

AN ACT

To amend sections 9.92, 109.85, 309.08, 311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 5739.15, 5743.082, and 5743.112, to enact sections 2941.1417, 2981.01, 2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 2981.08, 2981.09, 2981.11, 2981.12, 2981.13, and 2981.14, and to repeal sections 2923.33, 2923.35, 2923.45, 2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 2925.45, 2933.41, 2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 2933.73, and 2933.74 of the Revised Code to adopt the Criminal Sentencing Commission's recommendations regarding revision of the Forfeiture Laws.

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

SECTION 1. That sections 9.92, 109.85, 309.08, 311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 5739.15, 5743.082, and 5743.112 be amended and sections 2941.1417, 2981.01, 2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 2981.08, 2981.09, 2981.11, 2981.12, 2981.13, and 2981.14 of the

Revised Code be enacted to read as follows:

Sec. 9.92. (A) As used in this section:

(1) "Citizens' reward program" means any organization that satisfies all of the following criteria:

(a) It is a nonprofit organization;

(b) It is organized and operated exclusively to offer and pay rewards to citizens for volunteering tips and information to law enforcement agencies concerning felonies, offenses of violence, or misdemeanors that have been committed;

(c) It has established a reward fund to be used solely for the payment of rewards to citizens for volunteering tips and information to law enforcement agencies concerning felonies, offenses of violence, or misdemeanors that have been committed.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

(B) A citizens' reward program may apply to the board of county commissioners of any county or counties in which it operates for recognition as the official reward program for that county or counties. Upon receipt of the application, the board of county commissioners shall determine if it is in proper order and the information it contains is correct. If the application meets these criteria, the board, by resolution, may officially recognize the program. Recognition of a program by a county under this division qualifies the program for funding of its reward fund under division ~~(E)(2)~~ (F) of section ~~2933.41~~ 2981.12 of the Revised Code. No more than one such reward program shall be recognized in any county.

(C)(1) If a board of county commissioners enters into an agreement of affiliation with a citizens' reward program pursuant to division (D) of this section, any municipal court, county court, or court of common pleas within the county shall impose the sum of one dollar as costs in any case in which a person is convicted of or pleads guilty to any offense other than a traffic offense. This one dollar additional court costs is in addition to any other court costs that the court is required by law to impose upon the offender, and, the court shall impose the one dollar additional court costs as long as the agreement of affiliation remains in effect, but the court, in the court's discretion, may remit this one dollar additional court costs to the offender. The clerk of each court shall transmit all such moneys collected during a month on or before the twentieth day of the following month to the affiliated citizens' reward program.

(2) No person shall be placed or held in a detention facility for failing to

pay the additional one dollar court costs that are required to be paid by division (C)(1) of this section.

(3) A citizens' reward program receiving funds pursuant to division (C)(1) of this section may use the funds for any purpose described in division (A)(1)(b) or (c) of this section.

(D)(1) Any citizens' reward program that is recognized under division (B) of this section may enter into a written agreement of affiliation with a board of county commissioners in the county in which the program operates. Agreements of affiliation executed pursuant to this division shall be valid for two years and may be renewed. The agreements shall do all of the following:

(a) Specify the relationship between the citizens' reward program, the county, and law enforcement agencies in the county;

(b) Specify that the citizens' reward program shall account annually to the board of county commissioners for all funds raised by the organization from all sources and all funds expended by the organization for any purpose;

(c) Allow the citizens' reward program to itemize the sources of funds raised without referring to the name of the source;

(d) Prohibit the citizens' reward program from divulging the identity of any person to whom a reward was paid.

(2) In every county in which the board of county commissioners approves of an agreement of affiliation, the board shall notify the clerk of each municipal court, county court, and court of common pleas within the county of that agreement of affiliation and of the duty to collect the additional court costs imposed pursuant to division (C) of this section.

(E) The recognition of a citizens' reward program under this section does not make it a governmental unit for purposes of section 149.43 of the Revised Code and does not subject it to the disclosure provisions of that section. A board of county commissioners that recognizes a citizens' reward program pursuant to this section shall require the program to provide the board with an accounting of all funds the program receives or disburses subsequent to its recognition in order to maintain recognition.

(F) A board of county commissioners that recognizes a citizens' reward program under this section may by resolution revoke its recognition of the program. The board shall send a copy of the resolution, upon adoption, to the program and to each appropriate law enforcement agency that has jurisdiction over the territory served by the program.

(G) An application for recognition of a citizens' reward program shall contain all of the following information:

(1) The name of the program and its mailing address;

- (2) The name and address of each of its officers or officials;
- (3) Information sufficient to establish the intention and ability of the program's officers to implement the program throughout the county;
- (4) The purposes for which the program is organized and operated and the services it offers;
- (5) A copy of the articles of incorporation and bylaws of the program, if applicable, or a copy of the rules and procedures under which the program is organized and operated;
- (6) Any other relevant information that the board of county commissioners requires, by resolution.

Sec. 109.85. (A) Upon the written request of the governor, the general assembly, the auditor of state, the director of job and family services, the director of health, or the director of budget and management, or upon the attorney general's becoming aware of criminal or improper activity related to Chapter 3721. and the medical assistance program established under section 5111.01 of the Revised Code, the attorney general shall investigate any criminal or civil violation of law related to Chapter 3721. of the Revised Code or the medical assistance program.

(B) When it appears to the attorney general, as a result of an investigation under division (A) of this section, that there is cause to prosecute for the commission of a crime or to pursue a civil remedy, the attorney general may refer the evidence to the prosecuting attorney having jurisdiction of the matter, or to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any necessary criminal or civil actions in any court or tribunal of competent jurisdiction in this state. When proceeding under this section, the attorney general, and any assistant or special counsel designated by the attorney general for that purpose, have all rights, privileges, and powers of prosecuting attorneys. The attorney general shall have exclusive supervision and control of all investigations and prosecutions initiated by the attorney general under this section. The forfeiture provisions of ~~sections 2933.71 to 2933.75~~ Chapter 2981. of the Revised Code apply in relation to any such criminal action initiated and prosecuted by the attorney general.

(C) Nothing in this section shall prevent a county prosecuting attorney from investigating and prosecuting criminal activity related to Chapter 3721. of the Revised Code and the medical assistance program established under section 5111.01 of the Revised Code. The forfeiture provisions of ~~sections 2933.71 to 2933.75~~ Chapter 2981. of the Revised Code apply in relation to

any prosecution of criminal activity related to the medical assistance program undertaken by the prosecuting attorney.

Sec. 309.08. (A) The prosecuting attorney may inquire into the commission of crimes within the county. The prosecuting attorney shall prosecute, on behalf of the state, all complaints, suits, and controversies in which the state is a party, except for those required to be prosecuted by a special prosecutor pursuant to section 177.03 of the Revised Code or by the attorney general pursuant to section 109.83 of the Revised Code, and other suits, matters, and controversies that the prosecuting attorney is required to prosecute within or outside the county, in the probate court, court of common pleas, and court of appeals. In conjunction with the attorney general, the prosecuting attorney shall prosecute in the supreme court cases arising in the prosecuting attorney's county, except for those cases required to be prosecuted by a special prosecutor pursuant to section 177.03 of the Revised Code or by the attorney general pursuant to section 109.83 of the Revised Code.

In every case of conviction, the prosecuting attorney forthwith shall cause execution to be issued for the fine and costs, or costs only, as the case may be, and faithfully shall urge the collection until it is effected or found to be impracticable to collect. The prosecuting attorney forthwith shall pay to the county treasurer all moneys belonging to the state or county which come into the prosecuting attorney's possession.

The prosecuting attorney or an assistant prosecuting attorney of a county may participate, as a member of the investigatory staff of an organized crime task force established under section 177.02 of the Revised Code that has jurisdiction in that county, in an investigation of organized criminal activity under sections 177.01 to 177.03 of the Revised Code.

(B) The prosecuting attorney may pay a reward to a person who has volunteered any tip or information to a law enforcement agency in the county concerning a drug-related offense that is planned to occur, is occurring, or has occurred, in whole or in part, in the county. The prosecuting attorney may provide for the payment, out of the following sources, of rewards to a person who has volunteered tips and information to a law enforcement agency in the county concerning a drug-related offense that is planned to occur, is occurring, or has occurred, in whole or in part, in the county:

(1) The law enforcement trust fund established by the prosecuting attorney pursuant to division ~~(D)(C)~~(1)(e) of section ~~2933.43~~ 2981.13 of the Revised Code;

(2) The portion of any mandatory fines imposed pursuant to divisions

(B)(1) and (2) of section 2929.18 or Chapter 2925. of the Revised Code that is paid to the prosecuting attorney pursuant to that division or chapter, the portion of any additional fines imposed under division ~~(B)(5)(A)~~ of section 2929.18 of the Revised Code that is paid to the prosecuting attorney pursuant to that division, or the portion of any ~~double~~ fines imposed pursuant to division ~~(B)(5)(A)~~ of section 2925.42 of the Revised Code that is paid to the prosecuting attorney pursuant to ~~that~~ division (B) of that section;

(3) The furtherance of justice fund allowed to the prosecuting attorney under section 325.12 of the Revised Code or any additional funds allowed to the prosecuting attorney under section 325.13 of the Revised Code;

(4) Any other moneys lawfully in the possession or control of the prosecuting attorney.

(C) As used in division (B) of this section, "drug-related offense" means any violation of Chapter 2925. or 3719. of the Revised Code or any violation of a municipal ordinance that is substantially equivalent to any section in either of those chapters.

Sec. 311.07. (A) Each sheriff shall preserve the public peace and cause all persons guilty of any breach of the peace, within the sheriff's knowledge or view, to enter into recognizance with sureties to keep the peace and to appear at the succeeding term of the court of common pleas, and the sheriff shall commit such persons to jail in case they refuse to do so. The sheriff shall return a transcript of all the sheriff's proceedings with the recognizance so taken to such court. The sheriff shall, except as provided in division (C) of this section, execute all warrants, writs, and other process directed to the sheriff by any proper and lawful authority of this state, and those issued by a proper and lawful authority of any other state. The sheriff shall attend upon the court of common pleas and the court of appeals during their sessions, and, when required, shall attend upon the probate court. In the execution of official duties of the sheriff, the sheriff may call to the sheriff's aid such persons or power of the county as is necessary. Under the direction and control of the board of county commissioners, such sheriff shall have charge of the court house. A sheriff or deputy sheriff of a county may participate, as the director of an organized crime task force established under section 177.02 of the Revised Code or as a member of the investigatory staff of such a task force, in an investigation of organized criminal activity in any county or counties in this state under sections 177.01 to 177.03 of the Revised Code.

(B) The sheriff of a county may call upon the sheriff of any other county, the mayor or other chief executive of any municipal corporation,

and the chairperson of the board of township trustees of any township within this state, to furnish such law enforcement or fire protection personnel, or both, together with appropriate equipment and apparatus, as may be necessary to preserve the public peace and protect persons and property in the requesting sheriff's county. Such aid shall be furnished to the sheriff requesting it, insofar as possible without withdrawing from the political subdivision furnishing such aid the minimum police and fire protection appearing necessary under the circumstances. Law enforcement and fire protection personnel acting outside the territory of their regular employment shall be considered as performing services within the territory of their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment. The county receiving aid shall reimburse, as provided in this section, the political subdivision furnishing it the cost of furnishing such aid, including compensation of personnel, expenses incurred by reason of the injury or death of any such personnel while rendering such aid, expenses of furnishing equipment and apparatus, compensation for damage to or loss of equipment or apparatus while in service outside the territory of its regular use, and such other reasonable expenses as may be incurred by any such political subdivision in furnishing aid. The cost of furnishing such aid may be paid from the sheriff's furtherance of justice fund created pursuant to section 325.071 of the Revised Code or from the law enforcement trust fund created pursuant to section ~~2933.43~~ 2981.13 of the Revised Code, or from the county general fund to the extent moneys have been appropriated for such purposes pursuant to section 5705.38 of the Revised Code unless the board of county commissioners adopts a resolution restricting or prohibiting the use of general fund moneys without the prior approval of the board of county commissioners. Nothing in this section shall be construed as superseding or modifying in any way any provision of a contract entered into pursuant to section 311.29 of the Revised Code. Law enforcement officers acting pursuant to this section outside the territory of their regular employment have the same authority to enforce the law as when acting within the territory of their regular employment.

(C) The sheriff shall not execute process that is issued in a state other than this state, unless the process contains either of the following:

(1) A certification by the judge of the court that issued the process stating that the issuing court has jurisdiction to issue the process and that the documents being forwarded conform to the laws of the state in which the court is located;

(2) If the process is an initial summons to appear and defend issued after the filing of a complaint commencing an action, a certification by the clerk of the court that issued the process stating that the process was issued in conformance with the laws of the state in which the court is located.

(D) As used in this section and section 311.08 of the Revised Code, "proper and lawful authority" means any authority authorized by law to issue any process and "process" means those documents issued in this state in accordance with section 7.01 of the Revised Code and those documents, other than executions of judgments or decrees, issued in a state other than this state that conform to the laws of the state of issuance governing the issuance of process in that state.

Sec. 1506.35. (A) The director of natural resources may suspend or revoke, in accordance with Chapter 119. of the Revised Code, a permit issued under section 1506.32 of the Revised Code if the permit holder has done either of the following:

(1) Failed to comply with sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, or any provision or condition of the holder's permit;

(2) Damaged abandoned property other than in accordance with the provisions or conditions of the permit.

(B) Any motor vehicle, as defined in section 4501.01 of the Revised Code, watercraft, as defined in section 1547.01 of the Revised Code, mechanical or other assistance, scuba gear, sonar equipment, or other equipment used by any person in the course of committing a third or subsequent violation of division (K) of section 1506.32 of the Revised Code shall be considered contraband for the purposes of ~~sections 2933.42 and 2933.43~~ Chapter 2981. of the Revised Code, except that proceeds from the sale of such contraband shall be disposed of in the following order:

(1) To the payment of the costs incurred in the forfeiture proceedings under ~~section 2933.43~~ Chapter 2981. of the Revised Code;

(2) To the payment of the balance due on any security interest preserved under division ~~(C)~~(F) of section ~~2933.43~~ 2981.04 of the Revised Code;

(3) To the payment of any costs incurred by the seizing agency under ~~section 2933.43~~ Chapter 2981. of the Revised Code in connection with the storage, maintenance, security, and forfeiture of the contraband;

(4) Fifty per cent of the remaining money to the credit of the Lake Erie submerged lands preserves fund created in division (C) of this section, and fifty per cent of the remaining money to the Ohio historical society for deposit into the fund created pursuant to division (C) of section 149.56 of the Revised Code.

(C) There is hereby created in the state treasury the Lake Erie submerged lands preserves fund. The fund shall be composed of moneys credited to it under division (B)(4) of this section and division (D)(2) of section 1506.33 of the Revised Code, all appropriations, contributions, and gifts made to it, and any federal grants received by the department of natural resources for the purposes of sections 1506.30 to 1506.36 of the Revised Code. The director shall use the moneys in the Lake Erie submerged lands preserves fund solely to implement and administer sections 1506.30 to 1506.36 of the Revised Code.

(D) The director may request the attorney general to, and the attorney general shall, bring a civil action in any court of competent jurisdiction for any of the following purposes:

(1) To enforce compliance with or restrain violation of sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, or any permit issued under section 1506.32 of the Revised Code;

(2) To enjoin the further removal of abandoned property or archaeological material from Lake Erie;

(3) To order the restoration of an area affected by a violation of sections 1506.30 to 1506.36 of the Revised Code or of a permit issued under section 1506.32 of the Revised Code to its prior condition.

Any action under this division is a civil action governed by the Rules of Civil Procedure.

(E) A peace officer of a county, township, or municipal corporation, and a preserve officer, wildlife officer, park officer, or watercraft officer designated under section 1517.10, 1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, may enforce compliance with sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, and any permit issued under section 1506.32 of the Revised Code and may make arrests for violation of those laws, rules, and permits.

Sec. 2152.20. (A) If a child is adjudicated a delinquent child or a juvenile traffic offender, the court may order any of the following dispositions, in addition to any other disposition authorized or required by this chapter:

(1) Impose a fine in accordance with the following schedule:

(a) For an act that would be a minor misdemeanor or an unclassified misdemeanor if committed by an adult, a fine not to exceed fifty dollars;

(b) For an act that would be a misdemeanor of the fourth degree if committed by an adult, a fine not to exceed one hundred dollars;

(c) For an act that would be a misdemeanor of the third degree if committed by an adult, a fine not to exceed one hundred fifty dollars;

(d) For an act that would be a misdemeanor of the second degree if committed by an adult, a fine not to exceed two hundred dollars;

(e) For an act that would be a misdemeanor of the first degree if committed by an adult, a fine not to exceed two hundred fifty dollars;

(f) For an act that would be a felony of the fifth degree or an unclassified felony if committed by an adult, a fine not to exceed three hundred dollars;

(g) For an act that would be a felony of the fourth degree if committed by an adult, a fine not to exceed four hundred dollars;

(h) For an act that would be a felony of the third degree if committed by an adult, a fine not to exceed seven hundred fifty dollars;

(i) For an act that would be a felony of the second degree if committed by an adult, a fine not to exceed one thousand dollars;

(j) For an act that would be a felony of the first degree if committed by an adult, a fine not to exceed one thousand five hundred dollars;

(k) For an act that would be aggravated murder or murder if committed by an adult, a fine not to exceed two thousand dollars.

(2) Require the child to pay costs;

(3) Unless the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or could be disposed of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the court has established a juvenile traffic violations bureau, require the child to make restitution to the victim of the child's delinquent act or juvenile traffic offense or, if the victim is deceased, to a survivor of the victim in an amount based upon the victim's economic loss caused by or related to the delinquent act or juvenile traffic offense. The court may not require a child to make restitution pursuant to this division if the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or could be disposed of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the court has established a juvenile traffic violations bureau. If the court requires restitution under this division, the restitution shall be made directly to the victim in open court or to the probation department that serves the jurisdiction or the clerk of courts on behalf of the victim.

If the court requires restitution under this division, the restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim or survivor of the victim, the performance of community service work, any other form of restitution devised by the court, or any

combination of the previously described forms of restitution.

If the court requires restitution under this division, the court may base the restitution order on an amount recommended by the victim or survivor of the victim, the delinquent child, the juvenile traffic offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and any other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the delinquent act or juvenile traffic offense. If the court decides to order restitution under this division and the amount of the restitution is disputed by the victim or survivor or by the delinquent child or juvenile traffic offender, the court shall hold a hearing on the restitution. If the court requires restitution under this division, the court shall determine, or order the determination of, the amount of restitution to be paid by the delinquent child or juvenile traffic offender. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by or on behalf of the victim against the delinquent child or juvenile traffic offender or the delinquent child's or juvenile traffic offender's parent, guardian, or other custodian.

If the court requires restitution under this division, the court may order that the delinquent child or juvenile traffic offender pay a surcharge, in an amount not exceeding five per cent of the amount of restitution otherwise ordered under this division, to the entity responsible for collecting and processing the restitution payments.

The victim or the survivor of the victim may request that the prosecuting authority file a motion, or the delinquent child or juvenile traffic offender may file a motion, for modification of the payment terms of any restitution ordered under this division. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(4) Require the child to reimburse any or all of the costs incurred for services or sanctions provided or imposed, including, but not limited to, the following:

(a) All or part of the costs of implementing any community control imposed as a disposition under section 2152.19 of the Revised Code, including a supervision fee;

(b) All or part of the costs of confinement in a residential facility described in section 2152.19 of the Revised Code or in a department of youth services institution, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged while so confined.

The amount of reimbursement ordered for a child under this division shall not exceed the total amount of reimbursement the child is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement. The court may collect any reimbursement ordered under this division. If the court does not order reimbursement under this division, confinement costs may be assessed pursuant to a repayment policy adopted under section 2929.37 of the Revised Code and division (D) of section 307.93, division (A) of section 341.19, division (C) of section 341.23 or 753.16, division (C) of section 2301.56, or division (B) of section 341.14, 753.02, 753.04, or 2947.19 of the Revised Code.

~~(B)(4) If Chapter 2981. of the Revised Code applies to a child who is adjudicated a delinquent child for violating section 2923.32 or 2923.42 of the Revised Code, the court shall enter an order of criminal forfeiture against the child in accordance with divisions (B)(3), (4), (5), and (6) and (C) to (F) of section 2923.32 of the Revised Code.~~

~~(2) Sections 2925.41 to 2925.45 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act that, if committed by an adult, would be a felony drug abuse offense. Subject to division (B) of section 2925.42 and division (E) of section 2925.43 of the Revised Code, a delinquent child of that nature loses any right to the possession of, and forfeits to the state any right, title, and interest that the delinquent child may have in, property as defined in section 2925.41 of the Revised Code and further described in section 2925.42 or 2925.43 of the Revised Code or for committing an act that, if committed by an adult, would be a felony drug abuse offense.~~

(3) Sections 2923.44 to 2923.47 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act in violation of section 2923.42 of the Revised Code. Subject to division (B) of section 2923.44 and division (E) of section 2923.45 of the Revised Code, a delinquent child of that nature loses any right to the possession of, and forfeits to the state any right, title, and interest that the delinquent child may have in, property as defined in section 2923.41 of the Revised Code and further described in section 2923.44 or 2923.45 of the Revised Code.

(C) The court may hold a hearing if necessary to determine whether a child is able to pay a sanction under this section.

(D) If a child who is adjudicated a delinquent child is indigent, the court shall consider imposing a term of community service under division (A) of section 2152.19 of the Revised Code in lieu of imposing a financial sanction under this section. If a child who is adjudicated a delinquent child is not

indigent, the court may impose a term of community service under that division in lieu of, or in addition to, imposing a financial sanction under this section. The court may order community service for an act that if committed by an adult would be a minor misdemeanor.

If a child fails to pay a financial sanction imposed under this section, the court may impose a term of community service in lieu of the sanction.

(E) The clerk of the court, or another person authorized by law or by the court to collect a financial sanction imposed under this section, may do any of the following:

(1) Enter into contracts with one or more public agencies or private vendors for the collection of the amounts due under the financial sanction, which amounts may include interest from the date of imposition of the financial sanction;

(2) Permit payment of all, or any portion of, the financial sanction in installments, by credit or debit card, by another type of electronic transfer, or by any other reasonable method, within any period of time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. The clerk may pay any fee associated with processing an electronic transfer out of public money and may charge the fee to the delinquent child.

(3) To defray administrative costs, charge a reasonable fee to a child who elects a payment plan rather than a lump sum payment of a financial sanction.

Sec. 2901.01. (A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial

incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

(6) "Serious physical harm to property" means any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.

(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

(10)(a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications

service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(b) As used in division (A)(10) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code, and "telecommunications service" and "information service" have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or state highway patrol trooper;

(b) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;

(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;

(m) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.

(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.

(13) "Contraband" means any property ~~described in the following categories:~~

~~(a) Property that in and of itself is unlawful illegal for a person to acquire or possess;~~

~~(b) Property that is not in and of itself unlawful for a person to acquire or possess, but that has been determined by a court of this state, in accordance with law, to be contraband because of its use in an unlawful activity or manner, of its nature, or of the circumstances of the person who acquires or possesses it, including, but not limited to, goods and personal property described in division (D) of section 2913.34 of the Revised Code;~~

~~(c) Property that is specifically stated to be contraband by a section of the Revised Code or by an ordinance, regulation, or resolution;~~

~~(d) Property that is forfeitable pursuant to a section of the Revised Code, or an ordinance, regulation, or resolution, including, but not limited to,~~

~~forfeitable firearms, dangerous ordnance, obscene materials, and goods and personal property described in division (D) of section 2913.34 of the Revised Code; under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:~~

~~(e)(a) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device, or paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in a violation of, Chapter 2925. or 3719. of the Revised Code;~~

~~(f)(b) Any unlawful gambling device, or paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, Chapter 2915. of the Revised Code;~~

~~(g) Any equipment, machine, device, apparatus, vehicle, vessel, container, liquid, or substance that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, any law of this state relating to alcohol or tobacco;~~

~~(h) Any personal property that has been, is being, or is intended to be used in an attempt or conspiracy to commit, or in the commission of, any offense or in the transportation of the fruits of any offense;~~

~~(i) Any property that is acquired through the sale or other transfer of contraband or through the proceeds of contraband, other than by a court or a law enforcement agency acting within the scope of its duties;~~

~~(j) Any computer, computer system, computer network, computer software, or other telecommunications device that is used in a conspiracy to commit, an attempt to commit, or the commission of any offense, if the owner of the computer, computer system, computer network, computer software, or other telecommunications device is convicted of or pleads guilty to the offense in which it is used;~~

~~(k) Any property that is material support or resources and that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, section 2909.22, 2909.23, or 2909.24 of the Revised Code or of section 2921.32 of the Revised Code when the offense or act committed by the person aided or to be aided as described in that section is an act of terrorism. As used in division (A)(13)(k) of this section, "material support or resources" and "act of terrorism" have the same meanings as in section 2909.21 of the Revised Code.~~

(c) Any dangerous ordnance or obscene material.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(B)(1)(a) Subject to division (B)(2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(c) As used in division (B)(1)(a) of this section:

(i) "Unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or

2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 2909.08. (A) As used in this section:

(1) "Air gun" means a hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide, or other gas.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(3) "Spring-operated gun" means a hand pistol or rifle that propels a

projectile not less than four or more than five millimeters in diameter by means of a spring.

(4) "Airport operational surface" means any surface of land or water that is developed, posted, or marked so as to give an observer reasonable notice that the surface is designed and developed for the purpose of storing, parking, taxiing, or operating aircraft, or any surface of land or water that is actually being used for any of those purposes.

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

(1) Knowingly throw an object at, or drop an object upon, any moving aircraft;

(2) Knowingly shoot with a bow and arrow, or knowingly discharge a firearm, air gun, or spring-operated gun, at or toward any aircraft.

(C) No person shall knowingly or recklessly shoot with a bow and arrow, or shall knowingly or recklessly discharge a firearm, air gun, or spring-operated gun, upon or over any airport operational surface. This division does not apply to the following:

(1) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of the officer's, agent's, or employee's duties;

(2) A person who, with the consent of the owner or operator of the airport operational surface or the authorized agent of either, is lawfully engaged in any hunting or sporting activity or is otherwise lawfully discharging a firearm.

(D) Whoever violates division (B) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates a risk of physical harm to any person, endangering aircraft is a felony of the fifth degree. If the violation creates a substantial risk of physical harm to any person or if the aircraft that is the subject of the violation is occupied, endangering aircraft is a felony of the fourth degree.

(E) Whoever violates division (C) of this section is guilty of endangering airport operations, a misdemeanor of the second degree. If the violation creates a risk of physical harm to any person, endangering airport operations is a felony of the fifth degree. If the violation creates a substantial risk of physical harm to any person, endangering airport operations is a felony of the fourth degree. In addition to any other penalty or sanction imposed for the violation, the hunting license or permit of a person who violates division (C) of this section while hunting shall be suspended or revoked pursuant to section 1533.68 of the Revised Code.

(F) Any bow and arrow, air gun, spring-operated gun, or firearm that has been used in a felony violation of this section shall be seized or

forfeited, and shall be disposed of pursuant to ~~section 2933.41~~ Chapter 2981, of the Revised Code.

Sec. 2913.34. (A) No person shall knowingly do any of the following:

(1) Attach, affix, or otherwise use a counterfeit mark in connection with the manufacture of goods or services, whether or not the goods or services are intended for sale or resale;

(2) Possess, sell, or offer for sale tools, machines, instruments, materials, articles, or other items of personal property with the knowledge that they are designed for the production or reproduction of counterfeit marks;

(3) Purchase or otherwise acquire goods, and keep or otherwise have the goods in the person's possession, with the knowledge that a counterfeit mark is attached to, affixed to, or otherwise used in connection with the goods and with the intent to sell or otherwise dispose of the goods;

(4) Sell, offer for sale, or otherwise dispose of goods with the knowledge that a counterfeit mark is attached to, affixed to, or otherwise used in connection with the goods;

(5) Sell, offer for sale, or otherwise provide services with the knowledge that a counterfeit mark is used in connection with that sale, offer for sale, or other provision of the services.

(B)(1) Whoever violates this section is guilty of trademark counterfeiting.

(2) Except as otherwise provided in this division, a violation of division (A)(1) of this section is a felony of the fifth degree. Except as otherwise provided in this division, if the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is five thousand dollars or more but less than one hundred thousand dollars or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is more than one hundred units but less than one thousand units, a violation of division (A)(1) of this section is a felony of the fourth degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred thousand dollars or more or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one thousand units or more, a violation of division (A)(1) of this section is a felony of the third degree.

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

circumstances of the violation indicate that the tools, machines, instruments, materials, articles, or other items of personal property involved in the violation were intended for use in the commission of a felony, a violation of division (A)(2) of this section is a felony of the fifth degree.

(4) Except as otherwise provided in this division, a violation of division (A)(3), (4), or (5) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division, if the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is five hundred dollars or more but less than five thousand dollars, a violation of division (A)(3), (4), or (5) of this section is a felony of the fifth degree. Except as otherwise provided in this division, if the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is five thousand dollars or more but less than one hundred thousand dollars or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is more than one hundred units but less than one thousand units, a violation of division (A)(3), (4), or (5) of this section is a felony of the fourth degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one hundred thousand dollars or more or if the number of units of goods to which or in connection with which the counterfeit mark is attached, affixed, or otherwise used in the offense is one thousand units or more, a violation of division (A)(3), (4), or (5) of this section is a felony of the third degree.

(C) A defendant may assert as an affirmative defense to a charge of a violation of this section defenses, affirmative defenses, and limitations on remedies that would be available in a civil, criminal, or administrative action or proceeding under the "Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as amended, "The Trademark Counterfeiting Act of 1984," 98 Stat. 2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section of the Revised Code, or common law.

(D)(1) Law enforcement officers may seize pursuant to Criminal Rule 41 or Chapter 2933. or 2981. of the Revised Code either of the following:

(a) Goods to which or in connection with which a person attached, affixed, otherwise used, or intended to attach, affix, or otherwise use a counterfeit mark in violation of this section;

(b) Tools, machines, instruments, materials, articles, vehicles, or other items of personal property that are possessed, sold, offered for sale, or used in a violation of this section or in an attempt to commit or complicity in the

commission of a violation of this section.

(2) Notwithstanding any contrary provision of ~~sections 2923.31 to 2923.35 or 2933.41 to 2933.43~~ Chapter 2981, of the Revised Code, if a person is convicted of or pleads guilty to a violation of this section, an attempt to violate this section, or complicity in a violation of this section, the court involved shall declare that the goods described in division (D)(1)(a) of this section and the personal property described in division (D)(1)(b) of this section are contraband and are forfeited. Prior to the court's entry of judgment under Criminal Rule 32, the owner of a registered trademark or service mark that is the subject of the counterfeit mark may recommend a manner in which the forfeited goods and forfeited personal property should be disposed of. If that owner makes a timely recommendation of a manner of disposition, the court is not bound by the recommendation. If that owner makes a timely recommendation of a manner of disposition, the court may include in its entry of judgment an order that requires appropriate persons to dispose of the forfeited goods and forfeited personal property in the recommended manner. If that owner fails to make a timely recommendation of a manner of disposition or if that owner makes a timely recommendation of the manner of disposition but the court determines to not follow the recommendation, the court shall include in its entry of judgment an order that requires the law enforcement agency that employs the law enforcement officer who seized the forfeited goods or the forfeited personal property to destroy them or cause their destruction.

(E) This section does not affect the rights of an owner of a trademark or a service mark, or the enforcement in a civil action or in administrative proceedings of the rights of an owner of a trademark or a service mark, under the "Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as amended, "The Trademark Counterfeiting Act of 1984," 92 Stat. 2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section of the Revised Code, or common law.

(F) As used in this section:

(1)(a) Except as provided in division (F)(1)(b) of this section, "counterfeit mark" means a spurious trademark or a spurious service mark that satisfies both of the following:

(i) It is identical with or substantially indistinguishable from a mark that is registered on the principal register in the United States patent and trademark office for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used or from a mark that is registered with the secretary of state pursuant to sections 1329.54 to 1329.67

of the Revised Code for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used, and the owner of the registration uses the registered mark, whether or not the offender knows that the mark is registered in a manner described in division (F)(1)(a)(i) of this section.

(ii) Its use is likely to cause confusion or mistake or to deceive other persons.

(b) "Counterfeit mark" does not include a mark or other designation that is attached to, affixed to, or otherwise used in connection with goods or services if the holder of the right to use the mark or other designation authorizes the manufacturer, producer, or vendor of those goods or services to attach, affix, or otherwise use the mark or other designation in connection with those goods or services at the time of their manufacture, production, or sale.

(2) "Cumulative sales price" means the product of the lowest single unit sales price charged or sought to be charged by an offender for goods to which or in connection with which a counterfeit mark is attached, affixed, or otherwise used or of the lowest single service transaction price charged or sought to be charged by an offender for services in connection with which a counterfeit mark is used, multiplied by the total number of those goods or services, whether or not units of goods are sold or are in an offender's possession, custody, or control.

(3) "Registered trademark or service mark" means a trademark or service mark that is registered in a manner described in division (F)(1) of this section.

(4) "Trademark" and "service mark" have the same meanings as in section 1329.54 of the Revised Code.

Sec. 2913.421. (A) As used in this section:

(1) "Computer," "computer network," and "computer system" have the same meanings as in section 2913.01 of the Revised Code.

(2) "Commercial electronic mail message" means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service, including content on an internet web site operated for a commercial purpose, but does not include a transactional or relationship message. The inclusion of a reference to a commercial entity or a link to the web site of a commercial entity does not, by itself, cause that message to be treated as a commercial electronic mail message for the purpose of this section, if the contents or circumstances of the message indicate a primary purpose other than commercial

advertisement or promotion of a commercial product or service.

(3) "Domain name" means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the internet.

(4) "Electronic mail," "originating address," and "receiving address" have the same meanings as in section 2307.64 of the Revised Code.

(5) "Electronic mail message" means each electronic mail addressed to a discrete addressee.

(6) "Electronic mail service provider" means any person, including an internet service provider, that is an intermediary in sending and receiving electronic mail and that provides to the public electronic mail accounts or online user accounts from which electronic mail may be sent.

(7) "Header information" means the source, destination, and routing information attached to an electronic mail message, including the originating domain name, the originating address, and technical information that authenticates the sender of an electronic mail message for computer network security or computer network management purposes.

(8) "Initiate the transmission" or "initiated" means to originate or transmit a commercial electronic mail message or to procure the origination or transmission of that message, regardless of whether the message reaches its intended recipients, but does not include actions that constitute routine conveyance of such message.

(9) "Internet" has the same meaning as in section 341.42 of the Revised Code.

(10) "Internet protocol address" means the string of numbers by which locations on the internet are identified by routers or other computers connected to the internet.

(11) "Materially falsify" means to alter or conceal in a manner that would impair the ability of a recipient of an electronic mail message, an electronic mail service provider processing an electronic mail message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to the person that initiated the electronic mail message or to investigate an alleged violation of this section.

(12) "Multiple" means more than ten commercial electronic mail messages during a twenty-four-hour period, more than one hundred commercial electronic mail messages during a thirty-day period, or more than one thousand commercial electronic mail messages during a one-year period.

(13) "Recipient" means a person who receives a commercial electronic mail message at any one of the following receiving addresses:

(a) A receiving address furnished by an electronic mail service provider that bills for furnishing and maintaining that receiving address to a mailing address within this state;

(b) A receiving address ordinarily accessed from a computer located within this state or by a person domiciled within this state;

(c) Any other receiving address with respect to which this section can be imposed consistent with the United States Constitution.

(14) "Routine conveyance" means the transmission, routing, relaying, handling, or storing, through an automated technical process, of an electronic mail message for which another person has identified the recipients or provided the recipient addresses.

(15) "Transactional or relationship message" means an electronic mail message the primary purpose of which is to do any of the following:

(a) Facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(b) Provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(c) Provide notification concerning a change in the terms or features of; a change in the recipient's standing or status with respect to; or, at regular periodic intervals, account balance information or other type of account statement with respect to, a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender;

(d) Provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled;

(e) Deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

(B) No person, with regard to commercial electronic mail messages sent from or to a computer in this state, shall do any of the following:

(1) Knowingly use a computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients or any electronic mail service provider, as to the origin of those messages;

(2) Knowingly and materially falsify header information in multiple

commercial electronic mail messages and purposely initiate the transmission of those messages;

(3) Knowingly register, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names and purposely initiate the transmission of multiple commercial electronic mail messages from one, or any combination, of those accounts or domain names;

(4) Knowingly falsely represent the right to use five or more internet protocol addresses, and purposely initiate the transmission of multiple commercial electronic mail messages from those addresses.

(C)(1) Whoever violates division (B) of this section is guilty of illegally transmitting multiple commercial electronic mail messages. Except as otherwise provided in division (C)(2) or (E) of this section, illegally transmitting multiple commercial electronic mail messages is a felony of the fifth degree.

(2) Illegally transmitting multiple commercial electronic mail messages is a felony of the fourth degree if any of the following apply:

(a) Regarding a violation of division (B)(3) of this section, the offender, using information that materially falsifies the identity of the actual registrant, knowingly registers for twenty or more electronic mail accounts or online user accounts or ten or more domain names, and purposely initiates, or conspires to initiate, the transmission of multiple commercial electronic mail messages from the accounts or domain names.

(b) Regarding any violation of division (B) of this section, the volume of commercial electronic mail messages the offender transmitted in committing the violation exceeds two hundred and fifty during any twenty-four-hour period, two thousand five hundred during any thirty-day period, or twenty-five thousand during any one-year period.

(c) Regarding any violation of division (B) of this section, during any one-year period the aggregate loss to the victim or victims of the violation is five hundred dollars or more, or during any one-year period the aggregate value of the property or services obtained by any offender as a result of the violation is five hundred dollars or more.

(d) Regarding any violation of division (B) of this section, the offender committed the violation with three or more other persons with respect to whom the offender was the organizer or leader of the activity that resulted in the violation.

(e) Regarding any violation of division (B) of this section, the offender knowingly assisted in the violation through the provision or selection of electronic mail addresses to which the commercial electronic mail message

was transmitted, if that offender knew that the electronic mail addresses of the recipients were obtained using an automated means from an internet web site or proprietary online service operated by another person, and that web site or online service included, at the time the electronic mail addresses were obtained, a notice stating that the operator of that web site or online service will not transfer addresses maintained by that web site or online service to any other party for the purposes of initiating the transmission of, or enabling others to initiate the transmission of, electronic mail messages.

(f) Regarding any violation of division (B) of this section, the offender knowingly assisted in the violation through the provision or selection of electronic mail addresses of the recipients obtained using an automated means that generates possible electronic mail addresses by combining names, letters, or numbers into numerous permutations.

(D)(1) No person, with regard to commercial electronic mail messages sent from or to a computer in this state, shall knowingly access a computer without authorization and purposely initiate the transmission of multiple commercial electronic mail messages from or through the computer.

(2) Except as otherwise provided in division (E) of this section, whoever violates division (D)(1) of this section is guilty of unauthorized access of a computer, a felony of the fourth degree.

(E) Illegally transmitting multiple commercial electronic mail messages and unauthorized access of a computer in violation of this section are felonies of the third degree if the offender previously has been convicted of a violation of this section, or a violation of a law of another state or the United States regarding the transmission of electronic mail messages or unauthorized access to a computer, or if the offender committed the violation of this section in the furtherance of a felony.

(F)(1) The attorney general or an electronic mail service provider that is injured by a violation of this section may bring a civil action in an appropriate court of common pleas of this state seeking relief from any person whose conduct violated this section. The civil action may be commenced at any time within one year of the date after the act that is the basis of the civil action.

(2) In a civil action brought by the attorney general pursuant to division (F)(1) of this section for a violation of this section, the court may award temporary, preliminary, or permanent injunctive relief. The court also may impose a civil penalty against the offender, as the court considers just, in an amount that is the lesser of: (a) twenty-five thousand dollars for each day a violation occurs, or (b) not less than two dollars but not more than eight dollars for each commercial electronic mail message initiated in violation of

this section.

(3) In a civil action brought by an electronic mail service provider pursuant to division (F)(1) of this section for a violation of this section, the court may award temporary, preliminary, or permanent injunctive relief, and also may award damages in an amount equal to the greater of the following:

(a) The sum of the actual damages incurred by the electronic mail service provider as a result of a violation of this section, plus any receipts of the offender that are attributable to a violation of this section and that were not taken into account in computing actual damages;

(b) Statutory damages, as the court considers just, in an amount that is the lesser of: (i) twenty-five thousand dollars for each day a violation occurs, or (ii) not less than two dollars but not more than eight dollars for each commercial electronic mail message initiated in violation of this section.

(4) In assessing damages awarded under division (F)(3) of this section, the court may consider whether the offender has established and implemented, with due care, commercially reasonable practices and procedures designed to effectively prevent the violation, or the violation occurred despite commercially reasonable efforts to maintain the practices and procedures established.

(G) Any equipment, software, or other technology of a person who violates this section that is used or intended to be used in the commission of a violation of this section, and any real or personal property that constitutes or is traceable to the gross proceeds obtained from the commission of a violation of this section, is contraband and is subject to seizure and forfeiture pursuant to ~~sections 2933.42 and 2933.43~~ Chapter 2981, of the Revised Code.

(H) The attorney general may bring a civil action, pursuant to the "CAN-SPAM Act of 2003," Pub. L. No. 108-187, 117 Stat. 2699, 15 U.S.C. 7701 et seq., on behalf of the residents of the state in a district court of the United States that has jurisdiction for a violation of the CAN-SPAM Act of 2003, but the attorney general shall not bring a civil action under both this division and division (F) of this section. If a federal court dismisses a civil action brought under this division for reasons other than upon the merits, a civil action may be brought under division (F) of this section in the appropriate court of common pleas of this state.

(I) Nothing in this section shall be construed:

(1) To require an electronic mail service provider to block, transmit, route, relay, handle, or store certain types of electronic mail messages;

(2) To prevent or limit, in any way, an electronic mail service provider

from adopting a policy regarding electronic mail, including a policy of declining to transmit certain types of electronic mail messages, or from enforcing such policy through technical means, through contract, or pursuant to any remedy available under any other federal, state, or local criminal or civil law;

(3) To render lawful any policy adopted under division (I)(2) of this section that is unlawful under any other law.

Sec. 2923.01. (A) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, compelling prostitution, promoting prostitution, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing, or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of section 2923.421 of the Revised Code, or the commission of a violation of any provision of Chapter 3734. of the Revised Code, other than section 3734.18 of the Revised Code, that relates to hazardous wastes, shall do either of the following:

(1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;

(2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.

(B) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(C) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(D) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(E) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(F) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(G) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(H)(1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

(2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

"The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and require that it be weighed with great caution.

It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(3) "Conspiracy," as used in division (H)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(I) The following are affirmative defenses to a charge of conspiracy:

(1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(J) Whoever violates this section is guilty of conspiracy, which is one of

the following:

(1) A felony of the first degree, when one of the objects of the conspiracy is aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life;

(2) A felony of the next lesser degree than the most serious offense that is the object of the conspiracy, when the most serious offense that is the object of the conspiracy is a felony of the first, second, third, or fourth degree;

(3) A felony punishable by a fine of not more than twenty-five thousand dollars or imprisonment for not more than eighteen months, or both, when the offense that is the object of the conspiracy is a violation of any provision of Chapter 3734. of the Revised Code, other than section 3734.18 of the Revised Code, that relates to hazardous wastes;

(4) A misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(K) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of the Revised Code, other than this section. In such a case, however:

(1) With respect to the offense specified as the object of the conspiracy in the other section or sections, division (A) of this section defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;

(2) Divisions (B) to (I) of this section are incorporated by reference in the conspiracy offense defined by the other section or sections of the Revised Code.

(L)(1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2), and (3), (4), and (5) of section 2923.32, division (A) of section 2981.04, and division (D) of section 2981.06 of the Revised Code.

(2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing, or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under division (J)(2) or (4) of this section and Chapter 2929. of the Revised Code, both of the following apply:

(a) The provisions of divisions (D), (F), and (G) of section 2925.03, division (D) of section 2925.04, division (D) of section 2925.05, division (D) of section 2925.06, and division (E) of section 2925.11 of the Revised Code that pertain to mandatory and additional fines, driver's or commercial

driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted of or pleaded guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy.

(b) The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under division (L)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under division (J)(2) or (4) of this section and Chapter 2929. of the Revised Code.

(M) As used in this section:

(1) "Felony drug trafficking, manufacturing, processing, or possession offense" means any of the following that is a felony:

(a) A violation of section 2925.03, 2925.04, 2925.05, or 2925.06 of the Revised Code;

(b) A violation of section 2925.11 of the Revised Code that is not a minor drug possession offense.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the Revised Code:

(A) "Beneficial interest" means any of the following:

(1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property;

(2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person;

(3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person.

"Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership.

(B) "Costs of investigation and prosecution" and "costs of investigation and litigation" mean all of the costs incurred by the state or a county or municipal corporation under sections 2923.31 to 2923.36 of the Revised

Code in the prosecution and investigation of any criminal action or in the litigation and investigation of any civil action, and includes, but is not limited to, the costs of resources and personnel.

(C) "Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. "Enterprise" includes illicit as well as licit enterprises.

(D) "Innocent person" includes any bona fide purchaser of property that is allegedly involved in a violation of section 2923.32 of the Revised Code, including any person who establishes a valid claim to or interest in the property in accordance with division (E) of section ~~2923.32~~ 2981.04 of the Revised Code, and any victim of an alleged violation of that section or of any underlying offense involved in an alleged violation of that section.

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if committed in this state.

(F) "Pecuniary value" means money, a negotiable instrument, a commercial interest, or anything of value, as defined in section 1.03 of the Revised Code, or any other property or service that has a value in excess of one hundred dollars.

(G) "Person" means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts,

debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, 1322.02, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, or any violation of section 2915.05 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to that date.

(c) Any violation of section 2907.21, 2907.22, 2907.31, 2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 of the Revised Code, any violation of section 2925.11 of the Revised Code that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, any violation of section 2915.02 of the Revised Code that occurred prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would not have been a violation of section 3769.11 of the Revised Code as it existed

prior to that date, any violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996, or any violation of division (B) of section 2915.05 of the Revised Code as it exists on and after July 1, 1996, when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds five hundred dollars, or any combination of violations described in division (I)(2)(c) of this section when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds five hundred dollars;

(d) Any violation of section 5743.112 of the Revised Code when the amount of unpaid tax exceeds one hundred dollars;

(e) Any violation or combination of violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised Code, that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the violation or combination of violations, the payments made in the violation or combination of violations, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation or combination of violations exceeds five hundred dollars;

(f) Any combination of violations described in division (I)(2)(c) of this section and violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised Code, that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds five hundred dollars.

(3) Conduct constituting a violation of any law of any state other than this state that is substantially similar to the conduct described in division (I)(2) of this section, provided the defendant was convicted of the conduct in a criminal proceeding in the other state;

(4) Animal or ecological terrorism.

(J) "Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located.

(K) "Trustee" means any of the following:

(1) Any person acting as trustee under a trust in which the trustee holds title to personal or real property;

(2) Any person who holds title to personal or real property for which any other person has a beneficial interest;

(3) Any successor trustee.

"Trustee" does not include an assignee or trustee for an insolvent debtor or an executor, administrator, administrator with the will annexed, testamentary trustee, guardian, or committee, appointed by, under the control of, or accountable to a court.

(L) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any federal or state law relating to the business of gambling activity or relating to the business of lending money at an usurious rate unless the creditor proves, by a preponderance of the evidence, that the usurious rate was not intentionally set and that it resulted from a good faith error by the creditor, notwithstanding the maintenance of procedures that were adopted by the creditor to avoid an error of that nature.

(M) "Animal activity" means any activity that involves the use of animals or animal parts, including, but not limited to, hunting, fishing, trapping, traveling, camping, the production, preparation, or processing of food or food products, clothing or garment manufacturing, medical research, other research, entertainment, recreation, agriculture, biotechnology, or service activity that involves the use of animals or animal parts.

(N) "Animal facility" means a vehicle, building, structure, nature preserve, or other premises in which an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale, including, but not limited to, a zoo, rodeo, circus, amusement park, hunting preserve, or premises in which a horse or dog event is held.

(O) "Animal or ecological terrorism" means the commission of any felony that involves causing or creating a substantial risk of physical harm to any property of another, the use of a deadly weapon or dangerous ordnance, or purposely, knowingly, or recklessly causing serious physical harm to property and that involves an intent to obstruct, impede, or deter any

person from participating in a lawful animal activity, from mining, foresting, harvesting, gathering, or processing natural resources, or from being lawfully present in or on an animal facility or research facility.

(P) "Research facility" means a place, laboratory, institution, medical care facility, government facility, or public or private educational institution in which a scientific test, experiment, or investigation involving the use of animals or other living organisms is lawfully carried out, conducted, or attempted.

Sec. 2923.32. (A)(1) No person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity or the collection of an unlawful debt.

(2) No person, through a pattern of corrupt activity or the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property.

(3) No person, who knowingly has received any proceeds derived, directly or indirectly, from a pattern of corrupt activity or the collection of any unlawful debt, shall use or invest, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

A purchase of securities on the open market with intent to make an investment, without intent to control or participate in the control of the issuer, and without intent to assist another to do so is not a violation of this division, if the securities of the issuer held after the purchase by the purchaser, the members of the purchaser's immediate family, and the purchaser's or the immediate family members' accomplices in any pattern of corrupt activity or the collection of an unlawful debt do not aggregate one per cent of the outstanding securities of any one class of the issuer and do not confer, in law or in fact, the power to elect one or more directors of the issuer.

(B)(1) Whoever violates this section is guilty of engaging in a pattern of corrupt activity. Except as otherwise provided in this division, engaging in corrupt activity is a felony of the second degree. If at least one of the incidents of corrupt activity is a felony of the first, second, or third degree, aggravated murder, or murder, if at least one of the incidents was a felony under the law of this state that was committed prior to ~~the effective date of this amendment~~ July 1, 1996, and that would constitute a felony of the first, second, or third degree, aggravated murder, or murder if committed on or

after ~~the effective date of this amendment~~ July 1, 1996, or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in this state on or after ~~the effective date of this amendment~~ July 1, 1996, would constitute a felony of the first, second, or third degree, aggravated murder, or murder under the law of this state, engaging in a pattern of corrupt activity is a felony of the first degree. Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

(2) Notwithstanding the financial sanctions authorized by section 2929.18 of the Revised Code, the court may do all of the following with respect to any person who derives pecuniary value or causes property damage, personal injury other than pain and suffering, or other loss through or by the violation of this section:

(a) In lieu of the fine authorized by that section, impose a fine not exceeding the greater of three times the gross value gained or three times the gross loss caused and order the clerk of the court to pay the fine into the state treasury to the credit of the corrupt activity investigation and prosecution fund, ~~which is hereby created in section 2923.35 of the Revised Code;~~

(b) In addition to the fine described in division (B)(2)(a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay court costs;

(c) In addition to the fine described in division (B)(2)(a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution the costs of investigation and prosecution that are reasonably incurred.

The court shall hold a hearing to determine the amount of fine, court costs, and other costs to be imposed under this division.

(3) In addition to any other penalty or disposition authorized or required by law, the court shall order any person who is convicted of or pleads guilty to a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit to the state under Chapter 2981. of the Revised Code any personal or real property in which the person has an interest and that was used in the course of or intended for use in the course of a violation of this section, or that was derived from or realized through conduct in violation of this section, including any property constituting an interest in, means of control over, or influence over the

enterprise involved in the violation and any property constituting proceeds derived from the violation, including all of the following:

(a) Any position, office, appointment, tenure, commission, or employment contract of any kind acquired or maintained by the person in violation of this section, through which the person, in violation of this section, conducted or participated in the conduct of an enterprise, or that afforded the person a source of influence or control over an enterprise that the person exercised in violation of this section;

(b) Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in division (B)(3)(a) of this section that accrued to the person in violation of this section during the period of the pattern of corrupt activity;

(c) Any interest in, security of, claim against, or property or contractual right affording the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of this section;

(d) Any amount payable or paid under any contract for goods or services that was awarded or performed in violation of this section.

~~(4)(a) A sentence or disposition of criminal forfeiture pursuant to division (B)(3) of this section shall not be entered unless either of the following applies:~~

~~(i) The indictment, count in the indictment, or information charging the offense, or the complaint, indictment, or information filed in juvenile court charging the violation as a delinquent act alleges the extent of the property subject to forfeiture;~~

~~(ii) The criminal sentence or delinquency disposition requires the forfeiture of property that was not reasonably foreseen to be subject to forfeiture at the time of the indictment, count in the indictment, or information charging the offense, or the complaint, indictment, or information filed in juvenile court charging the violation as a delinquent act, provided that the prosecuting attorney gave prompt notice to the defendant or the alleged or adjudicated delinquent child of such property not reasonably foreseen to be subject to forfeiture when it is discovered to be forfeitable.~~

~~(b) A special verdict shall be returned as to the extent of the property, if any, subject to forfeiture. When the special verdict is returned, a judgment of forfeiture shall be entered.~~

~~(5) If any property included in a special verdict of forfeiture returned pursuant to division (B)(4) of this section cannot be located, has been sold to a bona fide purchaser for value, placed beyond the jurisdiction of the court, substantially diminished in value by the conduct of the defendant or~~

~~adjudicated delinquent child, or commingled with other property that cannot be divided without difficulty or undue injury to innocent persons, or otherwise is unreachable without undue injury to innocent persons, the court shall order forfeiture of any other reachable property of the defendant or adjudicated delinquent child up to the value of the property that is unreachable.~~

~~(6) All property ordered forfeited pursuant to this section shall be held by the law enforcement agency that seized it for distribution or disposal pursuant to section 2923.35 of the Revised Code. The agency shall maintain an accurate record of each item of property so seized and held, which record shall include the date on which each item was seized, the manner and date of disposition by the agency, and if applicable, the name of the person who received the item; however, the record shall not identify or enable the identification of the individual officer who seized the property. The record is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that seizes and holds in any calendar year any item of property that is ordered forfeited pursuant to this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the agency pursuant to this division for that calendar year, and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each such report so received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports were received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:~~

~~(a) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;~~

~~(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;~~

~~(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.~~

~~(C) Notwithstanding the notice and procedure prescribed by division (E) of this section, an order of criminal forfeiture entered under division (B)(3) of this section shall authorize an appropriate law enforcement agency to seize the property declared forfeited under this section upon the terms and~~

~~conditions, relating to the time and manner of seizure, that the court determines proper.~~

~~(D) Criminal penalties under this section are not mutually exclusive, unless otherwise provided, and do not preclude the application of any other criminal or civil remedy under this or any other section of the Revised Code. A disposition of criminal forfeiture ordered pursuant to division (B)(3) of this section in relation to a child who was adjudicated delinquent by reason of a violation of this section does not preclude the application of any other order of disposition under Chapter 2152. of the Revised Code or any other civil remedy under this or any other section of the Revised Code.~~

~~(E)(1) Upon the entry of a judgment of forfeiture pursuant to division (B)(3) of this section, the court shall cause notice of the judgment to be sent by certified mail, return receipt requested, to all persons known to have, or appearing to have, an interest in the property that was acquired prior to the filing of a corrupt activity lien notice or a lis pendens as authorized by section 2923.36 of the Revised Code. If the notices cannot be given to those persons in that manner, the court shall cause publication of the notice of the judgment of forfeiture pursuant to the Rules of Civil Procedure.~~

~~(2) Within thirty days after receipt of a notice or after the date of publication of a notice under division (E)(1) of this section, any person, other than the defendant or the adjudicated delinquent child, who claims an interest in the property that is subject to forfeiture may petition the court for a hearing to determine the validity of the claim. The petition shall be signed and sworn to by the petitioner and shall set forth the nature and extent of the petitioner's interest in the property, the date and circumstances of the petitioner's acquisition of the interest, any additional allegations supporting the claim, and the relief sought. The petitioner shall furnish the prosecuting attorney with a copy of the petition.~~

~~(3) The court, to the extent practicable and consistent with the interests of justice, shall hold the hearing described under division (E)(2) of this section within thirty days from the filing of the petition. The court may consolidate the hearings on all petitions filed by third party claimants under this section. At the hearing, the petitioner may testify and present evidence on the petitioner's own behalf and cross-examine witnesses. The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim of the state to the property and cross-examine witnesses. The court, in making its determination, shall consider the testimony and evidence presented at the hearing and the relevant portions of the record of the criminal proceeding that resulted in the judgment of forfeiture.~~

~~(4) If at a hearing held under division (E)(3) of this section, the court, by~~

~~a preponderance of the evidence, determines either that the petitioner has a legal right, title, or interest in the property that, at the time of the commission of the acts giving rise to the forfeiture of the property, was vested in the petitioner and not in the defendant or the adjudicated delinquent child or was superior to the right, title, or interest of the defendant or the adjudicated delinquent child, or that the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture under this section, it shall amend, in accordance with its determination, the judgment of forfeiture to protect the rights of innocent persons.~~

~~(F) Except as provided in division (E) of this section, no person claiming an interest in property that is subject to forfeiture under this section shall do either of the following:~~

~~(1) Intervene in a trial or appeal of a criminal case or a delinquency case that involves the forfeiture of the property;~~

~~(2) File an action against the state concerning the validity of the person's alleged interest in the property subsequent to the filing of the indictment, count in the indictment, or information, or the filing of the complaint, indictment, or information in juvenile court, that alleges that the property is subject to forfeiture under this section.~~

~~(G) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy.~~

~~Sec. 2923.34. (A) The prosecuting attorney of the county in which a violation of section 2923.32 of the Revised Code, or a conspiracy to violate that section, occurs may institute a civil proceeding as authorized by this section in an appropriate court seeking relief from any person whose conduct violated section 2923.32 of the Revised Code or who conspired to violate that section.~~

~~(B) Any person who is injured or threatened with injury by a violation of section 2923.32 of the Revised Code may institute a civil proceeding in an appropriate court seeking relief from any person whose conduct violated or allegedly violated section 2923.32 of the Revised Code or who conspired or allegedly conspired to violate that section, except that the pattern of corrupt activity alleged by an injured person or person threatened with injury shall include at least one incident other than a violation of division (A)(1) or (2) of section 1707.042 or division (B), (C)(4), (D), (E), or (F) of section 1707.44 of the Revised Code, of 18 U.S.C. 1341, 18 U.S.C. 1343, 18 U.S.C. 2314, or any other offense involving fraud in the sale of securities.~~

~~(C)(B) If the plaintiff in a civil action instituted pursuant to this section~~

proves the violation by a preponderance of the evidence, the court, after making due provision for the rights of innocent persons, may grant relief by entering any appropriate orders to ensure that the violation will not continue or be repeated. The orders may include, but are not limited to, orders that:

(1) Require the divestiture of the defendant's interest in any enterprise or in any real property;

(2) Impose reasonable restrictions upon the future activities or investments of any defendant in the action, including, but not limited to, restrictions that prohibit the defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of section 2923.32 of the Revised Code;

(3) Order the dissolution or reorganization of any enterprise;

(4) Order the suspension or revocation of a license, permit, or prior approval granted to any enterprise by any department or agency of the state;

(5) Order the dissolution of a corporation organized under the laws of this state, or the revocation of the authorization of a foreign corporation to conduct business within this state, upon a finding that the board of directors or an agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of section 2923.32 of the Revised Code, and that, for the prevention of future criminal conduct, the public interest requires the corporation to be dissolved or its license revoked.

~~(D)~~(C) Relief pursuant to division ~~(C)~~(B)(3), (4), or (5) of this section shall not be granted in any civil proceeding instituted by an injured person unless the attorney general intervenes in the civil action pursuant to this division.

Upon the filing of a civil proceeding for relief under division ~~(C)~~(B)(3), (4), or (5) of this section by an allegedly injured person other than a prosecuting attorney, the allegedly injured person immediately shall notify the attorney general of the filing. The attorney general, upon timely application, may intervene in any civil proceeding for relief under division ~~(C)~~(B)(3), (4), or (5) if the attorney general certifies that, in the attorney general's opinion, the proceeding is of general public interest. In any proceeding brought by an injured person under division ~~(C)~~(B)(3), (4), or (5) of this section, the attorney general is entitled to the same relief as if the attorney general instituted the proceeding.

~~(E)~~(D) In a civil proceeding under division ~~(C)~~(B) of this section, the court may grant injunctive relief without a showing of special or irreparable injury.

Pending final determination of a civil proceeding initiated under this

section, the court may issue a temporary restraining order or a preliminary injunction upon a showing of immediate danger or significant injury to the plaintiff, including the possibility that any judgment for money damages might be difficult to execute, and, in a proceeding initiated by an aggrieved person, upon the execution of proper bond against injury for an improvidently granted injunction.

~~(F)~~(E) In a civil proceeding under division ~~(B)~~(A) of this section, any person directly or indirectly injured by conduct in violation of section 2923.32 of the Revised Code or a conspiracy to violate that section, other than a violator of that section or a conspirator to violate that section, in addition to relief under division ~~(C)~~(B) of this section, shall have a cause of action for triple the actual damages the person sustained. To recover triple damages, the plaintiff shall prove the violation or conspiracy to violate that section and actual damages by clear and convincing evidence. Damages under this division may include, but are not limited to, competitive injury and injury distinct from the injury inflicted by corrupt activity.

~~(G)~~(F) In a civil action in which the plaintiff prevails under division ~~(C)~~(B) or ~~(F)~~(E) of this section, the plaintiff shall recover reasonable attorney fees in the trial and appellate courts, and the court shall order the defendant to pay to the state, municipal, or county law enforcement agencies that handled the investigation and litigation the costs of investigation and litigation that reasonably are incurred and that are not ordered to be paid pursuant to division (B)(2) of section 2923.32 of the Revised Code or division ~~(H)~~(G) of this section.

~~(H)~~(G) Upon application, based on the evidence presented in the case by the plaintiff, as the interests of justice may require, the trial court may grant a defendant who prevails in a civil action brought pursuant to this section all or part of the defendant's costs, including the costs of investigation and litigation reasonably incurred, and all or part of the defendant's reasonable attorney fees, unless the court finds that special circumstances, including the relative economic position of the parties, make an award unjust.

~~(H)~~(H) If a person, other than an individual, is not convicted of a violation of section 2923.32 of the Revised Code, the prosecuting attorney may institute proceedings against the person to recover a civil penalty for conduct that the prosecuting attorney proves by clear and convincing evidence is in violation of section 2923.32 of the Revised Code. The civil penalty shall not exceed one hundred thousand dollars and shall be paid into the state treasury to the credit of the corrupt activity investigation and prosecution fund created in section ~~2923.35~~ 2923.32 of the Revised Code. If a civil penalty is ordered pursuant to this division, the court shall order the

defendant to pay to the state, municipal, or county law enforcement agencies that handled the investigation and litigation the costs of investigation and litigation that are reasonably incurred and that are not ordered to be paid pursuant to this section.

~~(H)~~(I) A final judgment, decree, or delinquency adjudication rendered against the defendant or the adjudicated delinquent child in a civil action under this section or in a criminal or delinquency action or proceeding for a violation of section 2923.32 of the Revised Code shall estop the defendant or the adjudicated delinquent child in any subsequent civil proceeding or action brought by any person as to all matters as to which the judgment, decree, or adjudication would be an estoppel as between the parties to the civil, criminal, or delinquency proceeding or action.

~~(K)~~(J) Notwithstanding any other provision of law providing a shorter period of limitations, a civil proceeding or action under this section may be commenced at any time within five years after the unlawful conduct terminates or the cause of action accrues or within any longer statutory period of limitations that may be applicable. If a criminal proceeding, delinquency proceeding, civil action, or other proceeding is brought or intervened in by the state to punish, prevent, or restrain any activity that is unlawful under section 2923.32 of the Revised Code, the running of the period of limitations prescribed by this division with respect to any civil action brought under this section by a person who is injured by a violation or threatened violation of section 2923.32 of the Revised Code, based in whole or in part upon any matter complained of in the state prosecution, action, or proceeding, shall be suspended during the pendency of the state prosecution, action, or proceeding and for two years following its termination.

~~(L)~~(K) Personal service of any process in a proceeding under this section may be made upon any person outside this state if the person was involved in any conduct constituting a violation of section 2923.32 of the Revised Code in this state. The person is deemed by the person's conduct in violation of section 2923.32 of the Revised Code to have submitted to the jurisdiction of the courts of this state for the purposes of this section.

~~(M)~~(L) The application of any civil remedy under this section shall not preclude the application of any criminal remedy or criminal forfeiture under section 2923.32 of the Revised Code or any other provision of law, or the application of any delinquency disposition under Chapter 2152. of the Revised Code or any other provision of law.

(M)(1) Any person who prevails in a civil action pursuant to this section has a right to any property, or the proceeds of any property, criminally

forfeited to the state pursuant to section 2981.04 of the Revised Code or against which any fine under section 2923.32 of the Revised Code or civil penalty under division (H) of this section may be imposed.

The right of any person who prevails in a civil action pursuant to this section, other than a prosecuting attorney performing official duties under that section, to forfeited property, property against which fines and civil penalties may be imposed, and the proceeds of that property is superior to any right of the state, a municipal corporation, or a county to the property or the proceeds of the property, if the civil action is brought within one hundred eighty days after the entry of a sentence of forfeiture or a fine pursuant to sections 2923.32 and 2981.04 of the Revised Code or the entry of a civil penalty pursuant to division (H) of this section.

The right is limited to the total value of the treble damages, civil penalties, attorney's fees, and costs awarded to the prevailing party in an action pursuant to this section, less any restitution received by the person.

(2) If the aggregate amount of claims of persons who have prevailed in a civil action pursuant to this section against any one defendant is greater than the total value of the treble fines, civil penalties, and forfeited property paid by the person against whom the actions were brought, all of the persons who brought their actions within one hundred eighty days after the entry of a sentence or disposition of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (H) of this section, first shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property. After the persons who brought their actions within the specified one-hundred-eighty-day period have satisfied their claims out of the fines, civil penalties, and forfeited property, all other persons who prevailed in civil actions pursuant to this section shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property that remains in the custody of the law enforcement agency or in the corrupt activity investigation and prosecution fund.

(N) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy.

Sec. 2923.36. (A) Upon the institution of any criminal proceeding charging a violation of section 2923.32 of the Revised Code, the filing of any complaint, indictment, or information in juvenile court alleging a violation of that section as a delinquent act, or the institution of any civil proceeding under section ~~2923.32 or~~ 2923.34 or 2981.05 of the Revised Code, the state, at any time during the pendency of the proceeding, may file a corrupt activity lien notice with the county recorder of any county in which property subject to forfeiture may be located. No fee shall be required

for filing the notice. The recorder immediately shall record the notice pursuant to section 317.08 of the Revised Code.

(B) A corrupt activity lien notice shall be signed by the prosecuting attorney who files the lien. The notice shall set forth all of the following information:

(1) The name of the person against whom the proceeding has been brought. The prosecuting attorney may specify in the notice any aliases, names, or fictitious names under which the person may be known. The prosecuting attorney also may specify any corporation, partnership, or other entity in which the person has an interest subject to forfeiture under ~~section 2923.32~~ Chapter 2981, of the Revised Code and shall describe in the notice the person's interest in the corporation, partnership, or other entity.

(2) If known to the prosecuting attorney, the present residence and business addresses of the person or names set forth in the notice;

(3) A statement that a criminal or delinquency proceeding for a violation of section 2923.32 of the Revised Code or a civil proceeding under section ~~2923.32~~ or 2923.34 or 2981.05 of the Revised Code has been brought against the person named in the notice, the name of the county in which the proceeding has been brought, and the case number of the proceeding;

(4) A statement that the notice is being filed pursuant to this section;

(5) The name and address of the prosecuting attorney filing the notice;

(6) A description of the real or personal property subject to the notice and of the interest in that property of the person named in the notice, to the extent the property and the interest of the person in it reasonably is known at the time the proceeding is instituted or at the time the notice is filed.

(C) A corrupt activity lien notice shall apply only to one person and, to the extent applicable, any aliases, fictitious names, or other names, including names of corporations, partnerships, or other entities, to the extent permitted in this section. A separate corrupt activity lien notice is required to be filed for any other person.

(D) Within seven days after the filing of each corrupt activity lien notice, the prosecuting attorney who files the notice shall furnish to the person named in the notice by certified mail, return receipt requested, to the last known business or residential address of the person, a copy of the recorded notice with a notation on it of any county in which the notice has been recorded. The failure of the prosecuting attorney to furnish a copy of the notice under this section shall not invalidate or otherwise affect the corrupt activity lien notice when the prosecuting attorney did not know and could not reasonably ascertain the address of the person entitled to notice.

After receipt of a copy of the notice under this division, the person

named in the notice may petition the court to authorize the person to post a surety bond in lieu of the lien or to otherwise modify the lien as the interests of justice may require. The bond shall be in an amount equal to the value of the property reasonably known to be subject to the notice and conditioned on the payment of any judgment and costs ordered in an action pursuant to ~~section 2923.32 or 2923.34~~ Chapter 2981, of the Revised Code up to the value of the bond.

(E) From the date of filing of a corrupt activity lien notice, the notice creates a lien in favor of the state on any personal or real property or any beneficial interest in the property located in the county in which the notice is filed that then or subsequently is owned by the person named in the notice or under any of the names set forth in the notice.

The lien created in favor of the state is superior and prior to the interest of any other person in the personal or real property or beneficial interest in the property, if the interest is acquired subsequent to the filing of the notice.

(F)(1) Notwithstanding any law or rule to the contrary, in conjunction with any civil proceeding brought pursuant to section ~~2923.34~~ 2981.05 of the Revised Code, the prosecuting attorney may file in any county, without prior court order, a lis pendens pursuant to sections 2703.26 and 2703.27 of the Revised Code. In such a case, any person acquiring an interest in the subject property or beneficial interest in the property, if the property interest is acquired subsequent to the filing of the lis pendens, shall take the property or interest subject to the civil proceeding and any subsequent judgment.

(2) If a corrupt activity lien notice has been filed, the prosecuting attorney may name as a defendant in the lis pendens, in addition to the person named in the notice, any person acquiring an interest in the personal or real property or beneficial interest in the property subsequent to the filing of the notice. If a judgment of forfeiture is entered in the criminal or delinquency proceeding pursuant to section ~~2923.32~~ 2981.04 of the Revised Code in favor of the state, the interest of any person in the property that was acquired subsequent to the filing of the notice shall be subject to the notice and judgment of forfeiture.

(G) Upon a final judgment of forfeiture in favor of the state pursuant to ~~section 2923.32~~ Chapter 2981, of the Revised Code, title of the state to the forfeited property shall do either of the following:

(1) In the case of real property, or a beneficial interest in it, relate back to the date of filing of the corrupt activity lien notice in the county where the property or interest is located. If no corrupt activity lien notice was filed, title of the state relates back to the date of the filing of any lis pendens under division (F) of this section in the records of the county recorder of the

county in which the real property or beneficial interest is located. If no corrupt activity lien notice or lis pendens was filed, title of the state relates back to the date of the recording of the final judgment of forfeiture in the records of the county recorder of the county in which the real property or beneficial interest is located.

(2) In the case of personal property or a beneficial interest in it, relate back to the date on which the property or interest was seized by the state, or the date of filing of a corrupt activity lien notice in the county in which the property or beneficial interest is located. If the property was not seized and no corrupt activity lien notice was filed, title of the state relates back to the date of the recording of the final judgment of forfeiture in the county in which the personal property or beneficial interest is located.

(H) If personal or real property, or a beneficial interest in it, that is subject to forfeiture pursuant to section 2923.32 of the Revised Code is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of either a corrupt activity lien notice, or a criminal or delinquency proceeding for a violation of section 2923.32 or a civil proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised Code, whichever is earlier, the state may bring an action in any court of common pleas against the person named in the corrupt activity lien notice or the defendant in the criminal, delinquency, or civil proceeding to recover the value of the property or interest. The court shall enter final judgment against the person named in the notice or the defendant for an amount equal to the value of the property or interest together with investigative costs and attorney's fees incurred by the state in the action. If a civil proceeding is pending, an action pursuant to this section shall be filed in the court in which the proceeding is pending.

(I) If personal or real property, or a beneficial interest in it, that is subject to forfeiture pursuant to ~~section 2923.32~~ Chapter 2981, of the Revised Code is alienated or otherwise transferred or disposed of after either the filing of a corrupt activity lien notice, or the filing of a criminal or delinquency proceeding for a violation of section 2923.32 or a civil proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised Code, whichever is earlier, the transfer or disposal is fraudulent as to the state and the state shall have all the rights granted a creditor under Chapter 1336. of the Revised Code.

(J) No trustee, who acquires actual knowledge that a corrupt activity lien notice, a criminal or delinquency proceeding for a violation of section 2923.32 or a civil proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised Code has been filed against any person for whom the trustee

holds legal or record title to personal or real property, shall recklessly fail to furnish promptly to the prosecuting attorney all of the following:

- (1) The name and address of the person, as known to the trustee;
- (2) The name and address, as known to the trustee, of all other persons for whose benefit the trustee holds title to the property;
- (3) If requested by the prosecuting attorney, a copy of the trust agreement or other instrument under which the trustee holds title to the property.

Any trustee who fails to comply with this division is guilty of failure to provide corrupt activity lien information, a misdemeanor of the first degree.

(K) If a trustee transfers title to personal or real property after a corrupt activity lien notice is filed against the property, the lien is filed in the county in which the property is located, and the lien names a person who holds a beneficial interest in the property, the trustee, if the trustee has actual notice of the notice, shall be liable to the state for the greater of the following:

- (1) The proceeds received directly by the person named in the notice as a result of the transfer;
- (2) The proceeds received by the trustee as a result of the transfer and distributed to the person named in the notice;
- (3) The fair market value of the interest of the person named in the notice in the property transferred.

However, if the trustee transfers property for at least its fair market value and holds the proceeds that otherwise would be paid or distributed to the beneficiary, or at the direction of the beneficiary or the beneficiary's designee, the liability of the trustee shall not exceed the amount of the proceeds held by the trustee.

(L) The filing of a corrupt activity lien notice does not constitute a lien on the record title to personal or real property owned by the trustee, except to the extent the trustee is named in the notice.

The prosecuting attorney for the county may bring a civil action in any court of common pleas to recover from the trustee the amounts set forth in division (H) of this section. The county may recover investigative costs and attorney's fees incurred by the prosecuting attorney.

(M)(1) This section does not apply to any transfer by a trustee under a court order, unless the order is entered in an action between the trustee and the beneficiary.

(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in the trust is named in a corrupt activity lien notice or otherwise is a defendant in a civil proceeding brought pursuant to section 2923.34 or 2981.05 of the Revised Code, this section does not apply to

either of the following:

(a) Any transfer by a trustee required under the terms of any trust agreement, if the agreement is a matter of public record before the filing of any corrupt activity lien notice;

(b) Any transfer by a trustee to all of the persons who own a beneficial interest in the trust.

(N) The filing of a corrupt activity lien notice does not affect the use to which personal or real property, or a beneficial interest in it, that is owned by the person named in the notice may be put or the right of the person to receive any proceeds resulting from the use and ownership, but not the sale, of the property, until a judgment of forfeiture is entered.

(O) The term of a corrupt activity lien notice is five years from the date the notice is filed, unless a renewal notice has been filed by the prosecuting attorney of the county in which the property or interest is located. The term of any renewal of a corrupt activity lien notice granted by the court is five years from the date of its filing. A corrupt activity lien notice may be renewed any number of times while a criminal or civil proceeding under section ~~2923.32~~ or 2923.34, 2981.04, or 2981.05 of the Revised Code, or an appeal from either type of proceeding, is pending.

(P) The prosecuting attorney who files the corrupt activity lien notice may terminate, in whole or part, any corrupt activity lien notice or release any personal or real property or beneficial interest in the property upon any terms that the prosecuting attorney determines are appropriate. Any termination or release shall be filed by the prosecuting attorney with each county recorder with whom the notice was filed. No fee shall be imposed for the filing.

(Q)(1) If no civil proceeding has been brought by the prosecuting attorney pursuant to section 2923.34 of the Revised Code against the person named in the corrupt activity lien notice, the acquittal in a criminal or delinquency proceeding for a violation of section 2923.32 of the Revised Code of the person named in the notice or the dismissal of a criminal or delinquency proceeding for such a violation against the person named in the notice terminates the notice. In such a case, the filing of the notice has no effect.

(2) If a civil proceeding has been brought pursuant to section 2923.34 or 2981.05 of the Revised Code with respect to any property that is the subject of a corrupt activity lien notice and if the criminal or delinquency proceeding brought against the person named in the notice for a violation of section 2923.32 of the Revised Code has been dismissed or the person named in the notice has been acquitted in the criminal or delinquency

proceeding for such a violation, the notice shall continue for the duration of the civil proceeding and any appeals from the civil proceeding, except that it shall not continue any longer than the term of the notice as determined pursuant to division (O) of this section.

(3) If no civil proceeding brought pursuant to section ~~2923.34~~ 2981.05 of the Revised Code then is pending against the person named in a corrupt activity lien notice, any person so named may bring an action against the prosecuting attorney who filed the notice, in the county where it was filed, seeking a release of the property subject to the notice or termination of the notice. In such a case, the court of common pleas promptly shall set a date for hearing, which shall be not less than five nor more than ten days after the action is filed. The order and a copy of the complaint shall be served on the prosecuting attorney within three days after the action is filed. At the hearing, the court shall take evidence as to whether any personal or real property, or beneficial interest in it, that is owned by the person bringing the action is covered by the notice or otherwise is subject to forfeiture. If the person bringing the action shows by a preponderance of the evidence that the notice does not apply to the person or that any personal or real property, or beneficial interest in it, that is owned by the person is not subject to forfeiture, the court shall enter a judgment terminating the notice or releasing the personal or real property or beneficial interest from the notice.

At a hearing, the court may release from the notice any property or beneficial interest upon the posting of security, by the person against whom the notice was filed, in an amount equal to the value of the property or beneficial interest owned by the person.

(4) The court promptly shall enter an order terminating a corrupt activity lien notice or releasing any personal or real property or beneficial interest in the property, if a sale of the property or beneficial interest is pending and the filing of the notice prevents the sale. However, the proceeds of the sale shall be deposited with the clerk of the court, subject to the further order of the court.

(R) Notwithstanding any provision of this section, any person who has perfected a security interest in personal or real property or a beneficial interest in the property for the payment of an enforceable debt or other similar obligation prior to the filing of a corrupt activity lien notice or a lis pendens in reference to the property or interest may foreclose on the property or interest as otherwise provided by law. The foreclosure, insofar as practical, shall be made so that it otherwise will not interfere with a forfeiture under section ~~2923.32~~ Chapter 2981, of the Revised Code.

Sec. 2923.41. As used in sections 2923.41 to ~~2923.47~~ 2923.44 of the

Revised Code:

(A) "Criminal gang" means an ongoing formal or informal organization, association, or group of three or more persons to which all of the following apply:

(1) It has as one of its primary activities the commission of one or more of the offenses listed in division (B) of this section.

(2) It has a common name or one or more common, identifying signs, symbols, or colors.

(3) The persons in the organization, association, or group individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(B)(1) "Pattern of criminal gang activity" means, subject to division (B)(2) of this section, that persons in the criminal gang have committed, attempted to commit, conspired to commit, been complicitors in the commission of, or solicited, coerced, or intimidated another to commit, attempt to commit, conspire to commit, or be in complicity in the commission of two or more of any of the following offenses:

(a) A felony or an act committed by a juvenile that would be a felony if committed by an adult;

(b) An offense of violence or an act committed by a juvenile that would be an offense of violence if committed by an adult;

(c) A violation of section 2907.04, 2909.06, 2911.211, 2917.04, 2919.23, or 2919.24 of the Revised Code, section 2921.04 or 2923.16 of the Revised Code, section 2925.03 of the Revised Code if the offense is trafficking in marihuana, or section 2927.12 of the Revised Code.

(2) There is a "pattern of criminal gang activity" if all of the following apply with respect to the offenses that are listed in division (B)(1)(a), (b), or (c) of this section and that persons in the criminal gang committed, attempted to commit, conspired to commit, were in complicity in committing, or solicited, coerced, or intimidated another to commit, attempt to commit, conspire to commit, or be in complicity in committing:

(a) At least one of the two or more offenses is a felony.

(b) At least one of those two or more offenses occurs on or after ~~the effective date of this section~~ January 1, 1999.

(c) The last of those two or more offenses occurs within five years after at least one of those offenses.

(d) The two or more offenses are committed on separate occasions or by two or more persons.

(C) "Criminal conduct" means the commission of, an attempt to commit, a conspiracy to commit, complicity in the commission of, or solicitation, coercion, or intimidation of another to commit, attempt to commit, conspire

to commit, or be in complicity in the commission of an offense listed in division (B)(1)(a), (b), or (c) of this section or an act that is committed by a juvenile and that would be an offense, an attempt to commit an offense, a conspiracy to commit an offense, complicity in the commission of, or solicitation, coercion, or intimidation of another to commit, attempt to commit, conspire to commit, or be in complicity in the commission of an offense listed in division (B)(1)(a), (b), or (c) of this section if committed by an adult.

(D) "Juvenile" means a person who is under eighteen years of age.

(E) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(F) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

~~(G) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.~~

~~(H) "Property" includes both of the following:~~

~~(1) Real property, including, but not limited to, things growing on, affixed to, and found in the real property;~~

~~(2) Tangible and intangible personal property, including, but not limited to, rights, privileges, interests, claims, and securities.~~

~~(I) "Firearms" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.~~

~~(J) "Computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.~~

~~(K) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.~~

Sec. 2923.42. (A) No person who actively participates in a criminal gang, with knowledge that the criminal gang engages in or has engaged in a pattern of criminal gang activity, shall purposely promote, further, or assist any criminal conduct, as defined in division (C) of section 2923.41 of the Revised Code, or shall purposely commit or engage in any act that constitutes criminal conduct, as defined in division (C) of section 2923.41 of the Revised Code.

(B) Whoever violates this section is guilty of participating in a criminal gang, a felony of the second degree.

(C)(1) Notwithstanding any contrary provision of any section of the Revised Code, the clerk of the court shall pay any fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the

Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (C)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the fines so paid in accordance with the written internal control policy adopted by the recipient agency under division (C)(2) of this section to subsidize the agency's law enforcement efforts that pertain to criminal gangs.

(2)(a) Prior to receiving any fine moneys under division (C)(1) of this section or division (B)~~(5)~~ of section 2923.44 of the Revised Code, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under division (C)(2)(a) of this section is a public record open for inspection under section 149.43 of the Revised Code, and the agency that adopted the policy shall comply with it.

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (C)(1) of this section or division (B)~~(5)~~ of section 2923.44 of the Revised Code shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (C)(2)(a) of this section for that calendar year and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send the president of the senate and the speaker of the house of representatives a written notice that does all of the following:

(i) Indicates that the attorney general has received from law enforcement agencies reports of the type described in division (C)(2)(b) of this section that cover the previous calendar year and indicates that the reports were received under division (C)(2)(b) of this section;

(ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(iii) Indicates that the attorney general will provide a copy of any or all reports to the president of the senate or the speaker of the house upon request.

(D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections.

~~Sec. 2923.44. (A)(1) In accordance with division (B) of this section, a person who is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code, and a juvenile who is found by a juvenile court to be a delinquent child for an act committed in violation of section 2923.42 of the Revised Code, loses any right to the possession of property and forfeits to the state any right, title, and interest the person may have in that property if either of the following applies:~~

~~(a) The property constitutes, or is derived directly or indirectly from, any proceeds that the person obtained directly or indirectly from the commission of the violation of section 2923.42 of the Revised Code.~~

~~(b) The property was used or intended to be used in any manner to commit, or to facilitate the commission of, the violation of section 2923.42 of the Revised Code.~~

~~(2) All right, title, and interest of a person in property described in division (A)(1) of this section vests in the state upon the person's commission of the violation of section 2923.42 of the Revised Code of which the person is convicted or to which the person pleads guilty and that is the basis of the forfeiture, or upon the juvenile's commission of the act that is a violation of section 2923.42 of the Revised Code, that is the basis of the juvenile being found to be a delinquent child, and that is the basis of the forfeiture. Subject to divisions (F)(3)(b) and (5)(b) and (G)(2) of this section, if any right, title, or interest in property is vested in this state under division (A)(2) of this section and subsequently is transferred to a person other than the adult offender or the delinquent child who forfeits the right, title, or interest in the property under division (A)(1) of this section, then, in~~

~~accordance with division (B) of this section, the right, title, or interest in the property may be the subject of a special verdict of forfeiture and, after any special verdict of forfeiture, shall be ordered forfeited to this state, unless the transferee establishes in a hearing held pursuant to division (F) of this section that the transferee is a bona fide purchaser for value of the right, title, or interest in the property and that, at the time of its purchase, the transferee was reasonably without cause to believe that it was subject to forfeiture under this section.~~

~~(3) The provisions of section 2923.45 of the Revised Code that relate to the forfeiture of any right, title, or interest in property associated with a violation of section 2923.42 of the Revised Code pursuant to a civil action to obtain a civil forfeiture do not apply to the forfeiture of any right, title, or interest in property described in division (A)(1) of this section that occurs pursuant to division (B) of this section upon a person's conviction of or guilty plea to a violation of section 2923.42 of the Revised Code or upon a juvenile being found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code.~~

~~(4) Nothing in this section precludes a financial institution that has or purports to have a security interest in or lien on property described in division (A)(1) of this section from commencing a civil action or taking other appropriate legal action in connection with the property prior to its disposition in accordance with section 2923.46 of the Revised Code for the purpose of obtaining possession of the property in order to foreclose or otherwise enforce the security interest or lien. A financial institution may commence a civil action or take other appropriate legal action for that purpose prior to the disposition of the property in accordance with section 2923.46 of the Revised Code, even if a prosecution for a violation of section 2923.42 of the Revised Code or a delinquent child proceeding for an act that is a violation of section 2923.42 of the Revised Code has been or could be commenced, even if the property is or could be the subject of an order of forfeiture issued under division (B)(5) of this section, and even if the property has been seized or is subject to seizure pursuant to division (D) or (E) of this section.~~

~~If a financial institution commences a civil action or takes any other appropriate legal action as described in division (A)(4) of this section, if the financial institution subsequently causes the sale of the property prior to its seizure pursuant to division (D) or (E) of this section and its disposition pursuant to section 2923.46 of the Revised Code, and if the person responsible for the conduct of the sale has actual knowledge of the commencement of a prosecution for a violation of section 2923.42 of the~~

~~Revised Code or of a delinquent child proceeding for an act that is a violation of section 2923.42 of the Revised Code, actual knowledge of a pending forfeiture proceeding under division (B) of this section, or actual knowledge of an order of forfeiture issued under division (B)(5) of this section, then the person responsible for the conduct of the sale shall dispose of the proceeds of the sale in the following order:~~

~~(a) First, to the payment of the costs of the sale and to the payment of the costs incurred by law enforcement agencies and financial institutions in connection with the seizure of, storage of, maintenance of, and provision of security for the property. As used in this division, "costs" of a financial institution do not include attorney's fees incurred by that institution in connection with the property.~~

~~(b) Second, the remaining proceeds of the sale after compliance with division (A)(4)(a) of this section, to the payment in the order of priority of the security interests and liens of valid security interests and liens pertaining to the property that, at the time of the vesting in the state under division (A)(2) of this section of the right, title, or interest of the adult or juvenile, are held by known secured parties and lienholders;~~

~~(c) Third, the remaining proceeds of the sale after compliance with division (A)(4)(b) of this section, to the court that has or would have jurisdiction in a prosecution for a violation of section 2923.42 of the Revised Code or a delinquent child proceeding for an act that is a violation of section 2923.42 of the Revised Code for disposition in accordance with section 2923.46 of the Revised Code.~~

~~(B)(1) A criminal forfeiture of any right, title, or interest in property described in division (A)(1) of this section is precluded unless one of the following applies:~~

~~(a) The indictment, count in the indictment, or information charging the violation of section 2923.42 of the Revised Code specifies the nature of the right, title, or interest of the alleged offender in the property described in division (A)(1) of this section that is potentially subject to forfeiture under this section, or a description of the property of the alleged offender that is potentially subject to forfeiture under this section, to the extent the right, title, or interest in the property or the property reasonably is known at the time of the filing of the indictment or information; or the complaint, indictment, or information charging a juvenile with being a delinquent child for the commission of an act that is a violation of section 2923.42 of the Revised Code specifies the nature of the right, title, or interest of the juvenile in the property described in division (A)(1) of this section that is potentially subject to forfeiture under this section, or a description of the~~

~~property of the juvenile that is potentially subject to forfeiture under this section, to the extent the right, title, or interest in the property or the property reasonably is known at the time of the filing of the complaint, indictment, or information.~~

~~(b) The property in question was not reasonably foreseen to be subject to forfeiture under this section at the time of the filing of the indictment, information, or complaint, the prosecuting attorney gave prompt notice to the alleged offender or juvenile of that property when it was discovered to be subject to forfeiture under this section, and a verdict of forfeiture described in division (B)(3) of this section requires the forfeiture of that property.~~

~~(2) The specifications described in division (B)(1) of this section shall be stated at the end of the body of the indictment, count in the indictment, information, or complaint.~~

~~(3)(a) If a person is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or a juvenile is found to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code, then a special proceeding shall be conducted in accordance with division (B)(3) of this section to determine whether any property described in division (B)(1)(a) or (b) of this section will be the subject of an order of forfeiture under this section. Except as otherwise provided in division (B)(3)(b) of this section, the jury in the criminal action, the judge in the delinquent child action, or, if the criminal action was a nonjury action, the judge in that action shall hear and consider testimony and other evidence in the proceeding relative to whether any property described in division (B)(1)(a) or (b) of this section is subject to forfeiture under this section. If the jury or judge determines that the prosecuting attorney has established by a preponderance of the evidence that any property so described is subject to forfeiture under this section, the judge or juvenile judge shall render a verdict of forfeiture that specifically describes the right, title, or interest in property or the property that is subject to forfeiture under this section. The Rules of Evidence shall apply in the proceeding.~~

~~(b) If the trier of fact in a criminal action for a violation of section 2923.42 of the Revised Code was a jury, then, upon the filing of a motion by the person who was convicted of or pleaded guilty to the violation of section 2923.42 of the Revised Code, the determinations in the proceeding described in division (B)(3) of this section instead shall be made by the judge in the criminal action.~~

~~(4) In a criminal action for a violation of section 2923.42 of the Revised Code, if the trier of fact is a jury, the jury shall not be informed of any~~

~~specification described in division (B)(1)(a) of this section or of any property described in that division or division (B)(1)(b) of this section prior to the alleged offender being convicted of or pleading guilty to the violation of section 2923.42 of the Revised Code.~~

~~(5)(a) If a verdict of forfeiture is entered pursuant to division (B)(3) of this section, then the court that imposes sentence upon a person who is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code, or the juvenile court that finds a juvenile to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code, in addition to any other sentence imposed upon the offender or order of disposition imposed upon the delinquent child, shall order that the offender or delinquent child forfeit to the state all of the offender's or delinquent child's right, title, and interest in the property described in division (A)(1) of this section. If a person is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code, or a juvenile is found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code, and derives profits or other proceeds from the offense or act, the court that imposes sentence or an order of disposition upon the offender or delinquent child, in lieu of any fine that the court is otherwise authorized or required to impose, may impose upon the offender or delinquent child a fine of not more than twice the gross profits or other proceeds so derived.~~

~~(b)(B) Notwithstanding any contrary provision of the Revised Code, the clerk of the court shall pay all fines imposed pursuant to division (B)(5) of this section to the county, municipal corporation, township, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or state law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy pursuant to division (C)(2) of section 2923.42 of the Revised Code that addresses the use of the fine moneys that it receives under division (B)(5) of this section and division (C)(1) of section 2923.42 of the Revised Code. The law enforcement agencies shall use the fines imposed and paid pursuant to division (B)(5) of this section to subsidize their efforts pertaining to criminal gangs, in accordance with the written internal control policy adopted by the recipient agency pursuant to division (C)(2) of section 2923.42 of the Revised Code.~~

~~(6) If any of the property that is described in division (A)(1) of this section and that is the subject of an order of forfeiture issued under division (B)(5) of this section, because of an act of the person who is convicted of or~~

~~pleads guilty to the violation of section 2923.42 of the Revised Code that is the basis of the order of forfeiture or an act of the juvenile found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code and that is the basis of the forfeiture, cannot be located upon the exercise of due diligence, has been transferred to, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property that cannot be divided without difficulty, the court that issues the order of forfeiture shall order the forfeiture of any other property of the offender or the delinquent child up to the value of any forfeited property described in division (B)(6) of this section.~~

~~(C) There shall be a rebuttable presumption that any right, title, or interest of a person in property described in division (A)(1) of this section is subject to forfeiture under division (B) of this section, if the state proves both of the following by a preponderance of the evidence:~~

~~(1) The right, title, or interest in the property was acquired by the offender or delinquent child during the period of the commission of the violation of section 2923.42 of the Revised Code, or within a reasonable time after that period.~~

~~(2) There is no likely source for the right, title, or interest in the property other than proceeds obtained from the commission of the violation of section 2923.42 of the Revised Code.~~

~~(D)(1) Upon the application of the prosecuting attorney who is prosecuting or has jurisdiction to prosecute the violation of section 2923.42 of the Revised Code, the court of common pleas or juvenile court of the county in which property subject to forfeiture under division (B) of this section is located, whichever is applicable, may issue a restraining order or injunction, an order requiring the execution of a satisfactory performance bond, or an order taking any other reasonable action necessary to preserve the availability of the property, at either of the following times:~~

~~(a) Upon the filing of an indictment, complaint, or information charging a person who has any right, title, or interest in the property with the commission of a violation of section 2923.42 of the Revised Code and alleging that the property with respect to which the order is sought will be subject to forfeiture under division (B) of this section if the person is convicted of or pleads guilty to the offense, or upon the filing of a complaint, indictment, or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that is a violation of section 2923.42 of the Revised Code and alleging that the property with respect to which the order is sought~~

~~will be subject to forfeiture under division (B) of this section if the juvenile is found to be a delinquent child because of the commission of that act;~~

~~(b) Except as provided in division (D)(3) of this section, prior to the filing of an indictment, complaint, or information charging a person who has any right, title, or interest in the property with the commission of a violation of section 2923.42 of the Revised Code, or prior to the filing of a complaint, indictment or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that is a violation of section 2923.42 of the Revised Code, if, after notice is given to all persons known to have any right, title, or interest in the property and an opportunity to have a hearing on the order is given to those persons, the court determines both of the following:~~

~~(i) There is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property subject to forfeiture being destroyed, removed from the jurisdiction of the court, or otherwise being made unavailable for forfeiture.~~

~~(ii) The need to preserve the availability of the property subject to forfeiture through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.~~

~~(2) Except as provided in division (D)(3) of this section, an order issued under division (D)(1) of this section is effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment, complaint, or information charging the commission of a violation of section 2923.42 of the Revised Code or a complaint, indictment, or information alleging that a juvenile is a delinquent child because of the commission of an act that is a violation of section 2923.42 of the Revised Code, is filed against any alleged adult offender or alleged delinquent child with any right, title, or interest in the property that is the subject of the order.~~

~~(3) A court may issue an order under division (D)(1)(b) of this section without giving notice or an opportunity for a hearing to persons known to have any right, title, or interest in property if the prosecuting attorney who is prosecuting or has jurisdiction to prosecute the violation of section 2923.42 of the Revised Code demonstrates that there is probable cause to believe that the property will be subject to forfeiture under division (B) of this section if a person with any right, title, or interest in the property is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or a juvenile with any right, title, or interest in the property is found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code and that giving notice or an opportunity for a hearing to persons with any right, title, or interest in the property will jeopardize its~~

~~availability for forfeiture. The order shall be a temporary order and shall expire not more than ten days after the date on which it is entered, unless it is extended for good cause shown or unless a person with any right, title, or interest in the property that is the subject of the order consents to an extension for a longer period. A hearing concerning an order issued under division (D)(3) of this section may be requested, and, if it is requested, the court shall hold the hearing at the earliest possible time prior to the expiration of the order.~~

~~(4) At any hearing held under division (D) of this section, the court may receive and consider evidence and information that is inadmissible under the Rules of Evidence. Each hearing held under division (D) of this section shall be recorded by shorthand, by stenotype, or by any other mechanical, electronic, or video recording device. If, as a result of a hearing under division (D) of this section, property would be seized, the recording of and any transcript of the recording of that hearing shall not be a public record for purposes of section 149.43 of the Revised Code until that property has been seized pursuant to division (D) of this section. Division (D)(4) of this section does not require, authorize, or permit the making available for inspection, or the copying, under section 149.43 of the Revised Code of any confidential law enforcement investigatory record or trial preparation record, as defined in that section.~~

~~(5) A prosecuting attorney or other law enforcement officer may request the court of common pleas of the county in which property subject to forfeiture under this section is located to issue a warrant authorizing the seizure of that property. The request shall be made in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized will be subject to forfeiture under this section when a person with any right, title, or interest in the property is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or when a juvenile with any right, title, or interest in the property is found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code and if the court determines that any order issued under division (D)(1), (2), or (3) of this section may not be sufficient to ensure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of the property.~~

~~(E)(1) Upon the entry of an order of forfeiture under this section, the court shall order an appropriate law enforcement officer to seize all of the forfeited property upon the terms and conditions that the court determines are proper. In addition, upon the request of the prosecuting attorney who~~

~~prosecuted the offense or act in violation of section 2923.42 of the Revised Code, the court shall enter any appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the state in the forfeited property. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses related to the property that are required by law or that are necessary to protect the interest of the state or third parties.~~

~~After forfeited property is seized, the prosecuting attorney who prosecuted the offense or act in violation of section 2923.42 of the Revised Code shall direct its disposition in accordance with section 2923.46 of the Revised Code, making due provision for the rights of any innocent persons. Any right, title, or interest in property not exercisable by, or transferable for value to, the state shall expire and shall not revert to the offender whose conviction or plea of guilty or act as a delinquent child is the basis of the order of forfeiture. Neither the adult offender or delinquent child nor any person acting in concert with or on behalf of the adult offender or delinquent child is eligible to purchase forfeited property at any sale held pursuant to section 2923.46 of the Revised Code.~~

~~Upon the application of any person other than the adult offender or delinquent child whose right, title, or interest in the property is the subject of the order of forfeiture or any person acting in concert with or on behalf of the adult offender or delinquent child, the court may restrain or stay the sale or other disposition of the property pursuant to section 2923.46 of the Revised Code pending the conclusion of any appeal of the conviction or of the delinquent child adjudication that is the basis of the order of forfeiture, if the applicant demonstrates that proceeding with the sale or other disposition of the property will result in irreparable injury or loss to the applicant.~~

~~(2) With respect to property that is the subject of an order of forfeiture issued under this section, the court that issued the order, upon the petition of the prosecuting attorney who prosecuted the offense or act in violation of section 2923.42 of the Revised Code, may do any of the following:~~

~~(a) Grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of section 2923.42 of the Revised Code, or take any other action to protect the rights of innocent persons that is in the interest of justice and that is not inconsistent with this section;~~

~~(b) Compromise claims that arise under this section;~~

~~(c) Award compensation to persons who provide information resulting in a forfeiture under this section;~~

~~(d) Direct the disposition by the prosecuting attorney who prosecuted the offense or act in violation of section 2923.42 of the Revised Code, in accordance with section 2923.46 of the Revised Code, of all property ordered forfeited under this section, making due provision for the rights of innocent persons;~~

~~(e) Pending the disposition of any property that is the subject of an order of forfeiture under this section, take any appropriate measures that are necessary to safeguard and maintain the property.~~

~~(3) To facilitate the identification and location of property that is the subject of an order of forfeiture under this section and to facilitate the disposition of petitions for remission or mitigation issued under division (E)(2) of this section, after the issuance of an order of forfeiture under this section and upon application by the prosecuting attorney who prosecuted the offense or act in violation of section 2923.42 of the Revised Code, the court may order that the testimony of any witness relating to the forfeited property be taken by deposition, and that any designated book, paper, document, record, recording, or other material that is not privileged be produced at the same time and place as the testimony, in the same manner as provided for the taking of depositions under the Rules of Civil Procedure.~~

~~(F)(1) Except as provided in divisions (F)(2) to (5) of this section, no person claiming any right, title, or interest in property subject to forfeiture under this section or section 2923.45 of the Revised Code may intervene in a criminal trial or appeal, or a delinquent child proceeding or appeal, involving the forfeiture of the property under this section or in a civil action for a civil forfeiture under section 2923.45 of the Revised Code or may commence an action at law or equity against the state concerning the validity of the person's alleged right, title, or interest in the property subsequent to the filing of an indictment, complaint, or information alleging that the property is subject to forfeiture under this section or subsequent to the filing of a complaint, indictment, or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that is a violation of section 2923.42 of the Revised Code and alleging that the property is subject to forfeiture under this section.~~

~~(2) After the entry of an order of forfeiture under this section, the prosecuting attorney who prosecuted the offense or act in violation of section 2923.42 of the Revised Code shall conduct or cause to be conducted a search of the appropriate public records that relate to the property and shall make or cause to be made reasonably diligent inquiries for the purpose of identifying persons who have any right, title, or interest in the property. The~~

~~prosecuting attorney then shall cause a notice of the order of forfeiture, of the prosecuting attorney's intent to dispose of the property in accordance with section 2923.46 of the Revised Code, and of the manner of the proposed disposal to be given by certified mail, return receipt requested, or by personal service to each person who is known, because of the conduct of the search, the making of the inquiries, or otherwise, to have any right, title, or interest in the property. Additionally, the prosecuting attorney shall cause a similar notice to be published once a week for two consecutive weeks in a newspaper of general circulation in the county in which the property was seized.~~

~~(3)(a) Any person, other than the adult offender whose conviction or guilty plea or the delinquent child whose adjudication is the basis of the order of forfeiture, who asserts a legal right, title, or interest in the property that is the subject of the order may petition the court that issued the order, within thirty days after the earlier of the final publication of notice or the person's receipt of notice under division (F)(2) of this section, for a hearing to adjudicate the validity of the person's alleged right, title, or interest in the property. The petition shall be signed by the petitioner under the penalties for falsification as specified in section 2921.13 of the Revised Code and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of that right, title, or interest, any additional facts supporting the petitioner's claim, and the relief sought.~~

~~(b) In lieu of filing a petition as described in division (F)(3)(a) of this section, a secured party or other lienholder of record that asserts a legal right, title, or interest in the property that is the subject of the order, including, but not limited to, a mortgage, security interest, or other type of lien, may file an affidavit as described in division (F)(3)(b) of this section to establish the validity of the alleged right, title, or interest in the property. The secured party or lienholder shall file the affidavit within thirty days after the earlier of the final publication of notice or the receipt of notice under division (F)(2) of this section and, except as otherwise provided in this section, the affidavit shall constitute prima facie evidence of the validity of the secured party's or other lienholder's alleged right, title, or interest in the property. Unless the prosecuting attorney files a motion challenging the affidavit within ten days after its filing and unless the prosecuting attorney establishes by a preponderance of the evidence at a subsequent hearing before the court that issued the forfeiture order, that the secured party or other lienholder does not possess the alleged right, title, or interest in the property or that the secured party or other lienholder had actual knowledge~~

~~of facts pertaining to the violation that was the basis of the forfeiture order, the affidavit shall constitute conclusive evidence of the validity of the secured party's or other lienholder's right, title, or interest in the property and shall have the legal effect described in division (G)(2) of this section. To the extent practicable and consistent with the interests of justice, the court shall hold any hearing held pursuant to division (F)(3)(b) of this section within thirty days after the prosecuting attorney files the motion. At any such hearing, the prosecuting attorney and the secured party or other lienholder may present evidence and witnesses and may cross-examine witnesses.~~

~~In order to be valid for the purposes of this division and division (G)(2) of this section, the affidavit of a secured party or other lienholder shall contain averments that the secured party or other lienholder acquired its alleged right, title, or interest in the property in the regular course of its business, for a specified valuable consideration, without actual knowledge of any facts pertaining to the violation that was the basis of the forfeiture order, in good faith and without the intent to prevent or otherwise impede the state from seizing or obtaining a forfeiture of the property under sections 2923.44 to 2923.47 of the Revised Code, and prior to the seizure or forfeiture of the property under those sections.~~

~~(4) Upon receipt of a petition filed under division (F)(3) of this section, the court shall hold a hearing to determine the validity of the petitioner's right, title, or interest in the property that is the subject of the order of forfeiture. To the extent practicable and consistent with the interests of justice, the court shall hold the hearing within thirty days after the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the offender whose conviction or guilty plea or adjudication as a delinquent child is the basis of the order of forfeiture. At the hearing, the petitioner may testify, present evidence and witnesses on the petitioner's behalf, and cross-examine witnesses for the state. The state may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses for the petitioner. In addition to evidence and testimony presented at the hearing, the court shall consider the relevant portions of the record in the case that resulted in the order of forfeiture.~~

~~(5)(a) The court shall amend its order of forfeiture in accordance with its determination if it determines at the hearing that the petitioner has established either of the following by a preponderance of the evidence:~~

~~(i) The petitioner has a legal right, title, or interest in the property that renders the order of forfeiture completely or partially invalid because it was vested in the petitioner, rather than the adult offender whose conviction or~~

~~guilty plea or the delinquent child whose adjudication is the basis of the order, or was superior to any right, title, or interest of that adult offender or delinquent child, at the time of the commission of the violation that is the basis of the order.~~

~~(ii) The petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that it was subject to forfeiture under this section.~~

~~(b) The court also shall amend its order of forfeiture to reflect any right, title, or interest of a secured party or other lienholder of record in the property subject to the order that was established pursuant to division (F)(3)(b) of this section by means of an affidavit, or that was established pursuant to that division by the failure of a prosecuting attorney to establish, in a hearing as described in that division, that the secured party or other lienholder did not possess the alleged right, title, or interest in the property or that the secured party or other lienholder had actual knowledge of facts pertaining to the violation that was the basis of the order.~~

~~(G)(1) Subject to division (G)(2) of this section, if the court has disposed of all petitions filed under division (F) of this section or if no petitions are filed under that division and the time for filing petitions under that division has expired, the state shall have clear title to all property that is the subject of an order of forfeiture issued under this section and may warrant good title to any subsequent purchaser or other transferee.~~

~~(2) If an affidavit as described in division (F)(3)(b) of this section is filed in accordance with that division, if the affidavit constitutes under the circumstances described in that division conclusive evidence of the validity of the right, title, or interest of a secured party or other lienholder of record in the property subject to a forfeiture order, and if any mortgage, security interest, or other type of lien possessed by the secured party or other lienholder in connection with the property is not satisfied prior to a sale or other disposition of the property pursuant to section 2923.46 of the Revised Code, then the right, title, or interest of the secured party or other lienholder in the property remains valid for purposes of sections 2923.44 to 2923.47 of the Revised Code and any subsequent purchaser or other transferee of the property pursuant to section 2923.46 of the Revised Code shall take the property subject to the continued validity of the right, title, or interest of the secured party or other lienholder in the property.~~

Sec. 2925.03. (A) No person shall knowingly do any of the following:

- (1) Sell or offer to sell a controlled substance;
- (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows

or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person.

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act.

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or schedule II, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish, whoever violates division (A) of this section is guilty of aggravated trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(1)(b), (c), (d), (e), or (f) of this section, aggravated trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(1)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the

vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(2) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), (d), or (e) of this section, trafficking in drugs is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(2)(c), (d), or (e) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in

determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, trafficking in drugs is a felony of the fourth degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty times the bulk amount, trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds fifty times the bulk amount and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), or (g) of this section, trafficking in marihuana is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the

drug involved equals or exceeds two hundred grams but is less than one thousand grams, trafficking in marihuana is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds twenty thousand grams and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) Except as otherwise provided in this division, if the offense involves a gift of twenty grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty grams or less of marihuana and if the offense was committed in the vicinity

of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), (f), or (g) of this section, trafficking in cocaine is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(4)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five grams but is less than ten grams of cocaine that is not crack cocaine or equals or exceeds one gram but is less than five grams of crack cocaine, trafficking in cocaine is a felony of the fourth degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within one of those ranges and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than one hundred grams of cocaine that is not crack cocaine or equals or exceeds five grams but is less than ten grams of crack cocaine, trafficking in cocaine is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within one of those ranges and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred grams but is less than five hundred grams of cocaine that is not crack cocaine or equals or exceeds ten grams but is less than twenty-five grams of crack cocaine, trafficking in cocaine is a felony of the second degree, and the court shall impose as a

mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within one of those ranges and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds five hundred grams but is less than one thousand grams of cocaine that is not crack cocaine or equals or exceeds twenty-five grams but is less than one hundred grams of crack cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds one thousand grams of cocaine that is not crack cocaine or equals or exceeds one hundred grams of crack cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(5) If the drug involved in the violation is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., whoever violates division (A) of this section is guilty of trafficking in L.S.D. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(5)(b), (c), (d), (e), (f), or (g) of this section, trafficking in L.S.D. is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(5)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses of L.S.D. in a solid form or equals or exceeds one gram but is less than five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid

distillate form, trafficking in L.S.D. is a felony of the fourth degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams

of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the fourth degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than five

hundred unit doses or equals or exceeds ten grams but is less than fifty grams, trafficking in heroin is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than two thousand five hundred unit doses or equals or exceeds fifty grams but is less than two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds two thousand five hundred unit doses or equals or exceeds two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of trafficking in hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), or (f) of this section, trafficking in hashish is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(7)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than ten

grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams of hashish in a solid form or equals or exceeds two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(D) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. Except as otherwise provided in division (H)(1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. If a person is charged with a violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the clerk of the court shall pay the forfeited bail pursuant to divisions (D)(1) and (F) of this section, as if the forfeited bail was a fine imposed for a violation of this section. If any amount of the forfeited bail remains after that payment and if a fine is imposed under division (H)(1) of this section, the clerk of the court shall pay the remaining amount of the forfeited bail pursuant to divisions (H)(2) and (3) of this section, as if that remaining amount was a fine imposed under division (H)(1) of this section.

(2) The court shall suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section.

(3) If the offender is a professionally licensed person, the court immediately shall comply with section 2925.38 of the Revised Code.

(E) When a person is charged with the sale of or offer to sell a bulk amount or a multiple of a bulk amount of a controlled substance, the jury, or the court trying the accused, shall determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is returned, shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance involved, and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is the requisite amount, or that the amount of the controlled substance involved is less than the requisite amount.

(F)(1) Notwithstanding any contrary provision of section 3719.21 of the Revised Code and except as provided in division (H) of this section, the clerk of the court shall pay any mandatory fine imposed pursuant to division

(D)(1) of this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section.

(2)(a) Prior to receiving any fine moneys under division (F)(1) of this section or division (B)(~~5~~) of section 2925.42 of the Revised Code, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (F)(1) of this section or division (B)(~~5~~) of section 2925.42 of the Revised Code shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (F)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general

shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(i) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(iii) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(3) As used in division (F) of this section:

(a) "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(b) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(G) When required under division (D)(2) of this section or any other provision of this chapter, the court shall suspend for not less than six months or more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section or any other specified provision of this chapter. If an offender's driver's or commercial driver's license or permit is suspended pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.

(H)(1) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, in addition to any other penalty or sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, and in addition to the forfeiture of property in connection with the offense as prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981, of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may impose upon the offender an additional fine specified for the offense in division (B)(4) of section 2929.18 of the Revised Code. A fine imposed under division (H)(1) of this section is not subject to division (F) of this section and shall be used solely for the support

of one or more eligible alcohol and drug addiction programs in accordance with divisions (H)(2) and (3) of this section.

(2) The court that imposes a fine under division (H)(1) of this section shall specify in the judgment that imposes the fine one or more eligible alcohol and drug addiction programs for the support of which the fine money is to be used. No alcohol and drug addiction program shall receive or use money paid or collected in satisfaction of a fine imposed under division (H)(1) of this section unless the program is specified in the judgment that imposes the fine. No alcohol and drug addiction program shall be specified in the judgment unless the program is an eligible alcohol and drug addiction program and, except as otherwise provided in division (H)(2) of this section, unless the program is located in the county in which the court that imposes the fine is located or in a county that is immediately contiguous to the county in which that court is located. If no eligible alcohol and drug addiction program is located in any of those counties, the judgment may specify an eligible alcohol and drug addiction program that is located anywhere within this state.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay any fine imposed under division (H)(1) of this section to the eligible alcohol and drug addiction program specified pursuant to division (H)(2) of this section in the judgment. The eligible alcohol and drug addiction program that receives the fine moneys shall use the moneys only for the alcohol and drug addiction services identified in the application for certification under section 3793.06 of the Revised Code or in the application for a license under section 3793.11 of the Revised Code filed with the department of alcohol and drug addiction services by the alcohol and drug addiction program specified in the judgment.

(4) Each alcohol and drug addiction program that receives in a calendar year any fine moneys under division (H)(3) of this section shall file an annual report covering that calendar year with the court of common pleas and the board of county commissioners of the county in which the program is located, with the court of common pleas and the board of county commissioners of each county from which the program received the moneys if that county is different from the county in which the program is located, and with the attorney general. The alcohol and drug addiction program shall file the report no later than the first day of March in the calendar year following the calendar year in which the program received the fine moneys. The report shall include statistics on the number of persons served by the alcohol and drug addiction program, identify the types of alcohol and drug

addiction services provided to those persons, and include a specific accounting of the purposes for which the fine moneys received were used. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the alcohol and drug addiction program. Each report received by a court of common pleas, a board of county commissioners, or the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(5) As used in divisions (H)(1) to (5) of this section:

(a) "Alcohol and drug addiction program" and "alcohol and drug addiction services" have the same meanings as in section 3793.01 of the Revised Code.

(b) "Eligible alcohol and drug addiction program" means an alcohol and drug addiction program that is certified under section 3793.06 of the Revised Code or licensed under section 3793.11 of the Revised Code by the department of alcohol and drug addiction services.

Sec. 2925.14. (A) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

(1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;

(2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;

(4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;

(5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance;

(6) A scale or balance for weighing or measuring a controlled substance;

(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;

(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;

(9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;

(10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;

(11) A container or device for storing or concealing a controlled substance;

(12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;

(13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(B) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

(1) Any statement by the owner, or by anyone in control, of the equipment, product, or material, concerning its use;

(2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter;

(3) The proximity of the equipment, product, or material to any controlled substance;

(4) The existence of any residue of a controlled substance on the equipment, product, or material;

(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom the owner or person in control of the equipment, product, or material knows intends to use the object to facilitate a violation of any provision of this chapter. A finding that the owner, or anyone in control, of the equipment, product, or material, is not guilty of a violation of any other provision of this chapter does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use;

(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;

(8) National or local advertising concerning the use of the equipment, product, or material;

(9) The manner and circumstances in which the equipment, product, or material is displayed for sale;

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise;

(11) The existence and scope of legitimate uses of the equipment, product, or material in the community;

(12) Expert testimony concerning the use of the equipment, product, or material.

(C)(1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if the person knows that the purpose of the advertisement is to promote the illegal sale in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.

(D) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Revised Code.

(E) Notwithstanding ~~sections 2933.42 and 2933.43~~ Chapter 2981. of the Revised Code, any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to division ~~(D)(8)~~ (B) of section ~~2933.41~~ 2981.12 of the Revised Code.

(F)(1) Whoever violates division (C)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth

degree.

(2) Except as provided in division (F)(3) of this section, whoever violates division (C)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates division (C)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates division (C)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(G) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

~~Sec. 2925.42. (A)(1) In accordance with division (B) of this section, a person who is convicted of or pleads guilty to a felony drug abuse offense, and any juvenile who is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, loses any right to the possession of property and forfeits to the state any right, title, and interest the person may have in that property if either of the following applies:~~

~~(a) The property constitutes, or is derived directly or indirectly from, any proceeds that the person obtained directly or indirectly from the commission of the felony drug abuse offense or act.~~

~~(b) The property was used or intended to be used in any manner to commit, or to facilitate the commission of, the felony drug abuse offense or act.~~

~~(2) All right, title, and interest of a person in property described in division (A)(1) of this section vests in the state upon the person's commission of the felony drug abuse offense of which the person is convicted or to which the person pleads guilty and that is the basis of the forfeiture, or upon the juvenile's commission of the act that, if committed by an adult, would be a felony drug abuse offense, that is the basis of the juvenile being found to be a delinquent child, and that is the basis of the forfeiture. Subject to divisions (F)(3)(b) and (5)(b) and (G)(2) of this section, if any right, title, or interest in property is vested in this state under this division and subsequently is transferred to a person other than the offender who forfeits the right, title, or interest under division (A)(1) of this section, then, in accordance with division (B) of this section, the right, title,~~

~~or interest in the property may be the subject of a special verdict of forfeiture and, after any special verdict of forfeiture, shall be ordered forfeited to this state, unless the transferee establishes in a hearing held pursuant to division (F) of this section that the transferee is a bona fide purchaser for value of the right, title, or interest in the property and that, at the time of its purchase, the transferee was reasonably without cause to believe that it was subject to forfeiture under this section.~~

~~(3) The provisions of section 2925.43 of the Revised Code that relate to the forfeiture of any right, title, or interest in property associated with a felony drug abuse offense pursuant to a civil action to obtain a civil forfeiture do not apply to the forfeiture of any right, title, or interest in property described in division (A)(1) of this section that occurs pursuant to division (B) of this section upon a person's conviction of or guilty plea to a felony drug abuse offense or upon a juvenile being found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense.~~

~~(4) Nothing in this section precludes a financial institution that has or purports to have a security interest in or lien on property described in division (A)(1) of this section from commencing a civil action or taking other appropriate legal action in connection with the property, prior to its disposition in accordance with section 2925.44 of the Revised Code, for the purpose of obtaining possession of the property in order to foreclose or otherwise enforce the security interest or lien. A financial institution may commence a civil action or take other appropriate legal action for that purpose prior to the disposition of the property in accordance with section 2925.44 of the Revised Code, even if a felony drug abuse offense prosecution or a delinquent child proceeding for an act that, if committed by an adult, would be a felony drug abuse offense has been or could be commenced, even if the property is or could be the subject of an order of forfeiture issued under division (B)(5) of this section, and even if the property has been seized or is subject to seizure pursuant to division (D) or (E) of this section.~~

~~If a financial institution commences a civil action or takes any other appropriate legal action as described in this division, if the financial institution subsequently causes the sale of the property prior to its seizure pursuant to division (D) or (E) of this section and its disposition pursuant to section 2925.44 of the Revised Code, and if the person responsible for the conduct of the sale has actual knowledge of the commencement of a felony drug abuse offense prosecution or of a delinquent child proceeding for an act that, if committed by an adult, would be a felony drug abuse offense,~~

~~actual knowledge of a pending forfeiture proceeding under division (B) of this section, or actual knowledge of an order of forfeiture issued under division (B)(5) of this section, then the person responsible for the conduct of the sale shall dispose of the proceeds of the sale in the following order:~~

~~(a) First, to the payment of the costs of the sale and to the payment of the costs incurred by law enforcement agencies and financial institutions in connection with the seizure of, storage of, maintenance of, and provision of security for the property. As used in this division, "costs" of a financial institution do not include attorney's fees incurred by that institution in connection with the property.~~

~~(b) Second, the remaining proceeds of the sale after compliance with division (A)(4)(a) of this section, to the payment of valid security interests and liens pertaining to the property that, at the time of the vesting of the right, title, or interest of the adult or juvenile in the state under division (A)(2) of this section, are held by known secured parties and lienholders, in the order of priority of those security interests and liens;~~

~~(c) Third, the remaining proceeds of the sale after compliance with division (A)(4)(b) of this section, to the court that has or would have jurisdiction in a felony drug abuse offense prosecution or a delinquent child proceeding for an act that, if committed by an adult, would be a felony drug abuse offense, for disposition in accordance with section 2925.44 of the Revised Code.~~

~~(B)(1) A criminal forfeiture of any right, title, or interest in property described in division (A)(1) of this section is precluded unless one of the following applies:~~

~~(a) The indictment, count in the indictment, or information charging the felony drug abuse offense specifies the nature of the right, title, or interest of the alleged offender in the property described in division (A)(1) of this section that is potentially subject to forfeiture under this section, or a description of the property of the alleged offender that is potentially subject to forfeiture under this section, to the extent the right, title, or interest in the property or the property reasonably is known at the time of the filing of the indictment or information; or the complaint, indictment, or information charging a juvenile with being a delinquent child for the commission of an act that, if committed by an adult, would be a felony drug abuse offense specifies the nature of the right, title, or interest of the juvenile in the property described in division (A)(1) of this section that is potentially subject to forfeiture under this section, or a description of the property of the juvenile that is potentially subject to forfeiture under this section, to the extent the right, title, or interest in the property or the property reasonably is~~

known at the time of the filing of the complaint, indictment, or information.

~~(b) The property in question was not reasonably foreseen to be subject to forfeiture under this section at the time of the filing of the indictment, information, or complaint, the prosecuting attorney gave prompt notice to the alleged offender or juvenile of that property when it was discovered to be subject to forfeiture under this section, and a verdict of forfeiture described in division (B)(3) of this section requires the forfeiture of that property.~~

~~(2) The specifications described in division (B)(1) of this section shall be stated at the end of the body of the indictment, count in the indictment, information, or complaint.~~

~~(3)(a) If a person is convicted of or pleads guilty to a felony drug abuse offense, or a juvenile is found to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, then a special proceeding shall be conducted in accordance with this division to determine whether any property described in division (B)(1)(a) or (b) of this section will be the subject of an order of forfeiture under this section. Except as otherwise provided in division (B)(3)(b) of this section, the jury in the felony drug abuse offense criminal action or in the delinquent child action or, if that action was a nonjury action, the judge in that action shall hear and consider testimony and other evidence in the proceeding relative to whether any property described in division (B)(1)(a) or (b) of this section is subject to forfeiture under this section. If the jury or judge determines that the prosecuting attorney has established, by a preponderance of the evidence, that any property so described is subject to forfeiture under this section, the judge or juvenile judge shall render a verdict of forfeiture that specifically describes the right, title, or interest in property or the property that is subject to forfeiture under this section. The Rules of Evidence shall apply in the proceeding.~~

~~(b) If the trier of fact in a felony drug abuse offense criminal action or in a delinquent child action was a jury, then, upon the filing of a motion by the person who was convicted of or pleaded guilty to the felony drug abuse offense or upon the filing of a motion by the juvenile who was found to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, the determinations in the proceeding described in this division instead shall be made by the judge in the felony drug abuse offense criminal action or the juvenile judge.~~

~~(4) In a felony drug abuse offense criminal action or in a delinquent child action, if the trier of fact is a jury, the jury shall not be informed of any specification described in division (B)(1)(a) of this section or of any~~

~~property described in that division or division (B)(1)(b) of this section prior to the alleged offender being convicted of or pleading guilty to the felony drug abuse offense or prior to the juvenile being found to be a delinquent child for the commission of an act that, if committed by an adult, would be a felony drug abuse offense.~~

~~(5)(a) If a verdict of forfeiture is entered pursuant to division (B)(3) of this section, then the court that imposes sentence upon a person who is convicted of or pleads guilty to a felony drug abuse offense, or the juvenile court that finds a juvenile to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, in addition to any other sentence imposed upon the offender or order of disposition imposed upon the delinquent child, shall order that the offender or delinquent child forfeit to the state all of the offender's or delinquent child's right, title, and interest in the property described in division (A)(1) of this section. If a person is convicted of or pleads guilty to a felony drug abuse offense, or a juvenile is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, and derives profits or other proceeds from the offense or act, the court that imposes sentence or an order of disposition upon the offender or delinquent child, in lieu of any fine that the court is otherwise authorized or required to impose, may impose upon the offender or delinquent child a fine of not more than twice the gross profits or other proceeds so derived.~~

~~(b)(B) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, all fines imposed pursuant to this ~~division~~ section shall be paid by the clerk of the court to the county, municipal corporation, township, park district, as created pursuant to section 511.18 or 1545.01 of the Revised Code, or state law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. However, no fine so imposed shall be paid to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of section 2925.03 of the Revised Code that addresses the use of the fine moneys that it receives under this division and division (F)(1) of section 2925.03 of the Revised Code. The fines imposed and paid pursuant to this division shall be used by the law enforcement agencies to subsidize their efforts pertaining to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of section 2925.03 of the Revised Code.~~

~~(e)(C) As used in ~~division (B)(5)~~ of this section:~~

~~(i)(1) "Law enforcement agencies" includes, but is not limited to, the~~

state board of pharmacy and the office of a prosecutor.

~~(ii)(2)~~ "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

~~(6) If any of the property that is described in division (A)(1) of this section and that is the subject of an order of forfeiture issued under division (B)(5) of this section, because of an act or omission of the person who is convicted of or pleads guilty to the felony drug abuse offense that is the basis of the order of forfeiture, or an act or omission of the juvenile found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense and that is the basis of the forfeiture, cannot be located upon the exercise of due diligence, has been transferred to, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property that cannot be divided without difficulty, the court that issues the order of forfeiture shall order the forfeiture of any other property of the offender up to the value of any forfeited property described in this division.~~

~~(C) There shall be a rebuttable presumption that any right, title, or interest of a person in property described in division (A)(1) of this section is subject to forfeiture under division (B) of this section, if the state proves both of the following by a preponderance of the evidence:~~

~~(1) The right, title, or interest in the property was acquired by the offender during the period of the commission of the felony drug abuse offense or act that, if committed by an adult, would be a felony drug abuse offense, or within a reasonable time after that period.~~

~~(2) There is no likely source for the right, title, or interest in the property other than proceeds obtained from the commission of the felony drug abuse offense or act.~~

~~(D)(1) Upon the application of the prosecuting attorney who is prosecuting or has jurisdiction to prosecute the felony drug abuse offense or act, the court of common pleas or juvenile court of the county in which property subject to forfeiture under division (B) of this section is located, whichever is applicable, may issue a restraining order or injunction, an order requiring the execution of a satisfactory performance bond, or an order taking any other reasonable action necessary to preserve the availability of the property, at either of the following times:~~

~~(a) Upon the filing of an indictment, complaint, or information charging a person who has any right, title, or interest in the property with the commission of a felony drug abuse offense and alleging that the property with respect to which the order is sought will be subject to forfeiture under~~

~~division (B) of this section if the person is convicted of or pleads guilty to the offense, or upon the filing of a complaint, indictment, or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that, if committed by an adult, would be a felony drug abuse offense and alleging that the property with respect to which the order is sought will be subject to forfeiture under division (B) of this section if the juvenile is found to be a delinquent child because of the commission of that act;~~

~~(b) Except as provided in division (D)(3) of this section, prior to the filing of an indictment, complaint, or information charging a person who has any right, title, or interest in the property with the commission of a felony drug abuse offense, or prior to the filing of a complaint, indictment, or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that, if committed by an adult, would be a felony drug abuse offense, if, after notice is given to all persons known to have any right, title, or interest in the property and an opportunity to have a hearing on the order is given to those persons, the court determines both of the following:~~

~~(i) There is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property subject to forfeiture being destroyed, removed from the jurisdiction of the court, or otherwise being made unavailable for forfeiture.~~

~~(ii) The need to preserve the availability of the property subject to forfeiture through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.~~

~~(2) Except as provided in division (D)(3) of this section, an order issued under division (D)(1) of this section is effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment, complaint, or information charging the commission of a felony drug abuse offense or a complaint, indictment, or information alleging that a juvenile is a delinquent child because of the commission of an act that, if committed by an adult, would be a felony drug abuse offense, is filed against any alleged adult offender or alleged delinquent child with any right, title, or interest in the property that is the subject of the order.~~

~~(3) A court may issue an order under division (D)(1)(b) of this section without giving notice or an opportunity for a hearing to persons known to have any right, title, or interest in property, if the prosecuting attorney who is prosecuting or has jurisdiction to prosecute the felony drug abuse offense or act demonstrates that there is probable cause to believe that the property will be subject to forfeiture under division (B) of this section if a person~~

~~with any right, title, or interest in the property is convicted of or pleads guilty to a felony drug abuse offense or a juvenile with any right, title, or interest in the property is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, and that giving notice or an opportunity for a hearing to persons with any right, title, or interest in the property will jeopardize its availability for forfeiture. The order shall be a temporary order and expire not more than ten days after the date on which it is entered, unless it is extended for good cause shown or unless a person with any right, title, or interest in the property that is the subject of the order consents to an extension for a longer period. A hearing concerning an order issued under this division may be requested, and, if it is requested, the court shall hold the hearing at the earliest possible time prior to the expiration of the order.~~

~~(4) At any hearing held under division (D) of this section, the court may receive and consider evidence and information that is inadmissible under the Rules of Evidence. However, each hearing held under division (D) of this section shall be recorded by shorthand, by stenotype, or by any other mechanical, electronic, or video recording device. If, as a result of a hearing under division (D) of this section, property would be seized, the recording of and any transcript of the recording of that hearing shall not be a public record for purposes of section 149.43 of the Revised Code until that property has been seized pursuant to division (D) of this section. Division (D)(4) of this section shall not be construed as requiring, authorizing, or permitting, and does not require, authorize, or permit, the making available for inspection, or the copying, under section 149.43 of the Revised Code of any confidential law enforcement investigatory record or trial preparation record, as defined in that section.~~

~~(5) A prosecuting attorney or other law enforcement officer may request the court of common pleas of the county in which property subject to forfeiture under this section is located to issue a warrant authorizing the seizure of that property. The request shall be made in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized will be subject to forfeiture under this section when a person with any right, title, or interest in the property is convicted of or pleads guilty to a felony drug abuse offense or when a juvenile with any right, title, or interest in the property is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, and if the court determines that any order issued under division (D)(1), (2), or (3) of this section may not be sufficient to ensure the availability of the property for forfeiture, the court~~

shall issue a warrant authorizing the seizure of the property.

~~(E)(1) Upon the entry of an order of forfeiture under this section, the court shall order an appropriate law enforcement officer to seize all of the forfeited property upon the terms and conditions that the court determines are proper. In addition, upon the request of the prosecuting attorney who prosecuted the felony drug abuse offense or act, the court shall enter any appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the state in the forfeited property. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses related to the property that are required by law or that are necessary to protect the interest of the state or third parties.~~

~~After forfeited property is seized, the prosecuting attorney who prosecuted the felony drug abuse offense or act shall direct its disposition in accordance with section 2925.44 of the Revised Code, making due provision for the rights of any innocent persons. Any right, title, or interest in property not exercisable by, or transferable for value to, the state shall expire and shall not revert to the offender whose conviction or plea of guilty or act as a delinquent child is the basis of the order of forfeiture. Neither the adult offender or delinquent child nor any person acting in concert with or on behalf of the adult offender or delinquent child is eligible to purchase forfeited property at any sale held pursuant to section 2925.44 of the Revised Code.~~

~~Upon the application of any person other than the adult offender or delinquent child whose right, title, or interest in the property is the subject of the order of forfeiture or any person acting in concert with or on behalf of the adult offender or delinquent child, the court may restrain or stay the sale or other disposition of the property pursuant to section 2925.44 of the Revised Code pending the conclusion of any appeal of the felony drug abuse offense conviction or of the delinquent child adjudication that is the basis of the order of forfeiture, if the applicant demonstrates that proceeding with the sale or other disposition of the property will result in irreparable injury or loss to the applicant.~~

~~(2) With respect to property that is the subject of an order of forfeiture issued under this section, the court that issued the order, upon the petition of the prosecuting attorney who prosecuted the felony drug abuse offense or act, may do any of the following:~~

~~(a) Grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a felony drug abuse offense, or take any~~

~~other action to protect the rights of innocent persons that is in the interest of justice and that is not inconsistent with this section;~~

~~(b) Compromise claims that arise under this section;~~

~~(c) Award compensation to persons who provide information resulting in a forfeiture under this section;~~

~~(d) Direct the disposition by the prosecuting attorney who prosecuted the felony drug abuse offense or act, in accordance with section 2925.44 of the Revised Code, of all property ordered forfeited under this section, making due provision for the rights of innocent persons;~~

~~(e) Pending the disposition of any property that is the subject of an order of forfeiture under this section, take any appropriate measures that are necessary to safeguard and maintain the property.~~

~~(3) To facilitate the identification and location of property that is the subject of an order of forfeiture under this section and to facilitate the disposition of petitions for remission or mitigation issued under division (E)(2) of this section, after the issuance of an order of forfeiture under this section and upon application by the prosecuting attorney who prosecuted the felony drug abuse offense or act, the court may order that the testimony of any witness relating to the forfeited property be taken by deposition, and that any designated book, paper, document, record, recording, or other material that is not privileged be produced at the same time and place as the testimony, in the same manner as provided for the taking of depositions under the Rules of Civil Procedure.~~

~~(F)(1) Except as provided in divisions (F)(2) to (5) of this section, no person claiming any right, title, or interest in property subject to forfeiture under this section or section 2925.43 of the Revised Code may intervene in a criminal trial or appeal, or a delinquent child proceeding or appeal, involving the forfeiture of the property under this section or in a civil action for a civil forfeiture under section 2925.43 of the Revised Code, or may commence an action at law or equity against the state concerning the validity of the person's alleged right, title, or interest in the property subsequent to the filing of an indictment, complaint, or information alleging that the property is subject to forfeiture under this section or subsequent to the filing of a complaint, indictment, or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that, if committed by an adult, would be a felony drug abuse offense and alleging that the property is subject to forfeiture under this section.~~

~~(2) After the entry of an order of forfeiture under this section, the prosecuting attorney who prosecuted the felony drug abuse offense or act~~

~~shall conduct or cause to be conducted a search of the appropriate public records that relate to the property, and make or cause to be made reasonably diligent inquiries, for the purpose of identifying persons who have any right, title, or interest in the property. The prosecuting attorney then shall cause a notice of the order of forfeiture, of the prosecuting attorney's intent to dispose of the property in accordance with section 2925.44 of the Revised Code, and of the manner of the proposed disposal, to be given to each person who is known, because of the conduct of the search, the making of the inquiries, or otherwise, to have any right, title, or interest in the property, by certified mail, return receipt requested, or by personal service. Additionally, the prosecuting attorney shall cause a similar notice to be published once a week for two consecutive weeks in a newspaper of general circulation in the county in which the property was seized.~~

~~(3)(a) Any person, other than the adult offender whose conviction or guilty plea or the delinquent child whose adjudication is the basis of the order of forfeiture, who asserts a legal right, title, or interest in the property that is the subject of the order may petition the court that issued the order, within thirty days after the earlier of the final publication of notice or the person's receipt of notice under division (F)(2) of this section, for a hearing to adjudicate the validity of the person's alleged right, title, or interest in the property. The petition shall be signed by the petitioner under the penalties for falsification as specified in section 2921.13 of the Revised Code and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of that right, title, or interest, any additional facts supporting the petitioner's claim, and the relief sought.~~

~~(b) In lieu of filing a petition as described in division (F)(3)(a) of this section, a secured party or other lienholder of record that asserts a legal right, title, or interest in the property that is the subject of the order, including, but not limited to, a mortgage, security interest, or other type of lien, may file an affidavit as described in this division to establish the validity of the alleged right, title, or interest in the property. The affidavit shall be filed within thirty days after the earlier of the final publication of notice or the receipt of notice under division (F)(2) of this section and, except as otherwise provided in this section, shall constitute prima facie evidence of the validity of the secured party's or other lienholder's alleged right, title, or interest in the property. Unless the prosecuting attorney files a motion challenging the affidavit within ten days after its filing and unless the prosecuting attorney establishes, by a preponderance of the evidence, at a subsequent hearing before the court that issued the forfeiture order, that~~

~~the secured party or other lienholder does not possess the alleged right, title, or interest in the property or that the secured party or other lienholder had actual knowledge of facts pertaining to the felony drug abuse offense or act that was the basis of the forfeiture order, the affidavit shall constitute conclusive evidence of the validity of the secured party's or other lienholder's right, title, or interest in the property and shall have the legal effect described in division (G)(2) of this section. To the extent practicable and consistent with the interests of justice, any such hearing shall be held within thirty days after the prosecuting attorney files the motion. At any such hearing, the prosecuting attorney and the secured party or other lienholder may present evidence and witnesses and cross-examine witnesses.~~

~~In order to be valid for the purposes of this division and division (G)(2) of this section, the affidavit of a secured party or other lienholder shall contain averments that the secured party or other lienholder acquired its alleged right, title, or interest in the property in the regular course of its business, for a specified valuable consideration, without actual knowledge of any facts pertaining to the felony drug abuse offense or act that was the basis of the forfeiture order, in good faith and without the intent to prevent or otherwise impede the state from seizing or obtaining a forfeiture of the property under sections 2925.41 to 2925.45 of the Revised Code, and prior to the seizure or forfeiture of the property under those sections.~~

~~(4) Upon receipt of a petition filed under division (F)(3) of this section, the court shall hold a hearing to determine the validity of the petitioner's right, title, or interest in the property that is the subject of the order of forfeiture. To the extent practicable and consistent with the interests of justice, the hearing shall be held within thirty days after the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the offender whose conviction or guilty plea or adjudication as a delinquent child is the basis of the order of forfeiture. At the hearing, the petitioner may testify, present evidence and witnesses on the petitioner's behalf, and cross-examine witnesses for the state. The state may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses for the petitioner. In addition to evidence and testimony presented at the hearing, the court shall consider the relevant portions of the record in the felony drug abuse offense or delinquent child case that resulted in the order of forfeiture.~~

~~(5)(a) The court shall amend its order of forfeiture in accordance with its determination if it determines, at the hearing, that the petitioner has~~

~~established either of the following by a preponderance of the evidence:~~

~~(i) The petitioner has a legal right, title, or interest in the property that renders the order of forfeiture completely or partially invalid because it was vested in the petitioner, rather than the adult offender whose conviction or guilty plea or the delinquent child whose adjudication is the basis of the order, or was superior to any right, title, or interest of that offender, at the time of the commission of the felony drug abuse offense or act that is the basis of the order.~~

~~(ii) The petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that it was subject to forfeiture under this section.~~

~~(b) The court also shall amend its order of forfeiture to reflect any right, title, or interest of a secured party or other lienholder of record in the property subject to the order that was established pursuant to division (F)(3)(b) of this section by means of an affidavit, or that was established pursuant to that division by the failure of a prosecuting attorney to establish, in a hearing as described in that division, that the secured party or other lienholder did not possess the alleged right, title, or interest in the property or that the secured party or other lienholder had actual knowledge of facts pertaining to the felony drug abuse offense or act that was the basis of the order.~~

~~(G)(1) Subject to division (G)(2) of this section, if the court has disposed of all petitions filed under division (F) of this section or if no petitions are filed under that division and the time for filing petitions under that division has expired, the state shall have clear title to all property that is the subject of an order of forfeiture issued under this section and may warrant good title to any subsequent purchaser or other transferee.~~

~~(2) If an affidavit as described in division (F)(3)(b) of this section is filed in accordance with that division, if the affidavit constitutes, under the circumstances described in that division, conclusive evidence of the validity of the right, title, or interest of a secured party or other lienholder of record in the property subject to a forfeiture order, and if any mortgage, security interest, or other type of lien possessed by the secured party or other lienholder in connection with the property is not satisfied prior to a sale or other disposition of the property pursuant to section 2925.44 of the Revised Code, then the right, title, or interest of the secured party or other lienholder in the property remains valid for purposes of sections 2925.41 to 2925.45 of the Revised Code and any subsequent purchaser or other transferee of the property pursuant to section 2925.44 of the Revised Code shall take the property subject to the continued validity of the right, title, or interest of the~~

~~secured party or other lienholder in the property.~~

Sec. 2927.02. (A) As used in this section and section 2927.021 of the Revised Code:

(1) "Child" has the same meaning as in section 2151.011 of the Revised Code.

(2) "Cigarette" includes clove cigarettes and hand-rolled cigarettes.

(3) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, or papers used to roll cigarettes.

(4) "Proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under sections 4507.50 to 4507.52 of the Revised Code that shows that a person is eighteen years of age or older.

(5) "Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff.

(6) "Vending machine" has the same meaning as "coin machine" in section 2913.01 of the Revised Code.

(B) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no other person shall do any of the following:

(1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any child;

(2) Give away, sell, or distribute cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;

(3) Knowingly furnish any false information regarding the name, age, or other identification of any child with purpose to obtain cigarettes, other tobacco products, or papers used to roll cigarettes for that child;

(4) Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;

(5) Sell cigarettes in a smaller quantity than that placed in the pack or other container by the manufacturer.

(C) No person shall sell or offer to sell cigarettes or other tobacco

products by or from a vending machine, except in the following locations:

(1) An area within a factory, business, office, or other place not open to the general public;

(2) An area to which children are not generally permitted access;

(3) Any other place not identified in division (C)(1) or (2) of this section, upon all of the following conditions:

(a) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.

(b) The vending machine is inaccessible to the public when the place is closed.

(D) The following are affirmative defenses to a charge under division (B)(1) of this section:

(1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(2) The person who gave, sold, or distributed cigarettes, other tobacco products, or papers used to roll cigarettes to a child under division (B)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(E) It is not a violation of division (B)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

(1) The parent, guardian, or legal custodian of the child has consented in writing to the child participating in the research protocol.

(2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.

(3) The child is participating in the research protocol at the facility or location specified in the research protocol.

(F)(1) Whoever violates division (B)(1), (2), (4), or (5) or (C) of this section is guilty of illegal distribution of cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (B)(1), (2), (4), or (5) or (C) of this

section, illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.

(2) Whoever violates division (B)(3) of this section is guilty of permitting children to use cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (B)(3) of this section, permitting children to use cigarettes or other tobacco products is a misdemeanor of the third degree.

(G) Any cigarettes, other tobacco products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child in violation of this section and that are used, possessed, purchased, or received by a child in violation of section 2151.87 of the Revised Code are subject to seizure and forfeiture as contraband under ~~sections 2933.42 and 2933.43~~ Chapter 2981, of the Revised Code.

Sec. 2929.18. (A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the maximum conventional fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

(a) For a felony of the first degree, not more than twenty thousand dollars;

(b) For a felony of the second degree, not more than fifteen thousand dollars;

(c) For a felony of the third degree, not more than ten thousand dollars;

(d) For a felony of the fourth degree, not more than five thousand dollars;

(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5)(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14 or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined

at a hearing and shall not exceed the actual cost of the confinement.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.

(B)(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OVI offense and for a third degree felony OVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever is applicable. The mandatory fine so imposed shall be disbursed as provided in the division pursuant to which it is imposed.

(4) Notwithstanding any fine otherwise authorized or required to be

imposed under division (A)(2) or (3) or (B)(1) of this section or section 2929.31 of the Revised Code for a violation of section 2925.03 of the Revised Code, in addition to any penalty or sanction imposed for that offense under section 2925.03 or sections 2929.11 to 2929.18 of the Revised Code and in addition to the forfeiture of property in connection with the offense as prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981, of the Revised Code, the court that sentences an offender for a violation of section 2925.03 of the Revised Code may impose upon the offender a fine in addition to any fine imposed under division (A)(2) or (3) of this section and in addition to any mandatory fine imposed under division (B)(1) of this section. The fine imposed under division (B)(4) of this section shall be used as provided in division (H) of section 2925.03 of the Revised Code. A fine imposed under division (B)(4) of this section shall not exceed whichever of the following is applicable:

(a) The total value of any personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 2925.03 of the Revised Code, including any property that constitutes proceeds derived from that offense;

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed under division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981, of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B)(1) of this section plus the amount of any fine

imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B)(4) of this section. The sum total of the amounts of the mandatory fine, the fine imposed under division (B)(4) of this section, and the additional fine imposed under division (B)(6) of this section shall not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code. The clerk of the court shall pay any fine that is imposed under division (B)(6) of this section to the county, township, municipal corporation, park district as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender pursuant to division (F) of section 2925.03 of the Revised Code.

(7) If the sum total of the amount of a mandatory fine imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code plus the amount of any fine imposed under division (B)(4) of this section exceeds the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court shall not impose a fine under division (B)(6) of this section.

(C)(1) The offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by the department of rehabilitation and correction in operating a prison or other facility used to confine offenders pursuant to sanctions imposed under section 2929.14 or 2929.16 of the Revised Code to the treasurer of state. The treasurer of state shall deposit the reimbursements in the confinement cost reimbursement fund that is hereby created in the state treasury. The department of rehabilitation and correction shall use the amounts deposited in the fund to fund the operation of facilities used to confine offenders pursuant to sections 2929.14 and 2929.16 of the Revised Code.

(2) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the

Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in a special fund that shall be established in the treasury of each municipal corporation. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(4) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed pursuant to division (A)(5)(a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(5)(a)(ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to this

section is an order in favor of the victim of the offender's criminal act that can be collected through execution as described in division (D)(1) of this section or through an order as described in division (D)(2) of this section, and the offender shall be considered for purposes of the collection as the judgment debtor. Imposition of a financial sanction and execution on the judgment does not preclude any other power of the court to impose or enforce sanctions on the offender. Once the financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may bring an action to do any of the following:

(1) Obtain execution of the judgment or order through any available procedure, including:

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;

(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;

(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;

(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;

(iii) A creditor's suit under section 2333.01 of the Revised Code.

(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;

(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.

(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.

(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from

an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.32 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.32 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

Sec. 2930.11. (A) Except as otherwise provided in this section or in ~~sections 2933.41 to 2933.43~~ Chapter 2981, of the Revised Code, the law enforcement agency responsible for investigating a crime or specified delinquent act shall promptly return to the victim of the crime or specified delinquent act any property of the victim that was taken in the course of the investigation. In accordance with Criminal Rule 26 or an applicable Juvenile Rule, the law enforcement agency may take photographs of the property for use as evidence. If the ownership of the property is in dispute, the agency shall not return the property until the dispute is resolved.

(B) The law enforcement agency responsible for investigating a crime or specified delinquent act shall retain any property of the victim of the crime or specified delinquent act that is needed as evidence in the case, including any weapon used in the commission of the crime or specified delinquent act, if the prosecutor certifies to the court a need to retain the property in lieu of a photograph of the property or of another evidentiary substitute for the property itself.

(C) If the defendant or alleged juvenile offender in a case files a motion requesting the court to order the law enforcement agency to retain property of the victim because the property is needed for the defense in the case, the agency shall retain the property until the court rules on the motion. The court, in making a determination on the motion, shall weigh the victim's need for the property against the defendant's or alleged juvenile offender's assertion that the property has evidentiary value for the defense. The court shall rule on the motion in a timely fashion.

Sec. 2933.75. (A) Upon the institution of any criminal proceeding charging a medicaid fraud offense, the state, at any time during the pendency of the proceeding, may file a medicaid fraud lien notice with the county recorder of any county in which forfeitable property subject to

forfeiture may be located. No fee shall be required for filing the notice. The recorder immediately shall record the notice pursuant to section 317.08 of the Revised Code.

(B) A medicaid fraud lien notice shall be signed by the prosecuting attorney or attorney general who will prosecute the case and who files the lien. The notice shall set forth all of the following information:

(1) The name of the person against whom the proceeding has been brought. The prosecuting attorney or attorney general who will prosecute the case may specify in the notice any aliases, names, or fictitious names under which the person may be known.

(2) If known to the prosecuting attorney or attorney general who will prosecute the case, the present residence and business addresses of the person or names set forth in the notice;

(3) A statement that a criminal proceeding for a medicaid fraud offense has been brought against the person named in the notice, the name of the county in which the proceeding has been brought, and the case number of the proceeding;

(4) A statement that the notice is being filed pursuant to this section;

(5) The name and address of the prosecuting attorney or attorney general filing the notice;

(6) A description of the real or personal property subject to the notice and of the interest in that property of the person named in the notice, to the extent the property and the interest of the person in it reasonably is known at the time the proceeding is instituted or at the time the notice is filed.

(C) A medicaid fraud lien notice shall apply only to one person and, to the extent applicable, any aliases, fictitious names, or other names, including names of corporations, partnerships, or other entities, to the extent permitted in this section. A separate medicaid fraud lien notice is required to be filed for any other person.

(D) Within seven days after the filing of each medicaid fraud lien notice, the prosecuting attorney or attorney general who files the notice shall furnish to the person named in the notice by certified mail, return receipt requested, to the last known business or residential address of the person, a copy of the recorded notice with a notation on it of any county in which the notice has been recorded. The failure of the prosecuting attorney or attorney general to furnish a copy of the notice under this section shall not invalidate or otherwise affect the medicaid fraud lien notice when the prosecuting attorney or attorney general did not know and could not reasonably ascertain the address of the person entitled to notice.

After receipt of a copy of the notice under this division, the person

named in the notice may petition the court to authorize the person to post a surety bond in lieu of the lien or to otherwise modify the lien as the interests of justice may require. The bond shall be in an amount equal to the value of the property reasonably known to be subject to the notice and conditioned on the payment of any judgment and costs ordered in an action pursuant to ~~section 2933.73~~ Chapter 2981, of the Revised Code up to the value of the bond.

(E) From the date of filing of a medicaid fraud lien notice, the notice creates a lien in favor of the state on any personal or real property or any beneficial interest in the property located in the county in which the notice is filed that then or subsequently is owned by the person named in the notice or under any of the names set forth in the notice.

The lien created in favor of the state is superior and prior to the interest of any other person in the personal or real property or beneficial interest in the property, if the interest is acquired subsequent to the filing of the notice.

(F) If a medicaid fraud lien notice has been filed, and if a forfeiture order is entered subsequent to a conviction or guilty plea in the criminal proceeding pursuant to ~~section 2933.73~~ Chapter 2981, of the Revised Code in favor of the state, the interest of any person in the property that was acquired subsequent to the filing of the notice shall be subject to the notice and order of forfeiture.

(G) Upon the issuance of an order of forfeiture in favor of the state pursuant to ~~section 2933.73~~ Chapter 2981, of the Revised Code, title of the state to the forfeited property shall do either of the following:

(1) In the case of real property, or a beneficial interest in it, relate back to the date of filing of the medicaid fraud lien notice in the county where the property or interest is located. If no medicaid fraud lien notice was filed, title of the state relates back to the date of the recording of the order of forfeiture in the records of the county recorder of the county in which the real property or beneficial interest is located.

(2) In the case of personal property or a beneficial interest in it, relate back to the date on which the property or interest was seized by the state, or the date of filing of a medicaid fraud lien notice in the county in which the property or beneficial interest is located. If the property was not seized and no medicaid fraud lien notice was filed, title of the state relates back to the date of the recording of the order of forfeiture in the county in which the personal property or beneficial interest is located.

(H) If personal or real property, or a beneficial interest in it, that is forfeitable property and is subject to forfeiture pursuant to ~~section 2933.73~~ Chapter 2981, of the Revised Code is conveyed, alienated, disposed of, or

otherwise rendered unavailable for forfeiture after the filing of either a medicaid fraud lien notice, or a criminal proceeding for a medicaid fraud offense, whichever is earlier, the state may bring an action in any court of common pleas against the person named in the medicaid fraud lien notice or the defendant in the criminal proceeding to recover the value of the property or interest. The court shall enter final judgment against the person named in the notice or the defendant for an amount equal to the value of the property or interest together with investigative costs and attorney's fees incurred by the state in the action.

(I) If personal or real property, or a beneficial interest in it, that is forfeitable property and is subject to forfeiture pursuant to ~~section 2933.73~~ Chapter 2981, of the Revised Code is alienated or otherwise transferred or disposed of after either the filing of a medicaid fraud lien notice, or the filing of a criminal proceeding for a medicaid fraud offense, whichever is earlier, the transfer or disposal is fraudulent as to the state and the state shall have all the rights granted a creditor under Chapter 1336. of the Revised Code.

(J) No trustee, who acquires actual knowledge that a medicaid fraud lien notice or a criminal proceeding for a medicaid fraud offense has been filed against any person for whom ~~he~~ the trustee holds legal or record title to personal or real property, shall recklessly fail to furnish promptly to the prosecuting attorney or attorney general who is prosecuting the case all of the following:

- (1) The name and address of the person, as known to the trustee;
- (2) The name and address, as known to the trustee, of all other persons for whose benefit the trustee holds title to the property;
- (3) If requested by the prosecuting attorney or attorney general who is prosecuting the case, a copy of the trust agreement or other instrument under which the trustee holds title to the property.

Any trustee who fails to comply with division (J) of this section is guilty of failure to provide medicaid fraud lien information, a misdemeanor of the first degree.

(K) If a trustee transfers title to personal or real property after a medicaid fraud lien notice is filed against the property, the lien is filed in the county in which the property is located, and the lien names a person who holds a beneficial interest in the property, the trustee, if ~~he~~ the trustee has actual notice of the notice, shall be liable to the state for the greater of the following:

- (1) The proceeds received directly by the person named in the notice as a result of the transfer;

(2) The proceeds received by the trustee as a result of the transfer and distributed to the person named in the notice;

(3) The fair market value of the interest of the person named in the notice in the property transferred.

However, if the trustee transfers property for at least its fair market value and holds the proceeds that otherwise would be paid or distributed to the beneficiary, or at the direction of the beneficiary or ~~his~~ the beneficiary's designee, the liability of the trustee shall not exceed the amount of the proceeds held by the trustee.

(L) The filing of a medicaid fraud lien notice does not constitute a lien on the record title to personal or real property owned by the trustee, except to the extent the trustee is named in the notice.

The prosecuting attorney for the county or the attorney general may bring a civil action in any court of common pleas to recover from the trustee the amounts set forth in division (H) of this section. The county or state may recover investigative costs and attorney's fees incurred by the prosecuting attorney or the attorney general.

(M)(1) This section does not apply to any transfer by a trustee under a court order, unless the order is entered in an action between the trustee and the beneficiary.

(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in the trust is named in a medicaid fraud lien notice, this section does not apply to either of the following:

(a) Any transfer by a trustee required under the terms of any trust agreement, if the agreement is a matter of public record before the filing of any medicaid fraud lien notice;

(b) Any transfer by a trustee to all of the persons who own a beneficial interest in the trust.

(N) The filing of a medicaid fraud lien notice does not affect the use to which personal or real property, or a beneficial interest in it, that is owned by the person named in the notice may be put or the right of the person to receive any proceeds resulting from the use and ownership, but not the sale, of the property, until a judgment of forfeiture is entered.

(O) The term of a medicaid fraud lien notice is five years from the date the notice is filed, unless a renewal notice has been filed by the prosecuting attorney of the county in which the property or interest is located or by the attorney general. The term of any renewal of a medicaid fraud lien notice granted by the court is five years from the date of its filing. A medicaid fraud lien notice may be renewed any number of times while a criminal proceeding for a medicaid fraud offense, or an appeal from such a

proceeding, is pending.

(P) The prosecuting attorney or attorney general who files the medicaid fraud lien notice may terminate, in whole or part, the notice or release any personal or real property or beneficial interest in the property upon any terms that ~~he~~ the prosecuting attorney or attorney general determines are appropriate. Any termination or release shall be filed by the prosecuting attorney or attorney general with each county recorder with whom the notice was filed. No fee shall be imposed for the filing.

(Q) The acquittal in a criminal proceeding for a medicaid fraud offense of the person named in the medicaid fraud lien notice or the dismissal of a criminal proceeding for such an offense against the person named in the notice terminates the notice. In such a case, the filing of the notice has no effect.

A person named in a medicaid fraud lien notice may bring an action against the prosecuting attorney or attorney general who filed the notice, in the county where it was filed, seeking a release of the property subject to the notice or termination of the notice. In such a case, the court of common pleas promptly shall set a date for hearing, which shall be not less than five nor more than ten days after the action is filed. The order and a copy of the complaint shall be served on the prosecuting attorney or attorney general within three days after the action is filed. At the hearing, the court shall take evidence as to whether any personal or real property, or beneficial interest in it, that is owned by the person bringing the action is covered by the notice or otherwise is subject to forfeiture. If the person bringing the action shows by a preponderance of the evidence that the notice does not apply to ~~him~~ the person or that any personal or real property, or beneficial interest in it, that is owned by ~~him~~ the person is not subject to forfeiture, the court shall enter a judgment terminating the notice or releasing the personal or real property or beneficial interest from the notice.

At a hearing, the court may release from the notice any property or beneficial interest upon the posting of security, by the person against whom the notice was filed, in an amount equal to the value of the property or beneficial interest owned by the person.

The court promptly shall enter an order terminating a medicaid fraud lien notice or releasing any personal or real property or beneficial interest in the property, if a sale of the property or beneficial interest is pending and the filing of the notice prevents the sale. However, the proceeds of the sale shall be deposited with the clerk of the court, subject to the further order of the court.

(R) Notwithstanding any provision of this section, any person who has

perfected a security interest in personal or real property or a beneficial interest in the property for the payment of an enforceable debt or other similar obligation prior to the filing of a medicaid fraud lien notice in reference to the property or interest may foreclose on the property or interest as otherwise provided by law. The foreclosure, insofar as practical, shall be made so that it otherwise will not interfere with a forfeiture under ~~section 2933.73~~ Chapter 2981, of the Revised Code.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint township police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, veterans' home police officer appointed under section 5907.02 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms if the house sergeant at arms has arrest

authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any

facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating

a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends

pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to ~~section 2933.43~~ Chapter 2981, of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, ~~section 2933.43~~ 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer

with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint township police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is

appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint township police district created under section 505.481 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or

highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer.

(F)(1) A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities and if a

department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of mental retardation and developmental disabilities special police officer" means a special police officer of the department of mental retardation and developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section

2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

Sec. 2941.1417. (A) Property is not subject to forfeiture in a criminal case unless the indictment, count in the indictment, or information charging the offense specifies, to the extent it is reasonably known at the time of filing, the nature and extent of the alleged offender's interest in the property, a description of the property, and, if the property is alleged to be an instrumentality, the alleged use or intended use of the property in the commission or facilitation of the offense. The specification shall be stated at the end of the body of the indictment, count, or information and shall be in substantially the following form:

"SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT). The grand jurors (or insert the person's or prosecuting attorney's name when appropriate) further find and specify that (set forth the alleged offender's interest in the property, a description of the property subject to forfeiture, and any alleged use or intended use of the property in the commission or facilitation of the offense)."

(B) The trier of fact shall determine whether the property is subject to forfeiture.

(C) The specification described in division (A) of this section may be used in a delinquent child proceeding.

Sec. 2945.44. (A) In any criminal proceeding in this state or in any criminal or civil proceeding brought pursuant to ~~sections 2923.31 to 2923.36~~ Chapter 2981 of the Revised Code, if a witness refuses to answer or produce information on the basis of ~~his~~ the witness's privilege against self-incrimination, the court of common pleas of the county in which the proceeding is being held, unless it finds that to do so would not further the administration of justice, shall compel the witness to answer or produce the

information, if both of the following apply:

(1) The prosecuting attorney of the county in which the proceedings are being held makes a written request to the court of common pleas to order the witness to answer or produce the information, notwithstanding ~~his~~ the witness's claim of privilege;

(2) The court of common pleas informs the witness that by answering, or producing the information ~~he~~ the witness will receive immunity under division (B) of this section.

(B) If, but for this section, the witness would have been privileged to withhold an answer or any information given in any criminal proceeding, and ~~he~~ the witness complies with an order under division (A) of this section compelling ~~him~~ the witness to give an answer or produce any information, ~~he~~ the witness shall not be prosecuted or subjected to any criminal penalty in the courts of this state for or on account of any transaction or matter concerning which, in compliance with the order, ~~he~~ the witness gave an answer or produced any information.

(C) A witness granted immunity under this section may be subjected to a criminal penalty for any violation of section 2921.11, 2921.12, or 2921.13 of the Revised Code, or for contempt committed in answering, failing to answer, or failing to produce information in compliance with the order.

Sec. 2981.01. (A) Forfeitures under this chapter shall be governed by all of the following purposes:

(1) To provide economic disincentives and remedies to deter and offset the economic effect of offenses by seizing and forfeiting contraband, proceeds, and certain instrumentalities;

(2) To ensure that seizures and forfeitures of instrumentalities are proportionate to the offense committed;

(3) To protect third parties from wrongful forfeiture of their property;

(4) To prioritize restitution for victims of offenses.

(B) As used in this chapter:

(1) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(2) "Computers," "computer networks," "computer systems," "computer software," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(3) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.

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

(5) "Innocent person" includes any bona fide purchaser of property that is subject to forfeiture, including any person who establishes a valid claim to or interest in the property in accordance with section 2923.04 of the Revised Code, and any victim of an alleged offense.

(6) "Instrumentality" means property otherwise lawful to possess that is used in or intended to be used in an offense. An "instrumentality" may include, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, and any other means of exchange.

(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy and the office of the prosecutor.

(8) "Mobile instrumentality" means an instrumentality that is inherently mobile and used in the routine transport of persons. "Mobile instrumentality" includes, but is not limited to, any vehicle, any watercraft, and any aircraft.

(9) "Money" has the same meaning as in section 1301.01 of the Revised Code.

(10) "Offense" means any act or omission that could be charged as a criminal offense or a delinquent act, whether or not a formal criminal prosecution or delinquent child proceeding began at the time the forfeiture is initiated. Except as otherwise specified, an offense for which property may be forfeited includes any felony and any misdemeanor. The commission of an "offense" includes the commission of a delinquent act.

(11) "Proceeds" means both of the following:

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense.

(b) In cases involving lawful goods or services that are sold or provided in an unlawful manner, "proceeds" means the amount of money or other means of exchange acquired through the illegal transactions resulting in the forfeiture, less the direct costs lawfully incurred in providing the goods or services. The lawful costs deduction does not include any part of the overhead expenses of, or income taxes paid by, the entity providing the goods or services. The alleged offender or delinquent child has the burden to prove that any costs are lawfully incurred.

(12) "Property" means "property" as defined in section 2901.01 of the Revised Code and any benefit, privilege, claim, position, interest in an enterprise, or right derived, directly or indirectly, from the offense.

(13) "Property subject to forfeiture" includes contraband and proceeds and may include instrumentalities as provided in this chapter.

(14) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. When relevant, "prosecutor" also includes the attorney general.

(15) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(16) "Watercraft" has the same meaning as in section 1547.01 of the Revised Code.

(C) The penalties and procedures under Chapters 2923., 2925., and 2933. of the Revised Code remain in effect to the extent that they do not conflict with this chapter.

Sec. 2981.02. (A) The following property is subject to forfeiture to the state or a political subdivision under either the criminal or delinquency process in section 2981.04 of the Revised Code or the civil process in section 2981.05 of the Revised Code:

(1) Contraband involved in an offense;

(2) Proceeds derived from or acquired through the commission of an offense;

(3) An instrumentality that is used in or intended to be used in the commission or facilitation of any of the following offenses when the use or intended use, consistent with division (B) of this section, is sufficient to warrant forfeiture under this chapter:

(a) A felony;

(b) A misdemeanor, when forfeiture is specifically authorized by a section of the Revised Code or by a municipal ordinance that creates the offense or sets forth its penalties;

(c) An attempt to commit, complicity in committing, or a conspiracy to commit an offense of the type described in divisions (A)(3)(a) and (b) of this section.

(B) In determining whether an alleged instrumentality was used in or was intended to be used in the commission or facilitation of an offense or an attempt, complicity, or conspiracy to commit an offense in a manner sufficient to warrant its forfeiture, the trier of fact shall consider the following factors the trier of fact determines are relevant:

(1) Whether the offense could not have been committed or attempted but for the presence of the instrumentality;

(2) Whether the primary purpose in using the instrumentality was to commit or attempt to commit the offense;

(3) The extent to which the instrumentality furthered the commission of,

or attempt to commit, the offense.

(C) This chapter does not apply to or limit forfeitures under Title XLV of the Revised Code, including forfeitures relating to section 2903.06 or 2903.08 of the Revised Code.

Sec. 2981.03. (A)(1) The state or political subdivision acquires provisional title to property subject to forfeiture under this chapter upon a person's commission of an offense giving rise to forfeiture, subject to third party claims and a final adjudication under section 2981.04 or 2981.05 of the Revised Code. Provisional title authorizes the state or political subdivision to seize and hold the property, and to act to protect the property, under this section before any proceeding under this chapter. Title to the property vests with the state or political subdivision when the trier of fact renders a final forfeiture verdict or order under section 2981.04 or 2981.05 of the Revised Code, but that title is subject to third party claims adjudicated under those sections.

(2) A law enforcement officer may seize property that the officer has probable cause to believe is property subject to forfeiture. If a law enforcement officer seizes property that is titled or registered under law, the officer or the law enforcement agency that employs the officer shall notify the property owner of the seizure. The agency shall give notice to the property owner at the owner's last known address as soon as practical after the seizure and may give the notice by certified mail or orally by any means, including telephone. If the officer or agency is unable to provide the notice required by this division despite reasonable, good faith efforts, those efforts constitute fulfillment of the notice requirement.

(3) In a civil forfeiture case under this chapter in which the state or political subdivision seeks to seize real property, the property owner may request a hearing before the seizure, and in the hearing the state or political subdivision shall show probable cause that the real property is subject to forfeiture.

(4) A person aggrieved by an alleged unlawful seizure of property may seek relief from the seizure by filing a motion in the appropriate court that shows the person's interest in the property, states why the seizure was unlawful, and requests the property's return. If the motion is filed before an indictment, information, or a complaint seeking forfeiture of the property is filed, the court shall promptly schedule a hearing on the motion, and at the hearing the person shall demonstrate by a preponderance of the evidence that the seizure was unlawful and that the person is entitled to the property. If the motion is filed by a defendant after an indictment, information, or a complaint seeking forfeiture of the property has been filed, the court shall

treat the motion as a motion to suppress evidence. If the motion is filed by a third party after an indictment, information, or complaint seeking forfeiture of the property has been filed, the court shall treat the motion as a petition of a person with an alleged interest in the subject property, pursuant to divisions (E) and (F) of section 2981.04 of the Revised Code.

(5)(a) In any action under section 2981.04 or 2981.05 of the Revised Code, if a property owner or third party claims lawful interest in the subject property alleged to be proceeds, the state or political subdivision has provisional title and a right to hold property if it proves both of the following by a preponderance of the evidence:

(i) The interest in the property was acquired by the alleged offender or delinquent child during the commission of the offense or within a reasonable time after that period.

(ii) There is no likely source for the interest in the property other than as proceeds derived from or acquired through the commission of the offense.

(b) The alleged offender or delinquent child shall have the burden to prove the amount of any direct costs lawfully incurred.

(B)(1) Upon application by the prosecutor who prosecutes or brings an action that allows forfeiture under this chapter, the court in which the action is prosecuted or filed may issue an order taking any reasonable action necessary to preserve the reachability of the property including, but not limited to, a restraining order or injunction, an order requiring execution of a satisfactory bond or insurance policy, an order to inspect, photograph, or inventory the property, an order placing a lien or lis pendens against the property, or an order appointing a receiver or trustee. The court may issue an order of this nature at any of the following times:

(a) Upon the filing of a complaint, indictment, or information alleging the property to be subject to forfeiture under section 2981.02 of the Revised Code;

(b) Prior to the filing of a complaint, an indictment, or information alleging the property to be subject to forfeiture under section 2981.02 of the Revised Code, if, after giving notice to all persons known to have a interest in the property and giving those persons an opportunity to be heard, the court determines that all of the following apply:

(i) There is a substantial probability the state or political subdivision will prevail on the forfeiture issue.

(ii) There is a substantial probability that failure to enter the order will result in the property being destroyed, being removed from the court's jurisdiction, or otherwise being made unavailable for forfeiture.

(iii) The need to preserve the availability of the property outweighs the

hardship on the person against whom the order is to be entered.

(c) As a condition of releasing the property based on a determination of substantial hardship under division (D) of this section.

(2) Except as otherwise provided in division (B)(3) of this section, the court shall make an order under division (B)(1)(b) of this section effective for not more than ninety days, but the court may extend the order if the prosecutor demonstrates that the need to preserve the reachability of the property still exists or for other good cause shown and shall extend the order if an indictment, information, or a complaint is filed alleging that the property is subject to forfeiture.

(3) A court may issue an order under division (B)(1) of this section without giving notice or a hearing to a person known to have an interest in the property if the prosecutor demonstrates that the property is subject to forfeiture and that giving notice and a hearing will jeopardize the availability of the property for forfeiture. Notwithstanding the ninety-day limit described in division (B)(2) of this section, the court shall make an order under division (B)(3) of this section effective for not more than ten days, but the court may extend the order if the prosecutor again demonstrates that the property is subject to forfeiture and that a hearing will jeopardize the availability of the property or for other good cause shown or if the person subject to the order consents to a longer period. If a party requests a hearing on the order, the court shall hold the hearing at the earliest possible time before the order expires.

(4) At any hearing under division (B) of this section, the court may receive and consider evidence and information that is inadmissible under the Rules of Evidence. The court shall cause the hearing to be recorded and shall cause a transcript to be made. If property is to be seized as a result of the hearing, the recording and transcript shall not be a public record for purposes of section 149.43 of the Revised Code until the property is seized. This section does not authorize making available for inspection any confidential law enforcement investigatory record or trial preparation record, as defined in section 149.43 of the Revised Code.

(C) Except as otherwise provided in division (E) of this section, any replevin, conversion, or other civil action brought concerning property subject to a criminal or civil forfeiture action under this chapter shall be stayed until the forfeiture action is resolved.

(D)(1) A person with an interest in property that is subject to forfeiture and that is seized under this chapter may seek conditional release of the property by requesting possession from the person with custody of the property. The request shall demonstrate how the person meets the

requirements specified in divisions (D)(3)(a), (b), and (c) of this section.

(2) If the person with custody of the property does not release the property within fifteen days after a person makes a request under division (D)(1) of this section, or within seven days after a person makes the request if the property was seized as a mobile instrumentality or if the request is to copy records, the person who made the request may file a petition for conditional release with the court in which the complaint, indictment, or information is filed or, if no complaint, indictment, or information is filed, the court that issued the seizure warrant for the property. The petition shall demonstrate how the person meets the requirements specified in divisions (D)(3)(a), (b), and (c) of this section and the steps the person has taken to secure release of the property from the official. Unless extended for good cause shown, the petition shall be filed either within thirty days of the filing of a complaint, an indictment, or information in the forfeiture action or, if no complaint, indictment, or information is filed, within thirty days of the issuance of the seizure warrant of the property.

If the court finds that the person meets the criteria specified in divisions (D)(3)(a), (b), and (c) of this section, the court shall order the property's conditional return to the person pending completion of the forfeiture action. In issuing this order, the court shall notify the person of the prohibitions against interfering with or diminishing property in section 2981.07 of the Revised Code and may make any order necessary to ensure that the value of the property is maintained.

If personal, business, or governmental records are seized, including those contained in computer files, a person may petition the court for a prompt opportunity to copy, at the person's expense, any records that are not contraband. The court may grant the petition if the person demonstrates how the person meets the requirements specified in divisions (D)(3)(a) and (c) of this section. The court shall order a competent person to supervise the copying.

(3) Except when there is probable cause that the property is contraband, property that must be held for a reasonable time as evidence related to an offense, or property that is likely to be used in additional offenses or except when the state or political subdivision meets the burden imposed under division (A)(5) of this section regarding alleged proceeds, a court may conditionally release property subject to forfeiture to a person who demonstrates all of the following:

(a) A possessory interest in the property;

(b) Sufficient ties to the community to provide assurance that the property will be available at the time of trial;

(c) That failure to conditionally release the property will cause a substantial hardship to the claimant.

(4) In determining whether a substantial hardship exists, the court shall weigh the claimant's likely hardship from the state's or political subdivision's continued possession of the property against the risk that the property will be destroyed, damaged, lost, concealed, or transferred if returned to the claimant. The court shall consider in favor of release the possibility that withholding the property would prevent a legitimate business from functioning, prevent the claimant's or an innocent person from maintaining employment, or leave the claimant or an innocent person homeless.

(5) If the state or political subdivision shows that the claimant's petition is frivolous, the court shall deny the petition. Otherwise, the state or political subdivision may respond to the petition by submitting evidence ex parte to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending trial.

(6) The court shall decide on the petition not more than thirty days after it is filed. If the property seized is alleged to be a mobile instrumentality, the court shall decide on the petition as soon as practicable within the thirty-day period. If personal, business, or governmental records were seized and a person files a petition to copy the records, the court shall decide on the petition as soon as practicable. In any case, the court may extend the time for deciding on the petition by consent of the parties or for good cause shown.

(E) Nothing in this section precludes a financial institution that has or purports to have a security interest in or lien on property described in section 2981.02 of the Revised Code from filing an action in connection with the property, prior to its disposition under this chapter, to obtain possession of the property in order to foreclose or otherwise enforce the security interest or lien.

If a financial institution commences a civil action or takes any other appropriate legal action to sell the property prior to its seizure or prior to its disposition under this chapter, if the person who is responsible for conducting the sale has actual knowledge of the commencement of a forfeiture action under either section 2981.04 or 2981.05 of the Revised Code, and if the property is sold, then the person shall dispose of the proceeds of the sale in the following order:

(1) First, to the payment of the costs of the sale, excluding any associated attorney's fees, and to the payment of the costs incurred by law enforcement agencies and financial institutions in connection with the

seizure, storage, and maintenance of, and provision of security for, the property;

(2) Second, in the order of priority of the security interests and liens, to the payment of valid security interests and liens pertaining to the property that, at the time at which the state or political subdivision gains provisional title, are held by known secured parties and lienholders;

(3) Third, to the court that has or would have jurisdiction in a case or proceeding under section 2981.04 or section 2981.05 of the Revised Code for disposition under this chapter.

(F) A prosecutor may file a forfeiture action under section 2981.04 or 2981.05 of the Revised Code, or both. If property is seized pursuant to this section and a criminal forfeiture has not begun under section 2981.04 of the Revised Code, the prosecutor of the county in which the seizure occurred shall commence a civil action to forfeit that property under section 2981.05 of the Revised Code.

If the property seized includes property alleged to be a mobile instrumentality or includes personal, business, or governmental records, the civil forfeiture action shall be brought within thirty days of seizure. Otherwise, the action shall be brought within sixty days of seizure. In either case, the period within which the action shall be brought may be extended by agreement of the parties or by the court for good cause shown.

A prosecutor may file an appropriate charging instrument under section 2981.04 of the Revised Code to seek a criminal forfeiture after a civil forfeiture action begins. Filing a charging instrument for an offense that is also the basis of a civil forfeiture action shall stay the civil action.

A civil action to obtain civil forfeiture may be commenced as described in section 2981.05 of the Revised Code regardless of whether the offender or delinquent child has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for the act that is the basis of the order.

(G) The prosecutor shall maintain an accurate record of each item disposed of under section 2981.04 or 2981.05 of the Revised Code. The record shall not identify or enable the identification of the officer who seized the property. The record is a public record open for inspection under section 149.43 of the Revised Code.

Sec. 2981.04. (A)(1) Property described in division (A) of section 2981.02 of the Revised Code may be forfeited under this section only if the complaint, indictment, or information charging the offense or municipal violation, or the complaint charging the delinquent act, contains a specification of the type described in section 2941.1417 of the Revised Code that sets forth all of the following to the extent it is reasonably known at the

time of the filing:

(a) The nature and extent of the alleged offender's or delinquent child's interest in the property;

(b) A description of the property;

(c) If the property is alleged to be an instrumentality, the alleged use or intended use of the property in the commission or facilitation of the offense.

(2) If any property is not reasonably foreseen to be subject to forfeiture at the time of filing the indictment, information, or complaint, the trier of fact still may return a verdict of forfeiture concerning that property in the hearing described in division (B) of this section if the prosecutor, upon discovering the property to be subject to forfeiture, gave prompt notice of this fact to the alleged offender or delinquent child under Criminal Rule 7(E) or Juvenile Rule 10(B).

(3) For good cause shown, the court may consider issues of the guilt of the alleged offender or the delinquency of the alleged delinquent child separate from whether property specified as subject to forfeiture should be forfeited.

(B) If a person pleads guilty to or is convicted of an offense or is adjudicated a delinquent child for committing a delinquent act and the complaint, indictment, or information charging the offense or act contains a specification covering property subject to forfeiture under section 2981.02 of the Revised Code, the trier of fact shall determine whether the person's property shall be forfeited. If the state or political subdivision proves by a preponderance of the evidence that the property is in whole or part subject to forfeiture under section 2981.02 of the Revised Code, after a proportionality review under section 2981.09 of the Revised Code when relevant, the trier of fact shall return a verdict of forfeiture that specifically describes the extent of the property subject to forfeiture. If the trier of fact is a jury, on the offender's or delinquent child's motion, the court shall make the determination of whether the property shall be forfeited.

(C) If the court enters a verdict of forfeiture under this section, the court imposing sentence or disposition, in addition to any other sentence authorized by Chapter 2929. of the Revised Code or any disposition authorized by Chapter 2152. of the Revised Code, shall order that the offender or delinquent child forfeit to the state or political subdivision the offender's or delinquent child's interest in the property. The property vests with the state or political subdivision subject to the claims of third parties. The court may issue any additional order to affect the forfeiture, including, but not limited to, an order under section 2981.06 of the Revised Code.

(D) After the entry of a forfeiture order under this section, the

prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. The prosecutor shall give notice of the forfeiture that remains subject to the claims of third parties and proposed disposal of the forfeited property to any person known to have an interest in the property. The prosecutor also shall publish notice of the forfeiture that remains subject to the claims of third parties and proposed disposal of the forfeited property once each week for two consecutive weeks in a newspaper of general circulation in the county in which the property was seized.

(E)(1) Any person, other than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the forfeiture order, who asserts a legal interest in the property that is the subject of the order may petition the court that issued the order for a hearing under division (E)(3) of this section to adjudicate the validity of the person's alleged interest in the property. All of the following apply to the petition:

(a) It shall be filed within thirty days after the final publication of notice or the person's receipt of notice under division (D) of this section.

(b) It shall be signed by the petitioner under the penalties for falsification specified in section 2921.13 of the Revised Code.

(c) It shall describe the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of that interest, any additional facts supporting the petitioner's claim, and the relief sought.

(2)(a) In lieu of filing a petition as described in division (E)(1) of this section, a person, other than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the forfeiture order, may file an affidavit as described in this division to establish the validity of the alleged right, title, or interest in the property that is the subject of the forfeiture order if the person is a secured party or other lienholder of record that asserts a legal interest in the property, including, but not limited to, a mortgage, security interest, or other type of lien. The affidavit shall contain averments that the secured party or other lienholder acquired its alleged right, title, or interest in the property in the regular course of its business, for a specified valuable consideration, without actual knowledge of any facts pertaining to the offense that was the basis of the forfeiture order, in good faith, and without the intent to prevent or otherwise impede the state or political subdivision from seizing or obtaining a forfeiture of the property. The person shall file the affidavit within thirty days after the earlier of the final publication of notice or the receipt of notice

under division (D) of this section.

(b) Except as otherwise provided in this section, the affidavit shall constitute prima-facie evidence of the validity of the affiant's alleged interest in the property.

(c) Unless the prosecutor files a motion challenging the affidavit within ten days after its filing and unless the prosecutor establishes by a preponderance of the evidence at the hearing held under division (E)(3) of this section that the affiant does not possess the alleged interest in the property or that the affiant had actual knowledge of facts pertaining to the offense or delinquent act that was the basis of the forfeiture order, the affidavit shall constitute conclusive evidence of the validity of the affiant's interest in the property.

(d) Any subsequent purchaser or other transferee of property pursuant to forfeiture under this section shall take the property subject to the continued validity of the interest of the affiant.

(3) Upon receipt of a petition or affidavit filed under division (E)(1) or (2) of this section, the court shall hold a hearing to determine the validity of the petitioner's interest in the property that is the subject of the forfeiture order or, if the affidavit was challenged, to determine the validity of the affiant's interest in the property. To the extent practicable and consistent with the interests of justice, the court shall hold the hearing within thirty days after the filing of the petition or within thirty days after the prosecutor files the motion challenging the affidavit. The court may consolidate the hearing with a hearing on any other petition or affidavit that is filed by a person other than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the forfeiture order and that relates to the property that is the subject of the forfeiture order.

At the hearing, the petitioner or affiant may testify, present evidence and witnesses on the petitioner's or affiant's behalf, and cross-examine witnesses for the state or political subdivision. In regards to a petition, the state or political subdivision may present evidence and witnesses in rebuttal and in defense of its claim to the property and may cross-examine witnesses for the petitioner. In regards to an affidavit, the prosecutor may present evidence and witnesses and cross-examine witnesses for the affiant.

In addition to the evidence and testimony presented at the hearing, the court also shall consider the relevant portions of the record in the criminal or delinquent child case that resulted in the forfeiture order.

(F)(1) If the hearing involves a petition, the court shall amend its forfeiture order if it determines at the hearing held pursuant to division (E)(3) of this section that the petitioner has established either of the

following by a preponderance of the evidence:

(a) The petitioner has a legal interest in the property that is subject to the forfeiture order that renders the order completely or partially invalid because the legal interest in the property was vested in the petitioner, rather than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the order, or was superior to any interest of that offender or delinquent child, at the time of the commission of the offense or delinquent act that is the basis of the order.

(b) The petitioner is a bona fide purchaser for value of the interest in the property that is subject to the forfeiture order and was, at the time of the purchase, reasonably without cause to believe that it was subject to forfeiture.

(2) The court also shall amend its forfeiture order to reflect any interest of a secured party or other lienholder of record in the property subject to forfeiture who prevails at a hearing on the petition or affidavit filed pursuant to division (E)(1) or (2) of this section.

(G) If the court disposes of all petitions or affidavits timely filed under this section in favor of the state or political subdivision, the state or political subdivision shall have clear title to the property that is the subject of a forfeiture order issued under this section, but only to the extent that other parties' lawful interests in the property are not infringed. To the extent that the state or political subdivision has clear title to the property, the state or political subdivision may warrant good title to any subsequent purchaser or other transferee.

Sec. 2981.05. (A) The prosecutor of the political subdivision in which property described in division (A) of section 2981.02 of the Revised Code is located may commence a civil forfeiture action under this section by filing in the court of common pleas of the county in which the property is located a complaint requesting an order that forfeits the property to the state or a political subdivision. The filing shall be consistent with division (F) of section 2981.03 of the Revised Code.

(B) Prior to or upon the commencement of a civil forfeiture action, the prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. The prosecutor shall give notice of the commencement of the civil action, together with a copy of the complaint, to each person who is reasonably known to have any interest in the property, by certified mail, return receipt requested, or by personal service. The prosecutor shall cause a similar notice to be published once each week for two consecutive weeks in a newspaper of general circulation in the county

in which the property is located.

(C) A person with an interest in the property subject to forfeiture may petition the court to release the property pursuant to division (D) of section 2981.03 of the Revised Code. The court shall consider the petition as provided in that section. If a timely petition for pretrial hardship release is not filed, or if a petition is filed but not granted, the person may file a claim for the release of the property under the Rules of Civil Procedure. The court shall dispose of any petitions timely filed under this division.

(D) The court shall issue a civil forfeiture order if it determines that the prosecutor has proved by a preponderance of the evidence that the property is subject to forfeiture under section 2981.02 of the Revised Code, and, after a proportionality review under section 2981.09 of the Revised Code when relevant, the trier of fact specifically describes the extent of the property to be forfeited. A civil forfeiture order shall state that all interest in the property in question of the adult or juvenile who committed the act that is the basis of the order is forfeited to the state or political subdivision and shall make due provision for the interest in that property of any other person, when appropriate under this section. The court may issue any additional order to affect the forfeiture, including, but not limited to, one or more orders under section 2981.06 of the Revised Code.

(E) If the court disposes of all petitions timely filed under this section in favor of the state or political subdivision, the state or political subdivision shall have clear title to the property that is the subject of a forfeiture order under this section, but only to the extent that other parties' lawful interests in the property are not infringed. To the extent that the state or political subdivision has clear title to the property, the state or political subdivision may warrant good title to any subsequent purchaser or other transferee.

Sec. 2981.06. (A) Upon the entry of a forfeiture order under section 2981.04 or 2981.05 of the Revised Code, if necessary, the court shall order an appropriate law enforcement officer to seize the forfeited property on conditions that the court considers proper. If necessary, the court shall order the person in possession of the property to deliver the property by a specific date to the law enforcement agency involved in the initial seizure of the property. The court shall deliver the order by personal service or certified mail.

(B) With respect to property that is the subject of a forfeiture order issued under section 2981.04 or 2981.05 of the Revised Code, the court that issued the order, upon petition of the prosecutor who prosecuted the underlying offense or act or brought the civil forfeiture action, may do any of the following:

(1) Enter any appropriate restraining orders or injunctions; require execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any other action necessary to safeguard and maintain the forfeited property;

(2) Authorize the payment of rewards to persons who provide information resulting in forfeiture of the property under this chapter from funds provided under division (F) of section 2981.12 of the Revised Code;

(3) Authorize the prosecutor to settle claims;

(4) Restore forfeited property to victims and grant petitions for mitigation or remission of forfeiture;

(5) Authorize a stay of the forfeiture order pending appeal or resolution of any claim to the property if requested by a person other than the defendant or a person acting in concert with, or on behalf of, the defendant.

(C) To facilitate the identification and location of property that is the subject of a forfeiture order and to facilitate the disposition of petitions for remission or mitigation issued under this section, after the issuance of a forfeiture order and upon application by the prosecutor, the court, consistent with the Civil Rules, may order that the testimony of any witness relating to the forfeited property be taken by deposition and that any designated material that is not privileged be produced at the same time and place as the testimony.

(D) The court shall order forfeiture of any other property of the offender or delinquent child up to the value of the unreachable property if any of the following describe any property subject to a forfeiture order under section 2981.04 or 2981.05 of the Revised Code:

(1) It cannot be located through due diligence.

(2) It has been transferred, sold, or deposited with a third party.

(3) It has been placed beyond the jurisdiction of the court.

(4) It has been substantially diminished in value or has been commingled with other property and cannot be divided without difficulty or undue injury to innocent persons.

(E) After the state or political subdivision is granted clear title under section 2981.04 or 2981.05 of the Revised Code, the prosecutor shall direct disposition of the property pursuant to this chapter, making due provisions for the rights of innocent persons.

(F) Any interest in property not exercisable by, or transferable for value to, the state or political subdivision shall expire and shall not revert to the offender or delinquent child who forfeited the property. The offender or delinquent child is not eligible to purchase the property at a sale under this chapter.

(G) Any income accruing to or derived from forfeited property may be used to offset ordinary and necessary expenses related to the property that are required by law or necessary to protect the interest of the state, political subdivision, or third parties.

Sec. 2981.07. (A) No person shall destroy, damage, remove, or transfer property that is subject to forfeiture or otherwise take any action in regard to property that is subject to forfeiture with purpose to do any of the following:

(1) Prevent or impair the state's or political subdivision's lawful authority to take the property into its custody or control under this chapter or to continue holding the property under its lawful custody or control;

(2) Impair or defeat the court's continuing jurisdiction over the person and property;

(3) Devalue property that the person knows, or has reasonable cause to believe, is subject to forfeiture proceedings under this chapter.

(B)(1) Whoever violates this section is guilty of interference with or diminishing forfeitable property.

(2) Except as otherwise provided in divisions (B)(3), (4), and (5) of this section, interference with or diminishing forfeitable property is a misdemeanor of the first degree.

(3) If the value of the property is five hundred dollars or more but less than five thousand dollars, interference with or diminishing forfeitable property is a felony of the fifth degree.

(4) If the value of the property is five thousand dollars or more but less than one hundred thousand dollars, interference with or diminishing forfeitable property is a felony of the fourth degree.

(5) If the value of the property is one hundred thousand dollars or more, interference with or diminishing forfeitable property is a felony of the third degree.

Sec. 2981.08. Parties to a forfeiture action under this chapter have a right to trial by jury as follows:

(A) In a criminal forfeiture action, the defendant has the right to trial by jury.

(B) In a civil forfeiture action, the defendant, the state or political subdivision, and third party claimants have the right to trial by jury.

Sec. 2981.09. (A) Property may not be forfeited as an instrumentality under this chapter to the extent that the amount or value of the property is disproportionate to the severity of the offense. The owner of the property shall have the burden of going forward with the evidence and the burden to prove by a preponderance of the evidence that the amount or value of the property subject to forfeiture is disproportionate to the severity of the

offense.

(B) Contraband and any proceeds obtained from the offense are not subject to proportionality review under this section.

(C) In determining the severity of the offense for purposes of forfeiture of an instrumentality, the court shall consider all relevant factors including, but not limited to, the following:

(1) The seriousness of the offense and its impact on the community, including the duration of the activity and the harm caused or intended by the person whose property is subject to forfeiture;

(2) The extent to which the person whose property is subject to forfeiture participated in the offense;

(3) Whether the offense was completed or attempted.

(D) In determining the value of the property that is an instrumentality and that is subject to forfeiture, the court shall consider relevant factors including, but not limited to, the following:

(1) The fair market value of the property;

(2) The value of the property to the person whose property is subject to forfeiture, including hardship to the person or to innocent persons if the property were forfeited.

Sec. 2981.11. (A)(1) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of a law enforcement agency shall be kept safely by the agency, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to sections 2981.12 and 2981.13 of the Revised Code.

(2) This chapter does not apply to the custody and disposal of any of the following:

(a) Vehicles subject to forfeiture under Title XLV of the Revised Code, except as provided in division (A)(6) of section 2981.12 of the Revised Code;

(b) Abandoned junk motor vehicles or other property of negligible value;

(c) Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;

(d) Animals taken, and devices used in unlawfully taking animals, under section 1531.20 of the Revised Code;

(e) Controlled substances sold by a peace officer in the performance of the officer's official duties under section 3719.141 of the Revised Code;

(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code;

(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program.

(B)(1) Each law enforcement agency that has custody of any property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following:

(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;

(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:

(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.

(ii) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

(c) Complies with section 2981.13 of the Revised Code if the agency has a law enforcement trust fund or similar fund created under that section.

(2) Each law enforcement agency that during any calendar year has any seized or forfeited property covered by this section in its custody, including amounts distributed under section 2981.13 of the Revised Code to its law enforcement trust fund or a similar fund created for the state highway patrol, department of public safety, or state board of pharmacy, shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public records kept by the agency pursuant to this section for that calendar year. The agency shall send a copy of the cumulative report to the attorney general not later than the first day of March in the calendar year following the calendar year covered by the report.

(3) The records kept under the internal control policy shall be open to public inspection during the agency's regular business hours. The policy

adopted under this section and each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(4) Not later than the fifteenth day of April in each calendar year in which reports are sent to the attorney general under division (B)(2) of this section, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notice that indicates that the attorney general received reports that cover the previous calendar year, that the reports are open for inspection under section 149.43 of the Revised Code, and that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C) A law enforcement agency with custody of property to be disposed of under section 2981.12 or 2981.13 of the Revised Code shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(D) As used in sections 2981.11 to 2981.13 of the Revised Code:

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code.

(2) "Law enforcement agency" includes correctional institutions.

(3) "Township law enforcement agency" means an organized police department of a township, a township police district, a joint township police district, or the office of a township constable.

Sec. 2981.12. (A) Unclaimed or forfeited property in the custody of a law enforcement agency, other than property described in division (A)(2) of section 2981.11 of the Revised Code, shall be disposed of by order of any court of record that has territorial jurisdiction over the political subdivision that employs the law enforcement agency, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public

auction pursuant to division (B) of this section. The agency shall destroy other firearms and dangerous ordnance or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Chapters 4301. and 4303. of the Revised Code or otherwise forfeited to the state for an offense under section 4301.45 or 4301.53 of the Revised Code shall be sold by the division of liquor control if the division determines that it is fit for sale or shall be placed in the custody of the investigations unit in the department of public safety and be used for training relating to law enforcement activities. The department, with the assistance of the division of liquor control, shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under Title XLIII of the Revised Code has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division shall be paid into the state treasury. Any beer, intoxicating liquor, or alcohol that the division determines to be unfit for sale shall be destroyed.

(5) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund of the institution if the sender is not known.

(6)(a) Any mobile instrumentality forfeited under this chapter may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

(b) Vehicles and vehicle parts forfeited under sections 4549.61 to 4549.63 of the Revised Code may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the director of public safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(7) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency

for that purpose or disposed of under division (B) of this section.

(B) Unclaimed or forfeited property that is not described in division (A) of this section or division (A)(2) of section 2981.11 of the Revised Code, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.

(C) Except as provided in divisions (A) and (F) of this section and after compliance with division (D) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the general revenue fund of the state, or the general fund of the county, the township, or the municipal corporation of which the law enforcement agency involved is an agency.

(D) If the property was in the possession of the law enforcement agency in relation to a delinquent child proceeding in a juvenile court, ten per cent of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code. A juvenile court shall not specify a program, except as provided in this division, unless the program is in the same county as the court or in a contiguous county. If no certified program is located in any of those counties, the juvenile court may specify a certified program anywhere in Ohio. The remaining ninety per cent of the proceeds or cash shall be applied as provided in division (C) of this section.

Each treatment program that receives in any calendar year forfeited money under this division shall file an annual report for that year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the program is located and of any other county from which the program received forfeited money. The program shall file the report on or before the first day of March in the calendar year following the calendar year in which the program received the money. The report shall include statistics on the number of persons the program served, identify the types of treatment services it provided to them, and include a specific accounting of the purposes for which it used the money so received. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the program.

(E) Each certified alcohol and drug addiction treatment program that receives in any calendar year money under this section or under section

2981.13 of the Revised Code as the result of a juvenile forfeiture order shall file an annual report for that calendar year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the program is located and of any other county from which the program received the money. The program shall file the report on or before the first day of March in the calendar year following the year in which the program received the money. The report shall include statistics on the number of persons served with the money, identify the types of treatment services provided, and specifically account for how the money was used. No information in the report shall identify or enable a person to determine the identity of anyone served by the program.

As used in this division, "juvenile-related forfeiture order" means any forfeiture order issued by a juvenile court under section 2981.04 or 2981.05 of the Revised Code and any disposal of property ordered by a court under section 2981.11 of the Revised Code regarding property that was in the possession of a law enforcement agency in relation to a delinquent child proceeding in a juvenile court.

(F) Each board of county commissioners that recognizes a citizens' reward program under section 9.92 of the Revised Code shall notify each law enforcement agency of that county and of a township or municipal corporation wholly located in that county of the recognition by filing a copy of its resolution conferring that recognition with each of those agencies. When the board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of a municipal corporation, the board shall so notify the law enforcement agency of that municipal corporation of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipal corporation's population.

Upon being so notified, each law enforcement agency shall pay twenty-five per cent of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

Receiving funds under this section or section 2981.11 of the Revised Code does not make the citizens' reward program a governmental unit or

public office for purposes of section 149.43 of the Revised Code.

(G) Any property forfeited under this chapter shall not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

Sec. 2981.13. (A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of the Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney

general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, and by the board of park commissioners only to the park district police force or law enforcement department.

(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes:

(i) To pay the costs of protracted or complex investigations or prosecutions;

(ii) To provide reasonable technical training or expertise;

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse;

(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts expended for each authorized purpose:

(a) Any sheriff or prosecutor shall file the report with the county auditor.

(b) Any municipal corporation police department shall file the report

with the legislative authority of the municipal corporation.

(c) Any township police department, township police district police force, or office of the constable shall file the report with the board of township trustees of the township.

(d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.

(e) The superintendent of the state highway patrol shall file the report with the attorney general.

(f) The executive director of the state board of pharmacy shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

Sec. 2981.14. (A) Nothing in this chapter precludes the head of a law enforcement agency that seizes property from seeking forfeiture under federal law. If the property is forfeitable under this chapter and federal forfeiture is not sought, the property is subject only to this chapter.

(B) Any law enforcement agency that receives moneys from a sale of forfeited property under federal law shall deposit, use, and account for the amounts, including any interest derived, in accordance with applicable federal law. If the state highway patrol or the investigative unit of the department of public safety receives such federal forfeiture moneys, the appropriate official shall deposit all interest or other earnings derived from the investment of the moneys into the contraband, forfeiture, and other fund of the highway patrol or the department, whichever is appropriate.

Sec. 3719.11. All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, that have come into the custody of a peace officer, shall be forfeited pursuant to ~~sections 2923.44 to 2923.47, 2925.41 to 2925.45, 2933.41, or 2933.43~~ Chapter 2981. of the Revised Code, and, unless any such section provides for a different manner of disposition, shall be disposed of as follows:

(A) The court or magistrate having jurisdiction shall order the controlled substances forfeited and destroyed. The agency served by the peace officer who obtained or took custody of the controlled substances may destroy them or may send them to the bureau of criminal identification and investigation for destruction by it. A record of the place where the controlled substances were seized, of the kinds and quantities of controlled substances so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting the destruction, shall be made by the officer who destroys them to the court or magistrate and to the United States director, bureau of narcotics and dangerous drugs.

(B) Upon written application by the department of health, the court or

magistrate that ordered the forfeiture of the controlled substances may order the delivery of any of them, except heroin and its salts and derivatives, to the department for distribution or destruction as provided in this section.

(C) Upon application by any hospital within this state that is not operated for private gain, the department of health may deliver any controlled substances that have come into its custody pursuant to this section to the applicant for medicinal use. The department may deliver excess stocks of the controlled substances to the United States director, bureau of narcotics and dangerous drugs, or may destroy the excess stocks.

(D) The department of health shall keep a complete record of all controlled substances received pursuant to this section and of all controlled substances disposed of pursuant to this section, showing all of the following:

- (1) The exact kinds, quantities, and forms of the controlled substances;
- (2) The persons from whom they were received and to whom they were delivered;
- (3) By whose authority they were received, delivered, or destroyed;
- (4) The dates of their receipt, delivery, or destruction.

(E) The record required by this section shall be open to inspection by all federal and state officers charged with the enforcement of federal and state narcotic and drug abuse control laws.

Sec. 3719.141. (A) A peace officer may sell any controlled substance in the performance of the officer's official duties only if either of the following applies:

(1) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) The peace officer who makes the sale determines that the sale is necessary in the performance of the officer's official duties;

(c) Any of the following applies:

(i) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer who makes the sale is a peace officer, and the peace officer who makes the sale determines that the sale is necessary to prevent the person from determining or suspecting that the officer who makes the sale is a peace officer.

(ii) The peace officer who makes the sale determines that the sale is necessary to preserve an identity that the peace officer who makes the sale has assumed in the performance of the officer's official duties.

(iii) The sale involves a controlled substance that, during the course of

another sale, was intercepted by the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale; the intended recipient of the controlled substance in the other sale does not know that the controlled substance has been so intercepted; the sale in question is made to the intended recipient of the controlled substance in the other sale and is undertaken with the intent of obtaining evidence of a drug abuse offense against the intended recipient of the controlled substance; and the sale in question does not involve the transfer of any money or other thing of value to the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale in exchange for the controlled substance.

(d) If the sale is made under the circumstances described in division (A)(1)(c)(i) or (ii) of this section, no person is charged with any criminal offense or any delinquent act based upon the sale unless both of the following apply:

(i) The person also is charged with a criminal offense or a delinquent act that is based upon an act or omission that is independent of the sale but that either is connected together with the sale, or constitutes a part of a common scheme or plan with the sale, or is part of a course of criminal conduct involving the sale.

(ii) The criminal offense or delinquent act based upon the sale and the other criminal offense or delinquent act are charged in the same indictment, information, or complaint.

(e) The sale is not part of a continuing course of conduct involving the sale of controlled substances by the peace officer who makes the sale.

(f) The amount of the controlled substance sold and the scope of the sale of the controlled substance is as limited as possible under the circumstances.

(g) Prior to the sale, the law enforcement agency served by the peace officer who makes the sale has adopted a written internal control policy that does all of the following:

(i) Addresses the keeping of detailed records as to the amount of money or other things of value obtained in the sale in exchange for the controlled substance;

(ii) Addresses the delivery of all moneys or things of value so obtained to the prosecuting attorney pursuant to division (D) of this section;

(iii) Addresses the agency's use and disposition of all such moneys or things of value that are deposited in the law enforcement trust fund of the sheriff, municipal corporation, or township, pursuant to division (D) of this section, and that are used by the sheriff, are allocated to the police department of the municipal corporation by its legislative authority, or are

allocated by the board of township trustees to the township police department, township police district police force, or office of the constable;

(iv) Provides for the keeping of detailed financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds received, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any peace officer involved in the sale, any information that is or may be needed in an ongoing investigation, or any specific expenditure that is made in an ongoing investigation.

(2) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) Prior to the sale, the law enforcement agency served by the peace officer has adopted a written internal control policy that does the things listed in divisions (A)(1)(g)(i) to (iv) of this section;

(c) The purchaser of the controlled substance acquires possession of it in the presence of the peace officer who makes the sale.

(d) Upon the consummation of the sale, either of the following occurs:

(i) The peace officer arrests the purchaser of the controlled substance, recovers it and the proceeds of the sale, and secures it and the proceeds as evidence to be used in a subsequent prosecution.

(ii) The peace officer makes a reasonable, good faith effort to arrest the purchaser of the controlled substance and to recover the controlled substance and the proceeds of the sale, but the officer is unable to make the arrest and recover all of the controlled substance and proceeds for reasons beyond the officer's control, and the peace officer secures all of the controlled substance recovered and all of the proceeds recovered as evidence to be used in a subsequent prosecution.

(B) The approval of a prosecuting attorney required by division (A)(1)(a) or (2)(a) of this section may be in either of the following forms:

(1) A general approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, that grants approval only to that peace officer, and that grants approval for any such sale that may be necessary, after the approval has been granted, under the standards described in division (A)(1) or (2) of this section;

(2) A specific approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served

by that peace officer, and that grants approval only to that peace officer and only for the particular sale in question, under the standards described in division (A)(1) or (2) of this section.

(C) If a peace officer sells a controlled substance in the performance of the officer's official duties under division (A)(1) or (2) of this section, the peace officer, within a reasonable time after the sale, shall provide the prosecuting attorney who granted approval for the sale with a written summary that identifies the amount and type of controlled substance sold, the circumstances of the sale, and the amount of any money or other thing of value obtained in the sale in exchange for the controlled substance. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(D)(1) Except as provided in division (D)(2) of this section, if a peace officer sells a controlled substance in the performance of the officer's official duties under division (A)(1) or (2) of this section, the peace officer, as soon as possible after the sale, shall deliver all money or other things of value obtained in the sale in exchange for the controlled substance to the prosecuting attorney who granted approval for the sale. The prosecuting attorney shall safely keep all money and other things of value the prosecuting attorney receives under this division for use as evidence in any criminal action or delinquency proceeding based upon the sale. All money so received by a prosecuting attorney that no longer is needed as evidence in any criminal action or delinquency proceeding shall be deposited by the prosecuting attorney in the law enforcement trust fund of the sheriff if the peace officer who made the sale is the sheriff or a deputy sheriff or the law enforcement trust fund of a municipal corporation or township if it is served by the peace officer who made the sale, as established pursuant to section ~~2933.43~~ 2981.13 of the Revised Code, and upon deposit shall be expended only as provided in that section. All other things of value so received by a prosecuting attorney that no longer are needed as evidence in any criminal action or delinquency proceeding shall be disposed of, without appraisal, at a public auction to the highest bidder for cash; the proceeds of the sale shall be deposited by the prosecuting attorney in the law enforcement trust fund of the sheriff if the peace officer who made the sale is the sheriff or a deputy sheriff or the law enforcement trust fund of a municipal corporation or township if it is served by the peace officer who made the sale, as established pursuant to section ~~2933.43~~ 2981.13 of the Revised Code, and upon deposit shall be expended only as provided in that section. Each law enforcement agency that uses any money that was deposited in a law

enforcement trust fund pursuant to this division shall comply with the written internal control policy adopted by the agency, as required by division (A)(1)(g) or (2)(b) of this section, in its use of the money.

(2) Division (D)(1) of this section does not apply in relation to a peace officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section in any of the following circumstances:

(a) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer is a peace officer, and, if the officer were to retain and deliver the money or other things of value to the prosecuting attorney, the person would determine or suspect that the officer is a peace officer.

(b) If the officer were to retain and deliver the money or other things of value to the prosecuting attorney, an identity that has been assumed in the performance of the officer's official duties would not be preserved.

(c) The sale is made under the circumstances described in division (A)(1)(c)(iii) of this section.

(3) If division (D)(1) of this section does not apply in relation to a peace officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section due to the operation of division (D)(2) of this section, the peace officer, as soon as possible after the sale, shall deliver to the prosecuting attorney who granted approval for the sale a written summary that describes the circumstances of the sale and the reason for which division (D)(1) of this section does not apply. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(E)(1) A written internal control policy adopted by a law enforcement agency that is served by a peace officer who sells a controlled substance under division (A)(1) or (2) of this section, as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds received, and the specific amounts of each general type of expenditure by a law enforcement agency in relation to any sale of a controlled substance under division (A)(1) or (2) of this section

are public records open for inspection under section 149.43 of the Revised Code.

(2) A summary required by division (C) or (D)(3) of this section is a public record open for inspection under section 149.43 of the Revised Code.

(F)(1) Each prosecuting attorney who grants approval for a sale of controlled substances by a peace officer and who receives in any calendar year one or more summaries under division (C) of this section relative to the sale of a controlled substance by a peace officer shall prepare a report covering the calendar year that cumulates all of the information contained in each of the summaries so received in the calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

(2) Each prosecuting attorney who receives any money or any other thing of value under division (D)(1) of this section shall keep detailed financial records of the receipts and dispositions of all such moneys or things of value so received. No record of that nature shall identify, or enable the identification of, any person from whom money or another thing of value was received as a result of the sale of a controlled substance under division (A)(1) or (2) of this section or contain any information that is or may be needed in an ongoing investigation. Each record of that nature is a public record open for inspection under section 149.43 of the Revised Code and shall include, but is not limited to, all of the following information:

(a) The identity of each law enforcement agency that has so delivered any money or other thing of value to the prosecuting attorney;

(b) The total amount of money or other things of value so received from each law enforcement agency;

(c) The disposition made under this section of all money or other things of value so received.

(G) Divisions (A) to (F) of this section do not apply to any peace officer, or to any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice. Any peace officer, or any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice may sell a controlled substance in the performance of the officer's, agent's, or employee's official duties if the sale is made in accordance with federal statutes and regulations.

(H) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code and also includes a special agent of the bureau of criminal identification and investigation.

Sec. 3719.21. Except as provided in division (C) of section 2923.42,

division (B)~~(5)~~ of section 2923.44, divisions (D)(1), (F), and (H) of section 2925.03, division (D)(1) of section 2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, division (F) of section 2925.13, division (F) of section 2925.36, division (D) of section 2925.22, division (H) of section 2925.23, division (M) of section 2925.37, division (B)~~(5)~~ of section 2925.42, division (B) of section 2929.18, division (D) of section 3719.99, division (B)(1) of section 4729.65, and division (E)(3) of section 4729.99 of the Revised Code, the clerk of the court shall pay all fines or forfeited bail assessed and collected under prosecutions or prosecutions commenced for violations of this chapter, section 2923.42 of the Revised Code, or Chapter 2925. of the Revised Code, within thirty days, to the executive director of the state board of pharmacy, and the executive director shall deposit the fines into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 3729.13. (A) A campsite user who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp, at the expiration of the campsite use period under the agreement, shall remove from the campsite all of the campsite user's property and all property any other person placed on the campsite with the permission of the campsite user. If the campsite user fails to remove all of that property from the campsite within the five-consecutive-day period after the expiration of that campsite use period, all of the following apply:

(1) The camp operator shall perform an inventory of the property that the campsite user did not remove from the campsite.

(2) The camp operator may send a letter to the campsite user informing the campsite user that the campsite user has abandoned the property on the campsite in violation of the campsite use agreement and that the camp operator will commence an action for the seizure of the property if the campsite user does not remove the property from the campsite within ten days after the date on which the letter is mailed.

(3) If the campsite user does not remove the property from the campsite within ten days after the date on which the letter described in division (A)(2) of this section is mailed, the camp operator may file an action for the seizure of the property that remains on the campsite in the municipal court or county court that has territorial jurisdiction over the park or camp. The complaint shall contain all of the following:

(a) The name, address, and phone number of the campsite user that is in the campsite use agreement;

(b) A description of the property that the campsite user has not removed

from the campsite;

(c) A demand that all of the property listed in the complaint be removed from the campsite within seven days after service of the complaint upon the campsite user;

(d) A description of the procedure that will be followed if the campsite user does not remove the listed property within the seven-day period;

(e) A statement that the campsite user shall pay to the clerk of the court the amount of the filing fees charged for the filing of the complaint, that the campsite user shall pay those fees prior to the campsite user's removal of the listed property from the campsite, and that if the campsite user fails to pay the amount of the filing fees the property may be sold to pay the filing fees.

(4) When the camp operator files an action under division (A)(3) of this section, the clerk of the court shall issue a summons and a copy of the complaint pursuant to the Rules of Civil Procedure to the campsite user at the address provided in the campsite use agreement.

(5) If the campsite user does not file an answer to the complaint filed under division (A)(3) of this section and remove all of the property listed in the complaint within seven days after service of the complaint upon the campsite user, the court shall do either of the following:

(a) Issue an order authorizing the sheriff, another peace officer, or a bailiff to remove the property from the campsite and place it in storage;

(b) Authorize the camp operator to seize the property and cause the issuance to the camp operator of a new certificate of title for the property if the property is a titled vehicle.

(6) Upon the removal and storage of the property, the sheriff, peace officer, bailiff, or camp operator shall conduct or cause to be conducted a search of the appropriate public records that relate to the property and shall make or cause to be made reasonably diligent inquiries for the purpose of identifying persons who have any right, title, or interest in any of the property. Then, the sheriff, peace officer, bailiff, or camp operator may commence proceedings for the sale of the property. The sheriff, peace officer, bailiff, or camp operator shall send by certified mail, return receipt requested, a written notice of the date, time, and place of the sale to each person who, because of the conduct of the search, the making of inquiries, or otherwise, the sheriff, peace officer, bailiff, or camp operator believes has any right, title, or interest in the property. The sheriff, peace officer, bailiff, or camp operator shall send the notice to the last known address of each of those persons.

(7) If the sheriff, peace officer, bailiff, or camp operator sells the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of

the proceeds of the sale in the following order:

(a) The sheriff, peace officer, bailiff, or camp operator shall first pay the costs for any moving or any storage of the property, the costs of the sale, and any unpaid court costs assessed against the campsite user in the underlying action.

(b) Following the payment required by division (A)(7)(a) of this section, the sheriff, peace officer, bailiff, or camp operator shall pay all other outstanding security interests, liens, or encumbrances on the property by priority of filing or other priority.

(c) After complying with divisions (A)(7)(a) and (b) of this section, the sheriff, peace officer, bailiff, or camp operator shall transfer any remaining money to the owner of the property.

(8) If the sheriff, peace officer, bailiff, or camp operator does not conduct a sale of the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the property in the following manner:

(a) If the property is a motor vehicle or recreational vehicle, in accordance with the procedure in section 4513.61 or 4513.63 of the Revised Code;

(b) If the property is personal property, in accordance with the procedure in ~~section 2933.41~~ sections 2981.11 and 2981.12 of the Revised Code.

(B) Upon collection from the campsite user, the municipal court or county court shall reimburse the filing fees to the camp operator.

Sec. 3743.68. (A) The fire marshal, an assistant fire marshal, or a certified fire safety inspector may arrest, or may cause the arrest of, any person whom the fire marshal, assistant fire marshal, or certified fire safety inspector finds in the act of violating, or who the fire marshal, assistant fire marshal, or certified fire safety inspector has reasonable cause to believe has violated, sections 3743.60 to 3743.66 of the Revised Code. Any arrest shall be made in accordance with statutory and constitutional provisions governing arrests by law enforcement officers.

(B) If the fire marshal, an assistant fire marshal, or certified fire safety inspector has probable cause to believe that fireworks are being manufactured, sold, possessed, transported, or used in violation of this chapter, the fire marshal, assistant fire marshal, or certified fire safety inspector may seize the fireworks. Any seizure of fireworks shall be made in accordance with statutory and constitutional provisions governing searches and seizures by law enforcement officers. The fire marshal's or certified fire safety inspector's office shall impound at the site or safely keep seized fireworks pending the time they are no longer needed as evidence. A sample

of the seized fireworks is sufficient for evidentiary purposes. The remainder of the seized fireworks may be disposed of pursuant to an order from a court of competent jurisdiction after notice and a hearing.

Fireworks manufactured, sold, possessed, transported, or used in violation of this chapter shall be forfeited by the violator. The fire marshal's or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in ~~section 2933.41~~ sections 2981.11 to 2981.13 of the Revised Code for the disposal of forfeited property by law enforcement agencies, and the fire marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.

(C) This section does not affect the authority of a peace officer, as defined in section 2935.01 of the Revised Code, to make arrests for violations of this chapter or to seize fireworks manufactured, sold, possessed, transported, or used in violation of this chapter.

(D) Any fines imposed for a violation of this chapter relating to the sale, purchase, possession, or discharge of fireworks shall be distributed in the following manner if a municipal corporation, county, or township either filed or enforced the complaint regarding the violation. One-half of the amount of the fine shall be distributed to the municipal corporation, county, or township which filed the complaint regarding the violation and one-half of the amount of the fine shall be distributed to the municipal corporation, county, or township which enforced the complaint. If the same municipal corporation, county, or township both filed the complaint regarding the violation and enforced the complaint, the entire amount of the fine shall be distributed to that municipal corporation, county, or township.

Sec. 3745.13. (A) When emergency action is required to protect the public health or safety or the environment, any person responsible for causing or allowing an unauthorized spill, release, or discharge of material into or upon the environment or responsible for the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment is liable to the municipal corporation, county, township, countywide emergency management agency established under section 5502.26 of the Revised Code, regional authority for emergency management established under section 5507.27 of the Revised Code, or emergency management program established by a political subdivision under section 5502.271 of the Revised Code, having territorial jurisdiction, or responsibility for emergency management activities in the location of the spill, release, discharge, or contamination, for the necessary and reasonable, additional or extraordinary costs it incurs in investigating, mitigating, minimizing, removing, or abating the spill, release, discharge, or

contamination, in the course of its emergency action, but, to the extent criteria and methods for response actions prescribed under 40 C.F.R. 300, as amended, may be applied to the type of material involved and the conditions of the spill, release, discharge, or contamination, that person is liable for those costs only if the political subdivision, countywide agency, or regional authority employed those criteria and methods in its emergency action.

The officers of the municipal corporation, county, township, countywide emergency management agency, or regional authority for emergency management performing the emergency action shall keep a detailed record of its costs for investigating, mitigating, minimizing, removing, or abating the unauthorized spill, release, discharge, or contamination; promptly after the completion of those measures, shall certify those costs to the city director of law or village solicitor, as appropriate, of the municipal corporation, the prosecuting attorney of the county in the case of a county, township, or countywide emergency management agency, or the legal counsel retained thereby in the case of a regional authority for emergency management; and may request that the legal officer or counsel bring a civil action for recovery of costs against the person responsible for the unauthorized spill, release, or discharge or responsible for the operation of the illegal methamphetamine manufacturing laboratory that caused contamination of the environment. If the officers request that the legal officer or counsel bring such a civil action regarding emergency action taken in relation to the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment, the legal officer or counsel also may pursue a forfeiture proceeding against the responsible person under ~~sections 2923.31 to 2923.36, 2923.44 to 2923.47, sections 2925.41 to 2925.45, or sections 2933.42 to 2933.43~~ Chapter 2981 of the Revised Code, or in any other manner authorized by law.

The legal officer or counsel shall submit a written, itemized claim for the total certified costs incurred by the municipal corporation, county, township, countywide agency, or regional authority for the emergency action to the responsible party and a written demand that those costs be paid to the political subdivision, countywide agency, or regional authority. Not less than thirty days before bringing a civil action for recovery of those costs, the legal officer or counsel shall mail written notice to the responsible party informing the responsible party that, unless the total certified costs are paid to the political subdivision, countywide agency, or regional authority within thirty days after the date of mailing of the notice, the legal officer or counsel will bring a civil action for that amount. Except for emergency action taken in relation to the operation of an illegal methamphetamine

manufacturing laboratory that has caused contamination of the environment, in making a determination of an award for reimbursement, the responsible party's status as a taxpayer to the governmental entity shall be taken into consideration. Nothing in this section prevents a political subdivision, countywide emergency management agency, or regional authority for emergency management from entering into a settlement of a claim against a responsible party that compromises the amount of the claim. Moneys recovered as described in this section shall be credited to the appropriate funds of the political subdivision, countywide agency, or regional authority from which moneys were expended in performing the emergency action.

(B) As used in this section:

(1) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

(2) "Illegal methamphetamine manufacturing laboratory" means any laboratory or other premises that is used for the manufacture or production of methamphetamine in violation of section 2925.04 of the Revised Code, whether or not there has been a prior conviction of that violation.

Sec. 4301.29. (A) Whenever the department of public safety seizes beer or intoxicating liquor, the department shall destroy or distribute the beer or intoxicating liquor, in accordance with ~~division (D)(4) of section 2933.41~~ sections 2981.11 to 2981.13 of the Revised Code.

(B)(1) In case of any seizure of beer or intoxicating liquor under execution of any judgment rendered against the holder of a permit, in relation to the foreclosure of any lien on any beer or intoxicating liquor belonging to a holder of a permit, in relation to the insolvency or bankruptcy of a holder of a permit, or in any other case in which judicial process is employed to subject any beer or intoxicating liquor belonging to or in the possession of the holder of a permit to any claim, the person seizing the beer or intoxicating liquor or the person's designee may sell it, subject to division (B)(2) of this section, after obtaining the written consent of the division of liquor control. Proceeds from the sale of the beer or intoxicating liquor shall be paid in accordance with the applicable law and the orders of the court issuing the process.

(2) Beer or intoxicating liquor that is sold under division (B)(1) of this section shall not be sold to or purchased by the holder of a liquor permit, an applicant for a liquor permit, or any other business.

Sec. 4301.45. When any law enforcement officer discovers any person in the act of transporting in violation of law beer or intoxicating liquors in

any wagon, buggy, automobile, watercraft, aircraft, or other vehicle, ~~he~~ the officer shall seize all beer or intoxicating liquors found therein being transported contrary to law. Whenever beer or intoxicating liquors transported or possessed illegally are seized by a law enforcement officer, the officer shall take possession of the vehicle and team, or automobile, boat, watercraft, aircraft, or any other conveyance, and shall arrest any person in charge thereof. The law enforcement officer shall at once proceed against the person arrested under Chapters 4301. and 4303. of the Revised Code, in any court having jurisdiction of offenses under those chapters, but the vehicle or conveyance shall be returned to the owner upon execution by ~~him~~ the owner of a valid bond with sufficient sureties, in a sum equal to the value of the property, which bond shall be approved by the law enforcement officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide by the judgment of the court. The court, upon conviction of the person so arrested, shall order the beer or intoxicating liquor that was not illegally manufactured to be forfeited to the state and disposed of under ~~section 2933.41~~ sections 2981.11 to 2981.13 of the Revised Code, and unless good cause to the contrary is shown by the owner, shall order a sale at public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of beer or intoxicating liquor, and shall distribute the balance as money arising from fines and forfeited bonds under such chapters is distributed. The court, upon conviction of the person so arrested, shall order the beer or intoxicating liquor that was illegally manufactured to be destroyed.

All liens against property sold under this section shall be transferred from the property to the proceeds of the sale of the property. If no claimant is found for the team, vehicle, watercraft, aircraft, automobile, or other conveyance, the taking of the same, with its description, shall be advertised in some newspaper published in the city or county where taken, or if there is no newspaper published in such city or county, in a newspaper having circulation in the county, once a week for four weeks and by handbills posted in three public places near the place of seizure, and if no claimant appears within ten days after the last publication of the advertisement, the property shall be sold and the proceeds after deducting the expense and

costs shall be distributed as if there were a claimant for said vehicle or conveyance.

Sec. 4301.53. The judge of a court of record may issue warrants to search a house, building, place, vehicle, watercraft, aircraft, or conveyance for beer, alcohol, or intoxicating liquor manufactured, possessed, stored, concealed, sold, furnished, given away, or transported in violation of Chapters 4301. and 4303. of the Revised Code, and the containers in which the same is found, or machinery, tools, implements, equipment, supplies, and materials used or kept for use in manufacturing beer or intoxicating liquor in violation of those chapters, and to seize any of that property and things found in it, together with the vehicle, watercraft, aircraft, or conveyance in which the same is found. The issuance of those warrants is subject in all respects to sections 2933.22 to 2933.27 of the Revised Code; except that any such vehicle, watercraft, aircraft, or other conveyance shall be returned to its owner upon execution by the owner of a bond with surety to the satisfaction of the enforcement agent of the department of public safety or other law enforcement officer making the seizure in an equal amount to its value, conditioned upon its return to the custody of such agent or officer on the day of trial to abide by the judgment of the court. Upon conviction of any violation of Chapters 4301. and 4303. of the Revised Code, any property found in the possession of the person convicted or the person's agent or employee shall be disposed of as provided in section 4301.45 of the Revised Code. If the accused is discharged by the judge or magistrate, such vehicle, watercraft, aircraft, or other conveyance shall be returned to its owner, and any bond given pursuant to this section shall be canceled. If the accused is the holder of a permit issued under Chapters 4301. and 4303. of the Revised Code, any beer, intoxicating liquor, or alcohol seized shall be disposed of as provided in section 4301.29 of the Revised Code, and any other property seized shall be returned to its owner by the officer having the custody or possession of such property. If the accused is not the holder of such a permit in force at the time, any beer, intoxicating liquor, or alcohol that was not illegally manufactured shall be forfeited to the state and shall forthwith be disposed of under ~~section 2933.41~~ sections 2981.11 to 2981.13 of the Revised Code. Illegally manufactured beer, intoxicating liquor, or alcohol, and other property, except as provided in this section, shall be destroyed, and any such beer, intoxicating liquor, or alcohol, or other property is hereby declared to be a public nuisance.

Sec. 4305.13. (A) If the tax commissioner finds that any permit holder, liable for tax under Chapter 4301., 4305., or 4307. of the Revised Code, is

about to depart from the state, remove the permit holder's property from the state, conceal the permit holder's self or property, or do any other act tending to prejudice, obstruct, or render wholly or partially ineffectual proceedings to collect the tax, unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any permit holder will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the permit holder for the amount of the tax, plus a penalty of up to thirty per cent. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any assessment issued under this section shall bear interest as prescribed by section 4305.131 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 4305.131 of the Revised Code. Notice of the jeopardy assessment shall be served on the permit holder assessed or the permit holder's legal representative, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry. The permit holder assessed may petition for reassessment within sixty days of receipt of the notice of jeopardy assessment in the same manner as provided in section 4305.131 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the Revised Code need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the permit holder subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the permit holder previously seized. Upon satisfaction of the assessment the commissioner shall order the

security released and the judgment vacated.

(D) The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments under this section.

Sec. 4503.233. (A)(1) If a court is required to order the immobilization of a vehicle for a specified period of time pursuant to section 4510.11, 4510.14, 4510.16, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code, the court shall issue an immobilization order in accordance with this division and for the period of time specified in the particular section, and the immobilization under the order shall be in accordance with this section. The court, at the time of sentencing the offender for the offense relative to which the immobilization order is issued or as soon thereafter as is practicable, shall give a copy of the order to the offender or the offender's counsel. The court promptly shall send a copy of the order to the registrar on a form prescribed by the registrar and to the person or agency it designates to execute the order.

The order shall indicate the date on which it is issued, shall identify the vehicle that is subject to the order, and shall specify all of the following:

(a) The period of the immobilization;

(b) The place at which the court determines that the immobilization shall be carried out, provided that the court shall not determine and shall not specify that the immobilization is to be carried out at any place other than a commercially operated private storage lot, a place owned by a law enforcement or other government agency, or a place to which one of the following applies:

(i) The place is leased by or otherwise under the control of a law enforcement or other government agency.

(ii) The place is owned by the offender, the offender's spouse, or a parent or child of the offender.

(iii) The place is owned by a private person or entity, and, prior to the issuance of the order, the private entity or person that owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place.

(iv) The place is a public street or highway on which the vehicle is parked in accordance with the law.

(c) The person or agency designated by the court to execute the order, which shall be either the law enforcement agency that employs the law enforcement officer who seized the vehicle, a bailiff of the court, another person the court determines to be appropriate to execute the order, or the law enforcement agency with jurisdiction over the place of residence of the vehicle owner;

(d) That neither the registrar nor a deputy registrar will be permitted to accept an application for the license plate registration of any motor vehicle in the name of the vehicle owner until the immobilization fee is paid.

(2) The person or agency the court designates to immobilize the vehicle shall seize or retain that vehicle's license plates and forward them to the bureau of motor vehicles.

(3) In all cases, the offender shall be assessed an immobilization fee of one hundred dollars, and the immobilization fee shall be paid to the registrar before the vehicle may be released to the offender. Neither the registrar nor a deputy registrar shall accept an application for the registration of any motor vehicle in the name of the offender until the immobilization fee is paid.

(4) If the vehicle subject to the order is immobilized pursuant to the order and is found being operated upon any street or highway in this state during the immobilization period, it shall be seized, removed from the street or highway, and criminally forfeited and disposed of pursuant to section 4503.234 of the Revised Code.

(5) The registrar shall deposit the immobilization fee into the law enforcement reimbursement fund created by section 4501.19 of the Revised Code. Money in the fund shall be expended only as provided in division (A)(5) of this section. If the court designated in the order a court bailiff or another appropriate person other than a law enforcement officer to immobilize the vehicle, the amount of the fee deposited into the law enforcement reimbursement fund shall be paid out to the county treasury if the court that issued the order is a county court, to the treasury of the municipal corporation served by the court if the court that issued the order is a mayor's court, or to the city treasury of the legislative authority of the court, both as defined in section 1901.03 of the Revised Code, if the court that issued the order is a municipal court. If the court designated a law enforcement agency to immobilize the vehicle and if the law enforcement agency immobilizes the vehicle, the amount of the fee deposited into the law enforcement reimbursement fund shall be paid out to the law enforcement agency to reimburse the agency for the costs it incurs in obtaining immobilization equipment and, if required, in sending an officer or other person to search for and locate the vehicle specified in the immobilization order and to immobilize the vehicle.

In addition to the immobilization fee required to be paid under division (A)(3) of this section, the offender may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle.

(B) If a court issues an immobilization order under division (A)(1) of

this section, the person or agency designated by the court to execute the immobilization order promptly shall immobilize or continue the immobilization of the vehicle at the place specified by the court in the order. The registrar shall not authorize the release of the vehicle or authorize the issuance of new identification license plates for the vehicle at the end of the immobilization period until the immobilization fee has been paid.

(C) Upon receipt of the license plates for a vehicle under this section, the registrar shall destroy the license plates. At the end of the immobilization period and upon the payment of the immobilization fee that must be paid under this section, the registrar shall authorize the release of the vehicle and authorize the issuance, upon the payment of the same fee as is required for the replacement of lost, mutilated, or destroyed license plates and certificates of registration, of new license plates and, if necessary, a new certificate of registration to the offender for the vehicle in question.

(D)(1) If a court issues an immobilization order under division (A) of this section, the immobilization period commences on the day on which the vehicle in question is immobilized. If the vehicle in question had been seized under section 4510.41 or 4511.195 of the Revised Code, the time between the seizure and the beginning of the immobilization period shall be credited against the immobilization period specified in the immobilization order issued under division (A) of this section. No vehicle that is immobilized under this section is eligible to have restricted license plates under section 4503.231 of the Revised Code issued for that vehicle.

(2) If a court issues an immobilization order under division (A) of this section, if the vehicle subject to the order is immobilized under the order, and if the vehicle is found being operated upon any street or highway of this state during the immobilization period, it shall be seized, removed from the street or highway, and criminally forfeited, and disposed of pursuant to section 4503.234 of the Revised Code. No vehicle that is forfeited under this provision shall be considered contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981, of the Revised Code, but shall be held by the law enforcement agency that employs the officer who seized it for disposal in accordance with section 4503.234 of the Revised Code.

(3) If a court issues an immobilization order under division (A) of this section, and if the vehicle is not claimed within seven days after the end of the period of immobilization or if the offender has not paid the immobilization fee, the person or agency that immobilized the vehicle shall send a written notice to the offender at the offender's last known address informing the offender of the date on which the period of immobilization ended, that the offender has twenty days after the date of the notice to pay

the immobilization fee and obtain the release of the vehicle, and that if the offender does not pay the fee and obtain the release of the vehicle within that twenty-day period, the vehicle will be forfeited under section 4503.234 of the Revised Code to the entity that is entitled to the immobilization fee.

(4) An offender whose motor vehicle is subject to an immobilization order issued under division (A) of this section shall not sell the motor vehicle without approval of the court that issued the order. If such an offender wishes to sell the motor vehicle during the immobilization period, the offender shall apply to the court that issued the immobilization order for permission to assign the title to the vehicle. If the court is satisfied that the sale will be in good faith and not for the purpose of circumventing the provisions of division (A)(1) of this section, it may certify its consent to the offender and to the registrar. Upon receipt of the court's consent, the registrar shall enter the court's notice in the offender's vehicle license plate registration record.

If, during a period of immobilization under an immobilization order issued under division (A) of this section, the title to the immobilized motor vehicle is transferred by the foreclosure of a chattel mortgage, a sale upon execution, the cancellation of a conditional sales contract, or an order of a court, the involved court shall notify the registrar of the action, and the registrar shall enter the court's notice in the offender's vehicle license plate registration record.

Nothing in this section shall be construed as requiring the registrar or the clerk of the court of common pleas to note upon the certificate of title records any prohibition regarding the sale of a motor vehicle.

(5) If the title to a motor vehicle that is subject to an immobilization order under division (A) of this section is assigned or transferred without court approval between the time of arrest of the offender who committed the offense for which such an order is to be issued and the time of the actual immobilization of the vehicle, the court shall order that, for a period of two years from the date of the order, neither the registrar nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of the offender whose vehicle was assigned or transferred without court approval. The court shall notify the registrar of the order on a form prescribed by the registrar for that purpose.

(E)(1) The court with jurisdiction over the case, after notice to all interested parties including lienholders, and after an opportunity for them to be heard, if the offender fails to appear in person, without good cause, or if the court finds that the offender does not intend to seek release of the vehicle at the end of the period of immobilization or that the offender is not

or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the entity entitled to the immobilization fee under division (A)(5) of this section, next into the name of a lienholder, or lastly, into the name of the owner of the place of storage.

A lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the entity that receives title to the vehicle is the entity that is entitled to the immobilization fee under division (A)(5) of this section, it shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title may either keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (E)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section, but the offender remains liable for payment of the immobilization fee described in division (A)(3) of this section if an immobilization order previously had been issued by the court.

(3) Prior to initiating a proceeding under division (E)(1) of this section, and upon payment of the fee under division (B) of section 4505.14 of the Revised Code, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the vehicle

owner, the defendant, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail.

As used in this section, "interested party" includes the offender, all lienholders, the owner of the place of storage, the person or entity that caused the vehicle to be removed, and the person or entity, if any, entitled to the immobilization fee under division (A)(5) of this section.

Sec. 4503.234. (A) If a court is required by section 4503.233, 4503.236, 4510.11, 4510.14, 4510.16, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code to order the criminal forfeiture of a vehicle, the order shall be issued and enforced in accordance with this division, subject to division (B) of this section. An order of criminal forfeiture issued under this division shall authorize an appropriate law enforcement agency to seize the vehicle ordered criminally forfeited upon the terms and conditions that the court determines proper. No vehicle ordered criminally forfeited pursuant to this division shall be considered contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981. of the Revised Code, but the law enforcement agency that employs the officer who seized it shall hold the vehicle for disposal in accordance with this section. A forfeiture order may be issued only after the offender has been provided with an opportunity to be heard. The prosecuting attorney shall give the offender written notice of the possibility of forfeiture by sending a copy of the relevant uniform traffic ticket or other written notice to the offender not less than seven days prior to the date of issuance of the forfeiture order. A vehicle is subject to an order of criminal forfeiture pursuant to this division upon the conviction of the offender or plea of guilty by the offender to a violation of division (A) of section 4503.236, section 4510.11, 4510.14, 4510.16, or 4511.203, or division (A) of section 4511.19 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections or divisions.

(B)(1) Prior to the issuance of an order of criminal forfeiture pursuant to this section, the law enforcement agency that employs the law enforcement officer who seized the vehicle shall conduct or cause to be conducted a search of the appropriate public records that relate to the vehicle and shall make or cause to be made reasonably diligent inquiries to identify any lienholder or any person or entity with an ownership interest in the vehicle. The court that is to issue the forfeiture order also shall cause a notice of the potential order relative to the vehicle and of the expected manner of disposition of the vehicle after its forfeiture to be sent to any lienholder or

person who is known to the court to have any right, title, or interest in the vehicle. The court shall give the notice by certified mail, return receipt requested, or by personal service.

(2) No order of criminal forfeiture shall be issued pursuant to this section if a lienholder or other person with an ownership interest in the vehicle establishes to the court, by a preponderance of the evidence after filing a motion with the court, that the lienholder or other person neither knew nor should have known after a reasonable inquiry that the vehicle would be used or involved, or likely would be used or involved, in the violation resulting in the issuance of the order of criminal forfeiture or the violation of the order of immobilization issued under section 4503.233 of the Revised Code, that the lienholder or other person did not expressly or impliedly consent to the use or involvement of the vehicle in that violation, and that the lien or ownership interest was perfected pursuant to law prior to the seizure of the vehicle under section 4503.236, 4510.41, 4511.195, or 4511.203 of the Revised Code. If the lienholder or holder of the ownership interest satisfies the court that these criteria have been met, the court shall preserve the lienholder's or other person's lien or interest, and the court either shall return the vehicle to the holder, or shall order that the proceeds of any sale held pursuant to division (C)(2) of this section be paid to the lienholder or holder of the interest less the costs of seizure, storage, and maintenance of the vehicle. The court shall not return a vehicle to a lienholder or a holder of an ownership interest unless the lienholder or holder submits an affidavit to the court that states that the lienholder or holder will not return the vehicle to the person from whom the vehicle was seized pursuant to the order of criminal forfeiture or to any member of that person's family and will not otherwise knowingly permit that person or any member of that person's family to obtain possession of the vehicle.

(3) No order of criminal forfeiture shall be issued pursuant to this section if a person with an interest in the vehicle establishes to the court, by a preponderance of the evidence after filing a motion with the court, that the person neither knew nor should have known after a reasonable inquiry that the vehicle had been used or was involved in the violation resulting in the issuance of the order of criminal forfeiture or the violation of the order of immobilization issued under section 4503.233 of the Revised Code, that the person did not expressly or impliedly consent to the use or involvement of the vehicle in that violation, that the interest was perfected in good faith and for value pursuant to law between the time of the arrest of the offender and the final disposition of the criminal charge in question, and that the vehicle was in the possession of the interest holder at the time of the perfection of

the interest. If the court is satisfied that the interest holder has met these criteria, the court shall preserve the interest holder's interest, and the court either shall return the vehicle to the interest holder or order that the proceeds of any sale held pursuant to division (C) of this section be paid to the holder of the interest less the costs of seizure, storage, and maintenance of the vehicle. The court shall not return a vehicle to an interest holder unless the holder submits an affidavit to the court stating that the holder will not return the vehicle to the person from whom the holder acquired the holder's interest, nor to any member of that person's family, and the holder will not otherwise knowingly permit that person or any member of that person's family to obtain possession of the vehicle.

(C) A vehicle ordered criminally forfeited to the state pursuant to this section shall be disposed of as follows:

(1) It shall be given to the law enforcement agency that employs the law enforcement officer who seized the vehicle, if that agency desires to have it;

(2) If a vehicle is not disposed of pursuant to division (C)(1) of this section, the vehicle shall be sold, without appraisal, if the value of the vehicle is two thousand dollars or more as determined by publications of the national auto dealer's association, at a public auction to the highest bidder for cash. Prior to the sale, the prosecuting attorney in the case shall cause a notice of the proposed sale to be given in accordance with law. The court shall cause notice of the sale of the vehicle to be published in a newspaper of general circulation in the county in which the court is located at least seven days prior to the date of the sale. The proceeds of a sale under this division or division (F) of this section shall be applied in the following order:

(a) First, they shall be applied to the payment of the costs incurred in connection with the seizure, storage, and maintenance of, and provision of security for, the vehicle, any proceeding arising out of the forfeiture, and if any, the sale.

(b) Second, the remaining proceeds after compliance with division (C)(2)(a) of this section, shall be applied to the payment of the value of any lien or ownership interest in the vehicle preserved under division (B) of this section.

(c) Third, the remaining proceeds, after compliance with divisions (C)(2)(a) and (b) of this section, shall be applied to the appropriate funds in accordance with divisions ~~(D)(1)(e)(B)~~ and ~~(2)(C)~~ of section ~~2933.43~~ 2981.13 of the Revised Code, provided that the total of the amount so deposited under this division shall not exceed one thousand dollars. The remaining proceeds deposited under this division shall be used only for the

purposes authorized by those divisions and division ~~(D)(3)(a)(ii)~~ of that section.

(d) Fourth, the remaining proceeds after compliance with divisions (C)(2)(a) and (b) of this section and after deposit of a total amount of one thousand dollars under division (C)(2)(c) of this section shall be applied so that fifty per cent of those remaining proceeds is paid into the reparation fund established by section 2743.191 of the Revised Code, twenty-five per cent is paid into the drug abuse resistance education programs fund created by division (F)(2)(e) of section 4511.191 of the Revised Code and shall be used only for the purposes authorized by division (F)(2)(e) of that section, and twenty-five per cent is applied to the appropriate funds in accordance with ~~division (D)(1)(e)~~ divisions (B) and (C) of section 2933.43 2981.13 of the Revised Code. The proceeds deposited into any fund described in section ~~2933.43~~ 2981.13 of the Revised Code shall be used only for the purposes authorized by ~~division (D)(1)(e), (2), and (3)(a)(ii)~~ divisions (B)(4)(c), (C), and (D) of that section.

(D) Except as provided in division (E) of section 4511.203 of the Revised Code and notwithstanding any other provision of law, neither the registrar of motor vehicles nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of any person, or register any motor vehicle in the name of any person, if both of the following apply:

(1) Any vehicle registered in the person's name was criminally forfeited under this section and section 4503.233, 4503.236, 4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code;

(2) Less than five years have expired since the issuance of the most recent order of criminal forfeiture issued in relation to a vehicle registered in the person's name.

(E) If a court is required by section 4503.233, 4503.236, 4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code to order the criminal forfeiture to the state of a vehicle, and the title to the motor vehicle is assigned or transferred, and division (B)(2) or (3) of this section applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealer's association. The proceeds from any fine imposed under this division shall be distributed in accordance with division (C)(2) of this section.

(F) As used in this section and divisions ~~(D)(1)(e), (D)(2), and (D)(3)(a)(ii)~~ (B)(4)(c), (C), and (D) of section ~~2933.43~~ 2981.13 of the

Revised Code in relation to proceeds of the sale of a vehicle under division (C) of this section, "prosecuting attorney" includes the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer of a municipal corporation who prosecutes the case resulting in the conviction or guilty plea in question.

(G) If the vehicle to be forfeited has an average retail value of less than two thousand dollars as determined by publications of the national auto dealer's association, no public auction is required to be held. In such a case, the court may direct that the vehicle be disposed of in any manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The court shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the court assigns the motor vehicle to a salvage dealer or scrap metal processing facility and the court is in possession of the certificate of title to the motor vehicle, it shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The court shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

If the court is not in possession of the certificate of title to the motor vehicle, the court shall issue an order transferring ownership of the motor vehicle to a salvage dealer or scrap metal processing facility, send the order to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located, and send a photocopy of the order to the salvage dealer or scrap metal processing facility for its records. The clerk shall make the proper notations or entries in the clerk's records concerning the disposition of the motor vehicle.

Sec. 4510.41. (A) As used in this section:

(1) "Arrested person" means a person who is arrested for a violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, and whose arrest results in a vehicle being seized under division (B) of this section.

(2) "Vehicle owner" means either of the following:

(a) The person in whose name is registered, at the time of the seizure, a vehicle that is seized under division (B) of this section;

(b) A person to whom the certificate of title to a vehicle that is seized under division (B) of this section has been assigned and who has not obtained a certificate of title to the vehicle in that person's name, but who is

deemed by the court as being the owner of the vehicle at the time the vehicle was seized under division (B) of this section.

(3) "Interested party" includes the owner of a vehicle seized under this section, all lienholders, the arrested person, the owner of the place of storage at which a vehicle seized under this section is stored, and the person or entity that caused the vehicle to be removed.

(B)(1) If a person is arrested for a violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the arresting officer or another officer of the law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take by any other provision of law, shall seize the vehicle that the person was operating at the time of, or that was involved in, the alleged offense if the vehicle is registered in the arrested person's name and its license plates. A law enforcement agency that employs a law enforcement officer who makes an arrest of a type that is described in this division and that involves a rented or leased vehicle that is being rented or leased for a period of thirty days or less shall notify, within twenty-four hours after the officer makes the arrest, the lessor or owner of the vehicle regarding the circumstances of the arrest and the location at which the vehicle may be picked up. At the time of the seizure of the vehicle, the law enforcement officer who made the arrest shall give the arrested person written notice that the vehicle and its license plates have been seized; that the vehicle either will be kept by the officer's law enforcement agency or will be immobilized at least until the person's initial appearance on the charge of the offense for which the arrest was made; that, at the initial appearance, the court in certain circumstances may order that the vehicle and license plates be released to the arrested person until the disposition of that charge; that, if the arrested person is convicted of that charge, the court generally must order the immobilization of the vehicle and the impoundment of its license plates or the forfeiture of the vehicle; and that the arrested person may be charged expenses or charges incurred under this section and section 4503.233 of the Revised Code for the removal and storage of the vehicle.

(2) The arresting officer or a law enforcement officer of the agency that employs the arresting officer shall give written notice of the seizure to the court that will conduct the initial appearance of the arrested person on the charges arising out of the arrest. Upon receipt of the notice, the court promptly shall determine whether the arrested person is the vehicle owner. If the court determines that the arrested person is not the vehicle owner, it promptly shall send by regular mail written notice of the seizure to the

vehicle's registered owner. The written notice shall contain all of the information required by division (B)(1) of this section to be in a notice to be given to the arrested person and also shall specify the date, time, and place of the arrested person's initial appearance. The notice also shall inform the vehicle owner that if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. The notice also shall state that if the vehicle is immobilized under division (A) of section 4503.233 of the Revised Code, seven days after the end of the period of immobilization a law enforcement agency will send the vehicle owner a notice, informing the owner that if the release of the vehicle is not obtained in accordance with division (D)(3) of section 4503.233 of the Revised Code, the vehicle shall be forfeited. The notice also shall inform the vehicle owner that the owner may be charged expenses or charges incurred under this section and section 4503.233 of the Revised Code for the removal and storage of the vehicle.

The written notice that is given to the arrested person also shall state that if the person is convicted of or pleads guilty to the offense and the court issues an immobilization and impoundment order relative to that vehicle, division (D)(4) of section 4503.233 of the Revised Code prohibits the vehicle from being sold during the period of immobilization without the prior approval of the court.

(3) At or before the initial appearance, the vehicle owner may file a motion requesting the court to order that the vehicle and its license plates be released to the vehicle owner. Except as provided in this division and subject to the payment of expenses or charges incurred in the removal and storage of the vehicle, the court, in its discretion, then may issue an order releasing the vehicle and its license plates to the vehicle owner. Such an order may be conditioned upon such terms as the court determines appropriate, including the posting of a bond in an amount determined by the court. If the arrested person is not the vehicle owner and if the vehicle owner is not present at the arrested person's initial appearance, and if the court believes that the vehicle owner was not provided with adequate notice of the initial appearance, the court, in its discretion, may allow the vehicle owner to file a motion within seven days of the initial appearance. If the court allows the vehicle owner to file such a motion after the initial appearance, the extension of time granted by the court does not extend the time within which the initial appearance is to be conducted. If the court issues an order for the release of the vehicle and its license plates, a copy of the order shall be made available to the vehicle owner. If the vehicle owner presents a copy

of the order to the law enforcement agency that employs the law enforcement officer who arrested the arrested person, the law enforcement agency promptly shall release the vehicle and its license plates to the vehicle owner upon payment by the vehicle owner of any expenses or charges incurred in the removal or storage of the vehicle.

(4) A vehicle seized under division (B)(1) of this section either shall be towed to a place specified by the law enforcement agency that employs the arresting officer to be safely kept by the agency at that place for the time and in the manner specified in this section or shall be otherwise immobilized for the time and in the manner specified in this section. A law enforcement officer of that agency shall remove the identification license plates of the vehicle, and they shall be safely kept by the agency for the time and in the manner specified in this section. No vehicle that is seized and either towed or immobilized pursuant to this division shall be considered contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981, of the Revised Code. The vehicle shall not be immobilized at any place other than a commercially operated private storage lot, a place owned by a law enforcement or other government agency, or a place to which one of the following applies:

(a) The place is leased by or otherwise under the control of a law enforcement or other government agency.

(b) The place is owned by the arrested person, the arrested person's spouse, or a parent or child of the arrested person.

(c) The place is owned by a private person or entity, and, prior to the immobilization, the private entity or person that owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place.

(d) The place is a public street or highway on which the vehicle is parked in accordance with the law.

(C)(1) A vehicle seized under division (B) of this section shall be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question. The license plates of the vehicle that are removed pursuant to division (B) of this section shall be safely kept by the law enforcement agency that employs the arresting officer until at least the initial appearance of the arrested person relative to the charge in question.

(2)(a) At the initial appearance or not less than seven days prior to the date of final disposition, the court shall notify the arrested person that, if title to a motor vehicle that is subject to an order for criminal forfeiture under

this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. If, at the initial appearance, the arrested person pleads guilty to the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the person as provided by law or ordinance; the court shall order the immobilization of the vehicle the arrested person was operating at the time of, or that was involved in, the offense if registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code or the criminal forfeiture to the state of the vehicle if registered in the arrested person's name under section 4503.234 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code, whichever is applicable; and the vehicle and its license plates shall not be returned or released to the arrested person.

(b) If, at any time, the charge that the arrested person violated section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its license plates immediately be released to the person.

(D) If a vehicle and its license plates are seized under division (B) of this section and are not returned or released to the arrested person pursuant to division (C) of this section, the vehicle and its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:

(1) If the arrested person is convicted of or pleads guilty to the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the court shall impose sentence upon the person as provided by law or ordinance and shall order the immobilization of the vehicle the person was operating at the time of, or that was involved in, the offense if it is registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code or the criminal forfeiture of the vehicle if it is registered in the arrested person's name under section 4503.234 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code, whichever is applicable.

(2) If the arrested person is found not guilty of the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(3) If the charge that the arrested person violated section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(4) If the impoundment of the vehicle was not authorized under this section, the court shall order that the vehicle and its license plates be returned immediately to the arrested person or, if the arrested person is not the vehicle owner, to the vehicle owner and shall order that the state or political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage.

(E) If a vehicle is seized under division (B) of this section, the time between the seizure of the vehicle and either its release to the arrested person pursuant to division (C) of this section or the issuance of an order of immobilization of the vehicle under section 4503.233 of the Revised Code shall be credited against the period of immobilization ordered by the court.

(F)(1) Except as provided in division (D)(4) of this section, the arrested person may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the court finds that the arrested person does not intend to seek release of the vehicle at the end of the period of immobilization under section 4503.233 of the Revised Code or that the arrested person is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.

Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person or entity that receives title to the vehicle is the person or entity that removed it, the person or entity shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the

place of storage if the person or entity refuses to receive the title. Any person or entity that receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity that receives title assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (F)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section or under section 4503.233 of the Revised Code.

(3) Prior to initiating a proceeding under division (F)(1) of this section, and upon payment of the fee under division (B) of section 4505.14, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the arrested person, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail, or, at the option of the initiating party, by personal service or ordinary mail.

Sec. 4511.195. (A) As used in this section:

(1) "Arrested person" means a person who is arrested for a violation of division (A) of section 4511.19 of the Revised Code or a municipal OVI ordinance and whose arrest results in a vehicle being seized under division (B) of this section.

(2) "Vehicle owner" means either of the following:

(a) The person in whose name is registered, at the time of the seizure, a vehicle that is seized under division (B) of this section;

(b) A person to whom the certificate of title to a vehicle that is seized under division (B) of this section has been assigned and who has not

obtained a certificate of title to the vehicle in that person's name, but who is deemed by the court as being the owner of the vehicle at the time the vehicle was seized under division (B) of this section.

(3) "Interested party" includes the owner of a vehicle seized under this section, all lienholders, the arrested person, the owner of the place of storage at which a vehicle seized under this section is stored, and the person or entity that caused the vehicle to be removed.

(B)(1) The arresting officer or another officer of the law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take by section 4511.19 or 4511.191 of the Revised Code or by any other provision of law, shall seize the vehicle that a person was operating at the time of the alleged offense and its license plates if the vehicle is registered in the arrested person's name and if either of the following applies:

(a) The person is arrested for a violation of division (A) of section 4511.19 of the Revised Code or of a municipal OVI ordinance and, within six years of the alleged violation, the person previously has been convicted of or pleaded guilty to one or more violations of division (A) or (B) of section 4511.19 of the Revised Code or one or more other equivalent offenses.

(b) The person is arrested for a violation of division (A) of section 4511.19 of the Revised Code or of a municipal OVI ordinance and the person previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony, regardless of when the prior felony violation of division (A) of section 4511.19 of the Revised Code and the conviction or guilty plea occurred.

(2) A law enforcement agency that employs a law enforcement officer who makes an arrest of a type that is described in division (B)(1) of this section and that involves a rented or leased vehicle that is being rented or leased for a period of thirty days or less shall notify, within twenty-four hours after the officer makes the arrest, the lessor or owner of the vehicle regarding the circumstances of the arrest and the location at which the vehicle may be picked up. At the time of the seizure of the vehicle, the law enforcement officer who made the arrest shall give the arrested person written notice that the vehicle and its license plates have been seized; that the vehicle either will be kept by the officer's law enforcement agency or will be immobilized at least until the operator's initial appearance on the charge of the offense for which the arrest was made; that, at the initial appearance, the court in certain circumstances may order that the vehicle

and license plates be released to the arrested person until the disposition of that charge; and that, if the arrested person is convicted of that charge, the court generally must order the immobilization of the vehicle and the impoundment of its license plates, or the forfeiture of the vehicle.

(3) The arresting officer or a law enforcement officer of the agency that employs the arresting officer shall give written notice of the seizure to the court that will conduct the initial appearance of the arrested person on the charges arising out of the arrest. Upon receipt of the notice, the court promptly shall determine whether the arrested person is the vehicle owner. If the court determines that the arrested person is not the vehicle owner, it promptly shall send by regular mail written notice of the seizure to the vehicle's registered owner. The written notice shall contain all of the information required by division (B)(2) of this section to be in a notice to be given to the arrested person and also shall specify the date, time, and place of the arrested person's initial appearance. The notice also shall inform the vehicle owner that if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. The notice also shall state that if the vehicle is immobilized under division (A) of section 4503.233 of the Revised Code, seven days after the end of the period of immobilization a law enforcement agency will send the vehicle owner a notice, informing the owner that if the release of the vehicle is not obtained in accordance with division (D)(3) of section 4503.233 of the Revised Code, the vehicle shall be forfeited. The notice also shall inform the vehicle owner that the vehicle owner may be charged expenses or charges incurred under this section and section 4503.233 of the Revised Code for the removal and storage of the vehicle.

The written notice that is given to the arrested person also shall state that if the person is convicted of or pleads guilty to the offense and the court issues an immobilization and impoundment order relative to that vehicle, division (D)(4) of section 4503.233 of the Revised Code prohibits the vehicle from being sold during the period of immobilization without the prior approval of the court.

(4) At or before the initial appearance, the vehicle owner may file a motion requesting the court to order that the vehicle and its license plates be released to the vehicle owner. Except as provided in this division and subject to the payment of expenses or charges incurred in the removal and storage of the vehicle, the court, in its discretion, then may issue an order releasing the vehicle and its license plates to the vehicle owner. Such an

order may be conditioned upon such terms as the court determines appropriate, including the posting of a bond in an amount determined by the court. If the arrested person is not the vehicle owner and if the vehicle owner is not present at the arrested person's initial appearance, and if the court believes that the vehicle owner was not provided with adequate notice of the initial appearance, the court, in its discretion, may allow the vehicle owner to file a motion within seven days of the initial appearance. If the court allows the vehicle owner to file such a motion after the initial appearance, the extension of time granted by the court does not extend the time within which the initial appearance is to be conducted. If the court issues an order for the release of the vehicle and its license plates, a copy of the order shall be made available to the vehicle owner. If the vehicle owner presents a copy of the order to the law enforcement agency that employs the law enforcement officer who arrested the arrested person, the law enforcement agency promptly shall release the vehicle and its license plates to the vehicle owner upon payment by the vehicle owner of any expenses or charges incurred in the removal and storage of the vehicle.

(5) A vehicle seized under division (B)(1) of this section either shall be towed to a place specified by the law enforcement agency that employs the arresting officer to be safely kept by the agency at that place for the time and in the manner specified in this section or shall be otherwise immobilized for the time and in the manner specified in this section. A law enforcement officer of that agency shall remove the identification license plates of the vehicle, and they shall be safely kept by the agency for the time and in the manner specified in this section. No vehicle that is seized and either towed or immobilized pursuant to this division shall be considered contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981, of the Revised Code. The vehicle shall not be immobilized at any place other than a commercially operated private storage lot, a place owned by a law enforcement agency or other government agency, or a place to which one of the following applies:

(a) The place is leased by or otherwise under the control of a law enforcement agency or other government agency.

(b) The place is owned by the vehicle operator, the vehicle operator's spouse, or a parent or child of the vehicle operator.

(c) The place is owned by a private person or entity, and, prior to the immobilization, the private entity or person that owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place.

(d) The place is a street or highway on which the vehicle is parked in

accordance with the law.

(C)(1) A vehicle seized under division (B) of this section shall be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question. The license plates of the vehicle that are removed pursuant to division (B) of this section shall be safely kept by the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question.

(2)(a) At the initial appearance or not less than seven days prior to the date of final disposition, the court shall notify the arrested person that, if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. If, at the initial appearance, the arrested person pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal OVI ordinance or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the person as provided by law or ordinance; the court shall order the immobilization of the vehicle the arrested person was operating at the time of the offense if registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4511.19 or 4511.193 of the Revised Code or the criminal forfeiture to the state of the vehicle if registered in the arrested person's name under section 4503.234 and section 4511.19 or 4511.193 of the Revised Code, whichever is applicable; and the vehicle and its license plates shall not be returned or released to the arrested person.

(b) If, at any time, the charge that the arrested person violated division (A) of section 4511.19 of the Revised Code or the municipal OVI ordinance is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its license plates immediately be released to the person.

(D) If a vehicle and its license plates are seized under division (B) of this section and are not returned or released to the arrested person pursuant to division (C) of this section, the vehicle and its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:

(1) If the arrested person is convicted of or pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal

OVI ordinance, the court shall impose sentence upon the person as provided by law or ordinance and shall order the immobilization of the vehicle the person was operating at the time of the offense if it is registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4511.19 or 4511.193 of the Revised Code, or the criminal forfeiture of the vehicle if it is registered in the arrested person's name under section 4503.234 and section 4511.19 or 4511.193 of the Revised Code, whichever is applicable.

(2) If the arrested person is found not guilty of the violation of division (A) of section 4511.19 of the Revised Code or of the municipal OVI ordinance, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(3) If the charge that the arrested person violated division (A) of section 4511.19 of the Revised Code or the municipal OVI ordinance is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(4) If the impoundment of the vehicle was not authorized under this section, the court shall order that the vehicle and its license plates be returned immediately to the arrested person or, if the arrested person is not the vehicle owner, to the vehicle owner, and shall order that the state or political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage.

(E) If a vehicle is seized under division (B) of this section, the time between the seizure of the vehicle and either its release to the arrested person under division (C) of this section or the issuance of an order of immobilization of the vehicle under section 4503.233 of the Revised Code shall be credited against the period of immobilization ordered by the court.

(F)(1) Except as provided in division (D)(4) of this section, the arrested person may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the court finds that the arrested person does not intend to seek release of the vehicle at the end of the period of immobilization under section 4503.233 of the Revised Code or that the arrested person is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.

Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person or entity that receives title to the vehicle is the person or entity that removed it, the person or entity shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity that receives title assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (F)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar of motor vehicles if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section or under section 4503.233 of the Revised Code.

(3) Prior to initiating a proceeding under division (F)(1) of this section, and upon payment of the fee under division (B) of section 4505.14 of the Revised Code, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the arrested person, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail.

Sec. 4549.62. (A) No person, with purpose to conceal or destroy the identity of a vehicle or vehicle part, shall remove, deface, cover, alter, or

destroy any vehicle identification number or derivative of a vehicle identification number on a vehicle or vehicle part.

(B) No person, with purpose to conceal or destroy the identity of a vehicle or a vehicle part, shall remove, deface, cover, alter, or destroy any identifying number that has been lawfully placed upon a vehicle or vehicle part by an owner of the vehicle or vehicle part, other than the manufacturer, for the purpose of deterring its theft and facilitating its recovery if stolen.

(C) No person, with purpose to conceal or destroy the identity of a vehicle or vehicle part, shall place a counterfeit vehicle identification number or derivative of a vehicle identification number upon the vehicle or vehicle part.

(D)(1) No person shall buy, offer to buy, sell, offer to sell, receive, dispose of, conceal, or, except as provided in division (D)(4) of this section, possess any vehicle or vehicle part with knowledge that the vehicle identification number or a derivative of the vehicle identification number has been removed, defaced, covered, altered, or destroyed in such a manner that the identity of the vehicle or part cannot be determined by a visual examination of the number at the site where the manufacturer placed the number.

(2)(a) A vehicle or vehicle part from which the vehicle identification number or a derivative of the vehicle identification number has been so removed, defaced, covered, altered, or destroyed shall be seized and forfeited under ~~section 2933.41~~ Chapter 2981, of the Revised Code unless division (D)(3) or (4) of this section applies to the vehicle or part. If a derivative of the vehicle identification number has been removed, defaced, covered, altered, or destroyed in such a manner that the identity of the part cannot be determined, the entire vehicle is subject to seizure pending a determination of the original identity and ownership of the vehicle and parts of the vehicle, and the rights of innocent owners to reclaim the remainder or any part of the vehicle.

(b) The lawful owners of parts upon a vehicle that has been seized under this section and that is subject to forfeiture under ~~section 2933.41~~ Chapter 2981, of the Revised Code are entitled to reclaim their respective parts upon satisfactory proof of all of the following:

(i) That the part is not needed for evidence in pending proceedings involving the vehicle or part and is not subject to forfeiture under ~~section 2933.41~~ Chapter 2981, of the Revised Code;

(ii) That the original identity and ownership of the part can be determined and that the claimant is the lawful owner of the part;

(iii) That no vehicle identification number or derivative of a vehicle

identification number on the part has been destroyed or concealed in such a manner that the identity of the part cannot be determined from that number;

(iv) Payment of all costs of removing the part.

(3) Divisions (A), (B), and (D)(1) and (2) of this section do not apply to the good faith acquisition and disposition of vehicles and vehicle parts as junk or scrap in the ordinary course of business by a scrap metal processing facility as defined in division (D) of section 4737.05 of the Revised Code or by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code. This division does not create an element of an offense or an affirmative defense, or affect the burden of proceeding with the evidence or burden of proof in a criminal proceeding.

(4)(a) Divisions (D)(1) and (2) of this section do not apply to the possession of an owner, or the owner's insurer, who provides satisfactory evidence of all of the following:

(i) That the vehicle identification number or derivative thereof on the vehicle or part has been removed, defaced, covered, altered, or destroyed, after the owner acquired such possession, by another person without the consent of the owner, by accident or other casualty not due to the owner's purpose to conceal or destroy the identity of the vehicle or vehicle part, or by ordinary wear and tear;

(ii) That the person is the owner of the vehicle as shown on a valid certificate of title issued by this state or certificate of title or other lawful evidence of title issued in another state, in a clear chain of title beginning with the manufacturer;

(iii) That the original identity of the vehicle can be established in a manner that excludes any reasonable probability that the vehicle has been stolen from another person.

(b) The registrar of motor vehicles shall adopt rules under Chapter 119. of the Revised Code to permit an owner described in division (D)(4)(a) of this section, upon application and submission of satisfactory evidence to the registrar, to obtain authority to replace the vehicle identification number under the supervision of a peace officer, trooper of the state highway patrol, or representative of the registrar. The rules shall be designed to restore the identification of the vehicle in a manner that will deter its theft and facilitate its marketability. Until such rules are adopted, the registrar shall follow the existing procedure for the replacement of vehicle identification numbers that have been established by the registrar, with such modifications as the registrar determines to be necessary or appropriate for the administration of the laws the registrar is required to administer.

The registrar may issue a temporary permit to an owner of a motor

vehicle who is described in division (D)(4)(a) of this section to authorize the owner to retain possession of the motor vehicle and to transfer title to the motor vehicle with the consent of the registrar.

(c) No owner described in division (D)(4)(a) of this section shall fail knowingly to apply to the registrar for authority to replace the vehicle identification number, within thirty days after the later of the following dates:

(i) The date of receipt by the applicant of actual knowledge of the concealment or destruction;

(ii) If the property has been stolen, the date thereafter upon which the applicant obtains possession of the vehicle or has been notified by a law enforcement agency that the vehicle has been recovered.

The requirement of division (D)(4)(c) of this section may be excused by the registrar for good cause shown.

(E) Whoever violates division (A), (B), (C), or (D)(1) of this section is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

(F) Whoever violates division (D)(4)(c) of this section is guilty of a minor misdemeanor.

Sec. 4549.63. (A) A law enforcement officer may seize and take possession of a vehicle or vehicle part if the officer has probable cause to believe that any vehicle identification number or derivative thereof on the vehicle or part has been removed, defaced, covered, altered, or destroyed in such a manner that the identity of the vehicle or part cannot be determined by visual examination of the number at the site where the manufacturer placed the number. The seizure shall be pursuant to a warrant, unless the circumstances are within one of the exceptions to the warrant requirement that have been established by the supreme court of the United States or of the supreme court of this state.

(B) A vehicle or vehicle part seized under division (A) of this section shall be held in custody pursuant to section ~~2933.41~~ 2981.11 of the Revised Code or any applicable municipal ordinance.

(C) A law enforcement officer who acts in good faith in the belief that the seizure of a vehicle or vehicle part is justified under division (A) of this section is immune from any civil or criminal liability for such seizure.

(D) The lawful owner of a vehicle or vehicle part seized under this section that is not needed as evidence and is not subject to forfeiture under division (D)(2) of section 4549.62 of the Revised Code may reclaim the property by submitting satisfactory proof of ownership to the law enforcement agency or court holding the property.

Sec. 4728.04. (A) The application for a license under this chapter shall state fully the name and address of the person, or corporation, and of every member of the firm, partnership, or association, authorized to do business thereunder, the name of the individual responsible for the daily operation of the business, and the location of the office or place of business in which the business is conducted. In the case of a corporation, the application also shall state the date and place of incorporation, the name and address of the corporation's manager, the names and addresses of corporate directors, and the name and address of the agent, as provided in section 4728.03 of the Revised Code.

The holder of a precious metals dealer's license shall keep the license posted in a conspicuous place in the office where business is transacted. No licensee shall transact or solicit business under any other name or location. Not more than one office or place of business shall be maintained under the same license, except as provided under division (C) of this section. In case of removal, the licensee shall provide written notice in advance to the division of financial institutions in the department of commerce of a prospective change of address of a business location. Upon approval by the superintendent of financial institutions, the division shall issue a new license. If the new location is outside the municipal corporation or county of the original licensed location, the licensee shall pay an additional license fee according to section 4728.03 of the Revised Code.

(B) A person licensed under this chapter shall post a conspicuous notice in its place of business visible to all patrons, in a form and at places designated by rule of the division, that the licensee has no right to retain goods stolen from the true owner, and that the owner may recover the goods or their value from the licensee in an action at law or, if the chief or head of a local police department or the chief's or head's representative takes custody of the goods, by release pursuant to section ~~2933.41~~ 2981.11 of the Revised Code.

(C)(1) The superintendent may issue to a person licensed under this chapter or Chapter 4727. of the Revised Code a temporary exhibition permit for a term that coincides with that of the license of the licensee. A person issued a permit under this division may engage in the business of purchasing articles made of or containing gold, silver, platinum, or other precious metals or jewels from the public at a bona fide auction, convention, exhibition, fair, or show, the primary purpose of which is to display, trade, and sell articles made of or containing precious metals or jewels, for a period not to exceed seven days for any one auction, convention, exhibition, fair, or show.

(2) The superintendent shall determine the application procedures for and the form of the temporary exhibition permit described in this division, provided that a temporary permit shall state fully the name and permanent business address of the licensee to whom it is issued.

(3) The holder of a temporary exhibition permit shall, when participating in any auction, convention, fair, or show, conspicuously display the holder's permit at the location at which the holder transacts business.

(4) A permit holder who wishes to participate in an auction, convention, exhibition, fair, or show shall, at least two weeks prior to its scheduled opening, submit to the superintendent, or the chief or the head of the local police department with jurisdiction at the location of the event, the holder's name, the location of the auction, convention, exhibition, fair, or show, and the holder's permanent business address as it appears on the holder's permit issued under division (C)(2) of this section.

(5) All purchases of articles made of or containing gold, silver, platinum, or other precious metals or jewels conducted under a temporary exhibition permit are subject to sections 4728.06 to 4728.09, 4728.13, and 4728.99 of the Revised Code as if made under a license.

Sec. 4729.65. (A) Except as provided in division (B) of this section, all receipts of the state board of pharmacy, from any source, shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the president or executive director of the board, or both, as authorized by the board. All initial issuance fees and renewal fees required by sections 4729.01 to 4729.54 of the Revised Code shall be payable by the applicant at the time of making application.

(B)(1) There is hereby created in the state treasury the board of pharmacy drug law enforcement fund. All moneys that are derived from any fines, mandatory fines, or forfeited bail to which the board may be entitled under Chapter 2925., division (C)(4) of section 2923.42, or division (B)(5) of section 2925.42 of the Revised Code and all moneys that are derived from forfeitures of property to which the board may be entitled pursuant to Chapter 2925. or 2981. of the Revised Code, ~~section 2923.32, 2923.35, 2923.44, 2923.45, 2923.46, or 2933.43 of the Revised Code,~~ any other ~~section~~ provision of the Revised Code, or federal law shall be deposited into the fund. Subject to division (B)(2) of this section, ~~division (D)(2)(e) of section 2923.35,~~ division (B)(5) of section 2923.44, ~~division (B)(7)(e) of section 2923.46,~~ and divisions ~~(D)(1)(e) and (3)(B), (C), and (D)~~ of section ~~2933.43~~ 2981.13 of the Revised Code, the moneys in the fund shall be used

solely to subsidize the drug law enforcement efforts of the board.

(2) Notwithstanding any contrary provision in the Revised Code, moneys that are derived from forfeitures of property pursuant to federal law and that are deposited into the board of pharmacy drug law enforcement fund in accordance with division (B)(1) of this section shall be used and accounted for in accordance with the applicable federal law, and the board otherwise shall comply with that law in connection with the moneys.

(C) All fines and forfeited bonds assessed and collected under prosecution or prosecution commenced in the enforcement of this chapter shall be paid to the executive director of the board within thirty days and by the executive director paid into the state treasury to the credit of the occupational licensing and regulatory fund. The board, subject to the approval of the controlling board and except for fees required to be established by the board at amounts "adequate" to cover designated expenses, may establish fees in excess of the amounts provided by this chapter, provided that such fees do not exceed the amounts permitted by this chapter by more than fifty per cent.

Sec. 5735.121. (A) If the tax commissioner finds that any person liable for tax under this chapter is about to depart from the state, remove property from the state, conceal self, or conceal the person's property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax, unless proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any person will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the person for the amount of the tax, plus a penalty of up to fifteen per cent. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any assessment issued under this section shall bear interest in the manner prescribed in section 5735.12 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5735.12 of the Revised Code. Notice of the jeopardy assessment shall be served on the person assessed or the legal representative of the person assessed, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry. The person assessed may petition for reassessment within sixty days of receipt of the notice of jeopardy assessment in the same manner as provided in section 5735.12 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as

contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981, of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the person subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the person that previously were seized. Upon satisfaction of the assessment, the commissioner shall order the security released and the judgment vacated.

(D) The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

Sec. 5739.15. (A) If the tax commissioner finds that a vendor, consumer, or officer, employee, or trustee of a corporation or business trust who is liable for any tax or charge levied by this chapter or Chapter 5741. of the Revised Code is about to depart from the state, remove the person's property from the state, conceal the person's self or property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any vendor, consumer, or officer, employee, or trustee of a corporation or business trust will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the person for the amount of the tax or charge plus a penalty as provided by section 5739.133 of the Revised Code. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any assessment issued under this section shall bear interest as prescribed by section 5739.13 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as

provided in section 5739.13 of the Revised Code. Notice of the jeopardy assessment shall be served on the person assessed or the person's legal representative, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry. The person assessed may petition for reassessment within sixty days of receipt of the notice of jeopardy assessment in the same manner as provided in section 5739.13 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981, of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the person subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the person previously seized. Upon satisfaction of the assessment, the commissioner shall order the security released and the judgment vacated.

Sec. 5743.082. (A) If the tax commissioner finds that a wholesale dealer or retail dealer, liable for tax under sections 5743.01 to 5743.20 of the Revised Code, is about to depart from the state, remove the wholesale or retail dealer's property from the state, conceal the wholesale or retail dealer's person or property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax, unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any wholesale dealer or retail dealer will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the wholesale or retail dealer for the amount of the tax, plus a penalty of up to thirty per cent. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of

this section. Any assessment issued under this section shall bear interest as prescribed by section 5743.081 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5743.081 of the Revised Code. Notice of the jeopardy assessment shall be served on the dealer assessed or the dealer's legal representative, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry. The dealer assessed may petition for reassessment within sixty days of receipt of the notice of jeopardy assessment in the same manner as provided in section 5743.081 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the dealer subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the dealer that previously were seized. Upon satisfaction of the assessment the commissioner shall order the security released and the judgment vacated.

(D) The commissioner may adopt rules providing for the imposition and remission of penalties imposed under this section.

Sec. 5743.112. (A) No person shall prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute cigarettes, or otherwise engage or participate in the wholesale or retail business of trafficking in cigarettes, with the intent to avoid payment of the tax imposed by this chapter, when the total number of cigarettes in the aggregate exceeds one thousand two hundred during any twelve-month period.

(B) Any vending machine containing cigarettes which do not have

affixed the stamps or impressions provided for by sections 5743.03 and 5743.04 of the Revised Code shall be seized and forfeited to the state in accordance with ~~section 2933.43~~ Chapter 2981. of the Revised Code. Forfeiture shall not affect the rights of a holder of a valid lien.

(C) A vehicle that is seized as contraband under ~~section 2933.43~~ Chapter 2981. of the Revised Code because of its use in violation of this chapter is subject to the procedures set forth in ~~section 2933.43 of the Revised Code~~ that chapter.

SECTION 2. That existing sections 9.92, 109.85, 309.08, 311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 5739.15, 5743.082, and 5743.112 and sections 2923.33, 2923.35, 2923.45, 2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 2925.45, 2933.41, 2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 2933.73, and 2933.74 of the Revised Code are hereby repealed.

SECTION 3. (A) Section 2901.01 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 364, Sub. H.B. 545, and H.B. 675 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act.

(B) Section 2925.14 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 53 and Sub. S.B. 154 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 4. Sections 1, 2, and 3 of this act shall take effect on July 1, 2007. If a criminal or civil forfeiture action relating to misconduct under Title XXIX of the Revised Code was or is commenced before July 1, 2007, and is still pending on that date, the court in which the case is pending shall, to the extent practical, apply the provisions of Chapter 2981. of the Revised Code in the case.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 241

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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 _____