

# The Ohio Public Records Act

## Chapter Six: Special Topics

### C. Residential and Familial Information of Covered Professions that are not Public Records<sup>727</sup>

**Residential and Familial Information Defined:**<sup>728</sup> The “residential and familial information” of peace officers,<sup>729</sup> parole officers, probation officers, bailiffs, prosecuting attorneys, assistant prosecuting attorneys,<sup>730</sup> correctional employees,<sup>731</sup> community-based correctional facility employee, youth services employees,<sup>732</sup> firefighters,<sup>733</sup> emergency medical technicians (EMTs),<sup>734</sup> and investigators of the Bureau of Criminal Identification and Investigation is excepted from mandatory disclosure under the Ohio Public Records Act.<sup>735</sup> “Residential and familial information” means any information that discloses any of the following about individuals in the listed employment categories (see following chart):

#### Information of Covered Professions that is not Public Record

<b>Residential</b>	<ul style="list-style-type: none"><li>◆ Address of the covered employee’s actual personal residence, except for state or political subdivision; residential phone number, and emergency phone number<sup>736</sup></li><li>◆ Residential address, residential phone number, and emergency phone number of the spouse, former spouse, or child of a covered employee<sup>737</sup></li></ul>
<b>Medical</b>	<ul style="list-style-type: none"><li>◆ Any information of a covered employee that is compiled from referral to or participation in an employee assistance program<sup>738</sup></li><li>◆ Any medical information of a covered employee<sup>739</sup></li></ul>
<b>Employment</b>	<ul style="list-style-type: none"><li>◆ The name of any beneficiary of employment benefits of a covered employee, including, but not limited to, life insurance benefits<sup>740</sup></li></ul>

<sup>727</sup> Individuals in these covered professions can also request to have certain information redacted, or prohibit its disclosure. For additional discussion, see Chapter Three: F.1.b. “Personal Information Listed Online.”

<sup>728</sup> For purposes of this section, “covered professions” is the term used to describe all of the persons covered under the residential and familial exception (i.e., peace officer, firefighter, etc.).

<sup>729</sup> R.C. 149.43(A)(7); for purposes of this statute, “peace officer” has the same meaning as in R.C. 109.71 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, R.C. 149.43(A)(7)(g).

<sup>730</sup> *State ex rel. Bardwell v. Rocky River Police Dept.*, 8th Dist. No. 91022, 2009-Ohio-727, ¶¶ 31-46 (the home address of an elected law director who at times serves as a prosecutor is not a public record, pursuant to R.C. 149.43(A)(1)(p) in conjunction with (7)(a)).

<sup>731</sup> R.C. 149.43(A)(7)(g) (“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.”).

<sup>732</sup> R.C. 149.43(A)(7)(g) (“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.”).

<sup>733</sup> R.C. 149.43(A)(7)(g) (“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.”).

<sup>734</sup> R.C. 149.43(A)(1)(p), (A)(7); and (B)(9) of this section, “EMT” means EMTs-basic, EMTs-I, and paramedic 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.”).

<sup>735</sup> R.C. 149.43(A)(1)(p), (A)(7); For discussion of application by public offices, see 2000 Ohio Op. Att’y Gen. No. 21.

<sup>736</sup> R.C. 149.43(A)(7)(a), and (c). Because prosecuting attorneys are elected officials, the actual personal residential address of elected prosecuting attorneys is not excepted from disclosure (some published versions of Chapter 149 incorrectly include prosecuting attorneys in R.C. 149.43(A)(7)(a)).

<sup>737</sup> R.C. 149.43(A)(7)(f).

<sup>738</sup> R.C. 149.43(A)(7)(b).

<sup>739</sup> R.C. 149.43(A)(7)(c).

<sup>740</sup> R.C. 149.43(A)(7)(d).

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- ♦ The identity and amount of any charitable or employment benefit deduction of a covered employee<sup>741</sup>
- ♦ A photograph of a peace officer who holds a position that may include undercover or plain clothes positions or assignments<sup>742</sup>

### Personal

The information below, which is not a public record, applies to both a covered employee and spouse, former spouse, and children

- ♦ Social Security Number<sup>743</sup>
- ♦ Account numbers of bank accounts and debit, charge, and credit cards<sup>744</sup>

The information below, which is not a public record, applies to only a covered employee's spouse, former spouse, and children

- ♦ Name, residential address, name of employer, address of employer<sup>745</sup>

The following conclusions in 2000 Ohio Op. Att'y Gen. 021 address the application of this exception:

1. R.C. 149.43, as amended by Am. Sub. S.B. 78, 123rd Gen. A. (1999) (eff. Dec. 16, 1999), imposes no duty upon any particular individual or office to notify public offices of a peace officer's residential and familial information or to update the database.
2. For purposes of R.C. 149.43, a child of a peace officer includes a natural or adopted child, a stepchild, and a minor or adult child.
3. Under the definition in R.C. 149.43(A)(7), peace officer residential and familial information encompasses only records that both contain the information listed in the statute and disclose the relationship of the information to a peace officer or a spouse, former spouse, or child of the peace officer, and those are the only records that come within the statutory exception to mandatory disclosure provided by R.C. 149.43(A)(1)(p).
4. The exception for peace officer residential and familial information applies only to information contained in a record that presents a reasonable expectation of privacy, and does not extend to records kept by a county recorder or other public official for general public access. The general provisions of R.C. 149.43 excluding peace officer residential and familial information from mandatory disclosure do not operate to impose requirements or limitations on systems of public records that have been designed and established for general public access, where there is no reasonable basis for asserting a privacy interest and no expectation that the information will be identifiable as peace officer residential and familial information.
5. R.C. 149.43 provides no liability for disclosing information that comes within an exception to the definition of "public record." Liability may result, however, from disclosing a record that is made confidential by a provision of law other than R.C. 149.43.

<sup>741</sup> R.C. 149.43(A)(7)(e).

<sup>742</sup> R.C. 149.43(A)(7)(g).

<sup>743</sup> R.C. 149.43(A)(7)(f).

<sup>744</sup> R.C. 149.43(A)(7)(f).

<sup>745</sup> R.C. 149.43(A)(7)(f).

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Note that R.C. 2921.24(A) (release of certain officers' home addresses by employer, court, or court clerk in a pending criminal case), and R.C. 2921.25(A) (disclosure of certain officers' home addresses during examination in court), do prohibit release of officers' home addresses, but only in the limited circumstances set forth in those statutes.<sup>746</sup>

In addition to the professions treated collectively in R.C. 149.43(A)(1)(p) and (A)(7), other public office employees may be subject to similar exceptions through agency specific statutes.<sup>747</sup>

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<sup>746</sup> *State ex rel. Natl. Broadcasting Co. v. Cleveland*, 82 Ohio App.3d 202, 212 (1992) *cause dismissed sub nom. State ex rel Natl. Broadcasting, Inc. v. Cleveland*, 66 Ohio St.3d 1428 (1993).

<sup>747</sup> *E.g.*, R.C. 2151.142(B) and (C) (providing that, in addition to the "covered professions" listed above, certain residential addresses of employees of a public children services agency or private child placing agency and that employee's family members are exempt from disclosure).