(a) If the head of the public office fails to notify the person making the appeal in subdivision (1) of this section of the determination within 7 working days after notice of appeal, the head of the public office is subject to fines up to \$500. The person making the appeal may file a suit to assess up \$500 against the head of the public office in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(b) The court shall award reasonable attorneys' fees and costs to the person making the appeal in subdivision (1) of this section regardless of whether the person is represented by counsel or is pro se.

(2) Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to such request if the head of the public office affirms the denial or fails to act within the time limit provided in subdivision (1) of this section.

~~(4)~~ If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution. The Office of the Attorney General may bring a civil or criminal action under this chapter to enforce this section.

As soon as a mandamus action has been filed by an individual or a civil or criminal action by the Office of the Attorney General, the public office may not avoid the penalties set forth in subsections (3) or (4) of this section by providing the relator with

copies of his or her requested public records or by allowing the relator to inspect the requested public records.

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

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

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

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

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

~~(4) Except as to causes the court considers to be of greater importance, proceedings arising under this section shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.~~

~~(25)~~(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist, the

court shall determine and award to the relator all court costs. The court may not award court costs to the Office of the Attorney General as a party.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court ~~may shall~~ award reasonable attorney's fees to the relator regardless of whether the person is represented by counsel or is pro se, subject to reduction as described in division (C)(2)(e) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(e) of this section when either of the following applies: The court may not award attorneys' fees to the Office of the Attorney General as a party.

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

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

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

~~(d) If the court determines in an action commenced under this section that the public office has arbitrarily and capriciously violated this chapter by refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any statutory damages, punitive damages in the amount of \$1,000 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public office that is not an individual and that kept or maintained the public record as part of its public function.~~

~~(e) Any person who willfully violates the provisions of this section is guilty of a misdemeanor.~~

~~(f) Willful violation of this section by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.~~

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

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

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

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

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the 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 for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

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

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

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

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

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

(G) Effective January 1, 2010, the legislative branch of the state government shall create an independent regulatory body in the office of the Ohio Auditor of State’s Open Government Unit with the power and authority to enforce this chapter.

(H)(1) All public bodies that receive state funds must, by April 1 of each year, file with the Office of the Attorney General a report on the public office’s handling of requests under the chapter during the previous calendar year.

(2) The report must include at least the following: the number of requests received; a description the each type or category of records requested including the number of requests in each type or category of records; the number of requests fully satisfied by the public office; the number of requests fully denied by the public office; and the reasons for the denials.

(3) The report shall be considered a “public record” within the meaning of this chapter.

(4) In the event that a public office fails to comply with this section, the Attorney General shall be authorized to order the Comptroller to withhold five percent of the public office's state funds in the following fiscal year until the report is submitted.

(I) The Ohio Auditor of State's Open Government Unit serves the following purposes: offering education and training programs to government officials; the public and the media; answering questions concerning this Act; working to resolve disputes under this Act; and working to ensure compliance with the [chapter](#).

(b) In furtherance of those purposes, the Ohio Auditor of State's Open Government Unit may, at the Unit's discretion, issue opinions regarding a public office's compliance with the [chapter](#) in regard to a specific request for records.

(c) If there is a proceeding under section (C) of this [chapter](#) and the Ohio Auditor of State's Open Government Unit has previously issued an opinion that the public records sought in the proceeding shall be disclosed but the public office refuses to comply within a reasonable time, upon motion of the relator, the court may consider the public office's refusal willful and act in accordance with section (C) of this [chapter](#).