

# AN ACT

To amend section 2913.61 of the Revised Code to provide that a series of offenses an offender commits under the theft in office statute in the offender's same employment, capacity, or relationship to another may be tried as a single offense, and that, if the series of offenses is so tried, the value of the property or services for purposes of a prosecution is the aggregate value of all property or services involved.

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

SECTION 1. That section 2913.61 of the Revised Code be amended to read as follows:

Sec. 2913.61. (A) When a person is charged with a theft offense, or with a violation of division (A)(1) of section 1716.14 of the Revised Code involving a victim who is an elderly person or disabled adult that involves property or services valued at five hundred dollars or more, property or services valued at five hundred dollars or more and less than five thousand dollars, property or services valued at five thousand dollars or more and less than twenty-five thousand dollars, property or services valued at twenty-five thousand dollars or more and less than one hundred thousand dollars, or 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 or in a violation of division (A)(1) of section 1716.14 of the Revised Code involving a victim who is an elderly person or disabled adult, 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 division (A)(1) of section 1716.14, 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. The value of the property or services involved in the series of offenses 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.

(2) If an offender commits a series of offenses under section 2913.02 of the Revised Code that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of division (A)(1) of section 1716.14, 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. If the offenses are tried as a single 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 and services involved in all of the offenses in the course of conduct.

(3) When a series of two or more offenses under section 2921.41 of the REVISED code is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses may be tried as a single offense. if the offenses are tried as a single 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 and services involved in all of the offenses in the series of two or

more offenses.

(4) In prosecuting a single offense under division (C)(1) ~~or (2)~~, or (3) of this section, it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses or violations of section 2921.41 of the Revised Code in the offender's same employment, capacity, or relationship to another as described in division (C)(1) or (3) of this section, or committed one or more theft offenses that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in division (C)(2) of this section.

(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.

SECTION 2. That existing section 2913.61 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 364

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

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_