

AN ACT

To amend sections 301.27, 2913.01, 2913.02, 2913.03, 2913.04, 2913.21, 2913.31, 2913.43, and 2913.61 and to enact section 2913.73 of the Revised Code to enhance the penalty for committing the offenses of theft, unauthorized use of a vehicle, unauthorized use of property, misuse of credit cards in specified circumstances, fraud, and securing writings by deception when the victim of the offense is an elderly person or disabled adult, to permit for sentencing purposes the aggregation in accordance with specific statutory guidelines of all property, services, losses to the victims, and debts for which credit cards are held for security involved in the commission of any of those offenses as part of a course of conduct involving those theft offenses when the victim of the offense is an elderly person or disabled adult, and to permit evidence that a victim lacked the capacity to give consent to be admitted in the prosecution of a theft offense to show that the victim did not give consent.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 301.27, 2913.01, 2913.02, 2913.03, 2913.04, 2913.21, 2913.31, 2913.43, and 2913.61 be amended and section 2913.73 of the Revised Code be enacted to read as follows:

Sec. 301.27. (A) As used in this section:

(1) "Credit card" includes a gasoline credit card and a telephone credit card.

(2) "Officer" includes an individual who also is an appointing authority.

(3) "Gasoline and oil expenses," "minor motor vehicle maintenance expenses," and "emergency motor vehicle repair expenses" refer to only

those expenses incurred for motor vehicles owned or leased by the county.

(B) A credit card held by a board of county commissioners or the office of any other county appointing authority shall be used only to pay work-related food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephone, lodging, and internet service provider expenses.

(C) A county appointing authority may apply to the board of county commissioners for authorization to have an officer or employee of the appointing authority use a credit card held by that appointing authority. The authorization request shall state whether the card is to be issued only in the name of the office of the appointing authority itself or whether the issued card shall also include the name of a specified officer or employee.

(D) The debt incurred as a result of the use of a credit card pursuant to this section shall be paid from moneys appropriated to the appointing authority for work-related food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephone, lodging, and internet service provider expenses.

(E)(1) Except as otherwise provided in division (E)(2) of this section, every officer or employee authorized to use a credit card held by the board or appointing authority shall submit to the board by the first day of each month an estimate of the officer's or employee's work-related food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephone, lodging, and internet service provider expenses for that month, unless the board authorizes, by resolution, the officer or employee to submit to the board such an estimate for a period longer than one month. The board may revise the estimate and determine the amount it approves, if any, not to exceed the estimated amount. The board shall certify the amount of its determination to the county auditor along with the necessary information for the auditor to determine the appropriate appropriation line item from which such expenditures are to be made. After receiving certification from the county auditor that the determined sum of money is in the treasury or in the process of collection to the credit of the appropriate appropriation line item for which the credit card is approved for use, and is free from previous and then-outstanding obligations or certifications, the board shall authorize the officer or employee to incur debt for such expenses against the county's credit up to the authorized amount.

(2) In lieu of following the procedure set forth in division (E)(1) of this section, a board of county commissioners may adopt a resolution authorizing an officer or employee of an appointing authority to use a county credit card to pay for specific classes of the work-related expenses

listed in division (B) of this section, or use a specific credit card for any of those work-related expenses listed in division (B) of this section, without submitting an estimate of those expenses to the board as required by division (E)(1) of this section. Prior to adopting the resolution, the board shall notify the county auditor. The resolution shall specify whether the officer's or employee's exemption extends to the use of a specific card, which card shall be identified by its number, or to one or more specific work-related uses from the classes of uses permitted under division (B) of this section. Before any credit card exempted for specific uses may be used to make purchases for uses other than those specific uses listed in the resolution, the procedures outlined in division (E)(1) of this section must be followed or the use shall be considered an unauthorized use. Use of any credit card under division (E)(2) of this section shall be limited to the amount appropriated and encumbered in a specific appropriation line item for the permitted use or uses designated in the authorizing resolution, or, in the case of a resolution that authorizes use of a specific credit card, for each of the permitted uses listed in division (B) of this section, but only to the extent the moneys in such appropriations are not otherwise encumbered.

(F)(1) Any time a county credit card approved for use for an authorized amount under division (E)(1) of this section is used for more than that authorized amount, the appointing authority may request the board of county commissioners to authorize after the fact the expenditure of any amount charged beyond the originally authorized amount if, upon the board's request, the county auditor certifies that sum of money is in the treasury or in the process of collection to the credit of the appropriate appropriation line item for which the credit card was used and is free from previous and then-outstanding obligations or certifications. If the card is used for more than the amount originally authorized and if for any reason that amount is not authorized after the fact, then the county treasury shall be reimbursed for any amount spent beyond the originally authorized amount in the following manner:

(a) If the card is issued in the name of a specific officer or employee, then that officer or employee is liable in person and upon any official bond the officer or employee has given to the county to reimburse the county treasury for the amount charged to the county beyond the originally authorized amount.

(b) If the card was issued to the office of the appointing authority, then the appointing authority is liable in person and upon any official bond the appointing authority has given to the county for the amount charged to the county beyond the originally authorized amount.

(2) Any time a county credit card authorized for use under division (E)(2) of this section is used for more than the amount appropriated under that division, the appointing authority may request the board of county commissioners to issue a supplemental appropriation or make a transfer to the proper line item account as permitted in section 5705.40 of the Revised Code, to cover the amount charged beyond the originally appropriated amount. If the card is used for more than the amount originally appropriated and if for any reason that amount is not appropriated or transferred as permitted by this section, then the county treasury shall be reimbursed for any amount spent beyond the originally appropriated amount in the following manner:

(a) If the card is issued in the name of a specific officer or employee, then that officer or employee is liable in person and upon any official bond the officer or employee has given to the county for reimbursing the county treasury for any amount charged on the card beyond the originally appropriated amount.

(b) If the card is issued in the name of the office of the appointing authority, then the appointing authority is liable in person and upon any official bond the appointing authority has given to the county for reimbursement for any amount charged on the card beyond the originally appropriated amount.

(3) Whenever any officer or employee authorized to use a credit card held by the board or the office of any other county appointing authority suspects the loss, theft, or possibility of unauthorized use of the county credit card the officer or employee is authorized to use, the officer or employee shall so notify the officer's or employee's appointing authority or the board immediately and in writing.

(4) If the county auditor determines there has been a credit card expenditure beyond the appropriated or authorized amount as provided in division (E) of this section, the auditor immediately shall notify the board of county commissioners of this fact. When the board of county commissioners determines on its own or after notification from the county auditor that the county treasury should be reimbursed for credit card expenditures beyond the appropriated or authorized amount as provided in divisions (F)(1) and (2) of this section, it shall give written notice to the officer or employee or appointing authority liable to the treasury as provided in divisions (F)(1) and (2) of this section. If, within thirty days after issuance of this written notice the county treasury is not reimbursed for the amount shown on the written notice, the prosecuting attorney of the county shall recover that amount from the officer or employee or appointing authority who is liable under this

section by civil action in any court of appropriate jurisdiction.

(G) Use of a county credit card for any use other than those permitted under division (B) of this section is a violation of law for the purposes of ~~division (D)~~ of section 2913.21 of the Revised Code.

Sec. 2913.01. As used in this chapter, unless the context requires that a term be given a different meaning:

(A) "Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

(B) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(C) "Deprive" means to do any of the following:

(1) Withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

(D) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

(E) "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

(F) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, typewritten, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(G) "Forge" means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the

writing in fact is not authenticated by that conduct.

(H) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

(I) "Coin machine" means any mechanical or electronic device designed to do both of the following:

(1) Receive a coin, bill, or token made for that purpose;

(2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.

(J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

(K) "Theft offense" means any of the following:

(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.

(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

(M) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

(N) "Computer system" means a computer and related devices, whether

connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

(O) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

(P) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

(Q) "Computer software" means computer programs, procedures, and other documentation associated with the operation of a computer system.

(R) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network. For purposes of section 2913.47 of the Revised Code, "data" has the additional meaning set forth in division (A) of that section.

(S) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

(T) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

(U) "Credit card" includes, but is not limited to, a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine.

(V) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

(W) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the

duration of possession of the property.

(X) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.

(Y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

(Z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

(AA) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

(BB)(1) "Information service" means, subject to division (BB)(2) of this section, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.

(2) "Information service" does not include any use of a capability of a type described in division (BB)(1) of this section for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(CC) "Elderly person" means a person who is sixty-five years of age or older.

(DD) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

(EE) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(FF) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(GG) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

(HH) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 2913.02. (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

~~(B)(1) Whoever violates this section is guilty of theft. Except~~

~~(2) Except as otherwise provided in this division or division (B)(3), (4), (5), or (6) of this section, a violation of this section is petty theft, a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars or if the property stolen is any of the property listed in section 2913.71 of the Revised Code, a violation of this section is theft, a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars or if the property stolen is a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code, a violation of this section is grand theft, a felony of the fourth degree. If the property stolen is a motor vehicle, as defined in section 4501.01 of the Revised Code, a violation of this section is grand theft of a~~

~~motor vehicle, a felony of the fourth degree.~~ If the value of the property or services stolen is one hundred thousand dollars or more, a violation of this section is aggravated theft, a felony of the third degree. ~~If~~

(3) Except as otherwise provided in division (B)(4), (5), or (6) of this section, if the victim of the offense is an elderly person or disabled adult, a violation of this section is theft from an elderly person or disabled adult, and division (B)(3) of this section applies. Except as otherwise provided in this division, theft from an elderly person or disabled adult is a felony of the fifth degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, theft from an elderly person or disabled adult is a felony of the fourth degree. If the value of the property or services stolen is five thousand dollars or more and is less than twenty-five thousand dollars, theft from an elderly person or disabled adult is a felony of the third degree. If the value of the property or services stolen is twenty-five thousand dollars or more, theft from an elderly person or disabled adult is a felony of the second degree.

(4) If the property stolen is a firearm or dangerous ordnance, a violation of this section is grand theft, a felony of the fourth degree.

(5) If the property stolen is a motor vehicle, a violation of this section is grand theft of a motor vehicle, a felony of the fourth degree.

~~(6) If the property stolen is any dangerous drug, as defined in section 4729.01 of the Revised Code, a violation of this section is theft of drugs, a felony of the fourth degree, or, if the offender previously has been convicted of a felony drug abuse offense, as defined in section 2925.01 of the Revised Code, a felony of the third degree.~~

Sec. 2913.03. (A) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(B) No person shall knowingly use or operate an aircraft, motor vehicle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent, and either remove it from this state or keep possession of it for more than forty-eight hours.

(C) The following are affirmative defenses to a charge under this section:

(1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.

(2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(D)(1) Whoever violates this section is guilty of unauthorized use of a vehicle. ~~A~~

(2) Except as otherwise provided in division (D)(4) of this section, a violation of division (A) of this section is a misdemeanor of the first degree.
~~A~~

(3) Except as otherwise provided in division (D)(4) of this section, a violation of division (B) of this section is a felony of the fifth degree.

(4) If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of division (A) or (B) of this section is whichever of the following is applicable:

(a) Except as otherwise provided in division (D)(4)(b), (c), (d), or (e) of this section, a felony of the fifth degree;

(b) If the loss to the victim is five hundred dollars or more and is less than five thousand dollars, a felony of the fourth degree;

(c) If the loss to the victim is five thousand dollars or more and is less than twenty-five thousand dollars, a felony of the third degree;

(d) If the loss to the victim is twenty-five thousand dollars or more, a felony of the second degree.

Sec. 2913.04. (A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(B) No person shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, telecommunications device, telecommunications service, or information service or other person authorized to give consent by the owner.

(C) The affirmative defenses contained in division (C) of section 2913.03 of the Revised Code are affirmative defenses to a charge under this section.

(D)(1) Whoever violates division (A) of this section is guilty of unauthorized use of property. ~~Except~~

(2) Except as otherwise provided in ~~this~~ division (D)(3) or (4) of this section, unauthorized use of property is a misdemeanor of the fourth degree.

If (3) Except as otherwise provided in division (D)(4) of this section, if unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:

~~(1)~~(a) Except as otherwise provided in division (D)~~(2)~~, (3), ~~or (4)~~ (b), (c), or (d) of this section, a misdemeanor of the first degree.

~~(2)~~(b) If the value of the property or services or the loss to the victim is five hundred dollars or more and is less than five thousand dollars, a felony of the fifth degree.

~~(3)~~(c) If the value of the property or services or the loss to the victim is five thousand dollars or more and is less than one hundred thousand dollars, a felony of the fourth degree.

~~(4)~~(d) If the value of the property or services or the loss to the victim is one hundred thousand dollars or more, a felony of the third degree.

(4) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is whichever of the following is applicable:

(a) Except as otherwise provided in division (D)(4)(b), (c), (d), or (e) of this section, a felony of the fifth degree;

(b) If the value of the property or services or loss to the victim is five hundred dollars or more and is less than five thousand dollars, a felony of the fourth degree;

(c) If the value of the property or services or loss to the victim is five thousand dollars or more and is less than twenty-five thousand dollars, a felony of the third degree;

(d) If the value of the property or services or loss to the victim is twenty-five thousand dollars or more, a felony of the second degree.

(E) Whoever violates division (B) of this section is guilty of unauthorized use of computer or telecommunication property, a felony of the fifth degree.

Sec. 2913.21. (A) No person shall do any of the following:

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(B) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the

presentation is false.

(C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.

(D)(1) Whoever violates this section is guilty of misuse of credit cards.

(2) Except as otherwise provided in division (D)(4) of this section, a violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in this division or division (D)(4) of this section, a violation of division (B)(2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is five hundred dollars or more and is less than five thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fifth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is five thousand dollars or more and is less than one hundred thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fourth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one hundred thousand dollars or more, misuse of credit cards in violation of any of those divisions is a felony of the third degree.

(4) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (B)(1) or (2) of this section, division (D)(4) of this section applies. Except as otherwise provided in division (D)(4) of this section, a violation of division (B)(1) or (2) of this section is a felony of the fifth degree. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is five hundred dollars or more and is less than five thousand dollars, a violation of either of those divisions is a felony of the fourth degree. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is five thousand dollars or more and is less than twenty-five thousand dollars, a violation of either of those divisions is a felony of the third degree. If the

debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is twenty-five thousand dollars or more, a violation of either of those divisions is a felony of the second degree.

Sec. 2913.31. (A) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

(1) Forge any writing of another without the other person's authority;

(2) Forge any writing so that it purports to be genuine when it actually is spurious, or to be the act of another who did not authorize that act, or to have been executed at a time or place or with terms different from what in fact was the case, or to be a copy of an original when no such original existed;

(3) Utter, or possess with purpose to utter, any writing that the person knows to have been forged.

(B) No person shall knowingly do either of the following:

(1) Forge an identification card;

(2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.

As used in this division, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card," or other similar words appear on the card.

(C)(1)(a) Whoever violates division (A) of this section is guilty of forgery. ~~Except~~

(b) Except as otherwise provided in this division or division (C)(1)(c) of this section, forgery is a felony of the fifth degree. If property or services are involved in the offense or the victim suffers a loss and if, forgery is one of the following:

(i) If the value of the property or services or the loss to the victim is five thousand dollars or more and is less than one hundred thousand dollars, forgery is a felony of the fourth degree. If property or services are involved in the offense or the victim suffers a loss and if;

(ii) If the value of the property or services or the loss to the victim is one hundred thousand dollars or more, forgery is a felony of the third degree.

(c) If the victim of the offense is an elderly person or disabled adult, division (C)(1)(c) of this section applies to the forgery. Except as otherwise provided in division (C)(1)(c) of this section, forgery is a felony of the fifth degree. If property or services are involved in the offense or if the victim suffers a loss, forgery is one of the following:

(i) If the value of the property or services or the loss to the victim is five hundred dollars or more and is less than five thousand dollars, a felony of the fourth degree;

(ii) If the value of the property or services or the loss to the victim is five thousand dollars or more and is less than twenty-five thousand dollars, a felony of the third degree;

(iii) If the value of the property or services or the loss to the victim is twenty-five thousand dollars or more, a felony of the second degree.

(2) Whoever violates division (B) of this section is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this division, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (B) of this section, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars.

Sec. 2913.43. (A) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(B)(1) Whoever violates this section is guilty of securing writings by deception. ~~Except~~

(2) Except as otherwise provided in this division or division (B)(3) of this section, securing writings by deception is a misdemeanor of the first degree. If the value of the property or the obligation involved is five hundred dollars or more and less than five thousand dollars, securing writings by deception is a felony of the fifth degree. If the value of the property or the obligation involved is five thousand dollars or more and is less than one hundred thousand dollars, securing writings by deception is a felony of the fourth degree. If the value of the property or the obligation involved is one hundred thousand dollars or more, securing writings by deception is a felony of the third degree.

(3) If the victim of the offense is an elderly person or disabled adult, division (B)(3) of this section applies. Except as otherwise provided in division (B)(3) of this section, securing writings by deception is a felony of the fifth degree. If the value of the property or obligation involved is five hundred dollars or more and is less than five thousand dollars, securing writings by deception is a felony of the fourth degree. If the value of the property or obligation involved is five thousand dollars or more and is less than twenty-five thousand dollars, securing writings by deception is a felony

of the third degree. If the value of the property or obligation involved is twenty-five thousand dollars or more, securing writings by deception is a felony of the second degree.

Sec. 2913.61. (A) When a person is charged with a theft offense involving property or services valued at five hundred dollars or more, a theft offense involving property or services valued at five hundred dollars or more and less than five thousand dollars, a theft offense involving property or services valued at five thousand dollars or more and less than twenty-five thousand dollars, a theft offense involving property or services valued at twenty-five thousand dollars or more and less than one hundred thousand dollars, or a theft offense involving property or services valued at one hundred thousand dollars or more, the jury or court trying the accused shall determine the value of the property or services as of the time of the offense and, if a guilty verdict is returned, shall return the finding of value as part of the verdict. In any case in which the jury or court determines that the value of the property or services at the time of the offense was five hundred dollars or more, it is unnecessary to find and return the exact value, and it is sufficient if the finding and return is to the effect that the value of the property or services involved was five hundred dollars or more and less than five thousand dollars, was five thousand dollars or more and less than twenty-five thousand dollars, was twenty-five thousand dollars or more and less than one hundred thousand dollars, or was one hundred thousand dollars or more.

(B) If more than one item of property or services is involved in a theft offense, the value of the property or services involved for the purpose of determining the value as required by division (A) of this section is the aggregate value of all property or services involved in the offense.

(C)(1) When a series of offenses under section 2913.02 of the Revised Code, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of section 2913.02, 2913.03, or 2913.04, division (B)(1) or (2) of section 2913.21, or section 2913.31 or 2913.43 of the Revised Code involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense, and the value of the property or services involved for the purpose of determining the value as required by division (A) of this section is the aggregate value of all property and services involved in all offenses in the series. In prosecuting a single offense under this division, it is not necessary to separately allege and prove each offense in the series. It is sufficient to allege and prove that the offender,

within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another.

(2) If an offender is being tried for the commission of a series of offenses under section 2913.02 of the Revised Code against more than one victim, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of section 2913.02, 2913.03, or 2913.04, division (B)(1) or (2) of section 2913.21, or section 2913.31 or 2913.43 of the Revised Code, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense, and the value of the property or services involved, for the purpose of determining the value as required by division (A) of this section, is the aggregate value of all property and services involved in the series of offenses.

(D) The following criteria shall be used in determining the value of property or services involved in a theft offense:

(1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that has intrinsic worth to its owner and that either is irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, is the amount that would compensate the owner for its loss.

(2) The value of personal effects and household goods, and of materials, supplies, equipment, and fixtures used in the profession, business, trade, occupation, or avocation of its owner, which property is not covered under division (D)(1) of this section and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.

(3) The value of any real or personal property that is not covered under division (D)(1) or (2) of this section, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(E) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense is prima-facie evidence of the value of the security or commodity.

(3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry, or products.

(4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property is prima-facie evidence of the value of the instrument.

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token, or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument is prima-facie evidence of the value of the instrument.

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping, or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.

(8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing, orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services.

Sec. 2913.73. In a prosecution for any alleged violation of a provision of this chapter, if the lack of consent of the victim is an element of the provision that allegedly was violated, evidence that, at the time of the alleged violation, the victim lacked the capacity to give consent is admissible to show that the victim did not give consent.

AS USED IN THIS SECTION, "LACKS THE CAPACITY TO CONSENT" MEANS BEING IMPAIRED FOR ANY REASON TO THE EXTENT THAT THE PERSON LACKS SUFFICIENT UNDERSTANDING OR CAPACITY TO MAKE AND CARRY OUT REASONABLE DECISIONS CONCERNING THE PERSON OR THE PERSON'S RESOURCES.

SECTION 2. That existing sections 301.27, 2913.01, 2913.02, 2913.03, 2913.04, 2913.21, 2913.31, 2913.43, and 2913.61 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____