

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 241

Representatives Latta, McGregor, C. Evans

—

A B I L L

To amend sections 9.92, 109.85, 309.08, 311.07, 1
1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2
2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 3
2923.41, 2923.42, 2923.44, 2925.03, 2925.14, 4
2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 5
2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 6
3729.13, 3743.68, 3745.13, 4301.29, 4301.45, 7
4301.53, 4305.13, 4503.233, 4503.234, 4510.41, 8
4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 9
5735.121, 5739.15, 5743.082, and 5743.112, to 10
enact sections 2929.1412, 2981.01, 2981.02, 11
2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 12
2981.08, 2981.11, 2981.12, 2981.13, and 2981.14, 13
and to repeal sections 2923.33, 2923.35, 2923.45, 14
2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 15
2925.45, 2933.41, 2933.42, 2933.43, 2933.44, 16
2933.71, 2933.72, 2933.73, and 2933.74 of the 17
Revised Code to adopt the Criminal Sentencing 18
Commission's recommendations regarding revision of 19
the Forfeiture Laws. 20

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.92, 109.85, 309.08, 311.07, 21

1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2923.01, 2923.31, 22
2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 23
2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 2935.03, 24
2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 3745.13, 25
4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 4510.41, 26
4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 5739.15, 27
5743.082, and 5743.112 be amended and sections 2929.1412, 2981.01, 28
2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 2981.08, 29
2981.11, 2981.12, 2981.13, and 2981.14 of the Revised Code be 30
enacted to read as follows: 31

Sec. 9.92. (A) As used in this section: 32

(1) "Citizens' reward program" means any organization that 33
satisfies all of the following criteria: 34

(a) It is a nonprofit organization; 35

(b) It is organized and operated exclusively to offer and pay 36
rewards to citizens for volunteering tips and information to law 37
enforcement agencies concerning felonies, offenses of violence, or 38
misdemeanors that have been committed; 39

(c) It has established a reward fund to be used solely for 40
the payment of rewards to citizens for volunteering tips and 41
information to law enforcement agencies concerning felonies, 42
offenses of violence, or misdemeanors that have been committed. 43

(2) "Detention facility" has the same meaning as in section 44
2921.01 of the Revised Code. 45

(B) A citizens' reward program may apply to the board of 46
county commissioners of any county or counties in which it 47
operates for recognition as the official reward program for that 48
county or counties. Upon receipt of the application, the board of 49
county commissioners shall determine if it is in proper order and 50
the information it contains is correct. If the application meets 51

these criteria, the board, by resolution, may officially recognize 52
the program. Recognition of a program by a county under this 53
division qualifies the program for funding of its reward fund 54
under division ~~(E)(2)~~ (F) of section ~~2933.41~~ 2981.12 of the 55
Revised Code. No more than one such reward program shall be 56
recognized in any county. 57

(C)(1) If a board of county commissioners enters into an 58
agreement of affiliation with a citizens' reward program pursuant 59
to division (D) of this section, any municipal court, county 60
court, or court of common pleas within the county shall impose the 61
sum of one dollar as costs in any case in which a person is 62
convicted of or pleads guilty to any offense other than a traffic 63
offense. This one dollar additional court costs is in addition to 64
any other court costs that the court is required by law to impose 65
upon the offender, and, the court shall impose the one dollar 66
additional court costs as long as the agreement of affiliation 67
remains in effect, but the court, in the court's discretion, may 68
remit this one dollar additional court costs to the offender. The 69
clerk of each court shall transmit all such moneys collected 70
during a month on or before the twentieth day of the following 71
month to the affiliated citizens' reward program. 72

(2) No person shall be placed or held in a detention facility 73
for failing to pay the additional one dollar court costs that are 74
required to be paid by division (C)(1) of this section. 75

(3) A citizens' reward program receiving funds pursuant to 76
division (C)(1) of this section may use the funds for any purpose 77
described in division (A)(1)(b) or (c) of this section. 78

(D)(1) Any citizens' reward program that is recognized under 79
division (B) of this section may enter into a written agreement of 80
affiliation with a board of county commissioners in the county in 81
which the program operates. Agreements of affiliation executed 82

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 113
territory served by the program. 114

(G) An application for recognition of a citizens' reward 115
program shall contain all of the following information: 116

(1) The name of the program and its mailing address; 117

(2) The name and address of each of its officers or 118
officials; 119

(3) Information sufficient to establish the intention and 120
ability of the program's officers to implement the program 121
throughout the county; 122

(4) The purposes for which the program is organized and 123
operated and the services it offers; 124

(5) A copy of the articles of incorporation and bylaws of the 125
program, if applicable, or a copy of the rules and procedures 126
under which the program is organized and operated; 127

(6) Any other relevant information that the board of county 128
commissioners requires, by resolution. 129

Sec. 109.85. (A) Upon the written request of the governor, 130
the general assembly, the auditor of state, the director of job 131
and family services, the director of health, or the director of 132
budget and management, or upon the attorney general's becoming 133
aware of criminal or improper activity related to Chapter 3721. 134
and the medical assistance program established under section 135
5111.01 of the Revised Code, the attorney general shall 136
investigate any criminal or civil violation of law related to 137
Chapter 3721. of the Revised Code or the medical assistance 138
program. 139

(B) When it appears to the attorney general, as a result of 140
an investigation under division (A) of this section, that there is 141

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 173
pursuant to section 109.83 of the Revised Code, and other suits, 174
matters, and controversies that the prosecuting attorney is 175
required to prosecute within or outside the county, in the probate 176
court, court of common pleas, and court of appeals. In conjunction 177
with the attorney general, the prosecuting attorney shall 178
prosecute in the supreme court cases arising in the prosecuting 179
attorney's county, except for those cases required to be 180
prosecuted by a special prosecutor pursuant to section 177.03 of 181
the Revised Code or by the attorney general pursuant to section 182
109.83 of the Revised Code. 183

In every case of conviction, the prosecuting attorney 184
forthwith shall cause execution to be issued for the fine and 185
costs, or costs only, as the case may be, and faithfully shall 186
urge the collection until it is effected or found to be 187
impracticable to collect. The prosecuting attorney forthwith shall 188
pay to the county treasurer all moneys belonging to the state or 189
county which come into the prosecuting attorney's possession. 190

The prosecuting attorney or an assistant prosecuting attorney 191
of a county may participate, as a member of the investigatory 192
staff of an organized crime task force established under section 193
177.02 of the Revised Code that has jurisdiction in that county, 194
in an investigation of organized criminal activity under sections 195
177.01 to 177.03 of the Revised Code. 196

(B) The prosecuting attorney may pay a reward to a person who 197
has volunteered any tip or information to a law enforcement agency 198
in the county concerning a drug-related offense that is planned to 199
occur, is occurring, or has occurred, in whole or in part, in the 200
county. The prosecuting attorney may provide for the payment, out 201
of the following sources, of rewards to a person who has 202
volunteered tips and information to a law enforcement agency in 203
the county concerning a drug-related offense that is planned to 204

occur, is occurring, or has occurred, in whole or in part, in the 205
county: 206

(1) The law enforcement trust fund established by the 207
prosecuting attorney pursuant to division ~~(D)~~(C)(1)~~(e)~~ of section 208
~~2933.43~~ 2981.13 of the Revised Code; 209

(2) The portion of any mandatory fines imposed pursuant to 210
divisions (B)(1) and (2) of section 2929.18 or Chapter 2925. of 211
the Revised Code that is paid to the prosecuting attorney pursuant 212
to that division or chapter, the portion of any additional fines 213
imposed under division ~~(B)(5)~~(A) of section 2929.18 of the Revised 214
Code that is paid to the prosecuting attorney pursuant to that 215
division, or the portion of any ~~double~~ fines imposed pursuant to 216
division ~~(B)(5)~~(A) of section 2925.42 of the Revised Code that is 217
paid to the prosecuting attorney pursuant to ~~that~~ division (B) of 218
that section; 219

(3) The furtherance of justice fund allowed to the 220
prosecuting attorney under section 325.12 of the Revised Code or 221
any additional funds allowed to the prosecuting attorney under 222
section 325.13 of the Revised Code; 223

(4) Any other moneys lawfully in the possession or control of 224
the prosecuting attorney. 225

(C) As used in division (B) of this section, "drug-related 226
offense" means any violation of Chapter 2925. or 3719. of the 227
Revised Code or any violation of a municipal ordinance that is 228
substantially equivalent to any section in either of those 229
chapters. 230

Sec. 311.07. (A) Each sheriff shall preserve the public peace 231
and cause all persons guilty of any breach of the peace, within 232
the sheriff's knowledge or view, to enter into recognizance with 233
sureties to keep the peace and to appear at the succeeding term of 234

the court of common pleas, and the sheriff shall commit such 235
persons to jail in case they refuse to do so. The sheriff shall 236
return a transcript of all the sheriff's proceedings with the 237
recognizance so taken to such court. The sheriff shall, except as 238
provided in division (C) of this section, execute all warrants, 239
writs, and other process directed to the sheriff by any proper and 240
lawful authority of this state, and those issued by a proper and 241
lawful authority of any other state. The sheriff shall attend upon 242
the court of common pleas and the court of appeals during their 243
sessions, and, when required, shall attend upon the probate court. 244
In the execution of official duties of the sheriff, the sheriff 245
may call to the sheriff's aid such persons or power of the county 246
as is necessary. Under the direction and control of the board of 247
county commissioners, such sheriff shall have charge of the court 248
house. A sheriff or deputy sheriff of a county may participate, as 249
the director of an organized crime task force established under 250
section 177.02 of the Revised Code or as a member of the 251
investigatory staff of such a task force, in an investigation of 252
organized criminal activity in any county or counties in this 253
state under sections 177.01 to 177.03 of the Revised Code. 254

(B) The sheriff of a county may call upon the sheriff of any 255
other county, the mayor or other chief executive of any municipal 256
corporation, and the chairperson of the board of township trustees 257
of any township within this state, to furnish such law enforcement 258
or fire protection personnel, or both, together with appropriate 259
equipment and apparatus, as may be necessary to preserve the 260
public peace and protect persons and property in the requesting 261
sheriff's county. Such aid shall be furnished to the sheriff 262
requesting it, insofar as possible without withdrawing from the 263
political subdivision furnishing such aid the minimum police and 264
fire protection appearing necessary under the circumstances. Law 265
enforcement and fire protection personnel acting outside the 266
territory of their regular employment shall be considered as 267

performing services within the territory of their regular 268
employment for the purposes of compensation, pension or indemnity 269
fund rights, workers' compensation, and other rights or benefits 270
to which they may be entitled as incidents of their regular 271
employment. The county receiving aid shall reimburse, as provided 272
in this section, the political subdivision furnishing it the cost 273
of furnishing such aid, including compensation of personnel, 274
expenses incurred by reason of the injury or death of any such 275
personnel while rendering such aid, expenses of furnishing 276
equipment and apparatus, compensation for damage to or loss of 277
equipment or apparatus while in service outside the territory of 278
its regular use, and such other reasonable expenses as may be 279
incurred by any such political subdivision in furnishing aid. The 280
cost of furnishing such aid may be paid from the sheriff's 281
furtherance of justice fund created pursuant to section 325.071 of 282
the Revised Code or from the law enforcement trust fund created 283
pursuant to section ~~2933.43~~ 2981.13 of the Revised Code, or from 284
the county general fund to the extent moneys have been 285
appropriated for such purposes pursuant to section 5705.38 of the 286
Revised Code unless the board of county commissioners adopts a 287
resolution restricting or prohibiting the use of general fund 288
moneys without the prior approval of the board of county 289
commissioners. Nothing in this section shall be construed as 290
superseding or modifying in any way any provision of a contract 291
entered into pursuant to section 311.29 of the Revised Code. Law 292
enforcement officers acting pursuant to this section outside the 293
territory of their regular employment have the same authority to 294
enforce the law as when acting within the territory of their 295
regular employment. 296

(C) The sheriff shall not execute process that is issued in a 297
state other than this state, unless the process contains either of 298
the following: 299

(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 1506.37 of the Revised Code, any rules adopted under those sections, or any provision or condition of ~~his~~ 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 330
section 1506.32 of the Revised Code shall be considered contraband 331
for the purposes of ~~sections 2933.42 and 2933.43~~ Chapter 2981. of 332
the Revised Code, except that proceeds from the sale of such 333
contraband shall be disposed of in the following order: 334

(1) To the payment of the costs incurred in the forfeiture 335
proceedings under ~~section 2933.43~~ Chapter 2981. of the Revised 336
Code; 337

(2) To the payment of the balance due on any security 338
interest preserved under division ~~(C)~~(F) of section ~~2933.43~~ 339
2981.04 of the Revised Code; 340

(3) To the payment of any costs incurred by the seizing 341
agency under ~~section 2933.43~~ Chapter 2981. of the Revised Code in 342
connection with the storage, maintenance, security, and forfeiture 343
of the contraband; 344

(4) Fifty per cent of the remaining money to the credit of 345
the Lake Erie submerged lands preserves fund created in division 346
(C) of this section and fifty per cent of the remaining money to 347
the Ohio historical society for deposit into the fund created 348
pursuant to division (C) of section 149.56 of the Revised Code. 349

(C) There is hereby created in the state treasury the Lake 350
Erie submerged lands preserves fund. The fund shall be composed of 351
moneys credited to it under division (B)(4) of this section and 352
division (D)(2) of section 1506.33 of the Revised Code, all 353
appropriations, contributions, and gifts made to it, and any 354
federal grants received by the department of natural resources for 355
the purposes of sections 1506.30 to 1506.37 of the Revised Code. 356
The director shall use the moneys in the Lake Erie submerged lands 357
preserves fund solely to implement and administer sections 1506.30 358
to 1506.37 of the Revised Code. 359

(D) The director may request the attorney general to, and the 360

attorney general shall, bring a civil action in any court of 361
competent jurisdiction for any of the following purposes: 362

(1) To enforce compliance with or restrain violation of 363
sections 1506.30 to 1506.37 of the Revised Code, any rules adopted 364
under those sections, or any permit issued under section 1506.32 365
of the Revised Code; 366

(2) To enjoin the further removal of abandoned property or 367
archaeological material from Lake Erie; 368

(3) To order the restoration of an area affected by a 369
violation of sections 1506.30 to 1506.37 of the Revised Code or of 370
a permit issued under section 1506.32 of the Revised Code to its 371
prior condition. 372

Any action under this division is a civil action, governed by 373
the Rules of Civil Procedure. 374

(E) A peace officer of a county, township, or municipal 375
corporation, and a preserve officer, wildlife officer, park 376
officer, or watercraft officer designated under section 1517.10, 377
1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, 378
may enforce compliance with sections 1506.30 to 1506.37 of the 379
Revised Code, any rules adopted under those sections, and any 380
permit issued under section 1506.32 of the Revised Code and may 381
make arrests for violation of those laws, rules, and permits. 382

Sec. 2152.20. (A) If a child is adjudicated a delinquent 383
child or a juvenile traffic offender, the court may order any of 384
the following dispositions, in addition to any other disposition 385
authorized or required by this chapter: 386

(1) Impose a fine in accordance with the following schedule: 387

(a) For an act that would be a minor misdemeanor or an 388
unclassified misdemeanor if committed by an adult, a fine not to 389
exceed fifty dollars; 390

(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;	391 392 393
(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;	394 395 396
(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;	397 398 399
(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;	400 401 402
(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;	403 404 405
(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;	406 407
(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;	408 409 410
(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;	411 412
(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;	413 414 415
(k) For an act that would be aggravated murder or murder if committed by an adult, a fine not to exceed two thousand dollars.	416 417
(2) Require the child to pay costs;	418
(3) Require the child to make restitution to the victim of	419

the child's delinquent act 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. Restitution required under this division 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. The restitution may include reimbursement to third parties, other than the delinquent child's insurer, for amounts paid to the victim or to any survivor of the victim for economic loss resulting from the delinquent act. If reimbursement to a third party is required, the reimbursement shall be made to any governmental agency to repay any amounts the agency paid to the victim or any survivor of the victim before any reimbursement is made to any other person.

Restitution required under this division 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.

The court may base the restitution order under this division on an amount recommended by the victim or survivor of the victim, the delinquent child, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and any other information. If the amount of the restitution is disputed by the victim or survivor or by the delinquent child, the court shall hold a hearing on the restitution. The court shall determine, or order the determination of, the amount of restitution to be paid by the delinquent child. All restitution payments shall be credited against any recovery of

economic loss in a civil action brought by or on behalf of the 452
victim against the delinquent child or the delinquent child's 453
parent, guardian, or other custodian. 454

The court may order that the delinquent child pay a 455
surcharge, in an amount not exceeding five per cent of the amount 456
of restitution otherwise ordered under this division, to the 457
entity responsible for collecting and processing the restitution 458
payments. 459

The victim or the survivor of the victim may request that the 460
prosecuting authority file a motion, or the delinquent child may 461
file a motion, for modification of the payment terms of any 462
restitution ordered under this division. If the court grants the 463
motion, it may modify the payment terms as it determines 464
appropriate. 465

(4) Require the child to reimburse any or all of the costs 466
incurred for services or sanctions provided or imposed, including, 467
but not limited to, the following: 468

(a) All or part of the costs of implementing any community 469
control imposed as a disposition under section 2152.19 of the 470
Revised Code, including a supervision fee; 471

(b) All or part of the costs of confinement in a residential 472
facility described in section 2152.19 of the Revised Code or in a 473
department of youth services institution, including, but not 474
limited to, a per diem fee for room and board, the costs of 475
medical and dental treatment provided, and the costs of repairing 476
property the delinquent child damaged while so confined. The 477
amount of reimbursement ordered for a child under this division 478
shall not exceed the total amount of reimbursement the child is 479
able to pay as determined at a hearing and shall not exceed the 480
actual cost of the confinement. The court may collect any 481
reimbursement ordered under this division. If the court does not 482

order reimbursement under this division, confinement costs may be 483
assessed pursuant to a repayment policy adopted under section 484
2929.37 of the Revised Code and division (D) of section 307.93, 485
division (A) of section 341.19, division (C) of section 341.23 or 486
753.16, or division (B) of section 341.14, 753.02, 753.04, 487
2301.56, or 2947.19 of the Revised Code. 488

~~(B)(1) If Chapter 2981. of the Revised Code applies to a 489
child who is adjudicated a delinquent child for violating section 490
2923.32 or 2923.42 of the Revised Code, the court shall enter an 491
order of criminal forfeiture against the child in accordance with 492
divisions (B)(3), (4), (5), and (6) and (C) to (F) of section 493
2923.32 of the Revised Code. 494~~

~~(2) Sections 2925.41 to 2925.45 of the Revised Code apply to 495
children who are adjudicated or could be adjudicated by a juvenile 496
court to be delinquent children for an act that, if committed by 497
an adult, would be a felony drug abuse offense. Subject to 498
division (B) of section 2925.42 and division (E) of section 499
2925.43 of the Revised Code, a delinquent child of that nature 500
loses any right to the possession of, and forfeits to the state 501
any right, title, and interest that the delinquent child may have 502
in, property as defined in section 2925.41 of the Revised Code and 503
further described in section 2925.42 or 2925.43 of the Revised 504
Code. 505~~

~~(3) Sections 2923.44 to 2923.47 of the Revised Code apply to 506
children who are adjudicated or could be adjudicated by a juvenile 507
court to be delinquent children for an act in violation of section 508
2923.42 of the Revised Code. Subject to division (B) of section 509
2923.44 and division (E) of section 2923.45 of the Revised Code, a 510
delinquent child of that nature loses any right to the possession 511
of, and forfeits to the state any right, title, and interest that 512
the delinquent child may have in, property as defined in section 513
2923.41 of the Revised Code and further described in section 514~~

~~2923.44 or 2923.45 of the Revised Code or for committing an act~~ 515
~~that, if committed by an adult, would be a felony drug abuse~~ 516
~~offense.~~ 517

(C) The court may hold a hearing if necessary to determine 518
whether a child is able to pay a sanction under this section. 519

(D) If a child who is adjudicated a delinquent child is 520
indigent, the court shall consider imposing a term of community 521
service under division (A) of section 2152.19 of the Revised Code 522
in lieu of imposing a financial sanction under this section. If a 523
child who is adjudicated a delinquent child is not indigent, the 524
court may impose a term of community service under that division 525
in lieu of, or in addition to, imposing a financial sanction under 526
this section. The court may order community service for an act 527
that if committed by an adult would be a minor misdemeanor. 528

If a child fails to pay a financial sanction imposed under 529
this section, the court may impose a term of community service in 530
lieu of the sanction. 531

(E) The clerk of the court, or another person authorized by 532
law or by the court to collect a financial sanction imposed under 533
this section, may do any of the following: 534

(1) Enter into contracts with one or more public agencies or 535
private vendors for the collection of the amounts due under the 536
financial sanction, which amounts may include interest from the 537
date of imposition of the financial sanction; 538

(2) Permit payment of all, or any portion of, the financial 539
sanction in installments, by credit or debit card, by another type 540
of electronic transfer, or by any other reasonable method, within 541
any period of time, and on any terms that the court considers 542
just, except that the maximum time permitted for payment shall not 543
exceed five years. The clerk may pay any fee associated with 544
processing an electronic transfer out of public money and may 545

charge the fee to the delinquent child.	546
(3) To defray administrative costs, charge a reasonable fee	547
to a child who elects a payment plan rather than a lump sum	548
payment of a financial sanction.	549
Sec. 2901.01. (A) As used in the Revised Code:	550
(1) "Force" means any violence, compulsion, or constraint	551
physically exerted by any means upon or against a person or thing.	552
(2) "Deadly force" means any force that carries a substantial	553
risk that it will proximately result in the death of any person.	554
(3) "Physical harm to persons" means any injury, illness, or	555
other physiological impairment, regardless of its gravity or	556
duration.	557
(4) "Physical harm to property" means any tangible or	558
intangible damage to property that, in any degree, results in loss	559
to its value or interferes with its use or enjoyment. "Physical	560
harm to property" does not include wear and tear occasioned by	561
normal use.	562
(5) "Serious physical harm to persons" means any of the	563
following:	564
(a) Any mental illness or condition of such gravity as would	565
normally require hospitalization or prolonged psychiatric	566
treatment;	567
(b) Any physical harm that carries a substantial risk of	568
death;	569
(c) Any physical harm that involves some permanent	570
incapacity, whether partial or total, or that involves some	571
temporary, substantial incapacity;	572
(d) Any physical harm that involves some permanent	573
disfigurement or that involves some temporary, serious	574

disfigurement; 575

(e) Any physical harm that involves acute pain of such 576
duration as to result in substantial suffering or that involves 577
any degree of prolonged or intractable pain. 578

(6) "Serious physical harm to property" means any physical 579
harm to property that does either of the following: 580

(a) Results in substantial loss to the value of the property 581
or requires a substantial amount of time, effort, or money to 582
repair or replace; 583

(b) Temporarily prevents the use or enjoyment of the property 584
or substantially interferes with its use or enjoyment for an 585
extended period of time. 586

(7) "Risk" means a significant possibility, as contrasted 587
with a remote possibility, that a certain result may occur or that 588
certain circumstances may exist. 589

(8) "Substantial risk" means a strong possibility, as 590
contrasted with a remote or significant possibility, that a 591
certain result may occur or that certain circumstances may exist. 592

(9) "Offense of violence" means any of the following: 593

(a) A violation of section 2903.01, 2903.02, 2903.03, 594
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 595
2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 596
2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 597
2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 598
2923.161, of division (A)(1), (2), or (3) of section 2911.12, or 599
of division (B)(1), (2), (3), or (4) of section 2919.22 of the 600
Revised Code or felonious sexual penetration in violation of 601
former section 2907.12 of the Revised Code; 602

(b) A violation of an existing or former municipal ordinance 603
or law of this or any other state or the United States, 604

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," 636
"computer system," "computer network," "data," and 637
"telecommunications device" have the same meanings as in section 638
2913.01 of the Revised Code. 639

(11) "Law enforcement officer" means any of the following: 640

(a) A sheriff, deputy sheriff, constable, police officer of a 641
township or joint township police district, marshal, deputy 642
marshal, municipal police officer, member of a police force 643
employed by a metropolitan housing authority under division (D) of 644
section 3735.31 of the Revised Code, or state highway patrol 645
trooper; 646

(b) An officer, agent, or employee of the state or any of its 647
agencies, instrumentalities, or political subdivisions, upon whom, 648
by statute, a duty to conserve the peace or to enforce all or 649
certain laws is imposed and the authority to arrest violators is 650
conferred, within the limits of that statutory duty and authority; 651

(c) A mayor, in the mayor's capacity as chief conservator of 652
the peace within the mayor's municipal corporation; 653

(d) A member of an auxiliary police force organized by 654
county, township, or municipal law enforcement authorities, within 655
the scope of the member's appointment or commission; 656

(e) A person lawfully called pursuant to section 311.07 of 657
the Revised Code to aid a sheriff in keeping the peace, for the 658
purposes and during the time when the person is called; 659

(f) A person appointed by a mayor pursuant to section 737.01 660
of the Revised Code as a special patrolling officer during riot or 661
emergency, for the purposes and during the time when the person is 662
appointed; 663

(g) A member of the organized militia of this state or the 664
armed forces of the United States, lawfully called to duty to aid 665

civil authorities in keeping the peace or protect against domestic violence; 666
667

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor; 668
669

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code; 670
671

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code; 672
673
674

(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; 675
676

(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; 677
678
679
680

(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. 681
682
683
684
685
686
687
688
689

(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. 690
691
692
693

(13) "Contraband" means any property ~~described in the following categories:~~ 694
695

~~(a) Property that in and of itself is unlawful illegal for a person to acquire or possess;~~ 696
697

~~(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;~~ 698
699
700
701
702
703
704
705

~~(c) Property that is specifically stated to be contraband by a section of the Revised Code or by an ordinance, regulation, or resolution;~~ 706
707
708

~~(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:~~ 709
710
711
712
713
714
715
716
717

~~(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;~~ 718
719
720
721
722
723

~~(f)(b) Any 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~~ 724
725
726

~~attempt or conspiracy to violate, or in the violation of, Chapter 727
2915. of the Revised Code; 728~~

~~(g) Any equipment, machine, device, apparatus, vehicle, 729
vessel, container, liquid, or substance that has been, is being, 730
or is intended to be used in an attempt or conspiracy to violate, 731
or in the violation of, any law of this state relating to alcohol 732
or tobacco; 733~~

~~(h) Any personal property that has been, is being, or is 734
intended to be used in an attempt or conspiracy to commit, or in 735
the commission of, any offense or in the transportation of the 736
fruits of any offense; 737~~

~~(i) Any property that is acquired through the sale or other 738
transfer of contraband or through the proceeds of contraband, 739
other than by a court or a law enforcement agency acting within 740
the scope of its duties; 741~~

~~(j) Any computer, computer system, computer network, computer 742
software, or other telecommunications device that is used in a 743
conspiracy to commit, an attempt to commit, or the commission of 744
any offense, if the owner of the computer, computer system, 745
computer network, computer software, or other telecommunications 746
device is convicted of or pleads guilty to the offense in which it 747
is used; 748~~

~~(k) Any property that is material support or resources and 749
that has been, is being, or is intended to be used in an attempt 750
or conspiracy to violate, or in the violation of, section 2909.22, 751
2909.23, or 2909.24 of the Revised Code or of section 2921.32 of 752
the Revised Code when the offense or act committed by the person 753
aided or to be aided as described in that section is an act of 754
terrorism. As used in division (A)(13)(k) of this section, 755
"material support or resources" and "act of terrorism" have the 756
same meanings as in section 2909.21 of the Revised Code. 757~~

(c) Any firearm, dangerous ordnance, or obscene material. 758

(14) A person is "not guilty by reason of insanity" relative 759
to a charge of an offense only if the person proves, in the manner 760
specified in section 2901.05 of the Revised Code, that at the time 761
of the commission of the offense, the person did not know, as a 762
result of a severe mental disease or defect, the wrongfulness of 763
the person's acts. 764

(B)(1)(a) Subject to division (B)(2) of this section, as used 765
in any section contained in Title XXIX of the Revised Code that 766
sets forth a criminal offense, "person" includes all of the 767
following: 768

(i) An individual, corporation, business trust, estate, 769
trust, partnership, and association; 770

(ii) An unborn human who is viable. 771

(b) As used in any section contained in Title XXIX of the 772
Revised Code that does not set forth a criminal offense, "person" 773
includes an individual, corporation, business trust, estate, 774
trust, partnership, and association. 775

(c) As used in division (B)(1)(a) of this section: 776

(i) "Unborn human" means an individual organism of the 777
species *Homo sapiens* from fertilization until live birth. 778

(ii) "Viable" means the stage of development of a human fetus 779
at which there is a realistic possibility of maintaining and 780
nourishing of a life outside the womb with or without temporary 781
artificial life-sustaining support. 782

(2) Notwithstanding division (B)(1)(a) of this section, in no 783
case shall the portion of the definition of the term "person" that 784
is set forth in division (B)(1)(a)(ii) of this section be applied 785
or construed in any section contained in Title XXIX of the Revised 786
Code that sets forth a criminal offense in any of the following 787

manners: 788

(a) Except as otherwise provided in division (B)(2)(a) of 789
this section, in a manner so that the offense prohibits or is 790
construed as prohibiting any pregnant woman or her physician from 791
performing an abortion with the consent of the pregnant woman, 792
with the consent of the pregnant woman implied by law in a medical 793
emergency, or with the approval of one otherwise authorized by law 794
to consent to medical treatment on behalf of the pregnant woman. 795
An abortion that violates the conditions described in the 796
immediately preceding sentence may be punished as a violation of 797
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 798
2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 799
of the Revised Code, as applicable. An abortion that does not 800
violate the conditions described in the second immediately 801
preceding sentence, but that does violate section 2919.12, 802
division (B) of section 2919.13, or section 2919.151, 2919.17, or 803
2919.18 of the Revised Code, may be punished as a violation of 804
section 2919.12, division (B) of section 2919.13, or section 805
2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 806
Consent is sufficient under this division if it is of the type 807
otherwise adequate to permit medical treatment to the pregnant 808
woman, even if it does not comply with section 2919.12 of the 809
Revised Code. 810

(b) In a manner so that the offense is applied or is 811
construed as applying to a woman based on an act or omission of 812
the woman that occurs while she is or was pregnant and that 813
results in any of the following: 814

(i) Her delivery of a stillborn baby; 815

(ii) Her causing, in any other manner, the death in utero of 816
a viable, unborn human that she is carrying; 817

(iii) Her causing the death of her child who is born alive 818

but who dies from one or more injuries that are sustained while 819
the child is a viable, unborn human; 820

(iv) Her causing her child who is born alive to sustain one 821
or more injuries while the child is a viable, unborn human; 822

(v) Her causing, threatening to cause, or attempting to 823
cause, in any other manner, an injury, illness, or other 824
physiological impairment, regardless of its duration or gravity, 825
or a mental illness or condition, regardless of its duration or 826
gravity, to a viable, unborn human that she is carrying. 827

(C) As used in Title XXIX of the Revised Code: 828

(1) "School safety zone" consists of a school, school 829
building, school premises, school activity, and school bus. 830

(2) "School," "school building," and "school premises" have 831
the same meanings as in section 2925.01 of the Revised Code. 832

(3) "School activity" means any activity held under the 833
auspices of a board of education of a city, local, exempted 834
village, joint vocational, or cooperative education school 835
district; a governing authority of a community school established 836
under Chapter 3314. of the Revised Code; a governing board of an 837
educational service center, or the governing body of a school for 838
which the state board of education prescribes minimum standards 839
under section 3301.07 of the Revised Code. 840

(4) "School bus" has the same meaning as in section 4511.01 841
of the Revised Code. 842

Sec. 2909.08. (A) As used in this section: 843

(1) "Air gun" means a hand pistol or rifle that propels its 844
projectile by means of releasing compressed air, carbon dioxide, 845
or other gas. 846

(2) "Firearm" has the same meaning as in section 2923.11 of 847

the Revised Code. 848

(3) "Spring-operated gun" means a hand pistol or rifle that 849
propels a projectile not less than four or more than five 850
millimeters in diameter by means of a spring. 851

(4) "Airport operational surface" means any surface of land 852
or water that is developed, posted, or marked so as to give an 853
observer reasonable notice that the surface is designed and 854
developed for the purpose of storing, parking, taxiing, or 855
operating aircraft, or any surface of land or water that is 856
actually being used for any of those purposes. 857

(B) No person shall do either of the following: 858

(1) Knowingly throw an object at, or drop an object upon, any 859
moving aircraft; 860

(2) Knowingly shoot with a bow and arrow, or knowingly 861
discharge a firearm, air gun, or spring-operated gun, at or toward 862
any aircraft. 863

(C) No person shall knowingly or recklessly shoot with a bow 864
and arrow, or shall knowingly or recklessly discharge a firearm, 865
air gun, or spring-operated gun, upon or over any airport 866
operational surface. This division does not apply to the 867
following: 868

(1) An officer, agent, or employee of this or any other state 869
or the United States, or a law enforcement officer, authorized to 870
discharge firearms and acting within the scope of the officer's, 871
agent's, or employee's duties; 872

(2) A person who, with the consent of the owner or operator 873
of the airport operational surface or the authorized agent of 874
either, is lawfully engaged in any hunting or sporting activity or 875
is otherwise lawfully discharging a firearm. 876

(D) Whoever violates division (B) of this section is guilty 877

of endangering aircraft, a misdemeanor of the first degree. If the 878
violation creates a risk of physical harm to any person, 879
endangering aircraft is a felony of the fifth degree. If the 880
violation creates a substantial risk of physical harm to any 881
person or if the aircraft that is the subject of the violation is 882
occupied, endangering aircraft is a felony of the fourth degree. 883

(E) Whoever violates division (C) of this section is guilty 884
of endangering airport operations, a misdemeanor of the second 885
degree. If the violation creates a risk of physical harm to any 886
person, endangering airport operations is a felony of the fifth 887
degree. If the violation creates a substantial risk of physical 888
harm to any person, endangering airport operations is a felony of 889
the fourth degree. In addition to any other penalty or sanction 890
imposed for the violation, the hunting license or permit of a 891
person who violates division (C) of this section while hunting 892
shall be suspended or revoked pursuant to section 1533.68 of the 893
Revised Code. 894

(F) Any bow and arrow, air gun, spring-operated gun, or 895
firearm that has been used in a felony violation of this section 896
shall be seized or forfeited, and shall be disposed of pursuant to 897
~~section 2933.41~~ Chapter 2981. of the Revised Code. 898

Sec. 2913.34. (A) No person shall knowingly do any of the 899
following: 900

(1) Attach, affix, or otherwise use a counterfeit mark in 901
connection with the manufacture of goods or services, whether or 902
not the goods or services are intended for sale or resale; 903

(2) Possess, sell, or offer for sale tools, machines, 904
instruments, materials, articles, or other items of personal 905
property with the knowledge that they are designed for the 906
production or reproduction of counterfeit marks; 907

(3) Purchase or otherwise acquire goods, and keep or 908
otherwise have the goods in the person's possession, with the 909
knowledge that a counterfeit mark is attached to, affixed to, or 910
otherwise used in connection with the goods and with the intent to 911
sell or otherwise dispose of the goods; 912

(4) Sell, offer for sale, or otherwise dispose of goods with 913
the knowledge that a counterfeit mark is attached to, affixed to, 914
or otherwise used in connection with the goods; 915

(5) Sell, offer for sale, or otherwise provide services with 916
the knowledge that a counterfeit mark is used in connection with 917
that sale, offer for sale, or other provision of the services. 918

(B)(1) Whoever violates this section is guilty of trademark 919
counterfeiting. 920

(2) Except as otherwise provided in this division, a 921
violation of division (A)(1) of this section is a felony of the 922
fifth degree. Except as otherwise provided in this division, if 923
the cumulative sales price of the goods or services to which or in 924
connection with which the counterfeit mark is attached, affixed, 925
or otherwise used in the offense is five thousand dollars or more 926
but less than one hundred thousand dollars or if the number of 927
units of goods to which or in connection with which the 928
counterfeit mark is attached, affixed, or otherwise used in the 929
offense is more than one hundred units but less than one thousand 930
units, a violation of division (A)(1) of this section is a felony 931
of the fourth degree. If the cumulative sales price of the goods 932
or services to which or in connection with which the counterfeit 933
mark is attached, affixed, or otherwise used in the offense is one 934
hundred thousand dollars or more or if the number of units of 935
goods to which or in connection with which the counterfeit mark is 936
attached, affixed, or otherwise used in the offense is one 937
thousand units or more, a violation of division (A)(1) of this 938

section is a felony of the third degree.

939

(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.

940

941

942

943

944

945

946

(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

947

948

949

950

951

952

953

954

955

956

957

958

959

960

961

962

963

964

965

966

967

968

969

970

violation of division (A)(3), (4), or (5) of this section is a 971
felony of the third degree. 972

(C) A defendant may assert as an affirmative defense to a 973
charge of a violation of this section defenses, affirmative 974
defenses, and limitations on remedies that would be available in a 975
civil, criminal, or administrative action or proceeding under the 976
"Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as 977
amended, "The Trademark Counterfeiting Act of 1984," 98 Stat. 978
2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section 979
of the Revised Code, or common law. 980

(D)(1) Law enforcement officers may seize pursuant to 981
Criminal Rule 41 or Chapter 2933. or 2981. of the Revised Code 982
either of the following: 983

(a) Goods to which or in connection with which a person 984
attached, affixed, otherwise used, or intended to attach, affix, 985
or otherwise use a counterfeit mark in violation of this section; 986

(b) Tools, machines, instruments, materials, articles, 987
vehicles, or other items of personal property that are possessed, 988
sold, offered for sale, or used in a violation of this section or 989
in an attempt to commit or complicity in the commission of a 990
violation of this section. 991

(2) Notwithstanding any contrary provision of ~~sections~~ 992
~~2923.31 to 2923.35 or 2933.41 to 2933.43~~ Chapter 2981. of the 993
Revised Code, if a person is convicted of or pleads guilty to a 994
violation of this section, an attempt to violate this section, or 995
complicity in a violation of this section, the court involved 996
shall declare that the goods described in division (D)(1)(a) of 997
this section and the personal property described in division 998
(D)(1)(b) of this section are contraband and are forfeited. Prior 999
to the court's entry of judgment under Criminal Rule 32, the owner 1000
of a registered trademark or service mark that is the subject of 1001

the counterfeit mark may recommend a manner in which the forfeited 1002
goods and forfeited personal property should be disposed of. If 1003
that owner makes a timely recommendation of a manner of 1004
disposition, the court is not bound by the recommendation. If that 1005
owner makes a timely recommendation of a manner of disposition, 1006
the court may include in its entry of judgment an order that 1007
requires appropriate persons to dispose of the forfeited goods and 1008
forfeited personal property in the recommended manner. If that 1009
owner fails to make a timely recommendation of a manner of 1010
disposition or if that owner makes a timely recommendation of the 1011
manner of disposition but the court determines to not follow the 1012
recommendation, the court shall include in its entry of judgment 1013
an order that requires the law enforcement agency that employs the 1014
law enforcement officer who seized the forfeited goods or the 1015
forfeited personal property to destroy them or cause their 1016
destruction. 1017

(E) This section does not affect the rights of an owner of a 1018
trademark or a service mark, or the enforcement in a civil action 1019
or in administrative proceedings of the rights of an owner of a 1020
trademark or a service mark, under the "Lanham Act," 60 Stat. 1021
427-443 (1946), 15 U.S.C. 1051-1127, as amended, "The Trademark 1022
Counterfeiting Act of 1984," 92 Stat. 2178, 18 U.S.C. 2320, as 1023
amended, Chapter 1329. or another section of the Revised Code, or 1024
common law. 1025

(F) As used in this section: 1026

(1)(a) Except as provided in division (F)(1)(b) of this 1027
section, "counterfeit mark" means a spurious trademark or a 1028
spurious service mark that satisfies both of the following: 1029

(i) It is identical with or substantially indistinguishable 1030
from a mark that is registered on the principal register in the 1031
United States patent and trademark office for the same goods or 1032
services as the goods or services to which or in connection with 1033

which the spurious trademark or spurious service mark is attached, 1034
affixed, or otherwise used or from a mark that is registered with 1035
the secretary of state pursuant to sections 1329.54 to 1329.67 of 1036
the Revised Code for the same goods or services as the goods or 1037
services to which or in connection with which the spurious 1038
trademark or spurious service mark is attached, affixed, or 1039
otherwise used, and the owner of the registration uses the 1040
registered mark, whether or not the offender knows that the mark 1041
is registered in a manner described in division (F)(1)(a)(i) of 1042
this section. 1043

(ii) Its use is likely to cause confusion or mistake or to 1044
deceive other persons. 1045

(b) "Counterfeit mark" does not include a mark or other 1046
designation that is attached to, affixed to, or otherwise used in 1047
connection with goods or services if the holder of the right to 1048
use the mark or other designation authorizes the manufacturer, 1049
producer, or vendor of those goods or services to attach, affix, 1050
or otherwise use the mark or other designation in connection with 1051
those goods or services at the time of their manufacture, 1052
production, or sale. 1053

(2) "Cumulative sales price" means the product of the lowest 1054
single unit sales price charged or sought to be charged by an 1055
offender for goods to which or in connection with which a 1056
counterfeit mark is attached, affixed, or otherwise used or of the 1057
lowest single service transaction price charged or sought to be 1058
charged by an offender for services in connection with which a 1059
counterfeit mark is used, multiplied by the total number of those 1060
goods or services, whether or not units of goods are sold or are 1061
in an offender's possession, custody, or control. 1062

(3) "Registered trademark or service mark" means a trademark 1063
or service mark that is registered in a manner described in 1064

division (F)(1) of this section. 1065

(4) "Trademark" and "service mark" have the same meanings as 1066
in section 1329.54 of the Revised Code. 1067

Sec. 2923.01. (A) No person, with purpose to commit or to 1068
promote or facilitate the commission of aggravated murder, murder, 1069
kidnapping, compelling prostitution, promoting prostitution, 1070
aggravated arson, arson, aggravated robbery, robbery, aggravated 1071
burglary, burglary, engaging in a pattern of corrupt activity, 1072
corrupting another with drugs, a felony drug trafficking, 1073
manufacturing, processing, or possession offense, theft of drugs, 1074
or illegal processing of drug documents, the commission of a 1075
felony offense of unauthorized use of a vehicle, or the commission 1076
of a violation of any provision of Chapter 3734. of the Revised 1077
Code, other than section 3734.18 of the Revised Code, that relates 1078
to hazardous wastes, shall do either of the following: 1079

(1) With another person or persons, plan or aid in planning 1080
the commission of any of the specified offenses; 1081

(2) Agree with another person or persons that one or more of 1082
them will engage in conduct that facilitates the commission of any 1083
of the specified offenses. 1084

(B) No person shall be convicted of conspiracy unless a 1085
substantial overt act in furtherance of the conspiracy is alleged 1086
and proved to have been done by the accused or a person with whom 1087
the accused conspired, subsequent to the accused's entrance into 1088
the conspiracy. For purposes of this section, an overt act is 1089
substantial when it is of a character that manifests a purpose on 1090
the part of the actor that the object of the conspiracy should be 1091
completed. 1092

(C) When the offender knows or has reasonable cause to 1093
believe that a person with whom the offender conspires also has 1094

conspired or is conspiring with another to commit the same 1095
offense, the offender is guilty of conspiring with that other 1096
person, even though the other person's identity may be unknown to 1097
the offender. 1098

(D) It is no defense to a charge under this section that, in 1099
retrospect, commission of the offense that was the object of the 1100
conspiracy was impossible under the circumstances. 1101

(E) A conspiracy terminates when the offense or offenses that 1102
are its objects are committed or when it is abandoned by all 1103
conspirators. In the absence of abandonment, it is no defense to a 1104
charge under this section that no offense that was the object of 1105
the conspiracy was committed. 1106

(F) A person who conspires to commit more than one offense is 1107
guilty of only one conspiracy, when the offenses are the object of 1108
the same agreement or continuous conspiratorial relationship. 1109

(G) When a person is convicted of committing or attempting to 1110
commit a specific offense or of complicity in the commission of or 1111
attempt to commit the specific offense, the person shall not be 1112
convicted of conspiracy involving the same offense. 1113

(H)(1) No person shall be convicted of conspiracy upon the 1114
testimony of a person with whom the defendant conspired, 1115
unsupported by other evidence. 1116

(2) If a person with whom the defendant allegedly has 1117
conspired testifies against the defendant in a case in which the 1118
defendant is charged with conspiracy and if the testimony is 1119
supported by other evidence, the court, when it charges the jury, 1120
shall state substantially the following: 1121

"The testimony of an accomplice that is supported by other 1122
evidence does not become inadmissible because of the accomplice's 1123
complicity, moral turpitude, or self-interest, but the admitted or 1124

claimed complicity of a witness may affect the witness' 1125
credibility and make the witness' testimony subject to grave 1126
suspicion, and require that it be weighed with great caution. 1127

It is for you, as jurors, in the light of all the facts 1128
presented to you from the witness stand, to evaluate such 1129
testimony and to determine its quality and worth or its lack of 1130
quality and worth." 1131

(3) "Conspiracy," as used in division (H)(1) of this section, 1132
does not include any conspiracy that results in an attempt to 1133
commit an offense or in the commission of an offense. 1134

(I) The following are affirmative defenses to a charge of 1135
conspiracy: 1136

(1) After conspiring to commit an offense, the actor thwarted 1137
the success of the conspiracy under circumstances manifesting a 1138
complete and voluntary renunciation of the actor's criminal 1139
purpose. 1140

(2) After conspiring to commit an offense, the actor 1141
abandoned the conspiracy prior to the commission of or attempt to 1142
commit any offense that was the object of the conspiracy, either 1143
by advising all other conspirators of the actor's abandonment, or 1144
by informing any law enforcement authority of the existence of the 1145
conspiracy and of the actor's participation in the conspiracy. 1146

(J) Whoever violates this section is guilty of conspiracy, 1147
which is one of the following: 1148

(1) A felony of the first degree, when one of the objects of 1149
the conspiracy is aggravated murder, murder, or an offense for 1150
which the maximum penalty is imprisonment for life; 1151

(2) A felony of the next lesser degree than the most serious 1152
offense that is the object of the conspiracy, when the most 1153
serious offense that is the object of the conspiracy is a felony 1154

of the first, second, third, or fourth degree; 1155

(3) A felony punishable by a fine of not more than 1156
twenty-five thousand dollars or imprisonment for not more than 1157
eighteen months, or both, when the offense that is the object of 1158
the conspiracy is a violation of any provision of Chapter 3734. of 1159
the Revised Code, other than section 3734.18 of the Revised Code, 1160
that relates to hazardous wastes; 1161

(4) A misdemeanor of the first degree, when the most serious 1162
offense that is the object of the conspiracy is a felony of the 1163
fifth degree. 1164

(K) This section does not define a separate conspiracy 1165
offense or penalty where conspiracy is defined as an offense by 1166
one or more sections of the Revised Code, other than this section. 1167
In such a case, however: 1168

(1) With respect to the offense specified as the object of 1169
the conspiracy in the other section or sections, division (A) of 1170
this section defines the voluntary act or acts and culpable mental 1171
state necessary to constitute the conspiracy; 1172

(2) Divisions (B) to (I) of this section are incorporated by 1173
reference in the conspiracy offense defined by the other section 1174
or sections of the Revised Code. 1175

(L)(1) In addition to the penalties that otherwise are 1176
imposed for conspiracy, a person who is found guilty of conspiracy 1177
to engage in a pattern of corrupt activity is subject to divisions 1178
(B)(2), and (3), (4), and (5) of section 2923.32, division (A) of 1179
section 2981.04, and division (D) of section 2981.06 of the 1180
Revised Code. 1181

(2) If a person is convicted of or pleads guilty to 1182
conspiracy and if the most serious offense that is the object of 1183
the conspiracy is a felony drug trafficking, manufacturing, 1184

processing, or possession offense, in addition to the penalties or 1185
sanctions that may be imposed for the conspiracy under division 1186
(J)(2) or (4) of this section and Chapter 2929. of the Revised 1187
Code, both of the following apply: 1188

(a) The provisions of divisions (D), (F), and (G) of section 1189
2925.03, division (D) of section 2925.04, division (D) of section 1190
2925.05, division (D) of section 2925.06, and division (E) of 1191
section 2925.11 of the Revised Code that pertain to mandatory and 1192
additional fines, driver's or commercial driver's license or 1193
permit suspensions, and professionally licensed persons and that 1194
would apply under the appropriate provisions of those divisions to 1195
a person who is convicted of or pleads guilty to the felony drug 1196
trafficking, manufacturing, processing, or possession offense that 1197
is the most serious offense that is the basis of the conspiracy 1198
shall apply to the person who is convicted of or pleads guilty to 1199
the conspiracy as if the person had been convicted of or pleaded 1200
guilty to the felony drug trafficking, manufacturing, processing, 1201
or possession offense that is the most serious offense that is the 1202
basis of the conspiracy. 1203

(b) The court that imposes sentence upon the person who is 1204
convicted of or pleads guilty to the conspiracy shall comply with 1205
the provisions identified as being applicable under division 1206
(L)(2) of this section, in addition to any other penalty or 1207
sanction that it imposes for the conspiracy under division (J)(2) 1208
or (4) of this section and Chapter 2929. of the Revised Code. 1209

(M) As used in this section: 1210

(1) "Felony drug trafficking, manufacturing, processing, or 1211
possession offense" means any of the following that is a felony: 1212

(a) A violation of section 2925.03, 2925.04, 2925.05, or 1213
2925.06 of the Revised Code; 1214

(b) A violation of section 2925.11 of the Revised Code that 1215

is not a minor drug possession offense.	1216
(2) "Minor drug possession offense" has the same meaning as	1217
in section 2925.01 of the Revised Code.	1218
Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the	1219
Revised Code:	1220
(A) "Beneficial interest" means any of the following:	1221
(1) The interest of a person as a beneficiary under a trust	1222
in which the trustee holds title to personal or real property;	1223
(2) The interest of a person as a beneficiary under any other	1224
trust arrangement under which any other person holds title to	1225
personal or real property for the benefit of such person;	1226
(3) The interest of a person under any other form of express	1227
fiduciary arrangement under which any other person holds title to	1228
personal or real property for the benefit of such person.	1229
"Beneficial interest" does not include the interest of a	1230
stockholder in a corporation or the interest of a partner in	1231
either a general or limited partnership.	1232
(B) "Costs of investigation and prosecution" and "costs of	1233
investigation and litigation" mean all of the costs incurred by	1234
the state or a county or municipal corporation under sections	1235
2923.31 to 2923.36 of the Revised Code in the prosecution and	1236
investigation of any criminal action or in the litigation and	1237
investigation of any civil action, and includes, but is not	1238
limited to, the costs of resources and personnel.	1239
(C) "Enterprise" includes any individual, sole	1240
proprietorship, partnership, limited partnership, corporation,	1241
trust, union, government agency, or other legal entity, or any	1242
organization, association, or group of persons associated in fact	1243
although not a legal entity. "Enterprise" includes illicit as well	1244

as licit enterprises.

1245

(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.

1246

1247

1248

1249

1250

1251

1252

1253

(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.

1254

1255

1256

1257

1258

1259

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.

1260

1261

1262

1263

1264

1265

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.

1266

1267

1268

1269

1270

1271

1272

1273

1274

(F) "Pecuniary value" means money, a negotiable instrument, a

1275

commercial interest, or anything of value, as defined in section 1276
1.03 of the Revised Code, or any other property or service that 1277
has a value in excess of one hundred dollars. 1278

(G) "Person" means any person, as defined in section 1.59 of 1279
the Revised Code, and any governmental officer, employee, or 1280
entity. 1281

(H) "Personal property" means any personal property, any 1282
interest in personal property, or any right, including, but not 1283
limited to, bank accounts, debts, corporate stocks, patents, or 1284
copyrights. Personal property and any beneficial interest in 1285
personal property are deemed to be located where the trustee of 1286
the property, the personal property, or the instrument evidencing 1287
the right is located. 1288

(I) "Corrupt activity" means engaging in, attempting to 1289
engage in, conspiring to engage in, or soliciting, coercing, or 1290
intimidating another person to engage in any of the following: 1291

(1) Conduct defined as "racketeering activity" under the 1292
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1293
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 1294

(2) Conduct constituting any of the following: 1295

(a) A violation of section 1315.55, 1322.02, 2903.01, 1296
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 1297
2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 1298
2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 1299
2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 1300
2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 1301
2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; 1302
division (A)(1) or (2) of section 1707.042; division (B), (C)(4), 1303
(D), (E), or (F) of section 1707.44; division (A)(1) or (2) of 1304
section 2923.20; division (J)(1) of section 4712.02; section 1305
4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 1306

4719.07; section 4719.08; or division (A) of section 4719.09 of
the Revised Code. 1307
1308

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 1309
3769.19 of the Revised Code as it existed prior to July 1, 1996, 1310
any violation of section 2915.02 of the Revised Code that occurs 1311
on or after July 1, 1996, and that, had it occurred prior to that 1312
date, would have been a violation of section 3769.11 of the 1313
Revised Code as it existed prior to that date, or any violation of 1314
section 2915.05 of the Revised Code that occurs on or after July 1315
1, 1996, and that, had it occurred prior to that date, would have 1316
been a violation of section 3769.15, 3769.16, or 3769.19 of the 1317
Revised Code as it existed prior to that date. 1318

(c) Any violation of section 2907.21, 2907.22, 2907.31, 1319
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 1320
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 1321
of the Revised Code, any violation of section 2925.11 of the 1322
Revised Code that is a felony of the first, second, third, or 1323
fourth degree and that occurs on or after July 1, 1996, any 1324
violation of section 2915.02 of the Revised Code that occurred 1325
prior to July 1, 1996, any violation of section 2915.02 of the 1326
Revised Code that occurs on or after July 1, 1996, and that, had 1327
it occurred prior to that date, would not have been a violation of 1328
section 3769.11 of the Revised Code as it existed prior to that 1329
date, any violation of section 2915.06 of the Revised Code as it 1330
existed prior to July 1, 1996, or any violation of division (B) of 1331
section 2915.05 of the Revised Code as it exists on and after July 1332
1, 1996, when the proceeds of the violation, the payments made in 1333
the violation, the amount of a claim for payment or for any other 1334
benefit that is false or deceptive and that is involved in the 1335
violation, or the value of the contraband or other property 1336
illegally possessed, sold, or purchased in the violation exceeds 1337
five hundred dollars, or any combination of violations described 1338

in division (I)(2)(c) of this section when the total proceeds of 1339
the combination of violations, payments made in the combination of 1340
violations, amount of the claims for payment or for other benefits 1341
that is false or deceptive and that is involved in the combination 1342
of violations, or value of the contraband or other property 1343
illegally possessed, sold, or purchased in the combination of 1344
violations exceeds five hundred dollars; 1345

(d) Any violation of section 5743.112 of the Revised Code 1346
when the amount of unpaid tax exceeds one hundred dollars; 1347

(e) Any violation or combination of violations of section 1348
2907.32 of the Revised Code involving any material or performance 1349
containing a display of bestiality or of sexual conduct, as 1350
defined in section 2907.01 of the Revised Code, that is explicit 1351
and depicted with clearly visible penetration of the genitals or 1352
clearly visible penetration by the penis of any orifice when the 1353
total proceeds of the violation or combination of violations, the 1354
payments made in the violation or combination of violations, or 1355
the value of the contraband or other property illegally possessed, 1356
sold, or purchased in the violation or combination of violations 1357
exceeds five hundred dollars; 1358

(f) Any combination of violations described in division 1359
(I)(2)(c) of this section and violations of section 2907.32 of the 1360
Revised Code involving any material or performance containing a 1361
display of bestiality or of sexual conduct, as defined in section 1362
2907.01 of the Revised Code, that is explicit and depicted with 1363
clearly visible penetration of the genitals or clearly visible 1364
penetration by the penis of any orifice when the total proceeds of 1365
the combination of violations, payments made in the combination of 1366
violations, amount of the claims for payment or for other benefits 1367
that is false or deceptive and that is involved in the combination 1368
of violations, or value of the contraband or other property 1369
illegally possessed, sold, or purchased in the combination of 1370

violations exceeds five hundred dollars. 1371

(3) Conduct constituting a violation of any law of any state 1372
other than this state that is substantially similar to the conduct 1373
described in division (I)(2) of this section, provided the 1374
defendant was convicted of the conduct in a criminal proceeding in 1375
the other state. 1376

(J) "Real property" means any real property or any interest 1377
in real property, including, but not limited to, any lease of, or 1378
mortgage upon, real property. Real property and any beneficial 1379
interest in it is deemed to be located where the real property is 1380
located. 1381

(K) "Trustee" means any of the following: 1382

(1) Any person acting as trustee under a trust in which the 1383
trustee holds title to personal or real property; 1384

(2) Any person who holds title to personal or real property 1385
for which any other person has a beneficial interest; 1386

(3) Any successor trustee. 1387

"Trustee" does not include an assignee or trustee for an 1388
insolvent debtor or an executor, administrator, administrator with 1389
the will annexed, testamentary trustee, guardian, or committee, 1390
appointed by, under the control of, or accountable to a court. 1391

(L) "Unlawful debt" means any money or other thing of value 1392
constituting principal or interest of a debt that is legally 1393
unenforceable in this state in whole or in part because the debt 1394
was incurred or contracted in violation of any federal or state 1395
law relating to the business of gambling activity or relating to 1396
the business of lending money at an usurious rate unless the 1397
creditor proves, by a preponderance of the evidence, that the 1398
usurious rate was not intentionally set and that it resulted from 1399
a good faith error by the creditor, notwithstanding the 1400

maintenance of procedures that were adopted by the creditor to 1401
avoid an error of that nature. 1402

Sec. 2923.32. (A)(1) No person employed by, or associated 1403
with, any enterprise shall conduct or participate in, directly or 1404
indirectly, the affairs of the enterprise through a pattern of 1405
corrupt activity or the collection of an unlawful debt. 1406

(2) No person, through a pattern of corrupt activity or the 1407
collection of an unlawful debt, shall acquire or maintain, 1408
directly or indirectly, any interest in, or control of, any 1409
enterprise or real property. 1410

(3) No person, who knowingly has received any proceeds 1411
derived, directly or indirectly, from a pattern of corrupt 1412
activity or the collection of any unlawful debt, shall use or 1413
invest, directly or indirectly, any part of those proceeds, or any 1414
proceeds derived from the use or investment of any of those 1415
proceeds, in the acquisition of any title to, or any right, 1416
interest, or equity in, real property or in the establishment or 1417
operation of any enterprise. 1418

A purchase of securities on the open market with intent to 1419
make an investment, without intent to control or participate in 1420
the control of the issuer, and without intent to assist another to 1421
do so is not a violation of this division, if the securities of 1422
the issuer held after the purchase by the purchaser, the members 1423
of the purchaser's immediate family, and the purchaser's or the 1424
immediate family members' accomplices in any pattern of corrupt 1425
activity or the collection of an unlawful debt do not aggregate 1426
one per cent of the outstanding securities of any one class of the 1427
issuer and do not confer, in law or in fact, the power to elect 1428
one or more directors of the issuer. 1429

(B)(1) Whoever violates this section is guilty of engaging in 1430

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) 1463
of this section and the financial sanctions authorized by section 1464
2929.18 of the Revised Code, order the person to pay court costs; 1465

(c) In addition to the fine described in division (B)(2)(a) 1466
of this section and the financial sanctions authorized by section 1467
2929.18 of the Revised Code, order the person to pay to the state, 1468
municipal, or county law enforcement agencies that handled the 1469
investigation and prosecution the costs of investigation and 1470
prosecution that are reasonably incurred. 1471

The court shall hold a hearing to determine the amount of 1472
fine, court costs, and other costs to be imposed under this 1473
division. 1474

(3) In addition to any other penalty or disposition 1475
authorized or required by law, the court shall order any person 1476
who is convicted of or pleads guilty to a violation of this 1477
section or who is adjudicated delinquent by reason of a violation 1478
of this section to criminally forfeit to the state under Chapter 1479
2981. of the Revised Code any personal or real property in which 1480
the person has an interest and that was used in the course of or 1481
intended for use in the course of a violation of this section, or 1482
that was derived from or realized through conduct in violation of 1483
this section, including any property constituting an interest in, 1484
means of control over, or influence over the enterprise involved 1485
in the violation and any property constituting proceeds derived 1486
from the violation, including all of the following: 1487

(a) Any position, office, appointment, tenure, commission, or 1488
employment contract of any kind acquired or maintained by the 1489
person in violation of this section, through which the person, in 1490
violation of this section, conducted or participated in the 1491
conduct of an enterprise, or that afforded the person a source of 1492
influence or control over an enterprise that the person exercised 1493

in violation of this section;	1494
(b) Any compensation, right, or benefit derived from a	1495
position, office, appointment, tenure, commission, or employment	1496
contract described in division (B)(3)(a) of this section that	1497
accrued to the person in violation of this section during the	1498
period of the pattern of corrupt activity;	1499
(c) Any interest in, security of, claim against, or property	1500
or contractual right affording the person a source of influence or	1501
control over the affairs of an enterprise that the person	1502
exercised in violation of this section;	1503
(d) Any amount payable or paid under any contract for goods	1504
or services that was awarded or performed in violation of this	1505
section.	1506
(4)(a) A sentence or disposition of criminal forfeiture	1507
pursuant to division (B)(3) of this section shall not be entered	1508
unless either of the following applies:	1509
(i) The indictment, count in the indictment, or information	1510
charging the offense, or the complaint, indictment, or information	1511
filed in juvenile court charging the violation as a delinquent act	1512
alleges the extent of the property subject to forfeiture;	1513
(ii) The criminal sentence or delinquency disposition	1514
requires the forfeiture of property that was not reasonably	1515
foreseen to be subject to forfeiture at the time of the	1516
indictment, count in the indictment, or information charging the	1517
offense, or the complaint, indictment, or information filed in	1518
juvenile court charging the violation as a delinquent act,	1519
provided that the prosecuting attorney gave prompt notice to the	1520
defendant or the alleged or adjudicated delinquent child of such	1521
property not reasonably foreseen to be subject to forfeiture when	1522
it is discovered to be forfeitable.	1523

~~(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~~ 1556
~~report so received by the attorney general is a public record open~~ 1557
~~for inspection under section 149.43 of the Revised Code. Not later~~ 1558
~~than the fifteenth day of April in the calendar year in which the~~ 1559
~~reports were received, the attorney general shall send to the~~ 1560
~~president of the senate and the speaker of the house of~~ 1561
~~representatives a written notification that does all of the~~ 1562
~~following:~~ 1563

~~(a) Indicates that the attorney general has received from law~~ 1564
~~enforcement agencies reports of the type described in this~~ 1565
~~division that cover the previous calendar year and indicates that~~ 1566
~~the reports were received under this division;~~ 1567

~~(b) Indicates that the reports are open for inspection under~~ 1568
~~section 149.43 of the Revised Code;~~ 1569

~~(c) Indicates that the attorney general will provide a copy~~ 1570
~~of any or all of the reports to the president of the senate or the~~ 1571
~~speaker of the house of representatives upon request.~~ 1572

~~(C) Notwithstanding the notice and procedure prescribed by~~ 1573
~~division (E) of this section, an order of criminal forfeiture~~ 1574
~~entered under division (B)(3) of this section shall authorize an~~ 1575
~~appropriate law enforcement agency to seize the property declared~~ 1576
~~forfeited under this section upon the terms and conditions,~~ 1577
~~relating to the time and manner of seizure, that the court~~ 1578
~~determines proper.~~ 1579

~~(D) Criminal penalties under this section are not mutually~~ 1580
~~exclusive, unless otherwise provided, and do not preclude the~~ 1581
~~application of any other criminal or civil remedy under this or~~ 1582
~~any other section of the Revised Code. A disposition of criminal~~ 1583
~~forfeiture ordered pursuant to division (B)(3) of this section in~~ 1584
~~relation to a child who was adjudicated delinquent by reason of a~~ 1585
~~violation of this section does not preclude the application of any~~ 1586

~~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.~~ 1587
1588
1589

~~(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.~~ 1590
1591
1592
1593
1594
1595
1596
1597
1598
1599

~~(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.~~ 1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1610
1611

~~(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~~ 1612
1613
1614
1615
1616
1617
1618

~~prosecuting attorney may present evidence and witnesses in 1619
rebuttal and in defense of the claim of the state to the property 1620
and cross examine witnesses. The court, in making its 1621
determination, shall consider the testimony and evidence presented 1622
at the hearing and the relevant portions of the record of the 1623
criminal proceeding that resulted in the judgment of forfeiture. 1624~~

~~(4) If at a hearing held under division (E)(3) of this 1625
section, the court, by a preponderance of the evidence, determines 1626
either that the petitioner has a legal right, title, or interest 1627
in the property that, at the time of the commission of the acts 1628
giving rise to the forfeiture of the property, was vested in the 1629
petitioner and not in the defendant or the adjudicated delinquent 1630
child or was superior to the right, title, or interest of the 1631
defendant or the adjudicated delinquent child, or that the 1632
petitioner is a bona fide purchaser for value of the right, title, 1633
or interest in the property and was at the time of the purchase 1634
reasonably without cause to believe that the property was subject 1635
to forfeiture under this section, it shall amend, in accordance 1636
with its determination, the judgment of forfeiture to protect the 1637
rights of innocent persons. 1638~~

~~(F) Except as provided in division (E) of this section, no 1639
person claiming an interest in property that is subject to 1640
forfeiture under this section shall do either of the following: 1641~~

~~(1) Intervene in a trial or appeal of a criminal case or a 1642
delinquency case that involves the forfeiture of the property; 1643~~

~~(2) File an action against the state concerning the validity 1644
of the person's alleged interest in the property subsequent to the 1645
filing of the indictment, count in the indictment, or information, 1646
or the filing of the complaint, indictment, or information in 1647
juvenile court, that alleges that the property is subject to 1648
forfeiture under this section. 1649~~

~~(G) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy.~~ 1650
1651

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.~~ 1652
1653
1654
1655
1656
1657
1658

~~(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. 1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1670

~~(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: 1671
1672
1673
1674
1675
1676
1677

(1) Require the divestiture of the defendant's interest in any enterprise or in any real property; 1678
1679

(2) Impose reasonable restrictions upon the future activities 1680
or investments of any defendant in the action, including, but not 1681
limited to, restrictions that prohibit the defendant from engaging 1682
in the same type of endeavor as the enterprise in which the 1683
defendant was engaged in violation of section 2923.32 of the 1684
Revised Code; 1685

(3) Order the dissolution or reorganization of any 1686
enterprise; 1687

(4) Order the suspension or revocation of a license, permit, 1688
or prior approval granted to any enterprise by any department or 1689
agency of the state; 1690

(5) Order the dissolution of a corporation organized under 1691
the laws of this state, or the revocation of the authorization of 1692
a foreign corporation to conduct business within this state, upon 1693
a finding that the board of directors or an agent acting on behalf 1694
of the corporation, in conducting the affairs of the corporation, 1695
has authorized or engaged in conduct in violation of section 1696
2923.32 of the Revised Code, and that, for the prevention of 1697
future criminal conduct, the public interest requires the 1698
corporation to be dissolved or its license revoked. 1699

~~(D)~~(C) Relief pursuant to division ~~(C)~~(B)(3), (4), or (5) of 1700
this section shall not be granted in any civil proceeding 1701
instituted by an injured person unless the attorney general 1702
intervenes in the civil action pursuant to this division. 1703

Upon the filing of a civil proceeding for relief under 1704
division ~~(C)~~(B)(3), (4), or (5) of this section by an allegedly 1705
injured person other than a prosecuting attorney, the allegedly 1706
injured person immediately shall notify the attorney general of 1707
the filing. The attorney general, upon timely application, may 1708
intervene in any civil proceeding for relief under division 1709
~~(C)~~(B)(3), (4), or (5) if the attorney general certifies that, in 1710

the attorney general's opinion, the proceeding is of general 1711
public interest. In any proceeding brought by an injured person 1712
under division ~~(C)~~(B)(3), (4), or (5) of this section, the 1713
attorney general is entitled to the same relief as if the attorney 1714
general instituted the proceeding. 1715

~~(E)~~(D) In a civil proceeding under division ~~(C)~~(B) of this 1716
section, the court may grant injunctive relief without a showing 1717
of special or irreparable injury. 1718

Pending final determination of a civil proceeding initiated 1719
under this section, the court may issue a temporary restraining 1720
order or a preliminary injunction upon a showing of immediate 1721
danger or significant injury to the plaintiff, including the 1722
possibility that any judgment for money damages might be difficult 1723
to execute, and, in a proceeding initiated by an aggrieved person, 1724
upon the execution of proper bond against injury for an 1725
improvidently granted injunction. 1726

~~(F)~~(E) In a civil proceeding under division ~~(B)~~(A) of this 1727
section, any person directly or indirectly injured by conduct in 1728
violation of section 2923.32 of the Revised Code or a conspiracy 1729
to violate that section, other than a violator of that section or 1730
a conspirator to violate that section, in addition to relief under 1731
division ~~(C)~~(B) of this section, shall have a cause of action for 1732
triple the actual damages the person sustained. To recover triple 1733
damages, the plaintiff shall prove the violation or conspiracy to 1734
violate that section and actual damages by clear and convincing 1735
evidence. Damages under this division may include, but are not 1736
limited to, competitive injury and injury distinct from the injury 1737
inflicted by corrupt activity. 1738

~~(G)~~(F) In a civil action in which the plaintiff prevails 1739
under division ~~(C)~~(B) or ~~(F)~~(E) of this section, the plaintiff 1740
shall recover reasonable attorney fees in the trial and appellate 1741
courts, and the court shall order the defendant to pay to the 1742

state, municipal, or county law enforcement agencies that handled 1743
the investigation and litigation the costs of investigation and 1744
litigation that reasonably are incurred and that are not ordered 1745
to be paid pursuant to division (B)(2) of section 2923.32 of the 1746
Revised Code or division ~~(I)~~(H) of this section. 1747

~~(H)~~(G) Upon application, based on the evidence presented in 1748
the case by the plaintiff, as the interests of justice may 1749
require, the trial court may grant a defendant who prevails in a 1750
civil action brought pursuant to this section all or part of the 1751
defendant's costs, including the costs of investigation and 1752
litigation reasonably incurred, and all or part of the defendant's 1753
reasonable attorney fees, unless the court finds that special 1754
circumstances, including the relative economic position of the 1755
parties, make an award unjust. 1756

~~(I)~~(H) If a person, other than an individual, is not 1757
convicted of a violation of section 2923.32 of the Revised Code, 1758
the prosecuting attorney may institute proceedings against the 1759
person to recover a civil penalty for conduct that the prosecuting 1760
attorney proves by clear and convincing evidence is in violation 1761
of section 2923.32 of the Revised Code. The civil penalty shall 1762
not exceed one hundred thousand dollars and shall be paid into the 1763
state treasury to the credit of the corrupt activity investigation 1764
and prosecution fund created in section ~~2923.35~~ 2923.32 of the 1765
Revised Code. If a civil penalty is ordered pursuant to this 1766
division, the court shall order the defendant to pay to the state, 1767
municipal, or county law enforcement agencies that handled the 1768
investigation and litigation the costs of investigation and 1769
litigation that are reasonably incurred and that are not ordered 1770
to be paid pursuant to this section. 1771

~~(J)~~(I) A final judgment, decree, or delinquency adjudication 1772
rendered against the defendant or the adjudicated delinquent child 1773
in a civil action under this section or in a criminal or 1774

delinquency action or proceeding for a violation of section 1775
2923.32 of the Revised Code shall estop the defendant or the 1776
adjudicated delinquent child in any subsequent civil proceeding or 1777
action brought by any person as to all matters as to which the 1778
judgment, decree, or adjudication would be an estoppel as between 1779
the parties to the civil, criminal, or delinquency proceeding or 1780
action. 1781

~~(K)~~(J) Notwithstanding any other provision of law providing a 1782
shorter period of limitations, a civil proceeding or action under 1783
this section may be commenced at any time within five years after 1784
the unlawful conduct terminates or the cause of action accrues or 1785
within any longer statutory period of limitations that may be 1786
applicable. If a criminal proceeding, delinquency proceeding, 1787
civil action, or other proceeding is brought or intervened in by 1788
the state to punish, prevent, or restrain any activity that is 1789
unlawful under section 2923.32 of the Revised Code, the running of 1790
the period of limitations prescribed by this division with respect 1791
to any civil action brought under this section by a person who is 1792
injured by a violation or threatened violation of section 2923.32 1793
of the Revised Code, based in whole or in part upon any matter 1794
complained of in the state prosecution, action, or proceeding, 1795
shall be suspended during the pendency of the state prosecution, 1796
action, or proceeding and for two years following its termination. 1797

~~(L)~~(K) Personal service of any process in a proceeding under 1798
this section may be made upon any person outside this state if the 1799
person was involved in any conduct constituting a violation of 1800
section 2923.32 of the Revised Code in this state. The person is 1801
deemed by the person's conduct in violation of section 2923.32 of 1802
the Revised Code to have submitted to the jurisdiction of the 1803
courts of this state for the purposes of this section. 1804

~~(M)~~(L) The application of any civil remedy under this section 1805
shall not preclude the application of any criminal remedy or 1806

criminal forfeiture under section 2923.32 of the Revised Code or 1807
any other provision of law, or the application of any delinquency 1808
disposition under Chapter 2152. of the Revised Code or any other 1809
provision of law. 1810

(M)(1) Any person who prevails in a civil action pursuant to 1811
this section has a right to any property, or the proceeds of any 1812
property, criminally forfeited to the state pursuant to section 1813
2981.04 of the Revised Code or against which any fine under 1814
section 2923.32 of the Revised Code or civil penalty under 1815
division (H) of this section may be imposed. 1816

The right of any person who prevails in a civil action 1817
pursuant to this section, other than a prosecuting attorney 1818
performing official duties under that section, to forfeited 1819
property, property against which fines and civil penalties may be 1820
imposed, and the proceeds of that property is superior to any 1821
right of the state, a municipal corporation, or a county to the 1822
property or the proceeds of the property, if the civil action is 1823
brought within one hundred eighty days after the entry of a 1824
sentence of forfeiture or a fine pursuant to sections 2923.32 and 1825
2981.04 of the Revised Code or the entry of a civil penalty 1826
pursuant to division (H) of this section. 1827

The right is limited to the total value of the treble 1828
damages, civil penalties, attorney's fees, and costs awarded to 1829
the prevailing party in an action pursuant to this section, less 1830
any restitution received by the person. 1831

(2) If the aggregate amount of claims of persons who have 1832
prevailed in a civil action pursuant to this section against any 1833
one defendant is greater than the total value of the treble fines, 1834
civil penalties, and forfeited property paid by the person against 1835
whom the actions were brought, all of the persons who brought 1836
their actions within one hundred eighty days after the entry of a 1837
sentence or disposition of forfeiture or a fine pursuant to 1838

section 2923.32 of the Revised Code or the entry of a civil 1839
penalty pursuant to division (H) of this section, first shall 1840
receive a pro rata share of the total amount of the fines, civil 1841
penalties, and forfeited property. After the persons who brought 1842
their actions within the specified one-hundred-eighty-day period 1843
have satisfied their claims out of the fines, civil penalties, and 1844
forfeited property, all other persons who prevailed in civil 1845
actions pursuant to this section shall receive a pro rata share of 1846
the total amount of the fines, civil penalties, and forfeited 1847
property that remains in the custody of the law enforcement agency 1848
or in the corrupt activity investigation and prosecution fund. 1849

(N) As used in this section, "law enforcement agency" 1850
includes, but is not limited to, the state board of pharmacy. 1851

Sec. 2923.36. (A) Upon the institution of any criminal 1852
proceeding charging a violation of section 2923.32 of the Revised 1853
Code, the filing of any complaint, indictment, or information in 1854
juvenile court alleging a violation of that section as a 1855
delinquent act, or the institution of any civil proceeding under 1856
section ~~2923.32~~ or 2923.34 or 2981.05 of the Revised Code, the 1857
state, at any time during the pendency of the proceeding, may file 1858
a corrupt activity lien notice with the county recorder of any 1859
county in which property subject to forfeiture may be located. No 1860
fee shall be required for filing the notice. The recorder 1861
immediately shall record the notice pursuant to section 317.08 of 1862
the Revised Code. 1863

(B) A corrupt activity lien notice shall be signed by the 1864
prosecuting attorney who files the lien. The notice shall set 1865
forth all of the following information: 1866

(1) The name of the person against whom the proceeding has 1867
been brought. The prosecuting attorney may specify in the notice 1868
any aliases, names, or fictitious names under which the person may 1869

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 1931
~~2923.34~~ 2981.05 of the Revised Code, the prosecuting attorney may 1932
file in any county, without prior court order, a lis pendens 1933
pursuant to sections 2703.26 and 2703.27 of the Revised Code. In 1934
such a case, any person acquiring an interest in the subject 1935
property or beneficial interest in the property, if the property 1936
interest is acquired subsequent to the filing of the lis pendens, 1937
shall take the property or interest subject to the civil 1938
proceeding and any subsequent judgment. 1939

(2) If a corrupt activity lien notice has been filed, the 1940
prosecuting attorney may name as a defendant in the lis pendens, 1941
in addition to the person named in the notice, any person 1942
acquiring an interest in the personal or real property or 1943
beneficial interest in the property subsequent to the filing of 1944
the notice. If a judgment of forfeiture is entered in the criminal 1945
or delinquency proceeding pursuant to section ~~2923.32~~ 2981.04 of 1946
the Revised Code in favor of the state, the interest of any person 1947
in the property that was acquired subsequent to the filing of the 1948
notice shall be subject to the notice and judgment of forfeiture. 1949

(G) Upon a final judgment of forfeiture in favor of the state 1950
pursuant to ~~section 2923.32~~ Chapter 2981. of the Revised Code, 1951
title of the state to the forfeited property shall do either of 1952
the following: 1953

(1) In the case of real property, or a beneficial interest in 1954
it, relate back to the date of filing of the corrupt activity lien 1955
notice in the county where the property or interest is located. If 1956
no corrupt activity lien notice was filed, title of the state 1957
relates back to the date of the filing of any lis pendens under 1958
division (F) of this section in the records of the county recorder 1959
of the county in which the real property or beneficial interest is 1960
located. If no corrupt activity lien notice or lis pendens was 1961
filed, title of the state relates back to the date of the 1962

recording of the final judgment of forfeiture in the records of 1963
the county recorder of the county in which the real property or 1964
beneficial interest is located. 1965

(2) In the case of personal property or a beneficial interest 1966
in it, relate back to the date on which the property or interest 1967
was seized by the state, or the date of filing of a corrupt 1968
activity lien notice in the county in which the property or 1969
beneficial interest is located. If the property was not seized and 1970
no corrupt activity lien notice was filed, title of the state 1971
relates back to the date of the recording of the final judgment of 1972
forfeiture in the county in which the personal property or 1973
beneficial interest is located. 1974

(H) If personal or real property, or a beneficial interest in 1975
it, that is subject to forfeiture pursuant to section 2923.32 of 1976
the Revised Code is conveyed, alienated, disposed of, or otherwise 1977
rendered unavailable for forfeiture after the filing of either a 1978
corrupt activity lien notice, or a criminal or delinquency 1979
proceeding for a violation of section 2923.32 or a civil 1980
proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised 1981
Code, whichever is earlier, the state may bring an action in any 1982
court of common pleas against the person named in the corrupt 1983
activity lien notice or the defendant in the criminal, 1984
delinquency, or civil proceeding to recover the value of the 1985
property or interest. The court shall enter final judgment against 1986
the person named in the notice or the defendant for an amount 1987
equal to the value of the property or interest together with 1988
investigative costs and attorney's fees incurred by the state in 1989
the action. If a civil proceeding is pending, an action pursuant 1990
to this section shall be filed in the court in which the 1991
proceeding is pending. 1992

(I) If personal or real property, or a beneficial interest in 1993
it, that is subject to forfeiture pursuant to ~~section 2923.32~~ 1994

Chapter 2981. of the Revised Code is alienated or otherwise 1995
transferred or disposed of after either the filing of a corrupt 1996
activity lien notice, or the filing of a criminal or delinquency 1997
proceeding for a violation of section 2923.32 or a civil 1998
proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised 1999
Code, whichever is earlier, the transfer or disposal is fraudulent 2000
as to the state and the state shall have all the rights granted a 2001
creditor under Chapter 1336. of the Revised Code. 2002

(J) No trustee, who acquires actual knowledge that a corrupt 2003
activity lien notice, a criminal or delinquency proceeding for a 2004
violation of section 2923.32 or a civil proceeding under section 2005
~~2923.32 or 2923.34~~ 2981.05 of the Revised Code has been filed 2006
against any person for whom the trustee holds legal or record 2007
title to personal or real property, shall recklessly fail to 2008
furnish promptly to the prosecuting attorney all of the following: 2009

(1) The name and address of the person, as known to the 2010
trustee; 2011

(2) The name and address, as known to the trustee, of all 2012
other persons for whose benefit the trustee holds title to the 2013
property; 2014

(3) If requested by the prosecuting attorney, a copy of the 2015
trust agreement or other instrument under which the trustee holds 2016
title to the property. 2017

Any trustee who fails to comply with this division is guilty 2018
of failure to provide corrupt activity lien information, a 2019
misdemeanor of the first degree. 2020

(K) If a trustee transfers title to personal or real property 2021
after a corrupt activity lien notice is filed against the 2022
property, the lien is filed in the county in which the property is 2023
located, and the lien names a person who holds a beneficial 2024
interest in the property, the trustee, if the trustee has actual 2025

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 2056
following: 2057

(a) Any transfer by a trustee required under the terms of any 2058
trust agreement, if the agreement is a matter of public record 2059
before the filing of any corrupt activity lien notice; 2060

(b) Any transfer by a trustee to all of the persons who own a 2061
beneficial interest in the trust. 2062

(N) The filing of a corrupt activity lien notice does not 2063
affect the use to which personal or real property, or a beneficial 2064
interest in it, that is owned by the person named in the notice 2065
may be put or the right of the person to receive any proceeds 2066
resulting from the use and ownership, but not the sale, of the 2067
property, until a judgment of forfeiture is entered. 2068

(O) The term of a corrupt activity lien notice is five years 2069
from the date the notice is filed, unless a renewal notice has 2070
been filed by the prosecuting attorney of the county in which the 2071
property or interest is located. The term of any renewal of a 2072
corrupt activity lien notice granted by the court is five years 2073
from the date of its filing. A corrupt activity lien notice may be 2074
renewed any number of times while a criminal or civil proceeding 2075
under section ~~2923.32~~ or 2923.34, 2981.04, or 2981.05 of the 2076
Revised Code, or an appeal from either type of proceeding, is 2077
pending. 2078

(P) The prosecuting attorney who files the corrupt activity 2079
lien notice may terminate, in whole or part, any corrupt activity 2080
lien notice or release any personal or real property or beneficial 2081
interest in the property upon any terms that the prosecuting 2082
attorney determines are appropriate. Any termination or release 2083
shall be filed by the prosecuting attorney with each county 2084
recorder with whom the notice was filed. No fee shall be imposed 2085
for the filing. 2086

(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 2119
property, or beneficial interest in it, that is owned by the 2120
person bringing the action is covered by the notice or otherwise 2121
is subject to forfeiture. If the person bringing the action shows 2122
by a preponderance of the evidence that the notice does not apply 2123
to the person or that any personal or real property, or beneficial 2124
interest in it, that is owned by the person is not subject to 2125
forfeiture, the court shall enter a judgment terminating the 2126
notice or releasing the personal or real property or beneficial 2127
interest from the notice. 2128

At a hearing, the court may release from the notice any 2129
property or beneficial interest upon the posting of security, by 2130
the person against whom the notice was filed, in an amount equal 2131
to the value of the property or beneficial interest owned by the 2132
person. 2133

(4) The court promptly shall enter an order terminating a 2134
corrupt activity lien notice or releasing any personal or real 2135
property or beneficial interest in the property, if a sale of the 2136
property or beneficial interest is pending and the filing of the 2137
notice prevents the sale. However, the proceeds of the sale shall 2138
be deposited with the clerk of the court, subject to the further 2139
order of the court. 2140

(R) Notwithstanding any provision of this section, any person 2141
who has perfected a security interest in personal or real property 2142
or a beneficial interest in the property for the payment of an 2143
enforceable debt or other similar obligation prior to the filing 2144
of a corrupt activity lien notice or a lis pendens in reference to 2145
the property or interest may foreclose on the property or interest 2146
as otherwise provided by law. The foreclosure, insofar as 2147
practical, shall be made so that it otherwise will not interfere 2148
with a forfeiture under ~~section 2923.32~~ Chapter 2981. of the 2149
Revised Code. 2150

Sec. 2923.41. As used in sections 2923.41 to ~~2923.47~~ 2923.44 2151
of the Revised Code: 2152

(A) "Criminal gang" means an ongoing formal or informal 2153
organization, association, or group of three or more persons to 2154
which all of the following apply: 2155

(1) It has as one of its primary activities the commission of 2156
one or more of the offenses listed in division (B) of this 2157
section. 2158

(2) It has a common name or one or more common, identifying 2159
signs, symbols, or colors. 2160

(3) The persons in the organization, association, or group 2161
individually or collectively engage in or have engaged in a 2162
pattern of criminal gang activity. 2163

(B)(1) "Pattern of criminal gang activity" means, subject to 2164
division (B)(2) of this section, that persons in the criminal gang 2165
have committed, attempted to commit, conspired to commit, been 2166
complicitors in the commission of, or solicited, coerced, or 2167
intimidated another to commit, attempt to commit, conspire to 2168
commit, or be in complicity in the commission of two or more of 2169
any of the following offenses: 2170

(a) A felony or an act committed by a juvenile that would be 2171
a felony if committed by an adult; 2172

(b) An offense of violence or an act committed by a juvenile 2173
that would be an offense of violence if committed by an adult; 2174

(c) A violation of section 2907.04, 2909.06, 2911.211, 2175
2917.04, 2919.23, or 2919.24 of the Revised Code, section 2921.04 2176
or 2923.16 of the Revised Code, section 2925.03 of the Revised 2177
Code if the offense is trafficking in marihuana, or section 2178
2927.12 of the Revised Code. 2179

(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.	2210 2211
(G) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.	2212 2213 2214
(H) "Property" includes both of the following:	2215
(1) Real property, including, but not limited to, things growing on, affixed to, and found in the real property;	2216 2217
(2) Tangible and intangible personal property, including, but not limited to, rights, privileges, interests, claims, and securities.	2218 2219 2220
(I) "Firearms" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.	2221 2222
(J) "Computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.	2223 2224 2225
(K) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.	2226 2227
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.	2228 2229 2230 2231 2232 2233 2234 2235
(B) Whoever violates this section is guilty of participating in a criminal gang, a felony of the second degree.	2236 2237
(C)(1) Notwithstanding any contrary provision of any section	2238

of the Revised Code, the clerk of the court shall pay any fine 2239
imposed for a violation of this section pursuant to division (A) 2240
of section 2929.18 of the Revised Code to the county, township, 2241
municipal corporation, park district, as created pursuant to 2242
section 511.18 or 1545.04 of the Revised Code, or state law 2243
enforcement agencies in this state that primarily were responsible 2244
for or involved in making the arrest of, and in prosecuting, the 2245
offender. However, the clerk shall not pay a fine so imposed to a 2246
law enforcement agency unless the agency has adopted a written 2247
internal control policy under division (C)(2) of this section that 2248
addresses the use of the fine moneys that it receives. Each agency 2249
shall use the fines so paid in accordance with the written 2250
internal control policy adopted by the recipient agency under 2251
division (C)(2) of this section to subsidize the agency's law 2252
enforcement efforts that pertain to criminal gangs. 2253

(2)(a) Prior to receiving any fine moneys under division 2254
(C)(1) of this section or division (B)~~(5)~~ of section 2923.44 of 2255
the Revised Code, a law enforcement agency shall adopt a written 2256
internal control policy that addresses the agency's use and 2257
disposition of all fine moneys so received and that provides for 2258
the keeping of detailed financial records of the receipts of those 2259
fine moneys, the general types of expenditures made out of those 2260
fine moneys, and the specific amount of each general type of 2261
expenditure. The policy shall not provide for or permit the 2262
identification of any specific expenditure that is made in an 2263
ongoing investigation. All financial records of the receipts of 2264
those fine moneys, the general types of expenditures made out of 2265
those fine moneys, and the specific amount of each general type of 2266
expenditure by an agency are public records open for inspection 2267
under section 149.43 of the Revised Code. Additionally, a written 2268
internal control policy adopted under division (C)(2)(a) of this 2269
section is a public record open for inspection under section 2270

149.43 of the Revised Code, and the agency that adopted the policy 2271
shall comply with it. 2272

(b) Each law enforcement agency that receives in any calendar 2273
year any fine moneys under division (C)(1) of this section or 2274
division (B)~~(5)~~ of section 2923.44 of the Revised Code shall 2275
prepare a report covering the calendar year that cumulates all of 2276
the information contained in all of the public financial records 2277
kept by the agency pursuant to division (C)(2)(a) of this section 2278
for that calendar year and shall send a copy of the cumulative 2279
report, no later than the first day of March in the calendar year 2280
following the calendar year covered by the report, to the attorney 2281
general. Each report received by the attorney general is a public 2282
record open for inspection under section 149.43 of the Revised 2283
Code. Not later than the fifteenth day of April in the calendar 2284
year in which the reports are received, the attorney general shall 2285
send the president of the senate and the speaker of the house of 2286
representatives a written notice that does all of the following: 2287

(i) Indicates that the attorney general has received from law 2288
enforcement agencies reports of the type described in division 2289
(C)(2)(b) of this section that cover the previous calendar year 2290
and indicates that the reports were received under division 2291
(C)(2)(b) of this section; 2292

(ii) Indicates that the reports are open for inspection under 2293
section 149.43 of the Revised Code; 2294

(iii) Indicates that the attorney general will provide a copy 2295
of any or all reports to the president of the senate or the 2296
speaker of the house upon request. 2297

(D) A prosecution for a violation of this section does not 2298
preclude a prosecution of a violation of any other section of the 2299
Revised Code. One or more acts, a series of acts, or a course of 2300
behavior that can be prosecuted under this section or any other 2301

section of the Revised Code may be prosecuted under this section, 2302
the other section of the Revised Code, or both sections. 2303

Sec. 2923.44. (A)~~(1)~~ ~~In accordance with division (B) of this~~ 2304
~~section, a person who is convicted of or pleads guilty to a~~ 2305
~~violation of section 2923.42 of the Revised Code, and a juvenile~~ 2306
~~who is found by a juvenile court to be a delinquent child for an~~ 2307
~~act committed in violation of section 2923.42 of the Revised Code,~~ 2308
~~loses any right to the possession of property and forfeits to the~~ 2309
~~state any right, title, and interest the person may have in that~~ 2310
~~property if either of the following applies:~~ 2311

~~(a) The property constitutes, or is derived directly or~~ 2312
~~indirectly from, any proceeds that the person obtained directly or~~ 2313
~~indirectly from the commission of the violation of section 2923.42~~ 2314
~~of the Revised Code.~~ 2315

~~(b) The property was used or intended to be used in any~~ 2316
~~manner to commit, or to facilitate the commission of, the~~ 2317
~~violation of section 2923.42 of the Revised Code.~~ 2318

~~(2) All right, title, and interest of a person in property~~ 2319
~~described in division (A)(1) of this section vests in the state~~ 2320
~~upon the person's commission of the violation of section 2923.42~~ 2321
~~of the Revised Code of which the person is convicted or to which~~ 2322
~~the person pleads guilty and that is the basis of the forfeiture,~~ 2323
~~or upon the juvenile's commission of the act that is a violation~~ 2324
~~of section 2923.42 of the Revised Code, that is the basis of the~~ 2325
~~juvenile being found to be a delinquent child, and that is the~~ 2326
~~basis of the forfeiture. Subject to divisions (F)(3)(b) and (5)(b)~~ 2327
~~and (G)(2) of this section, if any right, title, or interest in~~ 2328
~~property is vested in this state under division (A)(2) of this~~ 2329
~~section and subsequently is transferred to a person other than the~~ 2330
~~adult offender or the delinquent child who forfeits the right,~~ 2331
~~title, or interest in the property under division (A)(1) of this~~ 2332

~~section, then, in accordance with division (B) of this section, 2333
the right, title, or interest in the property may be the subject 2334
of a special verdict of forfeiture and, after any special verdict 2335
of forfeiture, shall be ordered forfeited to this state, unless 2336
the transferee establishes in a hearing held pursuant to division 2337
(F) of this section that the transferee is a bona fide purchaser 2338
for value of the right, title, or interest in the property and 2339
that, at the time of its purchase, the transferee was reasonably 2340
without cause to believe that it was subject to forfeiture under 2341
this section. 2342~~

~~(3) The provisions of section 2923.45 of the Revised Code 2343
that relate to the forfeiture of any right, title, or interest in 2344
property associated with a violation of section 2923.42 of the 2345
Revised Code pursuant to a civil action to obtain a civil 2346
forfeiture do not apply to the forfeiture of any right, title, or 2347
interest in property described in division (A)(1) of this section 2348
that occurs pursuant to division (B) of this section upon a 2349
person's conviction of or guilty plea to a violation of section 2350
2923.42 of the Revised Code or upon a juvenile being found by a 2351
juvenile court to be a delinquent child for an act that is a 2352
violation of section 2923.42 of the Revised Code. 2353~~

~~(4) Nothing in this section precludes a financial institution 2354
that has or purports to have a security interest in or lien on 2355
property described in division (A)(1) of this section from 2356
commencing a civil action or taking other appropriate legal action 2357
in connection with the property prior to its disposition in 2358
accordance with section 2923.46 of the Revised Code for the 2359
purpose of obtaining possession of the property in order to 2360
foreclose or otherwise enforce the security interest or lien. A 2361
financial institution may commence a civil action or take other 2362
appropriate legal action for that purpose prior to the disposition 2363
of the property in accordance with section 2923.46 of the Revised 2364~~

~~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.~~

2461
2462
2463
2464
2465

~~(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.~~

2466
2467
2468
2469
2470
2471
2472

~~(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.~~

2473
2474
2475
2476
2477
2478
2479

~~(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~~

2480
2481
2482
2483
2484
2485
2486
2487
2488
2489
2490
2491
2492

be a delinquent child for an act that is a violation of section 2493
2923.42 of the Revised Code, and derives profits or other proceeds 2494
from the offense or act, the court that imposes sentence or an 2495
order of disposition upon the offender or delinquent child, in 2496
lieu of any fine that the court is otherwise authorized or 2497
required to impose, may impose upon the offender or delinquent 2498
child a fine of not more than twice the gross profits or other 2499
proceeds so derived. 2500

~~(b)(B)~~ Notwithstanding any contrary provision of the Revised 2501
Code, the clerk of the court shall pay all fines imposed pursuant 2502
to ~~division (B)(5) of~~ this section to the county, municipal 2503
corporation, township, park district created pursuant to section 2504
511.18 or 1545.01 of the Revised Code, or state law enforcement 2505
agencies in this state that were primarily responsible for or 2506
involved in making the arrest of, and in prosecuting, the 2507
offender. However, the clerk shall not pay a fine so imposed to a 2508
law enforcement agency unless the agency has adopted a written 2509
internal control policy pursuant to division (C)(2) of section 2510
2923.42 of the Revised Code that addresses the use of the fine 2511
moneys that it receives under ~~division (B)(5) of~~ this section and 2512
division (C)(1) of section 2923.42 of the Revised Code. The law 2513
enforcement agencies shall use the fines imposed and paid pursuant 2514
to ~~division (B)(5) of~~ this section to subsidize their efforts 2515
pertaining to criminal gangs, in accordance with the written 2516
internal control policy adopted by the recipient agency pursuant 2517
to division (C)(2) of section 2923.42 of the Revised Code. 2518

~~(6) If any of the property that is described in division 2519
(A)(1) of this section and that is the subject of an order of 2520
forfeiture issued under division (B)(5) of this section, because 2521
of an act of the person who is convicted of or pleads guilty to 2522
the violation of section 2923.42 of the Revised Code that is the 2523
basis of the order of forfeiture or an act of the juvenile found 2524~~

~~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~~ 2556
~~necessary to preserve the availability of the property, at either~~ 2557
~~of the following times:~~ 2558

~~(a) Upon the filing of an indictment, complaint, or~~ 2559
~~information charging a person who has any right, title, or~~ 2560
~~interest in the property with the commission of a violation of~~ 2561
~~section 2923.42 of the Revised Code and alleging that the property~~ 2562
~~with respect to which the order is sought will be subject to~~ 2563
~~forfeiture under division (B) of this section if the person is~~ 2564
~~convicted of or pleads guilty to the offense, or upon the filing~~ 2565
~~of a complaint, indictment, or information alleging that a~~ 2566
~~juvenile who has any right, title, or interest in the property is~~ 2567
~~a delinquent child because of the commission of an act that is a~~ 2568
~~violation of section 2923.42 of the Revised Code and alleging that~~ 2569
~~the property with respect to which the order is sought will be~~ 2570
~~subject to forfeiture under division (B) of this section if the~~ 2571
~~juvenile is found to be a delinquent child because of the~~ 2572
~~commission of that act;~~ 2573

~~(b) Except as provided in division (D)(3) of this section,~~ 2574
~~prior to the filing of an indictment, complaint, or information~~ 2575
~~charging a person who has any right, title, or interest in the~~ 2576
~~property with the commission of a violation of section 2923.42 of~~ 2577
~~the Revised Code, or prior to the filing of a complaint,~~ 2578
~~indictment or information alleging that a juvenile who has any~~ 2579
~~right, title, or interest in the property is a delinquent child~~ 2580
~~because of the commission of an act that is a violation of section~~ 2581
~~2923.42 of the Revised Code, if, after notice is given to all~~ 2582
~~persons known to have any right, title, or interest in the~~ 2583
~~property and an opportunity to have a hearing on the order is~~ 2584
~~given to those persons, the court determines both of the~~ 2585
~~following:~~ 2586

~~(i) There is a substantial probability that the state will~~ 2587

~~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.~~

2620
2621
2622
2623
2624
2625
2626
2627
2628
2629
2630

~~(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.~~

2631
2632
2633
2634
2635
2636
2637
2638
2639
2640
2641
2642
2643
2644
2645

~~(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~~

2646
2647
2648
2649
2650
2651

~~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.~~

2652
2653
2654
2655
2656
2657
2658
2659
2660
2661
2662

~~(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.~~

2663
2664
2665
2666
2667
2668
2669
2670
2671
2672
2673
2674
2675
2676
2677

~~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~~

2678
2679
2680
2681
2682
2683

~~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;	2905
(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.	2906 2907 2908 2909 2910
(B) This section does not apply to any of the following:	2911
(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., 4731., and 4741. of the Revised Code;	2912 2913 2914 2915
(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;	2916 2917 2918 2919
(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.	2920 2921 2922 2923 2924 2925 2926 2927
(C) Whoever violates division (A) of this section is guilty of one of the following:	2928 2929
(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	2930 2931 2932 2933 2934

offense shall be determined as follows:

2935

(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.

2936

2937

2938

2939

2940

(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.

2941

2942

2943

2944

2945

2946

(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.

2947

2948

2949

2950

2951

2952

2953

2954

2955

2956

2957

(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

2958

2959

2960

2961

2962

2963

2964

2965

juvenile, aggravated trafficking in drugs is a felony of the first 2966
degree, and the court shall impose as a mandatory prison term one 2967
of the prison terms prescribed for a felony of the first degree. 2968

(e) If the amount of the drug involved equals or exceeds 2969
fifty times the bulk amount but is less than one hundred times the 2970
bulk amount and regardless of whether the offense was committed in 2971
the vicinity of a school or in the vicinity of a juvenile, 2972
aggravated trafficking in drugs is a felony of the first degree, 2973
and the court shall impose as a mandatory prison term one of the 2974
prison terms prescribed for a felony of the first degree. 2975

(f) If the amount of the drug involved equals or exceeds one 2976
hundred times the bulk amount and regardless of whether the 2977
offense was committed in the vicinity of a school or in the 2978
vicinity of a juvenile, aggravated trafficking in drugs is a 2979
felony of the first degree, the offender is a major drug offender, 2980
and the court shall impose as a mandatory prison term the maximum 2981
prison term prescribed for a felony of the first degree and may 2982
impose an additional prison term prescribed for a major drug 2983
offender under division (D)(3)(b) of section 2929.14 of the 2984
Revised Code. 2985

(2) If the drug involved in the violation is any compound, 2986
mixture, preparation, or substance included in schedule III, IV, 2987
or V, whoever violates division (A) of this section is guilty of 2988
trafficking in drugs. The penalty for the offense shall be 2989
determined as follows: 2990

(a) Except as otherwise provided in division (C)(2)(b), (c), 2991
(d), or (e) of this section, trafficking in drugs is a felony of 2992
the fifth degree, and division (C) of section 2929.13 of the 2993
Revised Code applies in determining whether to impose a prison 2994
term on the offender. 2995

(b) Except as otherwise provided in division (C)(2)(c), (d), 2996

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 3029
felony of the first degree. 3030

(3) If the drug involved in the violation is marihuana or a 3031
compound, mixture, preparation, or substance containing marihuana 3032
other than hashish, whoever violates division (A) of this section 3033
is guilty of trafficking in marihuana. The penalty for the offense 3034
shall be determined as follows: 3035

(a) Except as otherwise provided in division (C)(3)(b), (c), 3036
(d), (e), (f), or (g) of this section, trafficking in marihuana is 3037
a felony of the fifth degree, and division (C) of section 2929.13 3038
of the Revised Code applies in determining whether to impose a 3039
prison term on the offender. 3040

(b) Except as otherwise provided in division (C)(3)(c), (d), 3041
(e), (f), or (g) of this section, if the offense was committed in 3042
the vicinity of a school or in the vicinity of a juvenile, 3043
trafficking in marihuana is a felony of the fourth degree, and 3044
division (C) of section 2929.13 of the Revised Code applies in 3045
determining whether to impose a prison term on the offender. 3046

(c) Except as otherwise provided in this division, if the 3047
amount of the drug involved equals or exceeds two hundred grams 3048
but is less than one thousand grams, trafficking in marihuana is a 3049
felony of the fourth degree, and division (C) of section 2929.13 3050
of the Revised Code applies in determining whether to impose a 3051
prison term on the offender. If the amount of the drug involved is 3052
within that range and if the offense was committed in the vicinity 3053
of a school or in the vicinity of a juvenile, trafficking in 3054
marihuana is a felony of the third degree, and division (C) of 3055
section 2929.13 of the Revised Code applies in determining whether 3056
to impose a prison term on the offender. 3057

(d) Except as otherwise provided in this division, if the 3058
amount of the drug involved equals or exceeds one thousand grams 3059

but is less than five thousand grams, trafficking in marihuana is 3060
a felony of the third degree, and division (C) of section 2929.13 3061
of the Revised Code applies in determining whether to impose a 3062
prison term on the offender. If the amount of the drug involved is 3063
within that range and if the offense was committed in the vicinity 3064
of a school or in the vicinity of a juvenile, trafficking in 3065
marihuana is a felony of the second degree, and there is a 3066
presumption that a prison term shall be imposed for the offense. 3067

(e) Except as otherwise provided in this division, if the 3068
amount of the drug involved equals or exceeds five thousand grams 3069
but is less than twenty thousand grams, trafficking in marihuana 3070
is a felony of the third degree, and there is a presumption that a 3071
prison term shall be imposed for the offense. If the amount of the 3072
drug involved is within that range and if the offense was 3073
committed in the vicinity of a school or in the vicinity of a 3074
juvenile, trafficking in marihuana is a felony of the second 3075
degree, and there is a presumption that a prison term shall be 3076
imposed for the offense. 3077

(f) Except as otherwise provided in this division, if the 3078
amount of the drug involved equals or exceeds twenty thousand 3079
grams, trafficking in marihuana is a felony of the second degree, 3080
and the court shall impose as a mandatory prison term the maximum 3081
prison term prescribed for a felony of the second degree. If the 3082
amount of the drug involved equals or exceeds twenty thousand 3083
grams and if the offense was committed in the vicinity of a school 3084
or in the vicinity of a juvenile, trafficking in marihuana is a 3085
felony of the first degree, and the court shall impose as a 3086
mandatory prison term the maximum prison term prescribed for a 3087
felony of the first degree. 3088

(g) Except as otherwise provided in this division, if the 3089
offense involves a gift of twenty grams or less of marihuana, 3090
trafficking in marihuana is a minor misdemeanor upon a first 3091

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. 3123

(d) Except as otherwise provided in this division, if the 3124
amount of the drug involved equals or exceeds ten grams but is 3125
less than one hundred grams of cocaine that is not crack cocaine 3126
or equals or exceeds five grams but is less than ten grams of 3127
crack cocaine, trafficking in cocaine is a felony of the third 3128
degree, and the court shall impose as a mandatory prison term one 3129
of the prison terms prescribed for a felony of the third degree. 3130
If the amount of the drug involved is within one of those ranges 3131
and if the offense was committed in the vicinity of a school or in 3132
the vicinity of a juvenile, trafficking in cocaine is a felony of 3133
the second degree, and the court shall impose as a mandatory 3134
prison term one of the prison terms prescribed for a felony of the 3135
second degree. 3136

(e) Except as otherwise provided in this division, if the 3137
amount of the drug involved equals or exceeds one hundred grams 3138
but is less than five hundred grams of cocaine that is not crack 3139
cocaine or equals or exceeds ten grams but is less than 3140
twenty-five grams of crack cocaine, trafficking in cocaine is a 3141
felony of the second degree, and the court shall impose as a 3142
mandatory prison term one of the prison terms prescribed for a 3143
felony of the second degree. If the amount of the drug involved is 3144
within one of those ranges and if the offense was committed in the 3145
vicinity of a school or in the vicinity of a juvenile, trafficking 3146
in cocaine is a felony of the first degree, and the court shall 3147
impose as a mandatory prison term one of the prison terms 3148
prescribed for a felony of the first degree. 3149

(f) If the amount of the drug involved equals or exceeds five 3150
hundred grams but is less than one thousand grams of cocaine that 3151
is not crack cocaine or equals or exceeds twenty-five grams but is 3152
less than one hundred grams of crack cocaine and regardless of 3153
whether the offense was committed in the vicinity of a school or 3154

in the vicinity of a juvenile, trafficking in cocaine is a felony 3155
of the first degree, and the court shall impose as a mandatory 3156
prison term one of the prison terms prescribed for a felony of the 3157
first degree. 3158

(g) If the amount of the drug involved equals or exceeds one 3159
thousand grams of cocaine that is not crack cocaine or equals or 3160
exceeds one hundred grams of crack cocaine and regardless of 3161
whether the offense was committed in the vicinity of a school or 3162
in the vicinity of a juvenile, trafficking in cocaine is a felony 3163
of the first degree, the offender is a major drug offender, and 3164
the court shall impose as a mandatory prison term the maximum 3165
prison term prescribed for a felony of the first degree and may 3166
impose an additional mandatory prison term prescribed for a major 3167
drug offender under division (D)(3)(b) of section 2929.14 of the 3168
Revised Code. 3169

(5) If the drug involved in the violation is L.S.D. or a 3170
compound, mixture, preparation, or substance containing L.S.D., 3171
whoever violates division (A) of this section is guilty of 3172
trafficking in L.S.D. The penalty for the offense shall be 3173
determined as follows: 3174

(a) Except as otherwise provided in division (C)(5)(b), (c), 3175
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 3176
felony of the fifth degree, and division (C) of section 2929.13 of 3177
the Revised Code applies in determining whether to impose a prison 3178
term on the offender. 3179

(b) Except as otherwise provided in division (C)(5)(c), (d), 3180
(e), (f), or (g) of this section, if the offense was committed in 3181
the vicinity of a school or in the vicinity of a juvenile, 3182
trafficking in L.S.D. is a felony of the fourth degree, and 3183
division (C) of section 2929.13 of the Revised Code applies in 3184
determining whether to impose a prison term on the offender. 3185

(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 3218
felony of the second degree. If the amount of the drug involved is 3219
within that range and if the offense was committed in the vicinity 3220
of a school or in the vicinity of a juvenile, trafficking in 3221
L.S.D. is a felony of the first degree, and the court shall impose 3222
as a mandatory prison term one of the prison terms prescribed for 3223
a felony of the first degree. 3224

(f) If the amount of the drug involved equals or exceeds one 3225
thousand unit doses but is less than five thousand unit doses of 3226
L.S.D. in a solid form or equals or exceeds one hundred grams but 3227
is less than five hundred grams of L.S.D. in a liquid concentrate, 3228
liquid extract, or liquid distillate form and regardless of 3229
whether the offense was committed in the vicinity of a school or 3230
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 3231
of the first degree, and the court shall impose as a mandatory 3232
prison term one of the prison terms prescribed for a felony of the 3233
first degree. 3234

(g) If the amount of the drug involved equals or exceeds five 3235
thousand unit doses of L.S.D. in a solid form or equals or exceeds 3236
five hundred grams of L.S.D. in a liquid concentrate, liquid 3237
extract, or liquid distillate form and regardless of whether the 3238
offense was committed in the vicinity of a school or in the 3239
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 3240
first degree, the offender is a major drug offender, and the court 3241
shall impose as a mandatory prison term the maximum prison term 3242
prescribed for a felony of the first degree and may impose an 3243
additional mandatory prison term prescribed for a major drug 3244
offender under division (D)(3)(b) of section 2929.14 of the 3245
Revised Code. 3246

(6) If the drug involved in the violation is heroin or a 3247
compound, mixture, preparation, or substance containing heroin, 3248
whoever violates division (A) of this section is guilty of 3249

trafficking in heroin. The penalty for the offense shall be 3250
determined as follows: 3251

(a) Except as otherwise provided in division (C)(6)(b), (c), 3252
(d), (e), (f), or (g) of this section, trafficking in heroin is a 3253
felony of the fifth degree, and division (C) of section 2929.13 of 3254
the Revised Code applies in determining whether to impose a prison 3255
term on the offender. 3256

(b) Except as otherwise provided in division (C)(6)(c), (d), 3257
(e), (f), or (g) of this section, if the offense was committed in 3258
the vicinity of a school or in the vicinity of a juvenile, 3259
trafficking in heroin is a felony of the fourth degree, and 3260
division (C) of section 2929.13 of the Revised Code applies in 3261
determining whether to impose a prison term on the offender. 3262

(c) Except as otherwise provided in this division, if the 3263
amount of the drug involved equals or exceeds ten unit doses but 3264
is less than fifty unit doses or equals or exceeds one gram but is 3265
less than five grams, trafficking in heroin is a felony of the 3266
fourth degree, and there is a presumption for a prison term for 3267
the offense. If the amount of the drug involved is within that 3268
range and if the offense was committed in the vicinity of a school 3269
or in the vicinity of a juvenile, trafficking in heroin is a 3270
felony of the third degree, and there is a presumption for a 3271
prison term for the offense. 3272

(d) Except as otherwise provided in this division, if the 3273
amount of the drug involved equals or exceeds fifty unit doses but 3274
is less than one hundred unit doses or equals or exceeds five 3275
grams but is less than ten grams, trafficking in heroin is a 3276
felony of the third degree, and there is a presumption for a 3277
prison term for the offense. If the amount of the drug involved is 3278
within that range and if the offense was committed in the vicinity 3279
of a school or in the vicinity of a juvenile, trafficking in 3280

heroin is a felony of the second degree, and there is a 3281
presumption for a prison term for the offense. 3282

(e) Except as otherwise provided in this division, if the 3283
amount of the drug involved equals or exceeds one hundred unit 3284
doses but is less than five hundred unit doses or equals or 3285
exceeds ten grams but is less than fifty grams, trafficking in 3286
heroin is a felony of the second degree, and the court shall 3287
impose as a mandatory prison term one of the prison terms 3288
prescribed for a felony of the second degree. If the amount of the 3289
drug involved is within that range and if the offense was 3290
committed in the vicinity of a school or in the vicinity of a 3291
juvenile, trafficking in heroin is a felony of the first degree, 3292
and the court shall impose as a mandatory prison term one of the 3293
prison terms prescribed for a felony of the first degree. 3294

(f) If the amount of the drug involved equals or exceeds five 3295
hundred unit doses but is less than two thousand five hundred unit 3296
doses or equals or exceeds fifty grams but is less than two 3297
hundred fifty grams and regardless of whether the offense was 3298
committed in the vicinity of a school or in the vicinity of a 3299
juvenile, trafficking in heroin is a felony of the first degree, 3300
and the court shall impose as a mandatory prison term one of the 3301
prison terms prescribed for a felony of the first degree. 3302

(g) If the amount of the drug involved equals or exceeds two 3303
thousand five hundred unit doses or equals or exceeds two hundred 3304
fifty grams and regardless of whether the offense was committed in 3305
the vicinity of a school or in the vicinity of a juvenile, 3306
trafficking in heroin is a felony of the first degree, the 3307
offender is a major drug offender, and the court shall impose as a 3308
mandatory prison term the maximum prison term prescribed for a 3309
felony of the first degree and may impose an additional mandatory 3310
prison term prescribed for a major drug offender under division 3311
(D)(3)(b) of section 2929.14 of the Revised Code. 3312

(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 3344
less than two hundred fifty grams of hashish in a solid form or 3345
equals or exceeds ten grams but is less than fifty grams of 3346
hashish in a liquid concentrate, liquid extract, or liquid 3347
distillate form, trafficking in hashish is a felony of the third 3348
degree, and division (C) of section 2929.13 of the Revised Code 3349
applies in determining whether to impose a prison term on the 3350
offender. If the amount of the drug involved is within that range 3351
and if the offense was committed in the vicinity of a school or in 3352
the vicinity of a juvenile, trafficking in hashish is a felony of 3353
the second degree, and there is a presumption that a prison term 3354
shall be imposed for the offense. 3355

(e) Except as otherwise provided in this division, if the 3356
amount of the drug involved equals or exceeds two hundred fifty 3357
grams but is less than one thousand grams of hashish in a solid 3358
form or equals or exceeds fifty grams but is less than two hundred 3359
grams of hashish in a liquid concentrate, liquid extract, or 3360
liquid distillate form, trafficking in hashish is a felony of the 3361
third degree, and there is a presumption that a prison term shall 3362
be imposed for the offense. If the amount of the drug involved is 3363
within that range and if the offense was committed in the vicinity 3364
of a school or in the vicinity of a juvenile, trafficking in 3365
hashish is a felony of the second degree, and there is a 3366
presumption that a prison term shall be imposed for the offense. 3367

(f) Except as otherwise provided in this division, if the 3368
amount of the drug involved equals or exceeds one thousand grams 3369
of hashish in a solid form or equals or exceeds two hundred grams 3370
of hashish in a liquid concentrate, liquid extract, or liquid 3371
distillate form, trafficking in hashish is a felony of the second 3372
degree, and the court shall impose as a mandatory prison term the 3373
maximum prison term prescribed for a felony of the second degree. 3374
If the amount of the drug involved is within that range and if the 3375

offense was committed in the vicinity of a school or in the 3376
vicinity of a juvenile, trafficking in hashish is a felony of the 3377
first degree, and the court shall impose as a mandatory prison 3378
term the maximum prison term prescribed for a felony of the first 3379
degree. 3380

(D) In addition to any prison term authorized or required by 3381
division (C) of this section and sections 2929.13 and 2929.14 of 3382
the Revised Code, and in addition to any other sanction imposed 3383
for the offense under this section or sections 2929.11 to 2929.18 3384
of the Revised Code, the court that sentences an offender who is 3385
convicted of or pleads guilty to a violation of division (A) of 3386
this section shall do all of the following that are applicable 3387
regarding the offender: 3388

(1) If the violation of division (A) of this section is a 3389
felony of the first, second, or third degree, the court shall 3390
impose upon the offender the mandatory fine specified for the 3391
offense under division (B)(1) of section 2929.18 of the Revised 3392
Code unless, as specified in that division, the court determines 3393
that the offender is indigent. Except as otherwise provided in 3394
division (H)(1) of this section, a mandatory fine or any other 3395
fine imposed for a violation of this section is subject to 3396
division (F) of this section. If a person is charged with a 3397
violation of this section that is a felony of the first, second, 3398
or third degree, posts bail, and forfeits the bail, the clerk of 3399
the court shall pay the forfeited bail pursuant to divisions 3400
(D)(1) and (F) of this section, as if the forfeited bail was a 3401
fine imposed for a violation of this section. If any amount of the 3402
forfeited bail remains after that payment and if a fine is imposed 3403
under division (H)(1) of this section, the clerk of the court 3404
shall pay the remaining amount of the forfeited bail pursuant to 3405
divisions (H)(2) and (3) of this section, as if that remaining 3406
amount was a fine imposed under division (H)(1) of this section. 3407

(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 3440
shall use the mandatory fines so paid to subsidize the agency's 3441
law enforcement efforts that pertain to drug offenses, in 3442
accordance with the written internal control policy adopted by the 3443
recipient agency under division (F)(2) of this section. 3444

(2)(a) Prior to receiving any fine moneys under division 3445
(F)(1) of this section or division (B)~~(5)~~ of section 2925.42 of 3446
the Revised Code, a law enforcement agency shall adopt a written 3447
internal control policy that addresses the agency's use and 3448
disposition of all fine moneys so received and that provides for 3449
the keeping of detailed financial records of the receipts of those 3450
fine moneys, the general types of expenditures made out of those 3451
fine moneys, and the specific amount of each general type of 3452
expenditure. The policy shall not provide for or permit the 3453
identification of any specific expenditure that is made in an 3454
ongoing investigation. All financial records of the receipts of 3455
those fine moneys, the general types of expenditures made out of 3456
those fine moneys, and the specific amount of each general type of 3457
expenditure by an agency are public records open for inspection 3458
under section 149.43 of the Revised Code. Additionally, a written 3459
internal control policy adopted under this division is such a 3460
public record, and the agency that adopted it shall comply with 3461
it. 3462

(b) Each law enforcement agency that receives in any calendar 3463
year any fine moneys under division (F)(1) of this section or 3464
division (B)~~(5)~~ of section 2925.42 of the Revised Code shall 3465
prepare a report covering the calendar year that cumulates all of 3466
the information contained in all of the public financial records 3467
kept by the agency pursuant to division (F)(2)(a) of this section 3468
for that calendar year, and shall send a copy of the cumulative 3469
report, no later than the first day of March in the calendar year 3470
following the calendar year covered by the report, to the attorney 3471

general. Each report received by the attorney general is a public 3472
record open for inspection under section 149.43 of the Revised 3473
Code. Not later than the fifteenth day of April in the calendar 3474
year in which the reports are received, the attorney general shall 3475
send to the president of the senate and the speaker of the house 3476
of representatives a written notification that does all of the 3477
following: 3478

(i) Indicates that the attorney general has received from law 3479
enforcement agencies reports of the type described in this 3480
division that cover the previous calendar year and indicates that 3481
the reports were received under this division; 3482

(ii) Indicates that the reports are open for inspection under 3483
section 149.43 of the Revised Code; 3484

(iii) Indicates that the attorney general will provide a copy 3485
of any or all of the reports to the president of the senate or the 3486
speaker of the house of representatives upon request. 3487

(3) As used in division (F) of this section: 3488

(a) "Law enforcement agencies" includes, but is not limited 3489
to, the state board of pharmacy and the office of a prosecutor. 3490

(b) "Prosecutor" has the same meaning as in section 2935.01 3491
of the Revised Code. 3492

(G) When required under division (D)(2) of this section or 3493
any other provision of this chapter, the court shall suspend for 3494
not less than six months or more than five years the driver's or 3495
commercial driver's license or permit of any person who is 3496
convicted of or pleads guilty to any violation of this section or 3497
any other specified provision of this chapter. If an offender's 3498
driver's or commercial driver's license or permit is suspended 3499
pursuant to this division, the offender, at any time after the 3500
expiration of two years from the day on which the offender's 3501
sentence was imposed or from the day on which the offender finally 3502

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 3535
county in which that court is located. If no eligible alcohol and 3536
drug addiction program is located in any of those counties, the 3537
judgment may specify an eligible alcohol and drug addiction 3538
program that is located anywhere within this state. 3539

(3) Notwithstanding any contrary provision of section 3719.21 3540
of the Revised Code, the clerk of the court shall pay any fine 3541
imposed under division (H)(1) of this section to the eligible 3542
alcohol and drug addiction program specified pursuant to division 3543
(H)(2) of this section in the judgment. The eligible alcohol and 3544
drug addiction program that receives the fine moneys shall use the 3545
moneys only for the alcohol and drug addiction services identified 3546
in the application for certification under section 3793.06 of the 3547
Revised Code or in the application for a license under section 3548
3793.11 of the Revised Code filed with the department of alcohol 3549
and drug addiction services by the alcohol and drug addiction 3550
program specified in the judgment. 3551

(4) Each alcohol and drug addiction program that receives in 3552
a calendar year any fine moneys under division (H)(3) of this 3553
section shall file an annual report covering that calendar year 3554
with the court of common pleas and the board of county 3555
commissioners of the county in which the program is located, with 3556
the court of common pleas and the board of county commissioners of 3557
each county from which the program received the moneys if that 3558
county is different from the county in which the program is 3559
located, and with the attorney general. The alcohol and drug 3560
addiction program shall file the report no later than the first 3561
day of March in the calendar year following the calendar year in 3562
which the program received the fine moneys. The report shall 3563
include statistics on the number of persons served by the alcohol 3564
and drug addiction program, identify the types of alcohol and drug 3565
addiction services provided to those persons, and include a 3566

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	3597
or from which a controlled substance can be derived;	3598
(2) A kit for manufacturing, compounding, converting,	3599
producing, processing, or preparing a controlled substance;	3600
(3) Any object, instrument, or device for manufacturing,	3601
compounding, converting, producing, processing, or preparing	3602
methamphetamine or any salt, isomer, or salt of an isomer of	3603
methamphetamine;	3604
(4) An isomerization device for increasing the potency of any	3605
species of a plant that is a controlled substance;	3606
(5) Testing equipment for identifying, or analyzing the	3607
strength, effectiveness, or purity of, a controlled substance;	3608
(6) A scale or balance for weighing or measuring a controlled	3609
substance;	3610
(7) A diluent or adulterant, such as quinine hydrochloride,	3611
mannitol, mannite, dextrose, or lactose, for cutting a controlled	3612
substance;	3613
(8) A separation gin or sifter for removing twigs and seeds	3614
from, or otherwise cleaning or refining, marihuana;	3615
(9) A blender, bowl, container, spoon, or mixing device for	3616
compounding a controlled substance;	3617
(10) A capsule, balloon, envelope, or container for packaging	3618
small quantities of a controlled substance;	3619
(11) A container or device for storing or concealing a	3620
controlled substance;	3621
(12) A hypodermic syringe, needle, or instrument for	3622
parenterally injecting a controlled substance into the human body;	3623
(13) An object, instrument, or device for ingesting,	3624
inhaling, or otherwise introducing into the human body, marihuana,	3625

cocaine, hashish, or hashish oil, such as a metal, wooden, 3626
acrylic, glass, stone, plastic, or ceramic pipe, with or without a 3627
screen, permanent screen, hashish head, or punctured metal bowl; 3628
water pipe; carburetion tube or device; smoking or carburetion 3629
mask; roach clip or similar object used to hold burning material, 3630
such as a marihuana cigarette, that has become too small or too 3631
short to be held in the hand; miniature cocaine spoon, or cocaine 3632
vial; chamber pipe; carburetor pipe; electric pipe; air driver 3633
pipe; chillum; bong; or ice pipe or chiller. 3634

(B) In determining if any equipment, product, or material is 3635
drug paraphernalia, a court or law enforcement officer shall 3636
consider, in addition to other relevant factors, the following: 3637

(1) Any statement by the owner, or by anyone in control, of 3638
the equipment, product, or material, concerning its use; 3639

(2) The proximity in time or space of the equipment, product, 3640
or material, or of the act relating to the equipment, product, or 3641
material, to a violation of any provision of this chapter; 3642

(3) The proximity of the equipment, product, or material to 3643
any controlled substance; 3644

(4) The existence of any residue of a controlled substance on 3645
the equipment, product, or material; 3646

(5) Direct or circumstantial evidence of the intent of the 3647
owner, or of anyone in control, of the equipment, product, or 3648
material, to deliver it to any person whom the owner or person in 3649
control of the equipment, product, or material knows intends to 3650
use the object to facilitate a violation of any provision of this 3651
chapter. A finding that the owner, or anyone in control, of the 3652
equipment, product, or material, is not guilty of a violation of 3653
any other provision of this chapter does not prevent a finding 3654
that the equipment, product, or material was intended or designed 3655
by the offender for use as drug paraphernalia. 3656

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use;	3657 3658
(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;	3659 3660
(8) National or local advertising concerning the use of the equipment, product, or material;	3661 3662
(9) The manner and circumstances in which the equipment, product, or material is displayed for sale;	3663 3664
(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;	3665 3666 3667
(11) The existence and scope of legitimate uses of the equipment, product, or material in the community;	3668 3669
(12) Expert testimony concerning the use of the equipment, product, or material.	3670 3671
(C)(1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.	3672 3673
(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.	3674 3675 3676 3677
(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.	3678 3679 3680 3681 3682 3683 3684
(D) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists,	3685 3686

owners of pharmacies, and other persons whose conduct is in 3687
accordance with Chapters 3719., 4715., 4723., 4729., 4731., and 3688
4741. of the Revised Code. This section shall not be construed to 3689
prohibit the possession or use of a hypodermic as authorized by 3690
section 3719.172 of the Revised Code. 3691

(E) Notwithstanding ~~sections 2933.42 and 2933.43~~ Chapter 3692
2981. of the Revised Code, any drug paraphernalia that was used, 3693
possessed, sold, or manufactured in a violation of this section 3694
shall be seized, after a conviction for that violation shall be 3695
forfeited, and upon forfeiture shall be disposed of pursuant to 3696
division ~~(D)(8)~~(B) of section ~~2933.41~~ 2981.12 of the Revised Code. 3697

(F)(1) Whoever violates division (C)(1) of this section is 3698
guilty of illegal use or possession of drug paraphernalia, a 3699
misdemeanor of the fourth degree. 3700

(2) Except as provided in division (F)(3) of this section, 3701
whoever violates division (C)(2) of this section is guilty of 3702
dealing in drug paraphernalia, a misdemeanor of the second degree. 3703

(3) Whoever violates division (C)(2) of this section by 3704
selling drug paraphernalia to a juvenile is guilty of selling drug 3705
paraphernalia to juveniles, a misdemeanor of the first degree. 3706

(4) Whoever violates division (C)(3) of this section is 3707
guilty of illegal advertising of drug paraphernalia, a misdemeanor 3708
of the second degree. 3709

(G) In addition to any other sanction imposed upon an 3710
offender for a violation of this section, the court shall suspend 3711
for not less than six months or more than five years the 3712
offender's driver's or commercial driver's license or permit. If 3713
the offender is a professionally licensed person, in addition to 3714
any other sanction imposed for a violation of this section, the 3715
court immediately shall comply with section 2925.38 of the Revised 3716
Code. 3717

~~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 3813
compliance with division (A)(4)(b) of this section, to the court 3814
that has or would have jurisdiction in a felony drug abuse offense 3815
prosecution or a delinquent child proceeding for an act that, if 3816
committed by an adult, would be a felony drug abuse offense, for 3817
disposition in accordance with section 2925.44 of the Revised 3818
Code. 3819~~

~~(B)(1) A criminal forfeiture of any right, title, or interest 3820
in property described in division (A)(1) of this section is 3821
precluded unless one of the following applies: 3822~~

~~(a) The indictment, count in the indictment, or information 3823
charging the felony drug abuse offense specifies the nature of the 3824
right, title, or interest of the alleged offender in the property 3825
described in division (A)(1) of this section that is potentially 3826
subject to forfeiture under this section, or a description of the 3827
property of the alleged offender that is potentially subject to 3828
forfeiture under this section, to the extent the right, title, or 3829
interest in the property or the property reasonably is known at 3830
the time of the filing of the indictment or information; or the 3831
complaint, indictment, or information charging a juvenile with 3832
being a delinquent child for the commission of an act that, if 3833
committed by an adult, would be a felony drug abuse offense 3834
specifies the nature of the right, title, or interest of the 3835
juvenile in the property described in division (A)(1) of this 3836
section that is potentially subject to forfeiture under this 3837
section, or a description of the property of the juvenile that is 3838
potentially subject to forfeiture under this section, to the 3839
extent the right, title, or interest in the property or the 3840
property reasonably is known at the time of the filing of the 3841
complaint, indictment, or information. 3842~~

~~(b) The property in question was not reasonably foreseen to 3843
be subject to forfeiture under this section at the time of the 3844~~

~~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 3909
fine that the court is otherwise authorized or required to impose, 3910
may impose upon the offender or delinquent child a fine of not 3911
more than twice the gross profits or other proceeds so derived. 3912

~~(b)~~(B) Notwithstanding any contrary provision of section 3913
3719.21 of the Revised Code, all fines imposed pursuant to this 3914
~~division~~ section shall be paid by the clerk of the court to the 3915
county, municipal corporation, township, park district, as created 3916
pursuant to section 511.18 or 1545.01 of the Revised Code, or 3917
state law enforcement agencies in this state that were primarily 3918
responsible for or involved in making the arrest of, and in 3919
prosecuting, the offender. However, no fine so imposed shall be 3920
paid to a law enforcement agency unless the agency has adopted a 3921
written internal control policy under division (F)(2) of section 3922
2925.03 of the Revised Code that addresses the use of the fine 3923
moneys that it receives under this division and division (F)(1) of 3924
section 2925.03 of the Revised Code. The fines imposed and paid 3925
pursuant to this division shall be used by the law enforcement 3926
agencies to subsidize their efforts pertaining to drug offenses, 3927
in accordance with the written internal control policy adopted by 3928
the recipient agency under division (F)(2) of section 2925.03 of 3929
the Revised Code. 3930

~~(c)~~(C) As used in ~~division (B)(5)~~ of this section: 3931

~~(i)~~(1) "Law enforcement agencies" includes, but is not 3932
limited to, the state board of pharmacy and the office of a 3933
prosecutor. 3934

~~(ii)~~(2) "Prosecutor" has the same meaning as in section 3935
2935.01 of the Revised Code. 3936

~~(6)~~ If any of the property that is described in division 3937
~~(A)(1)~~ of this section and that is the subject of an order of 3938
~~forfeiture issued under division (B)(5)~~ of this section, because 3939

~~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, 3971
may issue a restraining order or injunction, an order requiring 3972
the execution of a satisfactory performance bond, or an order 3973
taking any other reasonable action necessary to preserve the 3974
availability of the property, at either of the following times: 3975~~

~~(a) Upon the filing of an indictment, complaint, or 3976
information charging a person who has any right, title, or 3977
interest in the property with the commission of a felony drug 3978
abuse offense and alleging that the property with respect to which 3979
the order is sought will be subject to forfeiture under division 3980
(B) of this section if the person is convicted of or pleads guilty 3981
to the offense, or upon the filing of a complaint, indictment, or 3982
information alleging that a juvenile who has any right, title, or 3983
interest in the property is a delinquent child because of the 3984
commission of an act that, if committed by an adult, would be a 3985
felony drug abuse offense and alleging that the property with 3986
respect to which the order is sought will be subject to forfeiture 3987
under division (B) of this section if the juvenile is found to be 3988
a delinquent child because of the commission of that act; 3989~~

~~(b) Except as provided in division (D)(3) of this section, 3990
prior to the filing of an indictment, complaint, or information 3991
charging a person who has any right, title, or interest in the 3992
property with the commission of a felony drug abuse offense, or 3993
prior to the filing of a complaint, indictment, or information 3994
alleging that a juvenile who has any right, title, or interest in 3995
the property is a delinquent child because of the commission of an 3996
act that, if committed by an adult, would be a felony drug abuse 3997
offense, if, after notice is given to all persons known to have 3998
any right, title, or interest in the property and an opportunity 3999
to have a hearing on the order is given to those persons, the 4000
court determines both of the following: 4001~~

~~(i) There is a substantial probability that the state will 4002~~

~~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.~~

4035
4036
4037
4038
4039
4040
4041
4042
4043
4044

~~(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.~~

4045
4046
4047
4048
4049
4050
4051
4052
4053
4054
4055
4056
4057
4058
4059
4060

~~(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~~

4061
4062
4063
4064
4065
4066

~~believe that the property to be seized will be subject to 4067
forfeiture under this section when a person with any right, title, 4068
or interest in the property is convicted of or pleads guilty to a 4069
felony drug abuse offense or when a juvenile with any right, 4070
title, or interest in the property is found by a juvenile court to 4071
be a delinquent child for an act that, if committed by an adult, 4072
would be a felony drug abuse offense, and if the court determines 4073
that any order issued under division (D)(1), (2), or (3) of this 4074
section may not be sufficient to ensure the availability of the 4075
property for forfeiture, the court shall issue a warrant 4076
authorizing the seizure of the property. 4077~~

~~(E)(1) Upon the entry of an order of forfeiture under this 4078
section, the court shall order an appropriate law enforcement 4079
officer to seize all of the forfeited property upon the terms and 4080
conditions that the court determines are proper. In addition, upon 4081
the request of the prosecuting attorney who prosecuted the felony 4082
drug abuse offense or act, the court shall enter any appropriate 4083
restraining orders or injunctions, require the execution of 4084
satisfactory performance bonds, appoint receivers, conservators, 4085
appraisers, accountants, or trustees, or take any other action to 4086
protect the interest of the state in the forfeited property. Any 4087
income accruing to or derived from property ordered forfeited 4088
under this section may be used to offset ordinary and necessary 4089
expenses related to the property that are required by law or that 4090
are necessary to protect the interest of the state or third 4091
parties. 4092~~

~~After forfeited property is seized, the prosecuting attorney 4093
who prosecuted the felony drug abuse offense or act shall direct 4094
its disposition in accordance with section 2925.44 of the Revised 4095
Code, making due provision for the rights of any innocent persons. 4096
Any right, title, or interest in property not exercisable by, or 4097
transferable for value to, the state shall expire and shall not 4098~~

~~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
(C)(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 (C)(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 4258
cross-examine witnesses for the state. The state may present 4259
evidence and witnesses in rebuttal and in defense of its claim to 4260
the property and cross-examine witnesses for the petitioner. In 4261
addition to evidence and testimony presented at the hearing, the 4262
court shall consider the relevant portions of the record in the 4263
felony drug abuse offense or delinquent child case that resulted 4264
in the order of forfeiture. 4265~~

~~(5)(a) The court shall amend its order of forfeiture in 4266
accordance with its determination if it determines, at the 4267
hearing, that the petitioner has established either of the 4268
following by a preponderance of the evidence: 4269~~

~~(i) The petitioner has a legal right, title, or interest in 4270
the property that renders the order of forfeiture completely or 4271
partially invalid because it was vested in the petitioner, rather 4272
than the adult offender whose conviction or guilty plea or the 4273
delinquent child whose adjudication is the basis of the order, or 4274
was superior to any right, title, or interest of that offender, at 4275
the time of the commission of the felony drug abuse offense or act 4276
that is the basis of the order. 4277~~

~~(ii) The petitioner is a bona fide purchaser for value of the 4278
right, title, or interest in the property and was at the time of 4279
the purchase reasonably without cause to believe that it was 4280
subject to forfeiture under this section. 4281~~

~~(b) The court also shall amend its order of forfeiture to 4282
reflect any right, title, or interest of a secured party or other 4283
lienholder of record in the property subject to the order that was 4284
established pursuant to division (F)(3)(b) of this section by 4285
means of an affidavit, or that was established pursuant to that 4286
division by the failure of a prosecuting attorney to establish, in 4287
a hearing as described in that division, that the secured party or 4288~~

~~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. 4320
4321

(2) "Cigarette" includes clove cigarettes and hand-rolled cigarettes. 4322
4323

(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. 4324
4325
4326
4327

(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. 4328
4329
4330
4331
4332

(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. 4333
4334
4335

(6) "Vending machine" has the same meaning as "coin machine" in section 2913.01 of the Revised Code. 4336
4337

(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: 4338
4339
4340
4341
4342
4343

(1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any child; 4344
4345

(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 4346
4347
4348
4349

products, or papers used to roll cigarettes to a person under 4350
eighteen years of age is prohibited by law; 4351

(3) Knowingly furnish any false information regarding the 4352
name, age, or other identification of any child with purpose to 4353
obtain cigarettes, other tobacco products, or papers used to roll 4354
cigarettes for that child; 4355

(4) Manufacture, sell, or distribute in this state any pack 4356
or other container of cigarettes containing fewer than twenty 4357
cigarettes or any package of roll-your-own tobacco containing less 4358
than six-tenths of one ounce of tobacco; 4359

(5) Sell cigarettes in a smaller quantity than that placed in 4360
the pack or other container by the manufacturer. 4361

(C) No person shall sell or offer to sell cigarettes or other 4362
tobacco products by or from a vending machine, except in the 4363
following locations: 4364

(1) An area within a factory, business, office, or other 4365
place not open to the general public; 4366

(2) An area to which children are not generally permitted 4367
access; 4368

(3) Any other place not identified in division (C)(1) or (2) 4369
of this section, upon all of the following conditions: 4370

(a) The vending machine is located within the immediate 4371
vicinity, plain view, and control of the person who owns or 4372
operates the place, or an employee of that person, so that all 4373
cigarettes and other tobacco product purchases from the vending 4374
machine will be readily observed by the person who owns or 4375
operates the place or an employee of that person. For the purpose 4376
of this section, a vending machine located in any unmonitored 4377
area, including an unmonitored coatroom, restroom, hallway, or 4378
outer waiting area, shall not be considered located within the 4379

immediate vicinity, plain view, and control of the person who owns 4380
or operates the place, or an employee of that person. 4381

(b) The vending machine is inaccessible to the public when 4382
the place is closed. 4383

4384

(D) The following are affirmative defenses to a charge under 4385
division (B)(1) of this section: 4386

(1) The child was accompanied by a parent, spouse who is 4387
eighteen years of age or older, or legal guardian of the child. 4388

(2) The person who gave, sold, or distributed cigarettes, 4389
other tobacco products, or papers used to roll cigarettes to a 4390
child under division (B)(1) of this section is a parent, spouse 4391
who is eighteen years of age or older, or legal guardian of the 4392
child. 4393

(E) It is not a violation of division (B)(1) or (2) of this 4394
section for a person to give or otherwise distribute to a child 4395
cigarettes, other tobacco products, or papers used to roll 4396
cigarettes while the child is participating in a research protocol 4397
if all of the following apply: 4398

(1) The parent, guardian, or legal custodian of the child has 4399
consented in writing to the child participating in the research 4400
protocol. 4401

(2) An institutional human subjects protection review board, 4402
or an equivalent entity, has approved the research protocol. 4403

(3) The child is participating in the research protocol at 4404
the facility or location specified in the research protocol. 4405

(F)(1) Whoever violates division (B)(1), (2), (4), or (5) or 4406
(C) of this section is guilty of illegal distribution of 4407
cigarettes or other tobacco products, a misdemeanor of the fourth 4408
degree. If the offender previously has been convicted of a 4409

violation of division (B)(1), (2), (4), or (5) or (C) of this 4410
section, illegal distribution of cigarettes or other tobacco 4411
products is a misdemeanor of the third degree. 4412

(2) Whoever violates division (B)(3) of this section is 4413
guilty of permitting children to use cigarettes or other tobacco 4414
products, a misdemeanor of the fourth degree. If the offender 4415
previously has been convicted of a violation of division (B)(3) of 4416
this section, permitting children to use cigarettes or other 4417
tobacco products is a misdemeanor of the third degree. 4418

(G) Any cigarettes, other tobacco products, or papers used to 4419
roll cigarettes that are given, sold, or otherwise distributed to 4420
a child in violation of this section and that are used, possessed, 4421
purchased, or received by a child in violation of section 2151.87 4422
of the Revised Code are subject to seizure and forfeiture as 4423
contraband under ~~sections 2933.42 and 2933.43~~ Chapter 2981. of the 4424
Revised Code. 4425

Sec. 2929.1412. (A) Property is not subject to forfeiture in 4426
a criminal case unless the indictment, count in the indictment, or 4427
information charging the offense specifies, to the extent it is 4428
reasonably known at the time of filing, the nature and extent of 4429
the alleged offender's interest in the property, a description of 4430
the property, and, if the property is alleged to be an 4431
instrumentality, the alleged use or intended use of the property 4432
in the commission or facilitation of the offense. The 4433
specification shall be stated at the end of the body of the 4434
indictment, count, or information and shall be in substantially 4435
the following form: 4436

"SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT). The 4437
grand jurors (or insert the person's or prosecuting attorney's 4438
name when appropriate) further find and specify that (set forth 4439
the alleged offender's interest in the property, a description of 4440

the property subject to forfeiture, and any alleged use or 4441
intended use of the property in the commission or facilitation of 4442
the offense)." 4443

(B) The trier of fact shall determine whether the property is 4444
subject to forfeiture. 4445

(C) The specification described in division (A) of this 4446
section may be used in a delinquent child proceeding. 4447

Sec. 2929.18. (A) Except as otherwise provided in this 4448
division and in addition to imposing court costs pursuant to 4449
section 2947.23 of the Revised Code, the court imposing a sentence 4450
upon an offender for a felony may sentence the offender to any 4451
financial sanction or combination of financial sanctions 4452
authorized under this section or, in the circumstances specified 4453
in section 2929.32 of the Revised Code, may impose upon the 4454
offender a fine in accordance with that section. Financial 4455
sanctions that may be imposed pursuant to this section include, 4456
but are not limited to, the following: 4457

(1) Restitution by the offender to the victim of the 4458
offender's crime or any survivor of the victim, in an amount based 4459
on the victim's economic loss. The court shall order that the 4460
restitution be made to the victim in open court, to the adult 4461
probation department that serves the county on behalf of the 4462
victim, to the clerk of courts, or to another agency designated by 4463
the court. The order may include a requirement that reimbursement 4464
be made to third parties for amounts paid to or on behalf of the 4465
victim or any survivor of the victim for economic loss resulting 4466
from the offense. If reimbursement to third parties is required, 4467
the reimbursement shall be made to any governmental agency to 4468
repay any amounts paid by the agency to or on behalf of the victim 4469
or any survivor of the victim for economic loss resulting from the 4470
offense before any reimbursement is made to any person other than 4471

a governmental agency. If no governmental agency incurred expenses 4472
for economic loss of the victim or any survivor of the victim 4473
resulting from the offense, the reimbursement shall be made to any 4474
person other than a governmental agency to repay amounts paid by 4475
that person to or on behalf of the victim or any survivor of the 4476
victim for economic loss of the victim resulting from the offense. 4477
The court shall not require an offender to repay an insurance 4478
company for any amounts the company paid on behalf of the offender 4479
pursuant to a policy of insurance. At sentencing, the court shall 4480
determine the amount of restitution to be made by the offender. 4481
The court may base the amount of restitution it orders on an 4482
amount recommended by the victim, the offender, a presentence 4483
investigation report, estimates or receipts indicating the cost of 4484
repairing or replacing property, and other information. The court 4485
shall hold a hearing on restitution if the offender, victim, or 4486
survivor disputes the amount. All restitution payments shall be 4487
credited against any recovery of economic loss in a civil action 4488
brought by the victim or any survivor of the victim against the 4489
offender. 4490

The court may order that the offender pay a surcharge of not 4491
more than five per cent of the amount of the restitution otherwise 4492
ordered to the entity responsible for collecting and processing 4493
restitution payments. 4494

The victim or survivor may request that the prosecuting 4495
attorney file a motion, or the offender may file a motion, for 4496
modification of the payment terms of any restitution ordered. If 4497
the court grants the motion, it may modify the payment terms as it 4498
determines appropriate. 4499

(2) Except as provided in division (B)(1), (3), or (4) of 4500
this section, a fine payable by the offender to the state, to a 4501
political subdivision, or as described in division (B)(2) of this 4502
section to one or more law enforcement agencies, with the amount 4503

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 4566
in this division, the court shall not impose the mandatory fine 4567
upon the offender. 4568

(2) Any mandatory fine imposed upon an offender under 4569
division (B)(1) of this section and any fine imposed upon an 4570
offender under division (A)(2) or (3) of this section for any 4571
fourth or fifth degree felony violation of any provision of 4572
Chapter 2925., 3719., or 4729. of the Revised Code shall be paid 4573
to law enforcement agencies pursuant to division (F) of section 4574
2925.03 of the Revised Code. 4575

(3) For a fourth degree felony OVI offense and for a third 4576
degree felony OVI offense, the sentencing court shall impose upon 4577
the offender a mandatory fine in the amount specified in division 4578
(G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever 4579
is applicable. The mandatory fine so imposed shall be disbursed as 4580
provided in the division pursuant to which it is imposed. 4581

(4) Notwithstanding any fine otherwise authorized or required 4582
to be imposed under division (A)(2) or (3) or (B)(1) of this 4583
section or section 2929.31 of the Revised Code for a violation of 4584
section 2925.03 of the Revised Code, in addition to any penalty or 4585
sanction imposed for that offense under section 2925.03 or 4586
sections 2929.11 to 2929.18 of the Revised Code and in addition to 4587
the forfeiture of property in connection with the offense as 4588
prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981. of the 4589
Revised Code, the court that sentences an offender for a violation 4590
of section 2925.03 of the Revised Code may impose upon the 4591
offender a fine in addition to any fine imposed under division 4592
(A)(2) or (3) of this section and in addition to any mandatory 4593
fine imposed under division (B)(1) of this section. The fine 4594
imposed under division (B)(4) of this section shall be used as 4595
provided in division (H) of section 2925.03 of the Revised Code. A 4596
fine imposed under division (B)(4) of this section shall not 4597

exceed whichever of the following is applicable: 4598

(a) The total value of any personal or real property in which 4599
the offender has an interest and that was used in the course of, 4600
intended for use in the course of, derived from, or realized 4601
through conduct in violation of section 2925.03 of the Revised 4602
Code, including any property that constitutes proceeds derived 4603
from that offense; 4604

(b) If the offender has no interest in any property of the 4605
type described in division (B)(4)(a) of this section or if it is 4606
not possible to ascertain whether the offender has an interest in 4607
any property of that type in which the offender may have an 4608
interest, the amount of the mandatory fine for the offense imposed 4609
under division (B)(1) of this section or, if no mandatory fine is 4610
imposed under division (B)(1) of this section, the amount of the 4611
fine authorized for the level of the offense imposed under 4612
division (A)(3) of this section. 4613

(5) Prior to imposing a fine under division (B)(4) of this 4614
section, the court shall determine whether the offender has an 4615
interest in any property of the type described in division 4616
(B)(4)(a) of this section. Except as provided in division (B)(6) 4617
or (7) of this section, a fine that is authorized and imposed 4618
under division (B)(4) of this section does not limit or affect the 4619
imposition of the penalties and sanctions for a violation of 4620
section 2925.03 of the Revised Code prescribed under those 4621
sections or sections 2929.11 to 2929.18 of the Revised Code and 4622
does not limit or affect a forfeiture of property in connection 4623
with the offense as prescribed in ~~sections 2925.42 to 2925.45~~ 4624
Chapter 2981. of the Revised Code. 4625

(6) If the sum total of a mandatory fine amount imposed for a 4626
first, second, or third degree felony violation of section 2925.03 4627
of the Revised Code under division (B)(1) of this section plus the 4628
amount of any fine imposed under division (B)(4) of this section 4629

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 4662
reimbursement fund that is hereby created in the state treasury. 4663
The department of rehabilitation and correction shall use the 4664
amounts deposited in the fund to fund the operation of facilities 4665
used to confine offenders pursuant to sections 2929.14 and 2929.16 4666
of the Revised Code. 4667

(2) Except as provided in section 2951.021 of the Revised 4668
Code, the offender shall pay reimbursements imposed upon the 4669
offender pursuant to division (A)(5)(a) of this section to pay the 4670
costs incurred by a county pursuant to any sanction imposed under 4671
this section or section 2929.16 or 2929.17 of the Revised Code or 4672
in operating a facility used to confine offenders pursuant to a 4673
sanction imposed under section 2929.16 of the Revised Code to the 4674
county treasurer. The county treasurer shall deposit the 4675
reimbursements in the sanction cost reimbursement fund that each 4676
board of county commissioners shall create in its county treasury. 4677
The county shall use the amounts deposited in the fund to pay the 4678
costs incurred by the county pursuant to any sanction imposed 4679
under this section or section 2929.16 or 2929.17 of the Revised 4680
Code or in operating a facility used to confine offenders pursuant 4681
to a sanction imposed under section 2929.16 of the Revised Code. 4682

(3) Except as provided in section 2951.021 of the Revised 4683
Code, the offender shall pay reimbursements imposed upon the 4684
offender pursuant to division (A)(5)(a) of this section to pay the 4685
costs incurred by a municipal corporation pursuant to any sanction 4686
imposed under this section or section 2929.16 or 2929.17 of the 4687
Revised Code or in operating a facility used to confine offenders 4688
pursuant to a sanction imposed under section 2929.16 of the 4689
Revised Code to the treasurer of the municipal corporation. The 4690
treasurer shall deposit the reimbursements in a special fund that 4691
shall be established in the treasury of each municipal 4692
corporation. The municipal corporation shall use the amounts 4693

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. 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. 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. A financial
sanction of restitution imposed pursuant to this section is a
judgment in favor of the victim of the offender's criminal act.
The offender subject to the sanction is 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, the victim, private provider, state, or
political subdivision may bring an action to do any of the
following:

(1) Obtain execution of the judgment through any available
procedure, including:

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;	4726 4727
(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;	4728 4729
(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:	4730 4731
(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;	4732 4733 4734
(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;	4735 4736
(iii) A creditor's suit under section 2333.01 of the Revised Code.	4737 4738
(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;	4739 4740
(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.	4741 4742
(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.	4743 4744
(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.	4745 4746 4747 4748
(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	4749 4750 4751 4752 4753 4754 4755

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 4787
prosecutor certifies to the court a need to retain the property in 4788
lieu of a photograph of the property or of another evidentiary 4789
substitute for the property itself. 4790

(C) If the defendant or alleged juvenile offender in a case 4791
files a motion requesting the court to order the law enforcement 4792
agency to retain property of the victim because the property is 4793
needed for the defense in the case, the agency shall retain the 4794
property until the court rules on the motion. The court, in making 4795
a determination on the motion, shall weigh the victim's need for 4796
the property against the defendant's or alleged juvenile 4797
offender's assertion that the property has evidentiary value for 4798
the defense. The court shall rule on the motion in a timely 4799
fashion. 4800

Sec. 2933.75. (A) Upon the institution of any criminal 4801
proceeding charging a medicaid fraud offense, the state, at any 4802
time during the pendency of the proceeding, may file a medicaid 4803
fraud lien notice with the county recorder of any county in which 4804
forfeitable property subject to forfeiture may be located. No fee 4805
shall be required for filing the notice. The recorder immediately 4806
shall record the notice pursuant to section 317.08 of the Revised 4807
Code. 4808

(B) A medicaid fraud lien notice shall be signed by the 4809
prosecuting attorney or attorney general who will prosecute the 4810
case and who files the lien. The notice shall set forth all of the 4811
following information: 4812

(1) The name of the person against whom the proceeding has 4813
been brought. The prosecuting attorney or attorney general who 4814
will prosecute the case may specify in the notice any aliases, 4815
names, or fictitious names under which the person may be known. 4816

(2) If known to the prosecuting attorney or attorney general 4817
who will prosecute the case, the present residence and business 4818
addresses of the person or names set forth in the notice; 4819

(3) A statement that a criminal proceeding for a medicaid 4820
fraud offense has been brought against the person named in the 4821
notice, the name of the county in which the proceeding has been 4822
brought, and the case number of the proceeding; 4823

(4) A statement that the notice is being filed pursuant to 4824
this section; 4825

(5) The name and address of the prosecuting attorney or 4826
attorney general filing the notice; 4827

(6) A description of the real or personal property subject to 4828
the notice and of the interest in that property of the person 4829
named in the notice, to the extent the property and the interest 4830
of the person in it reasonably is known at the time the proceeding 4831
is instituted or at the time the notice is filed. 4832

(C) A medicaid fraud lien notice shall apply only to one 4833
person and, to the extent applicable, any aliases, fictitious 4834
names, or other names, including names of corporations, 4835
partnerships, or other entities, to the extent permitted in this 4836
section. A separate medicaid fraud lien notice is required to be 4837
filed for any other person. 4838

(D) Within seven days after the filing of each medicaid fraud 4839
lien notice, the prosecuting attorney or attorney general who 4840
files the notice shall furnish to the person named in the notice 4841
by certified mail, return receipt requested, to the last known 4842
business or residential address of the person, a copy of the 4843
recorded notice with a notation on it of any county in which the 4844
notice has been recorded. The failure of the prosecuting attorney 4845
or attorney general to furnish a copy of the notice under this 4846
section shall not invalidate or otherwise affect the medicaid 4847

fraud lien notice when the prosecuting attorney or attorney 4848
general did not know and could not reasonably ascertain the 4849
address of the person entitled to notice. 4850

After receipt of a copy of the notice under this division, 4851
the person named in the notice may petition the court to authorize 4852
the person to post a surety bond in lieu of the lien or to 4853
otherwise modify the lien as the interests of justice may require. 4854
The bond shall be in an amount equal to the value of the property 4855
reasonably known to be subject to the notice and conditioned on 4856
the payment of any judgment and costs ordered in an action 4857
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code up 4858
to the value of the bond. 4859

(E) From the date of filing of a medicaid fraud lien notice, 4860
the notice creates a lien in favor of the state on any personal or 4861
real property or any beneficial interest in the property located 4862
in the county in which the notice is filed that then or 4863
subsequently is owned by the person named in the notice or under 4864
any of the names set forth in the notice. 4865

The lien created in favor of the state is superior and prior 4866
to the interest of any other person in the personal or real 4867
property or beneficial interest in the property, if the interest 4868
is acquired subsequent to the filing of the notice. 4869

(F) If a medicaid fraud lien notice has been filed, and if a 4870
forfeiture order is entered subsequent to a conviction or guilty 4871
plea in the criminal proceeding pursuant to ~~section 2933.73~~ 4872
Chapter 2981. of the Revised Code in favor of the state, the 4873
interest of any person in the property that was acquired 4874
subsequent to the filing of the notice shall be subject to the 4875
notice and order of forfeiture. 4876

(G) Upon the issuance of an order of forfeiture in favor of 4877
the state pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised 4878

Code, title of the state to the forfeited property shall do either 4879
of the following: 4880

(1) In the case of real property, or a beneficial interest in 4881
it, relate back to the date of filing of the medicaid fraud lien 4882
notice in the county where the property or interest is located. If 4883
no medicaid fraud lien notice was filed, title of the state 4884
relates back to the date of the recording of the order of 4885
forfeiture in the records of the county recorder of the county in 4886
which the real property or beneficial interest is located. 4887

(2) In the case of personal property or a beneficial interest 4888
in it, relate back to the date on which the property or interest 4889
was seized by the state, or the date of filing of a medicaid fraud 4890
lien notice in the county in which the property or beneficial 4891
interest is located. If the property was not seized and no 4892
medicaid fraud lien notice was filed, title of the state relates 4893
back to the date of the recording of the order of forfeiture in 4894
the county in which the personal property or beneficial interest 4895
is located. 4896

(H) If personal or real property, or a beneficial interest in 4897
it, that is forfeitable property and is subject to forfeiture 4898
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code is 4899
conveyed, alienated, disposed of, or otherwise rendered 4900
unavailable for forfeiture after the filing of either a medicaid 4901
fraud lien notice, or a criminal proceeding for a medicaid fraud 4902
offense, whichever is earlier, the state may bring an action in 4903
any court of common pleas against the person named in the medicaid 4904
fraud lien notice or the defendant in the criminal proceeding to 4905
recover the value of the property or interest. The court shall 4906
enter final judgment against the person named in the notice or the 4907
defendant for an amount equal to the value of the property or 4908
interest together with investigative costs and attorney's fees 4909
incurred by the state in the action. 4910

(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 4942
notice, shall be liable to the state for the greater of the 4943
following: 4944

(1) The proceeds received directly by the person named in the 4945
notice as a result of the transfer; 4946

(2) The proceeds received by the trustee as a result of the 4947
transfer and distributed to the person named in the notice; 4948

(3) The fair market value of the interest of the person named 4949
in the notice in the property transferred. 4950

However, if the trustee transfers property for at least its 4951
fair market value and holds the proceeds that otherwise would be 4952
paid or distributed to the beneficiary, or at the direction of the 4953
beneficiary or ~~his~~ the beneficiary's designee, the liability of 4954
the trustee shall not exceed the amount of the proceeds held by 4955
the trustee. 4956

(L) The filing of a medicaid fraud lien notice does not 4957
constitute a lien on the record title to personal or real property 4958
owned by the trustee, except to the extent the trustee is named in 4959
the notice. 4960

The prosecuting attorney for the county or the attorney 4961
general may bring a civil action in any court of common pleas to 4962
recover from the trustee the amounts set forth in division (H) of 4963
this section. The county or state may recover investigative costs 4964
and attorney's fees incurred by the prosecuting attorney or the 4965
attorney general. 4966

(M)(1) This section does not apply to any transfer by a 4967
trustee under a court order, unless the order is entered in an 4968
action between the trustee and the beneficiary. 4969

(2) Unless the trustee has actual knowledge that a person 4970
owning a beneficial interest in the trust is named in a medicaid 4971

fraud lien notice, this section does not apply to either of the 4972
following: 4973

(a) Any transfer by a trustee required under the terms of any 4974
trust agreement, if the agreement is a matter of public record 4975
before the filing of any medicaid fraud lien notice; 4976

(b) Any transfer by a trustee to all of the persons who own a 4977
beneficial interest in the trust. 4978

(N) The filing of a medicaid fraud lien notice does not 4979
affect the use to which personal or real property, or a beneficial 4980
interest in it, that is owned by the person named in the notice 4981
may be put or the right of the person to receive any proceeds 4982
resulting from the use and ownership, but not the sale, of the 4983
property, until a judgment of forfeiture is entered. 4984

(O) The term of a medicaid fraud lien notice is five years 4985
from the date the notice is filed, unless a renewal notice has 4986
been filed by the prosecuting attorney of the county in which the 4987
property or interest is located or by the attorney general. The 4988
term of any renewal of a medicaid fraud lien notice granted by the 4989
court is five years from the date of its filing. A medicaid fraud 4990
lien notice may be renewed any number of times while a criminal 4991
proceeding for a medicaid fraud offense, or an appeal from such a 4992
proceeding, is pending. 4993

(P) The prosecuting attorney or attorney general who files 4994
the medicaid fraud lien notice may terminate, in whole or part, 4995
the notice or release any personal or real property or beneficial 4996
interest in the property upon any terms that ~~he~~ the prosecuting 4997
attorney or attorney general determines are appropriate. Any 4998
termination or release shall be filed by the prosecuting attorney 4999
or attorney general with each county recorder with whom the notice 5000
was filed. No fee shall be imposed for the filing. 5001

(Q) The acquittal in a criminal proceeding for a medicaid 5002

fraud offense of the person named in the medicaid fraud lien 5003
notice or the dismissal of a criminal proceeding for such an 5004
offense against the person named in the notice terminates the 5005
notice. In such a case, the filing of the notice has no effect. 5006

A person named in a medicaid fraud lien notice may bring an 5007
action against the prosecuting attorney or attorney general who 5008
filed the notice, in the county where it was filed, seeking a 5009
release of the property subject to the notice or termination of 5010
the notice. In such a case, the court of common pleas promptly 5011
shall set a date for hearing, which shall be not less than five 5012
nor more than ten days after the action is filed. The order and a 5013
copy of the complaint shall be served on the prosecuting attorney 5014
or attorney general within three days after the action is filed. 5015
At the hearing, the court shall take evidence as to whether any 5016
personal or real property, or beneficial interest in it, that is 5017
owned by the person bringing the action is covered by the notice 5018
or otherwise is subject to forfeiture. If the person bringing the 5019
action shows by a preponderance of the evidence that the notice 5020
does not apply to ~~him~~ the person or that any personal or real 5021
property, or beneficial interest in it, that is owned by ~~him~~ the 5022
person is not subject to forfeiture, the court shall enter a 5023
judgment terminating the notice or releasing the personal or real 5024
property or beneficial interest from the notice. 5025

At a hearing, the court may release from the notice any 5026
property or beneficial interest upon the posting of security, by 5027
the person against whom the notice was filed, in an amount equal 5028
to the value of the property or beneficial interest owned by the 5029
person. 5030

The court promptly shall enter an order terminating a 5031
medicaid fraud lien notice or releasing any personal or real 5032
property or beneficial interest in the property, if a sale of the 5033
property or beneficial interest is pending and the filing of the 5034

notice prevents the sale. However, the proceeds of the sale shall 5035
be deposited with the clerk of the court, subject to the further 5036
order of the court. 5037

(R) Notwithstanding any provision of this section, any person 5038
who has perfected a security interest in personal or real property 5039
or a beneficial interest in the property for the payment of an 5040
enforceable debt or other similar obligation prior to the filing 5041
of a medicaid fraud lien notice in reference to the property or 5042
interest may foreclose on the property or interest as otherwise 5043
provided by law. The foreclosure, insofar as practical, shall be 5044
made so that it otherwise will not interfere with a forfeiture 5045
under ~~section 2933.73~~ Chapter 2981. of the Revised Code. 5046

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 5047
deputy marshal, municipal police officer, township constable, 5048
police officer of a township or joint township police district, 5049
member of a police force employed by a metropolitan housing 5050
authority under division (D) of section 3735.31 of the Revised 5051
Code, member of a police force employed by a regional transit 5052
authority under division (Y) of section 306.35 of the Revised 5053
Code, state university law enforcement officer appointed under 5054
section 3345.04 of the Revised Code, veterans' home police officer 5055
appointed under section 5907.02 of the Revised Code, special 5056
police officer employed by a port authority under section 4582.04 5057
or 4582.28 of the Revised Code, or a special police officer 5058
employed by a municipal corporation at a municipal airport, or 5059
other municipal air navigation facility, that has scheduled 5060
operations, as defined in section 119.3 of Title 14 of the Code of 5061
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 5062
required to be under a security program and is governed by 5063
aviation security rules of the transportation security 5064
administration of the United States department of transportation 5065

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 5098
public indecency as defined in section 2907.09 of the Revised 5099
Code, the offense of domestic violence as defined in section 5100
2919.25 of the Revised Code, the offense of violating a protection 5101
order as defined in section 2919.27 of the Revised Code, the 5102
offense of menacing by stalking as defined in section 2903.211 of 5103
the Revised Code, the offense of aggravated trespass as defined in 5104
section 2911.211 of the Revised Code, a theft offense as defined 5105
in section 2913.01 of the Revised Code, or a felony drug abuse 5106
offense as defined in section 2925.01 of the Revised Code, has 5107
been committed within the limits of the political subdivision, 5108
metropolitan housing authority housing project, regional transit 5109
authority facilities or those areas of a municipal corporation 5110
that have been agreed to by a regional transit authority and a 5111
municipal corporation located within its territorial jurisdiction, 5112
college, university, veterans' home operated under Chapter 5907. 5113
of the Revised Code, port authority, or municipal airport or other 5114
municipal air navigation facility, in which the peace officer is 5115
appointed, employed, or elected or within the limits of the 5116
territorial jurisdiction of the peace officer, a peace officer 5117
described in division (A) of this section may arrest and detain 5118
until a warrant can be obtained any person who the peace officer 5119
has reasonable cause to believe is guilty of the violation. 5120

(2) For purposes of division (B)(1) of this section, the 5121
execution of any of the following constitutes reasonable ground to 5122
believe that the offense alleged in the statement was committed 5123
and reasonable cause to believe that the person alleged in the 5124
statement to have committed the offense is guilty of the 5125
violation: 5126

(a) A written statement by a person alleging that an alleged 5127
offender has committed the offense of menacing by stalking or 5128
aggravated trespass; 5129

(b) A written statement by the administrator of the 5130
interstate compact on mental health appointed under section 5131
5119.51 of the Revised Code alleging that a person who had been 5132
hospitalized, institutionalized, or confined in any facility under 5133
an order made pursuant to or under authority of section 2945.37, 5134
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 5135
Revised Code has escaped from the facility, from confinement in a 5136
vehicle for transportation to or from the facility, or from 5137
supervision by an employee of the facility that is incidental to 5138
hospitalization, institutionalization, or confinement in the 5139
facility and that occurs outside of the facility, in violation of 5140
section 2921.34 of the Revised Code; 5141

(c) A written statement by the administrator of any facility 5142
in which a person has been hospitalized, institutionalized, or 5143
confined under an order made pursuant to or under authority of 5144
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 5145
2945.402 of the Revised Code alleging that the person has escaped 5146
from the facility, from confinement in a vehicle for 5147
transportation to or from the facility, or from supervision by an 5148
employee of the facility that is incidental to hospitalization, 5149
institutionalization, or confinement in the facility and that 5150
occurs outside of the facility, in violation of section 2921.34 of 5151
the Revised Code. 5152

(3)(a) For purposes of division (B)(1) of this section, a 5153
peace officer described in division (A) of this section has 5154
reasonable grounds to believe that the offense of domestic 5155
violence or the offense of violating a protection order has been 5156
committed and reasonable cause to believe that a particular person 5157
is guilty of committing the offense if any of the following 5158
occurs: 5159

(i) A person executes a written statement alleging that the 5160
person in question has committed the offense of domestic violence 5161

or the offense of violating a protection order against the person 5162
who executes the statement or against a child of the person who 5163
executes the statement. 5164

(ii) No written statement of the type described in division 5165
(B)(3)(a)(i) of this section is executed, but the peace officer, 5166
based upon the peace officer's own knowledge and observation of 5167
the facts and circumstances of the alleged incident of the offense 5168
of domestic violence or the alleged incident of the offense of 5169
violating a protection order or based upon any other information, 5170
including, but not limited to, any reasonably trustworthy 5171
information given to the peace officer by the alleged victim of 5172
the alleged incident of the offense or any witness of the alleged 5173
incident of the offense, concludes that there are reasonable 5174
grounds to believe that the offense of domestic violence or the 5175
offense of violating a protection order has been committed and 5176
reasonable cause to believe that the person in question is guilty 5177
of committing the offense. 5178

(iii) No written statement of the type described in division 5179
(B)(3)(a)(i) of this section is executed, but the peace officer 5180
witnessed the person in question commit the offense of domestic 5181
violence or the offense of violating a protection order. 5182

(b) If pursuant to division (B)(3)(a) of this section a peace 5183
officer has reasonable grounds to believe that the offense of 5184
domestic violence or the offense of violating a protection order 5185
has been committed and reasonable cause to believe that a 5186
particular person is guilty of committing the offense, it is the 5187
preferred course of action in this state that the officer arrest 5188
and detain that person pursuant to division (B)(1) of this section 5189
until a warrant can be obtained. 5190

If pursuant to division (B)(3)(a) of this section a peace 5191
officer has reasonable grounds to believe that the offense of 5192

domestic violence or the offense of violating a protection order 5193
has been committed and reasonable cause to believe that family or 5194
household members have committed the offense against each other, 5195
it is the preferred course of action in this state that the 5196
officer, pursuant to division (B)(1) of this section, arrest and 5197
detain until a warrant can be obtained the family or household 5198
member who committed the offense and whom the officer has 5199
reasonable cause to believe is the primary physical aggressor. 5200
There is no preferred course of action in this state regarding any 5201
other family or household member who committed the offense and 5202
whom the officer does not have reasonable cause to believe is the 5203
primary physical aggressor, but, pursuant to division (B)(1) of 5204
this section, the peace officer may arrest and detain until a 5205
warrant can be obtained any other family or household member who 5206
committed the offense and whom the officer does not have 5207
reasonable cause to believe is the primary physical aggressor. 5208

(c) If a peace officer described in division (A) of this 5209
section does not arrest and detain a person whom the officer has 5210
reasonable cause to believe committed the offense of domestic 5211
violence or the offense of violating a protection order when it is 5212
the preferred course of action in this state pursuant to division 5213
(B)(3)(b) of this section that the officer arrest that person, the 5214
officer shall articulate in the written report of the incident 5215
required by section 2935.032 of the Revised Code a clear statement 5216
of the officer's reasons for not arresting and detaining that 5217
person until a warrant can be obtained. 5218

(d) In determining for purposes of division (B)(3)(b) of this 5219
section which family or household member is the primary physical 5220
aggressor in a situation in which family or household members have 5221
committed the offense of domestic violence or the offense of 5222
violating a protection order against each other, a peace officer 5223
described in division (A) of this section, in addition to any 5224

other relevant circumstances, should consider all of the 5225
following: 5226

(i) Any history of domestic violence or of any other violent 5227
acts by either person involved in the alleged offense that the 5228
officer reasonably can ascertain; 5229

(ii) If violence is alleged, whether the alleged violence was 5230
caused by a person acting in self-defense; 5231

(iii) Each person's fear of physical harm, if any, resulting 5232
from the other person's threatened use of force against any person 5233
or resulting from the other person's use or history of the use of 5234
force against any person, and the reasonableness of that fear; 5235

(iv) The comparative severity of any injuries suffered by the 5236
persons involved in the alleged offense. 5237

(e)(i) A peace officer described in division (A) of this 5238
section shall not require, as a prerequisite to arresting or 5239
charging a person who has committed the offense of domestic 5240
violence or the offense of violating a protection order, that the 5241
victim of the offense specifically consent to the filing of 5242
charges against the person who has committed the offense or sign a 5243
complaint against the person who has committed the offense. 5244

(ii) If a person is arrested for or charged with committing 5245
the offense of domestic violence or the offense of violating a 5246
protection order and if the victim of the offense does not 5247
cooperate with the involved law enforcement or prosecuting 5248
authorities in the prosecution of the offense or, subsequent to 5249
the arrest or the filing of the charges, informs the involved law 5250
enforcement or prosecuting authorities that the victim does not 5251
wish the prosecution of the offense to continue or wishes to drop 5252
charges against the alleged offender relative to the offense, the 5253
involved prosecuting authorities, in determining whether to 5254
continue with the prosecution of the offense or whether to dismiss 5255

charges against the alleged offender relative to the offense and 5256
notwithstanding the victim's failure to cooperate or the victim's 5257
wishes, shall consider all facts and circumstances that are 5258
relevant to the offense, including, but not limited to, the 5259
statements and observations of the peace officers who responded to 5260
the incident that resulted in the arrest or filing of the charges 5261
and of all witnesses to that incident. 5262

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 5263
this section whether to arrest a person pursuant to division 5264
(B)(1) of this section, a peace officer described in division (A) 5265
of this section shall not consider as a factor any possible 5266
shortage of cell space at the detention facility to which the 5267
person will be taken subsequent to the person's arrest or any 5268
possibility that the person's arrest might cause, contribute to, 5269
or exacerbate overcrowding at that detention facility or at any 5270
other detention facility. 5271

(g) If a peace officer described in division (A) of this 5272
section intends pursuant to divisions (B)(3)(a) to (g) of this 5273
section to arrest a person pursuant to division (B)(1) of this 5274
section and if the officer is unable to do so because the person 5275
is not present, the officer promptly shall seek a warrant for the 5276
arrest of the person. 5277

(h) If a peace officer described in division (A) of this 5278
section responds to a report of an alleged incident of the offense 5279
of domestic violence or an alleged incident of the offense of 5280
violating a protection order and if the circumstances of the 5281
incident involved the use or threatened use of a deadly weapon or 5282
any person involved in the incident brandished a deadly weapon 5283
during or in relation to the incident, the deadly weapon that was 5284
used, threatened to be used, or brandished constitutes contraband, 5285
and, to the extent possible, the officer shall seize the deadly 5286
weapon as contraband pursuant to ~~section 2933.43~~ Chapter 2981. of 5287

the Revised Code. Upon the seizure of a deadly weapon pursuant to 5288
division (B)(3)(h) of this section, section ~~2933.43~~ 2981.12 of the 5289
Revised Code shall apply regarding the treatment and disposition 5290
of the deadly weapon. For purposes of that section, the 5291
"underlying criminal offense" that was the basis of the seizure of 5292
a deadly weapon under division (B)(3)(h) of this section and to 5293
which the deadly weapon had a relationship is any of the following 5294
that is applicable: 5295

(i) The alleged incident of the offense of domestic violence 5296
or the alleged incident of the offense of violating a protection 5297
order to which the officer who seized the deadly weapon responded; 5298

(ii) Any offense that arose out of the same facts and 5299
circumstances as the report of the alleged incident of the offense 5300
of domestic violence or the alleged incident of the offense of 5301
violating a protection order to which the officer who seized the 5302
deadly weapon responded. 5303

(4) If, in the circumstances described in divisions (B)(3)(a) 5304
to (g) of this section, a peace officer described in division (A) 5305
of this section arrests and detains a person pursuant to division 5306
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 5307
this section, a peace officer described in division (A) of this 5308
section seizes a deadly weapon, the officer, to the extent 5309
described in and in accordance with section 9.86 or 2744.03 of the 5310
Revised Code, is immune in any civil action for damages for 5311
injury, death, or loss to person or property that arises from or 5312
is related to the arrest and detention or the seizure. 5313

(C) When there is reasonable ground to believe that a 5314
violation of division (A)(1), (2), or (3) of section 4506.15 or a 5315
violation of section 4511.19 of the Revised Code has been 5316
committed by a person operating a motor vehicle subject to 5317
regulation by the public utilities commission of Ohio under Title 5318
XLIX of the Revised Code, a peace officer with authority to 5319

enforce that provision of law may stop or detain the person whom 5320
the officer has reasonable cause to believe was operating the 5321
motor vehicle in violation of the division or section and, after 5322
investigating the circumstances surrounding the operation of the 5323
vehicle, may arrest and detain the person. 5324

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 5325
municipal police officer, member of a police force employed by a 5326
metropolitan housing authority under division (D) of section 5327
3735.31 of the Revised Code, member of a police force employed by 5328
a regional transit authority under division (Y) of section 306.35 5329
of the Revised Code, special police officer employed by a port 5330
authority under section 4582.04 or 4582.28 of the Revised Code, 5331
special police officer employed by a municipal corporation at a 5332
municipal airport or other municipal air navigation facility 5333
described in division (A) of this section, township constable, 5334
police officer of a township or joint township police district, 5335
state university law enforcement officer appointed under section 5336
3345.04 of the Revised Code, peace officer of the department of 5337
natural resources, individual designated to perform law 5338
enforcement duties under section 511.232, 1545.13, or 6101.75 of 5339
the Revised Code, the house sergeant at arms if the house sergeant 5340
at arms has arrest authority pursuant to division (E)(1) of 5341
section 101.311 of the Revised Code, or an assistant house 5342
sergeant at arms is authorized by division (A) or (B) of this 5343
section to arrest and detain, within the limits of the political 5344
subdivision, metropolitan housing authority housing project, 5345
regional transit authority facilities or those areas of a 5346
municipal corporation that have been agreed to by a regional 5347
transit authority and a municipal corporation located within its 5348
territorial jurisdiction, port authority, municipal airport or 5349
other municipal air navigation facility, college, or university in 5350
which the officer is appointed, employed, or elected or within the 5351

limits of the territorial jurisdiction of the peace officer, a 5352
person until a warrant can be obtained, the peace officer, outside 5353
the limits of that territory, may pursue, arrest, and detain that 5354
person until a warrant can be obtained if all of the following 5355
apply: 5356

(1) The pursuit takes place without unreasonable delay after 5357
the offense is committed; 5358

(2) The pursuit is initiated within the limits of the 5359
political subdivision, metropolitan housing authority housing 5360
project, regional transit authority facilities or those areas of a 5361
municipal corporation that have been agreed to by a regional 5362
transit authority and a municipal corporation located within its 5363
territorial jurisdiction, port authority, municipal airport or 5364
other municipal air navigation facility, college, or university in 5365
which the peace officer is appointed, employed, or elected or 5366
within the limits of the territorial jurisdiction of the peace 5367
officer; 5368

(3) The offense involved is a felony, a misdemeanor of the 5369
first degree or a substantially equivalent municipal ordinance, a 5370
misdemeanor of the second degree or a substantially equivalent 5371
municipal ordinance, or any offense for which points are 5372
chargeable pursuant to section 4510.036 of the Revised Code. 5373

(E) In addition to the authority granted under division (A) 5374
or (B) of this section: 5375

(1) A sheriff or deputy sheriff may arrest and detain, until 5376
a warrant can be obtained, any person found violating section 5377
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 5378
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 5379
portion of any street or highway that is located immediately 5380
adjacent to the boundaries of the county in which the sheriff or 5381
deputy sheriff is elected or appointed. 5382

(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. 5415

(4) A peace officer of the department of natural resources or 5416
an individual designated to perform law enforcement duties under 5417
section 511.232, 1545.13, or 6101.75 of the Revised Code may 5418
arrest and detain, until a warrant can be obtained, any person 5419
found violating any section or chapter of the Revised Code listed 5420
in division (E)(1) of this section, other than sections 4513.33 5421
and 4513.34 of the Revised Code, on the portion of any street or 5422
highway that is located immediately adjacent to the boundaries of 5423
the lands and waters that constitute the territorial jurisdiction 5424
of the peace officer. 5425

(F)(1) A department of mental health special police officer 5426
or a department of mental retardation and developmental 5427
disabilities special police officer may arrest without a warrant 5428
and detain until a warrant can be obtained any person found 5429
committing on the premises of any institution under the 5430
jurisdiction of the particular department a misdemeanor under a 5431
law of the state. 5432

A department of mental health special police officer or a 5433
department of mental retardation and developmental disabilities 5434
special police officer may arrest without a warrant and detain 5435
until a warrant can be obtained any person who has been 5436
hospitalized, institutionalized, or confined in an institution 5437
under the jurisdiction of the particular department pursuant to or 5438
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 5439
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 5440
found committing on the premises of any institution under the 5441
jurisdiction of the particular department a violation of section 5442
2921.34 of the Revised Code that involves an escape from the 5443
premises of the institution. 5444

(2)(a) If a department of mental health special police 5445

officer or a department of mental retardation and developmental 5446
disabilities special police officer finds any person who has been 5447
hospitalized, institutionalized, or confined in an institution 5448
under the jurisdiction of the particular department pursuant to or 5449
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 5450
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 5451
violation of section 2921.34 of the Revised Code that involves an 5452
escape from the premises of the institution, or if there is 5453
reasonable ground to believe that a violation of section 2921.34 5454
of the Revised Code has been committed that involves an escape 5455
from the premises of an institution under the jurisdiction of the 5456
department of mental health or the department of mental 5457
retardation and developmental disabilities and if a department of 5458
mental health special police officer or a department of mental 5459
retardation and developmental disabilities special police officer 5460
has reasonable cause to believe that a particular person who has 5461
been hospitalized, institutionalized, or confined in the 5462
institution pursuant to or under authority of section 2945.37, 5463
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 5464
Revised Code is guilty of the violation, the special police 5465
officer, outside of the premises of the institution, may pursue, 5466
arrest, and detain that person for that violation of section 5467
2921.34 of the Revised Code, until a warrant can be obtained, if 5468
both of the following apply: 5469

(i) The pursuit takes place without unreasonable delay after 5470
the offense is committed; 5471

(ii) The pursuit is initiated within the premises of the 5472
institution from which the violation of section 2921.34 of the 5473
Revised Code occurred. 5474

(b) For purposes of division (F)(2)(a) of this section, the 5475
execution of a written statement by the administrator of the 5476
institution in which a person had been hospitalized, 5477

institutionalized, or confined pursuant to or under authority of 5478
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 5479
2945.402 of the Revised Code alleging that the person has escaped 5480
from the premises of the institution in violation of section 5481
2921.34 of the Revised Code constitutes reasonable ground to 5482
believe that the violation was committed and reasonable cause to 5483
believe that the person alleged in the statement to have committed 5484
the offense is guilty of the violation. 5485

(G) As used in this section: 5486

(1) A "department of mental health special police officer" 5487
means a special police officer of the department of mental health 5488
designated under section 5119.14 of the Revised Code who is 5489
certified by the Ohio peace officer training commission under 5490
section 109.77 of the Revised Code as having successfully 5491
completed an approved peace officer basic training program. 5492

(2) A "department of mental retardation and developmental 5493
disabilities special police officer" means a special police 5494
officer of the department of mental retardation and developmental 5495
disabilities designated under section 5123.13 of the Revised Code 5496
who is certified by the Ohio peace officer training council under 5497
section 109.77 of the Revised Code as having successfully 5498
completed an approved peace officer basic training program. 5499

(3) "Deadly weapon" has the same meaning as in section 5500
2923.11 of the Revised Code. 5501

(4) "Family or household member" has the same meaning as in 5502
section 2919.25 of the Revised Code. 5503

(5) "Street" or "highway" has the same meaning as in section 5504
4511.01 of the Revised Code. 5505

(6) "Interstate system" has the same meaning as in section 5506
5516.01 of the Revised Code. 5507

(7) "Peace officer of the department of natural resources" 5508
means an employee of the department of natural resources who is a 5509
natural resources law enforcement staff officer designated 5510
pursuant to section 1501.013, a forest officer designated pursuant 5511
to section 1503.29, a preserve officer designated pursuant to 5512
section 1517.10, a wildlife officer designated pursuant to section 5513
1531.13, a park officer designated pursuant to section 1541.10, or 5514
a state watercraft officer designated pursuant to section 1547.521 5515
of the Revised Code. 5516

Sec. 2945.44. (A) In any criminal proceeding in this state or 5517
in any criminal or civil proceeding brought pursuant to ~~sections~~ 5518
~~2923.31 to 2923.36~~ Chapter 2981. of the Revised Code, if a witness 5519
refuses to answer or produce information on the basis of ~~his~~ the 5520
witness's privilege against self-incrimination, the court of 5521
common pleas of the county in which the proceeding is being held, 5522
unless it finds that to do so would not further the administration 5523
of justice, shall compel the witness to answer or produce the 5524
information, if both of the following apply: 5525

(1) The prosecuting attorney of the county in which the 5526
proceedings are being held makes a written request to the court of 5527
common pleas to order the witness to answer or produce the 5528
information, notwithstanding ~~his~~ the witness's claim of privilege; 5529

(2) The court of common pleas informs the witness that by 5530
answering, or producing the information ~~he~~ the witness will 5531
receive immunity under division (B) of this section. 5532

(B) If, but for this section, the witness would have been 5533
privileged to withhold an answer or any information given in any 5534
criminal proceeding, and ~~he~~ the witness complies with an order 5535
under division (A) of this section compelling ~~him~~ the witness to 5536
give an answer or produce any information, ~~he~~ the witness shall 5537
not be prosecuted or subjected to any criminal penalty in the 5538

courts of this state for or on account of any transaction or 5539
matter concerning which, in compliance with the order, ~~he~~ the 5540
witness gave an answer or produced any information. 5541

(C) A witness granted immunity under this section may be 5542
subjected to a criminal penalty for any violation of section 5543
2921.11, 2921.12, or 2921.13 of the Revised Code, or for contempt 5544
committed in answering, failing to answer, or failing to produce 5545
information in compliance with the order. 5546

Sec. 2981.01. (A) Forfeitures under this chapter shall be 5547
governed by all of the following purposes: 5548

(1) To provide economic disincentives and remedies to deter 5549
and offset the economic effect of offenses by seizing and 5550
forfeiting contraband, proceeds, and certain instrumentalities; 5551

(2) To ensure that seizures and forfeitures of 5552
instrumentalities are proportionate to the offense committed; 5553

(3) To protect third parties from wrongful forfeiture of 5554
their property; 5555

(4) To prioritize restitution for victims of offenses. 5556

(B) As used in this chapter: 5557

(1) "Aircraft" has the same meaning as in section 4561.01 of 5558
the Revised Code. 5559

(2) "Computers," "computer networks," "computer systems," 5560
"computer software," and "telecommunications device" have the same 5561
meanings as in section 2913.01 of the Revised Code. 5562

(3) "Financial institution" means a bank, credit union, 5563
savings and loan association, or a licensee or registrant under 5564
Chapter 1321. of the Revised Code. 5565

(4) "Firearm" and "dangerous ordnance" have the same meanings 5566
as in section 2923.11 of the Revised Code. 5567

(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 division (E) of section 2923.04 of the Revised Code, and any victim of an alleged offense. 5568
5569
5570
5571
5572

(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. 5573
5574
5575
5576
5577
5578

(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy and the office of the prosecutor. 5579
5580

(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. 5581
5582
5583
5584

(9) "Money" has the same meaning as in section 1301.01 of the Revised Code. 5585
5586

(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, any misdemeanor, and any minor misdemeanor. The commission of an "offense" includes the commission of a delinquent act. 5587
5588
5589
5590
5591
5592
5593
5594

(11) "Proceeds" means all of the following: 5595

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or 5596
5597

indirectly from an offense. "Proceeds" may include, but is not 5598
limited to, money or any other means of exchange. "Proceeds" is 5599
not limited to the net gain or profit realized from the offense. 5600

(b) In cases involving lawful goods or services that are sold 5601
or provided in an unlawful manner, "proceeds" means the amount of 5602
money or other means of exchange acquired through the illegal 5603
transactions resulting in the forfeiture, less the direct costs 5604
lawfully incurred in providing the goods or services. The lawful 5605
costs deduction does not include any part of the overhead expenses 5606
of, or income taxes paid by, the entity providing the goods or 5607
services. The alleged offender or delinquent child has the burden 5608
to prove that any costs are lawfully incurred. 5609

(12) "Property" means "property" as defined in section 5610
2901.01 of the Revised Code and any benefit, privilege, claim, 5611
position, interest in an enterprise, or right derived, directly or 5612
indirectly, from the offense. 5613

(13) "Property subject to forfeiture" includes contraband and 5614
proceeds and may include instrumentalities as provided in this 5615
chapter. 5616

(14) "Prosecutor" has the same meaning as in section 2935.01 5617
of the Revised Code. When relevant, "prosecutor" also includes the 5618
attorney general. 5619

(15) "Vehicle" has the same meaning as in section 4501.01 of 5620
the Revised Code. 5621

(16) "Watercraft" has the same meaning as in section 1547.01 5622
of the Revised Code. 5623

(C) The penalties and procedures under Chapters 2923., 2925., 5624
and 2933. of the Revised Code remain in effect to the extent that 5625
they do not conflict with this chapter. 5626

Sec. 2981.02. (A) The following property is subject to 5627

<u>forfeiture to the state or a political subdivision under either</u>	5628
<u>the criminal or delinquency process in section 2981.04 of the</u>	5629
<u>Revised Code or the civil process in section 2981.05 of the</u>	5630
<u>Revised Code:</u>	5631
<u>(1) Contraband involved in an offense;</u>	5632
<u>(2) Proceeds derived from or acquired through the commission</u>	5633
<u>of an offense;</u>	5634
<u>(3) An instrumentality that is used in or intended to be used</u>	5635
<u>in the commission or facilitation of any of the following offenses</u>	5636
<u>when the use or intended use, consistent with division (B) of this</u>	5637
<u>section, is sufficient to warrant forfeiture under this chapter:</u>	5638
<u>(a) A felony;</u>	5639
<u>(b) A misdemeanor, when forfeiture is specifically authorized</u>	5640
<u>by a section of the Revised Code or by a municipal ordinance that</u>	5641
<u>creates the offense or sets forth its penalties;</u>	5642
<u>(c) An attempt to commit, complicity in committing, or a</u>	5643
<u>conspiracy to commit an offense of the type described in divisions</u>	5644
<u>(A)(3)(a) and (b) of this section.</u>	5645
<u>(B) In determining whether an alleged instrumentality was</u>	5646
<u>used in or was intended to be used in the commission or</u>	5647
<u>facilitation of an offense or an attempt, complicity, or</u>	5648
<u>conspiracy to commit an offense in a manner sufficient to warrant</u>	5649
<u>its forfeiture, the trier of fact shall consider the following</u>	5650
<u>factors the trier of fact determines are relevant:</u>	5651
<u>(1) Whether the offense could not have been committed or</u>	5652
<u>attempted but for the presence of the instrumentality;</u>	5653
<u>(2) Whether the primary purpose in using the instrumentality</u>	5654
<u>was to commit or attempt to commit the offense;</u>	5655
<u>(3) The extent to which the instrumentality furthered the</u>	5656
<u>commission of, or attempt to commit, the offense.</u>	5657

(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. 5658
5659
5660

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. 5661
5662
5663
5664
5665
5666
5667
5668
5669
5670
5671
5672
5673

(2)(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, 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: 5674
5675
5676
5677
5678
5679

(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. 5680
5681
5682

(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. 5683
5684
5685

(b) The alleged offender or delinquent child shall have the burden to prove the amount of any direct costs lawfully incurred. 5686
5687

(3) In a civil forfeiture case under this chapter in which 5688
the state or political subdivision seeks to seize real property, 5689
the property owner may request a hearing before the seizure, and 5690
in the hearing the state or political subdivision shall show 5691
probable cause that the real property is subject to forfeiture. 5692

(4) A law enforcement officer may seize property that the 5693
officer has reasonable cause to believe is property subject to 5694
forfeiture. If a law enforcement officer seizes property that is 5695
titled or registered under law, the officer or the law enforcement 5696
agency that employs the officer shall notify the property owner of 5697
the seizure. The agency shall give notice to the property owner at 5698
the owner's last known address as soon as practical after the 5699
seizure and may give the notice by certified mail or orally by any 5700
means, including telephone. If the officer or agency is unable to 5701
provide the notice required by this division despite reasonable, 5702
good faith efforts, those efforts constitute fulfillment of the 5703
notice requirement. 5704

A person aggrieved by an alleged unlawful seizure of property 5705
may seek relief from the seizure by filing a motion in the 5706
appropriate court that shows the person's interest in the 5707
property, states why the seizure was unlawful, and requests the 5708
property's return. If the motion is filed before an indictment, 5709
information, or a complaint seeking forfeiture of the property is 5710
filed, the court shall promptly schedule a hearing on the motion, 5711
and at the hearing the person shall demonstrate by a preponderance 5712
of the evidence that the seizure was unlawful and that the person 5713
is entitled to the property. If the motion is filed after an 5714
indictment, information, or a complaint seeking forfeiture of the 5715
property is filed, the court shall treat the motion as a motion to 5716
suppress evidence. 5717

(B)(1) Upon application by the prosecutor who prosecutes or 5718
brings an action that allows forfeiture under this chapter, the 5719

court in which the action is prosecuted or filed may issue an 5720
order taking any reasonable action necessary to preserve the 5721
reachability of the property including, but not limited to, a 5722
restraining order or injunction, an order requiring execution of a 5723
satisfactory bond or insurance policy, an order to inspect, 5724
photograph, or inventory the property, an order placing a lien or 5725
lis pendens against the property, or an order appointing a 5726
receiver. The court may issue an order of this nature at any of 5727
the following times: 5728

(a) Upon the filing of a complaint, indictment, or 5729
information alleging the property to be subject to forfeiture 5730
under section 2981.02 of the Revised Code; 5731

(b) Prior to the filing of a complaint, an indictment, or 5732
information alleging the property to be subject to forfeiture 5733
under section 2981.02 of the Revised Code, if, after giving notice 5734
to all persons known to have a interest in the property and giving 5735
those persons an opportunity to be heard, the court determines 5736
that all of the following apply: 5737

(i) There is a substantial probability the state or political 5738
subdivision will prevail on the forfeiture issue. 5739

(ii) There is a substantial probability that failure to enter 5740
the order will result in the property being destroyed, being 5741
removed from the court's jurisdiction, or otherwise being made 5742
unavailable for forfeiture. 5743

(iii) The need to preserve the availability of the property 5744
outweighs the hardship on the person against whom the order is to 5745
be entered. 5746

(c) As a condition of releasing the property based on a 5747
determination of substantial hardship under division (D) of this 5748
section. 5749

(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 for 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 a 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 for 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 5782
action under this chapter shall be stayed until the forfeiture 5783
action is resolved. 5784

(D)(1) A person with an interest in property that is subject 5785
to forfeiture and that is seized under this chapter may seek 5786
conditional release of the property by requesting possession from 5787
the person with custody of the property. The request shall 5788
demonstrate how the person meets the requirements specified in 5789
divisions (D)(3)(a), (b), and (c) of this section. 5790

(2) If the person with custody of the property does not 5791
release the property within fifteen days after a person makes a 5792
request under division (D)(1) of this section, or within seven 5793
days after a person makes the request if the property was seized 5794
as a mobile instrumentality or if the request is to copy records, 5795
the person who made the request may file a petition for 5796
conditional release with the court in which the complaint, 5797
indictment, or information is filed or, if no complaint, 5798
indictment, or information is filed, the court that issued the 5799
seizure warrant for the property. The petition shall demonstrate 5800
how the person meets the requirements specified in divisions 5801
(D)(3)(a), (b), and (c) of this section and the steps the person 5802
has taken to secure release of the property from the official. 5803
Unless extended for good cause shown, the petition shall be filed 5804
either within thirty days of the filing of a complaint, an 5805
indictment, or information in the forfeiture action or, if no 5806
complaint, indictment, or information is filed, within thirty days 5807
of the issuance of the seizure warrant of the property. 5808

If the court finds that the person meets the criteria 5809
specified in divisions (D)(3)(a), (b), and (c) of this section, 5810
the court shall order the property's conditional return to the 5811
person pending completion of the forfeiture action. In issuing 5812
this order, the court shall notify the person of the prohibitions 5813

against interfering with or diminishing property in section 5814
2981.07 of the Revised Code and may make any order necessary to 5815
ensure that the value of the property is maintained. 5816

If personal, business, or governmental records are seized, 5817
including those contained in computer files, a person may petition 5818
the court for a prompt opportunity to copy, at the person's 5819
expense, any records that are not contraband. The court may grant 5820
the petition if the person demonstrates how the person meets the 5821
requirements specified in divisions (D)(3)(a) and (c) of this 5822
section. The court shall order a competent person to supervise the 5823
copying. 5824

(3) Except when there is probable cause that the property is 5825
contraband, the proceeds of an offense, property that must be held 5826
for a reasonable time as evidence related to an offense, or 5827
property that is likely to be used in additional offenses, a court 5828
may conditionally release property subject to forfeiture to a 5829
person who demonstrates all of the following: 5830

(a) A possessory interest in the property; 5831

(b) Sufficient ties to the community to provide assurance 5832
that the property will be available at the time of trial; 5833

(c) That failure to conditionally release the property will 5834
cause a substantial hardship. 5835

(4) In determining whether a substantial hardship exists, the 5836
court shall weigh the person's likely hardship from the state's or 5837
political subdivision's continued possession of the property 5838
against the risk that the property will be destroyed, damaged, 5839
lost, concealed, or transferred if returned to the claimant. The 5840
court shall consider in favor of release the possibility that 5841
withholding the property would prevent a legitimate business from 5842
functioning, prevent the person or an innocent person from 5843
maintaining employment, or leave the person or an innocent person 5844

homeless.

5845

(5) If the state or political subdivision shows that the person'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.

5846

5847

5848

5849

5850

5851

(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.

5852

5853

5854

5855

5856

5857

5858

5859

5860

(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.

5861

5862

5863

5864

5865

5866

5867

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, and 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, then the person shall dispose of the proceeds of the sale in the following order:

5868

5869

5870

5871

5872

5873

5874

(1) First, to the payment of the costs of the sale, excluding

5875

any associated attorney's fees, and to the payment of the costs 5876
incurred by law enforcement agencies and financial institutions in 5877
connection with the seizure, storage, and maintenance of, and 5878
provision of security for, the property; 5879

(2) Second, in the order of priority of the security 5880
interests and liens, to the payment of valid security interests 5881
and liens pertaining to the property that, at the time at which 5882
the state or political subdivision gains provisional title, are 5883
held by known secured parties and lienholders; 5884

(3) Third, to the court that has or would have jurisdiction 5885
in a case or proceeding under section 2981.04 or section 2981.05 5886
of the Revised Code for disposition under this chapter. 5887

(F) A prosecutor may file a forfeiture action under section 5888
2981.04 or 2981.05 of the Revised Code, or both. If property is 5889
seized pursuant to this section and a criminal forfeiture has not 5890
begun under section 2981.04 of the Revised Code, the prosecutor of 5891
the county in which the seizure occurred shall commence a civil 5892
action to forfeit that property under section 2981.05 of the 5893
Revised Code. 5894

If the property seized includes property alleged to be a 5895
mobile instrumentality or includes personal, business, or 5896
governmental records, the civil forfeiture action shall be brought 5897
within thirty days of seizure. Otherwise, the action shall be 5898
brought within sixty days of seizure. In either case, the period 5899
within which the action shall be brought may be extended by 5900
agreement of the parties or by the court for good cause shown. 5901

A prosecutor may file an appropriate charging instrument 5902
under section 2981.04 of the Revised Code to seek a criminal 5903
forfeiture after a civil forfeiture action begins. Filing a 5904
charging instrument for an offense that is also the basis of a 5905
civil forfeiture action shall stay the civil action. 5906

A civil action to obtain civil forfeiture may be commenced as described in section 2981.05 of the Revised Code regardless of whether the adult or juvenile offender 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 2941.1412 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 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 5937
this fact to the alleged offender or delinquent child under 5938
Criminal Rule 7(E) or Juvenile Rule 10(B). For good cause shown, 5939
the court may consider issues of the guilt of the alleged offender 5940
or the delinquency of the alleged delinquent child separate from 5941
whether property specified as subject to forfeiture should be 5942
forfeited. 5943

(B) If a person pleads guilty to or is convicted of an 5944
offense or is adjudicated a delinquent child for committing a 5945
delinquent act and the complaint, indictment, or information 5946
charging the offense or act contains a specification covering 5947
property subject to forfeiture under section 2981.02 of the 5948
Revised Code, the trier of fact shall determine whether the 5949
person's property shall be forfeited. If the state or political 5950
subdivision shows by proof beyond a reasonable doubt that the 5951
property is in whole or part subject to forfeiture under section 5952
2981.02 of the Revised Code, after a proportionality review under 5953
section 2981.08 of the Revised Code when relevant, the trier of 5954
fact shall return a verdict of forfeiture that specifically 5955
describes the extent of the property subject to forfeiture. If the 5956
trier of fact is a jury, on the offender's motion, the court shall 5957
make the determination of whether the property shall be forfeited. 5958

(C) If the court enters a verdict of forfeiture under this 5959
section, the court imposing sentence or disposition, in addition 5960
to any other sentence authorized by Chapter 2929. of the Revised 5961
Code or any disposition authorized by Chapter 2152. of the Revised 5962
Code, shall order that the offender or delinquent child forfeit to 5963
the state or political subdivision the offender's or delinquent 5964
child's interest in the property. The property vests with the 5965
state or political subdivision subject to the claims of third 5966
parties. The court may issue any additional order to affect the 5967
forfeiture, including, but not limited to, an order under section 5968

2981.06 of the Revised Code. 5969

(D) After the entry of a forfeiture order under this section, 5970
the prosecutor shall attempt to identify any person with an 5971
interest in the property subject to forfeiture by searching 5972
appropriate public records and making reasonably diligent 5973
inquiries. The prosecutor shall give notice of the forfeiture that 5974
remains subject to the claims of third parties and proposed 5975
disposal of the forfeited property to any person known to have an 5976
interest in the property. The prosecutor also shall publish notice 5977
of the forfeiture that remains subject to the claims of third 5978
parties and proposed disposal of the forfeited property once each 5979
week for two consecutive weeks in a newspaper of general 5980
circulation in the county in which the property was seized. 5981

(E)(1) Any person, other than the offender or delinquent 5982
child whose conviction or plea of guilty or delinquency 5983
adjudication is the basis of the forfeiture order, who asserts a 5984
legal interest in the property that is the subject of the order 5985
may petition the court that issued the order for a hearing under 5986
division (E)(3) of this section to adjudicate the validity of the 5987
person's alleged interest in the property. All of the following 5988
apply to the petition: 5989

(a) It shall be filed within thirty days after the final 5990
publication of notice or the person's receipt of notice under 5991
division (D) of this section. 5992

(b) It shall be signed by the petitioner under the penalties 5993
for falsification specified in section 2921.13 of the Revised 5994
Code. 5995

(c) It shall describe the nature and extent of the 5996
petitioner's interest in the property, the time and circumstances 5997
of the petitioner's acquisition of that interest, any additional 5998
facts supporting the petitioner's claim, and the relief sought. 5999

(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. 6000
6001
6002
6003
6004
6005
6006
6007
6008
6009
6010
6011
6012
6013
6014
6015
6016
6017
6018
6019
6020

(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. 6021
6022
6023

(c) Unless the prosecutor files a motion challenging the affidavit within ten days after its filing and unless the prosecuting 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 6024
6025
6026
6027
6028
6029
6030
6031

validity of the affiant's interest in the property.

6032

(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.

6033

6034

6035

(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.

6036

6037

6038

6039

6040

6041

6042

6043

6044

6045

6046

6047

6048

6049

6050

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.

6051

6052

6053

6054

6055

6056

6057

6058

6059

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

6060

6061

6062

in the forfeiture order.

6063

(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:

6064

6065

6066

6067

6068

(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.

6069

6070

6071

6072

6073

6074

6075

6076

6077

(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.

6078

6079

6080

6081

(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.

6082

6083

6084

6085

6086

(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 all property that is the subject of a forfeiture order
issued under this section and may warrant good title to any
subsequent purchaser or other transferee.

6087

6088

6089

6090

6091

6092

Sec. 2981.05. (A) The prosecutor of the political subdivision 6093
in which property described in division (A) of section 2981.02 of 6094
the Revised Code is located may commence a civil forfeiture action 6095
under this section by filing in the court of common pleas of the 6096
county in which the property is located a complaint requesting an 6097
order that forfeits the property to the state or a political 6098
subdivision. The filing shall be consistent with division (F) of 6099
section 2981.03 of the Revised Code. 6100

(B) Prior to or upon the commencement of a civil forfeiture 6101
action, the prosecutor shall attempt to identify any person with 6102
an interest in the property subject to forfeiture by searching 6103
appropriate public records and making reasonably diligent 6104
inquiries. The prosecutor shall give notice of the commencement of 6105
the civil action, together with a copy of the complaint, to each 6106
person who is reasonably known to have any interest in the 6107
property, by certified mail, return receipt requested, or by 6108
personal service. If no person with an interest in the property 6109
can be located, the prosecutor shall cause a similar notice to be 6110
published once each week for two consecutive weeks in a newspaper 6111
of general circulation in the county in which the property is 6112
located. 6113

(C) A person with an interest in the property subject to 6114
forfeiture may petition the court to release the property pursuant 6115
to division (D) of section 2981.03 of the Revised Code. The court 6116
shall consider the petition as provided in that section. If a 6117
timely petition for pretrial hardship release is not filed, or if 6118
a petition is filed but not granted, the person may file a claim 6119
for the release of the property under the Rules of Civil 6120
Procedure. The court shall dispose of any petitions timely filed 6121
under this division. 6122

(D) The court shall issue a civil forfeiture order if it 6123

determines that the prosecutor has proved by a preponderance of 6124
the evidence that the property is subject to forfeiture under 6125
section 2981.02 of the Revised Code, and, after a proportionality 6126
review under division (B) of section 2981.08 of the Revised Code 6127
when relevant, the trier of fact specifically describes the extent 6128
of the property to be forfeited. A civil forfeiture order shall 6129
state that all interest in the property in question of the adult 6130
or juvenile who committed the act that is the basis of the order 6131
is forfeited to the state or political subdivision and shall make 6132
due provision for the interest in that property of any other 6133
person, when appropriate under this section. The court may issue 6134
any additional order to affect the forfeiture, including, but not 6135
limited to, one or more orders under section 2981.06 of the 6136
Revised Code. 6137

(E) If the court disposes of all petitions timely filed under 6138
this section in favor of the state or political subdivision, the 6139
state or political subdivision shall have clear title to all 6140
property that is the subject of a forfeiture order under this 6141
section and may warrant good title to any subsequent purchaser or 6142
other transferee. 6143

Sec. 2981.06. (A) Upon the entry of a forfeiture order under 6144
section 2981.04 or 2981.05 of the Revised Code, if necessary, the 6145
court shall order an appropriate law enforcement officer to seize 6146
the forfeited property on conditions that the court considers 6147
proper. If necessary, the court shall order the person in 6148
possession of the property to deliver the property by a specific 6149
date to the law enforcement agency involved in the initial seizure 6150
of the property. The court shall deliver the order by personal 6151
service or certified mail. 6152

(B) With respect to property that is the subject of a 6153
forfeiture order issued under section 2981.04 or 2981.05 of the 6154

Revised Code, the court that issued the order, upon petition of 6155
the prosecutor who prosecuted the underlying offense or act or 6156
brought the civil forfeiture action, may do any of the following: 6157

(1) Enter any appropriate restraining orders or injunctions; 6158
require execution of satisfactory performance bonds; appoint 6159
receivers, conservators, appraisers, accountants, or trustees; or 6160
take any other action necessary to safeguard and maintain the 6161
forfeited property; 6162

(2) Authorize the payment of rewards to persons who provide 6163
information resulting in forfeiture of the property under this 6164
chapter from funds provided under division (F) of section 2981.12 6165
of the Revised Code; 6166

(3) Authorize the prosecutor to settle claims; 6167

(4) Restore forfeited property to victims and grant petitions 6168
for mitigation or remission of forfeiture; 6169

(5) Authorize a stay of the forfeiture order pending appeal 6170
or resolution of any claim to the property if requested by a 6171
person other than the defendant or a person acting in concert 6172
with, or on behalf of, the defendant. 6173

(C) To facilitate the identification and location of property 6174
that is the subject of a forfeiture order and to facilitate the 6175
disposition of petitions for remission or mitigation issued under 6176
this section, after the issuance of a forfeiture order and upon 6177
application by the prosecutor, the court, consistent with the 6178
Civil Rules, may order that the testimony of any witness relating 6179
to the forfeited property be taken by deposition and that any 6180
designated material that is not privileged be produced at the same 6181
time and place as the testimony. 6182

(D) The court shall order forfeiture of any other property of 6183
the offender up to the value of the unreachable property if any of 6184

the following describe any property subject to a forfeiture order 6185
under section 2981.04 or 2981.05 of the Revised Code: 6186

(1) It cannot be located through due diligence. 6187

(2) It has been transferred, sold, or deposited with a third 6188
party. 6189

(3) It has been placed beyond the jurisdiction of the court. 6190

(4) It has been substantially diminished in value or has been 6191
commingled with other property and cannot be divided without 6192
difficulty or undue injury to innocent persons. 6193

(E) After the state or political subdivision is granted clear 6194
title under section 2981.04 or 2981.05 of the Revised Code, the 6195
prosecutor shall direct disposition of the property pursuant to 6196
this chapter, making due provisions for the rights of innocent 6197
persons. 6198

(F) Any interest in property not exercisable by, or 6199
transferable for value to, the state or political subdivision 6200
shall expire and shall not revert to the offender who forfeited 6201
the property. The offender is not eligible to purchase the 6202
property at a sale under this chapter. 6203

(G) Any income accruing to or derived from forfeited property 6204
may be used to offset ordinary and necessary expenses related to 6205
the property that are required by law or necessary to protect the 6206
interest of the state, political subdivision, or third parties. 6207

Sec. 2981.07. (A) No person shall destroy, damage, remove, or 6208
transfer property that is subject to forfeiture or otherwise take 6209
any action in regard to property that is subject to forfeiture 6210
with purpose to do any of the following: 6211

(1) Prevent or impair the state's or political subdivision's 6212
lawful authority to take the property into its custody or control 6213

<u>under this chapter or to continue holding the property under its</u>	6214
<u>lawful custody or control;</u>	6215
<u>(2) Impair or defeat the court's continuing jurisdiction over</u>	6216
<u>the person and property;</u>	6217
<u>(3) Devalue property that the person knows, or has reasonable</u>	6218
<u>cause to believe, is subject to forfeiture proceedings under this</u>	6219
<u>chapter.</u>	6220
<u>(B)(1) Whoever violates this section is guilty of</u>	6221
<u>interference with or diminishing forfeitable property.</u>	6222
<u>(2) Except as otherwise provided in divisions (B)(3), (4),</u>	6223
<u>and (5) of this section, interference with or diminishing</u>	6224
<u>forfeitable property is a misdemeanor of the first degree.</u>	6225
<u>(3) If the value of the property is five hundred dollars or</u>	6226
<u>more but less than five thousand dollars, interference with or</u>	6227
<u>diminishing forfeitable property is a felony of the fifth degree.</u>	6228
<u>(4) If the value of the property is five thousand dollars or</u>	6229
<u>more but less than one hundred thousand dollars, interference with</u>	6230
<u>or diminishing forfeitable property is a felony of the fourth</u>	6231
<u>degree.</u>	6232
<u>(5) If the value of the property is one hundred thousand</u>	6233
<u>dollars or more, interference with or diminishing forfeitable</u>	6234
<u>property is a felony of the third degree.</u>	6235
<u>Sec. 2981.08.</u> (A) <u>Parties to a forfeiture action under this</u>	6236
<u>chapter have a right to trial by jury as follows:</u>	6237
<u>(1) In a criminal forfeiture action, the defendant has the</u>	6238
<u>right to trial by jury, but the state, political subdivision, and</u>	6239
<u>third parties do not have the right to trial by jury.</u>	6240
<u>(2) In a civil forfeiture action, both the defendant and the</u>	6241
<u>state or political subdivision have the right to trial by jury.</u>	6242

(B)(1) Property substantially connected to the offense is 6243
subject to forfeiture as an instrumentality under section 2981.04 6244
or 2981.05 of the Revised Code only if the amount of property is 6245
substantially proportionate to the severity of the offense. In 6246
determining substantial proportionality, the court shall consider 6247
the severity of the offense and the value of the property subject 6248
to forfeiture. 6249

(2) Contraband and any proceeds obtained from the offense are 6250
not subject to proportionality review under division (B) of this 6251
section. 6252

(3) In determining the severity of the offense for purposes 6253
of forfeiture, the court shall consider all relevant factors 6254
including, but not limited to, the following: 6255

(a) The seriousness of the offense and its impact on the 6256
community, including the duration of the activity and the harm 6257
caused or intended by the person whose property is subject to 6258
forfeiture; 6259

(b) The extent to which the person whose property is subject 6260
to forfeiture participated in the offense; 6261

(c) Whether the offense was completed or attempted. 6262

(4) In determining the value of the property that is subject 6263
to forfeiture, the court shall consider relevant factors 6264
including, but not limited to, the following: 6265

(a) The fair market value of the property; 6266

(b) The value of the property to the person whose property is 6267
subject to forfeiture, including hardship to the person or to 6268
innocent persons if the property were forfeited. 6269

Sec. 2981.11. (A)(1) Any property that has been lost, 6270
abandoned, stolen, seized pursuant to a search warrant, or 6271

otherwise lawfully seized or forfeited and that is in the custody 6272
of a law enforcement agency shall be kept safely by the agency, 6273
pending the time it no longer is needed as evidence or for another 6274
lawful purpose, and shall be disposed of pursuant to sections 6275
2981.12 and 2981.13 of the Revised Code. 6276

(2) This chapter does not apply to the custody and disposal 6277
of any of the following: 6278

(a) Vehicles subject to forfeiture under Title XLV of the 6279
Revised Code, except as provided in division (A)(6) of section 6280
2981.12 of the Revised Code; 6281

(b) Abandoned junk motor vehicles or other property of 6282
negligible value; 6283

(c) Property held by a department of rehabilitation and 6284
correction institution that is unclaimed, that does not have an 6285
identified owner, that the owner agrees to dispose of, or that is 6286
identified by the department as having little value; 6287

(d) Animals taken, and devices used in unlawfully taking 6288
animals, under section 1531.20 of the Revised Code; 6289

(e) Controlled substances sold by a peace officer in the 6290
performance of the officer's official duties under section 6291
3719.141 of the Revised Code; 6292

(f) Property recovered by a township law enforcement agency 6293
under sections 505.105 to 505.109 of the Revised Code; 6294

(g) Property held and disposed of under an ordinance of the 6295
municipal corporation or under sections 737.29 to 737.33 of the 6296
Revised Code, except that a municipal corporation that has 6297
received notice of a citizens' reward program as provided in 6298
division (F) of section 2981.12 of the Revised Code and disposes 6299
of property under an ordinance shall pay twenty-five per cent of 6300
the gains from any sale or auction to the citizens' reward 6301

program. 6302

(B)(1) Each law enforcement agency that has custody of any 6303
property that is subject to this section shall adopt and comply 6304
with a written internal control policy that does all of the 6305
following: 6306

(a) Provides for keeping detailed records as to the amount of 6307
property acquired by the agency and the date property was 6308
acquired; 6309

(b) Provides for keeping detailed records of the disposition 6310
of the property, which shall include, but not be limited to, all 6311
of the following: 6312

(i) The manner in which it was disposed, the date of 6313
disposition, detailed financial records concerning any property 6314
sold, and the name of any person who received the property. The 6315
record shall not identify or enable identification of the 6316
individual officer who seized any item of property. 6317

(ii) The general types of expenditures made with amounts that 6318
are gained from the sale of the property and that are retained by 6319
the agency, including the specific amount expended on each general 6320
type of expenditure, except that the policy shall not provide for 6321
or permit the identification of any specific expenditure that is 6322
made in an ongoing investigation. 6323

(c) Complies with section 2981.13 of the Revised Code if the 6324
agency has a law enforcement trust fund or similar fund created 6325
under that section. 6326

(2) Each law enforcement agency that during any calendar year 6327
has any seized or forfeited property covered by this section in 6328
its custody, including amounts distributed under section 2981.13 6329
of the Revised Code to its law enforcement trust fund or a similar 6330
fund created for the state highway patrol, department of public 6331

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.

6332
6333
6334
6335
6336
6337
6338

(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.

6339
6340
6341
6342
6343

(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.

6344
6345
6346
6347
6348
6349
6350
6351
6352
6353
6354

(C) A law enforcement agency with custody of property to be
disposed of under this section 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

6355
6356
6357
6358
6359
6360
6361
6362
6363

their right to it. 6364

(D) As used in sections 2981.11 to 2981.13 of the Revised Code: 6365
6366

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code. 6367
6368

(2) "Law enforcement agency" includes correctional institutions. 6369
6370

(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. 6371
6372
6373
6374

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: 6375
6376
6377
6378
6379
6380

(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. 6381
6382
6383
6384

(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. 6385
6386
6387
6388
6389
6390
6391
6392

(3) Obscene materials shall be destroyed. 6393

(4) Beer, intoxicating liquor, or alcohol seized from a 6394
person who does not hold a permit issued under Chapters 4301. and 6395
4303. of the Revised Code or otherwise forfeited to the state for 6396
an offense under section 4301.45 or 4301.53 of the Revised Code 6397
shall be sold by the division of liquor control if the division 6398
determines that it is fit for sale or shall be placed in the 6399
custody of the investigations unit in the department of public 6400
safety and be used for training relating to law enforcement 6401
activities. The department, with the assistance of the division of 6402
liquor control, shall adopt rules in accordance with Chapter 119. 6403
of the Revised Code to provide for the distribution to state or 6404
local law enforcement agencies upon their request. If any tax 6405
imposed under Title XLIII of the Revised Code has not been paid in 6406
relation to the beer, intoxicating liquor, or alcohol, the gains 6407
from the sale shall first be used to pay the tax. All other money 6408
collected under this division shall be paid into the state 6409
treasury. Any beer, intoxicating liquor, or alcohol that the 6410
division determines to be unfit for sale shall be destroyed. 6411

(5) Money received by an inmate of a correctional institution 6412
from an unauthorized source or in an unauthorized manner shall be 6413
returned to the sender, if known, or deposited in the inmates' 6414
industrial and entertainment fund of the institution if the sender 6415
is not known. 6416

(6)(a) Any mobile instrumentality forfeited under this 6417
chapter may be given to the law enforcement agency that initially 6418
seized the mobile instrumentality for use in performing its 6419
duties, if the agency wants the mobile instrumentality. The agency 6420
shall take the mobile instrumentality subject to any security 6421
interest or lien on the mobile instrumentality. 6422

(b) Vehicles and vehicle parts forfeited under sections 6423
4549.61 to 4549.63 of the Revised Code may be given to a law 6424
enforcement agency for use in performing its duties. Those parts 6425

may be incorporated into any other official vehicle. Parts that do 6426
not bear vehicle identification numbers or derivatives of them may 6427
be sold or disposed of as provided by rules of the director of 6428
public safety. Parts from which a vehicle identification number or 6429
derivative of it has been removed, defaced, covered, altered, or 6430
destroyed and that are not suitable for police work or 6431
incorporation into an official vehicle shall be destroyed and sold 6432
as junk or scrap. 6433

(7) Computers, computer networks, computer systems, and 6434
computer software suitable for police work may be given to a law 6435
enforcement agency for that purpose or disposed of under division 6436
(B) of this section. 6437

(B) Unclaimed or forfeited property that is not described in 6438
division (A) of this section or division (A)(2) of section 2981.11 6439
of the Revised Code, with court approval, may be used by the law 6440
enforcement agency in possession of it. If it is not used by the 6441
agency, it may be sold without appraisal at a public auction to 6442
the highest bidder for cash or disposed of in another manner that 6443
the court considers proper. 6444

(C) Except as provided in divisions (A) and (E) of this 6445
section and after compliance with division (D) of this section 6446
when applicable, the gains from property disposed of pursuant to 6447
this section shall be placed in the general fund of the state, the 6448
county, the township, or the municipal corporation of which the 6449
law enforcement agency involved is an agency. 6450

(D) If the property was in the possession of the law 6451
enforcement agency in relation to a delinquent child proceeding in 6452
a juvenile court, ten per cent of any gains from property disposed 6453
of under this section shall be applied to one or more alcohol and 6454
drug addiction treatment programs that are certified by the 6455
department of alcohol and drug addiction services under section 6456

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, 6489
identify the types of treatment services provided, and 6490
specifically account for how the money was used. No information in 6491
the report shall identify or enable a person to determine the 6492
identity of anyone served by the program. 6493

As used in this division, "juvenile-related forfeiture order" 6494
means any forfeiture order issued by a juvenile court under 6495
section 2981.04 or 2981.05 of the Revised Code and any disposal of 6496
property ordered by a court under section 2981.11 of the Revised 6497
Code regarding property that was in the possession of a law 6498
enforcement agency in relation to a delinquent child proceeding in 6499
a juvenile court. 6500

(F) Each board of county commissioners that recognizes a 6501
citizens' reward program under section 9.92 of the Revised Code 6502
shall notify each law enforcement agency of that county and of a 6503
township or municipal corporation wholly located in that county of 6504
the recognition by filing a copy of its resolution conferring that 6505
recognition with each of those agencies. When the board recognizes 6506
a citizens' reward program and the county includes a part, but not 6507
all, of the territory of a municipal corporation, the board shall 6508
so notify the law enforcement agency of that municipal corporation 6509
of the recognition of the citizens' reward program only if the 6510
county contains the highest percentage of the municipal 6511
corporation's population. 6512

Upon being so notified, each law enforcement agency shall pay 6513
twenty-five per cent of any forfeited proceeds or cash derived 6514
from each sale of property disposed of pursuant to this section to 6515
the citizens' reward program for use exclusively to pay rewards. 6516
No part of the funds may be used to pay expenses associated with 6517
the program. If a citizens' reward program that operates in more 6518
than one county or in another state in addition to this state 6519
receives funds under this section, the funds shall be used to pay 6520

rewards only for tips and information to law enforcement agencies 6521
concerning offenses committed in the county from which the funds 6522
were received. 6523

Receiving funds under this section or section 2981.11 of the 6524
Revised Code does not make the citizens' reward program a 6525
governmental unit or public office for purposes of section 149.43 6526
of the Revised Code. 6527

(G) Any property forfeited under this chapter shall not be 6528
used to pay any fine imposed upon a person who is convicted of or 6529
pleads guilty to an underlying criminal offense or a different 6530
offense arising out of the same facts and circumstances. 6531

Sec. 2981.13. (A) Except as otherwise provided in this 6532
section, property ordered forfeited as contraband, proceeds, or an 6533
instrumentality pursuant to this chapter shall be disposed of, 6534
used, or sold pursuant to section 2981.12 of the Revised Code. If 6535
the property is to be sold under that section, the prosecutor 6536
shall cause notice of the proposed sale to be given in accordance 6537
with law. 6538

(B) If the contraband or instrumentality forfeited under this 6539
chapter is sold, gains from a sale and any proceeds forfeited 6540
under this chapter shall be applied in the following order: 6541

(1) First, to pay costs incurred in the seizure, storage, 6542
maintenance, security, and sale of the property and in the 6543
forfeiture proceeding; 6544

(2) Second, in a criminal forfeiture case, to satisfy any 6545
restitution ordered to the victim of the offense or, in a civil 6546
forfeiture case, to satisfy any recovery ordered for the person 6547
harmed, unless paid from other assets; 6548

(3) Third, to pay the balance due on any security interest 6549
preserved under this chapter; 6550

(4) Fourth, apply the remaining amounts as follows: 6551

(a) If the forfeiture was ordered by a juvenile court, ten 6552
per cent to one or more certified alcohol and drug addiction 6553
treatment programs as provided in division (D) of section 2981.12 6554
of the Revised Code; 6555

(b) If the forfeiture was ordered in a juvenile court, ninety 6556
per cent, and if the forfeiture was ordered in a court other than 6557
a juvenile court, one hundred per cent to the law enforcement 6558
trust fund of the prosecutor and to the following fund supporting 6559
the law enforcement agency that substantially conducted the 6560
investigation: the law enforcement trust fund of the county 6561
sheriff, municipal corporation, township, or park district created 6562
under section 511.18 or 1545.01 of the Revised Code; the state 6563
highway patrol contraband, forfeiture, and other fund; the 6564
department of public safety investigative unit contraband, 6565
forfeiture, and other fund; the board of pharmacy drug law 6566
enforcement fund created by division (B)(1) of section 4729.65 of 6567
the Revised Code; the medicaid fraud investigation and prosecution 6568
fund; or the treasurer of state for deposit into the peace officer 6569
training commission fund if any other state law enforcement agency 6570
substantially conducted the investigation. In the case of property 6571
forfeited for medicaid fraud, any remaining amount shall be used 6572
by the attorney general to investigate and prosecute medicaid 6573
fraud offenses. 6574

If the prosecutor declines to accept any of the remaining 6575
amounts, the amounts shall be applied to the fund of the agency 6576
that substantially conducted the investigation. 6577

(c) If more than one law enforcement agency is substantially 6578
involved in the seizure of property forfeited under this chapter, 6579
the court ordering the forfeiture shall equitably divide the 6580
amounts, after calculating any distribution to the law enforcement 6581

trust fund of the prosecutor pursuant to division (B)(4) of this 6582
section, among the entities that the court determines were 6583
substantially involved in the seizure. 6584

(C)(1) A law enforcement trust fund shall be established by 6585
the prosecutor of each county who intends to receive any remaining 6586
amounts pursuant to this section, by the sheriff of each county, 6587
by the legislative authority of each municipal corporation, by the 6588
board of township trustees of each township that has a township 6589
police department, township police district police force, or 6590
office of the constable, and by the board of park commissioners of 6591
each park district created pursuant to section 511.18 or 1545.01 6592
of the Revised Code that has a park district police force or law 6593
enforcement department, for the purposes of this section. 6594

There is hereby created in the state treasury the state 6595
highway patrol contraband, forfeiture, and other fund, the 6596
department of public safety investigative unit contraband, 6597
forfeiture, and other fund, the medicaid fraud investigation and 6598
prosecution fund, and the peace officer training commission fund, 6599
for the purposes of this section. 6600

Amounts distributed to any municipal corporation, township, 6601
or park district law enforcement trust fund shall be allocated 6602
from the fund by the legislative authority only to the police 6603
department of the municipal corporation, by the board of township 6604
trustees only to the township police department, township police 6605
district police force, or office of the constable, and by the 6606
board of park commissioners only to the park district police force 6607
or law enforcement department. 6608

(2)(a) No amounts shall be allocated to a fund created under 6609
this section or used by an agency unless the agency has adopted a 6610
written internal control policy that addresses the use of moneys 6611
received from the appropriate fund. The appropriate fund shall be 6612

expended only in accordance with that policy and, subject to the 6613
requirements specified in this section, only for the following 6614
purposes: 6615

(i) To pay the costs of protracted or complex investigations 6616
or prosecutions; 6617

(ii) To provide reasonable technical training or expertise; 6618

(iii) To provide matching funds to obtain federal grants to 6619
aid law enforcement, in the support of DARE programs or other 6620
programs designed to educate adults or children with respect to 6621
the dangers associated with the use of drugs of abuse; 6622

(iv) To pay the costs of emergency action taken under section 6623
3745.13 of the Revised Code relative to the operation of an 6624
illegal methamphetamine laboratory if the forfeited property or 6625
money involved was that of a person responsible for the operation 6626
of the laboratory; 6627

(v) For other law enforcement purposes that the 6628
superintendent of the state highway patrol, department of public 6629
safety, prosecutor, county sheriff, legislative authority, board 6630
of township trustees, or board of park commissioners determines to 6631
be appropriate. 6632

(b) The board of pharmacy drug law enforcement fund shall be 6633
expended only in accordance with the written internal control 6634
policy so adopted by the board and only in accordance with section 6635
4729.65 of the Revised Code, except that it also may be expended 6636
to pay the costs of emergency action taken under section 3745.13 6637
of the Revised Code relative to the operation of an illegal 6638
methamphetamine laboratory if the forfeited property or money 6639
involved was that of a person responsible for the operation of the 6640
laboratory. 6641

(c) The state highway patrol contraband, forfeiture, and 6642

other fund, the department of public safety investigative unit 6643
contraband, forfeiture, and other fund, the board of pharmacy drug 6644
law enforcement fund, and a law enforcement trust fund shall not 6645
be used to meet the operating costs of the state highway patrol, 6646
of the investigative unit of the department of public safety, of 6647
the state board of pharmacy, of any political subdivision, or of 6648
any office of a prosecutor or county sheriff that are unrelated to 6649
law enforcement. 6650

(d) Forfeited moneys that are paid into the state treasury to 6651
be deposited into the peace officer training commission fund shall 6652
be used by the commission only to pay the costs of peace officer 6653
training. 6654

(3) Any of the following offices or agencies that receive 6655
amounts under this section during any calendar year shall file a 6656
report with the specified entity, not later than the thirty-first 6657
day of January of the next calendar year, verifying that the 6658
moneys were expended only for the purposes authorized by this 6659
section or other relevant statute and specifying the amounts 6660
expended for each authorized purpose: 6661

(a) Any sheriff or prosecutor shall file the report with the 6662
county auditor. 6663

(b) Any municipal corporation police department shall file 6664
the report with the legislative authority of the municipal 6665
corporation. 6666

(c) Any township police department, township police district 6667
police force, or office of the constable shall file the report 6668
with the board of township trustees of the township. 6669

(d) Any park district police force or law enforcement 6670
department shall file the report with the board of park 6671
commissioners of the park district. 6672

(e) The superintendent of the state highway patrol shall file the report with the attorney general. 6673
6674

(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. 6675
6676
6677
6678
6679

(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. 6680
6681
6682
6683
6684
6685

(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. 6686
6687
6688
6689
6690
6691
6692
6693
6694
6695
6696
6697
6698
6699
6700
6701
6702

The financial records kept under the internal control policy 6703

shall specify the amount deposited during each calendar year in 6704
the portion of that amount that was used pursuant to this 6705
division, and the programs in connection with which the portion of 6706
that amount was so used. 6707

As used in this division, "community preventive education 6708
programs" include, but are not limited to, DARE programs and other 6709
programs designed to educate adults or children with respect to 6710
the dangers associated with using drugs of abuse. 6711

(E) Upon the sale, under this section or section 2981.12 of 6712
the Revised Code, of any property that is required by law to be 6713
titled or registered, the state shall issue an appropriate 6714
certificate of title or registration to the purchaser. If the 6715
state is vested with title and elects to retain property that is 6716
required to be titled or registered under law, the state shall 6717
issue an appropriate certificate of title or registration. 6718

(F) Any failure of a law enforcement officer or agency, 6719
prosecutor, court, or the attorney general to comply with this 6720
section in relation to any property seized does not affect the 6721
validity of the seizure and shall not be considered to be the 6722
basis for suppressing any evidence resulting from the seizure, 6723
provided the seizure itself was lawful. 6724

Sec. 2981.14. (A) Nothing in this chapter precludes the head 6725
of a law enforcement agency that seizes property from seeking 6726
forfeiture under federal law. If the property is forfeitable under 6727
this chapter and federal forfeiture is not sought, the property is 6728
subject only to this chapter. 6729

(B) Any law enforcement agency that receives moneys from a 6730
sale of forfeited property under federal law shall deposit, use, 6731
and account for the amounts, including any interest derived, in 6732
accordance with applicable federal law. If the state highway 6733

patrol or the investigative unit of the department of public 6734
safety receives such federal forfeiture moneys, the appropriate 6735
official shall deposit all interest or other earnings derived from 6736
the investment of the moneys into the contraband, forfeiture, and 6737
other fund of the highway patrol or the department, whichever is 6738
appropriate. 6739

Sec. 3719.11. All controlled substances, the lawful 6740
possession of which is not established or the title to which 6741
cannot be ascertained, that have come into the custody of a peace 6742
officer, shall be forfeited pursuant to ~~sections 2923.44 to~~ 6743
~~2923.47, 2925.41 to 2925.45, 2933.41, or 2933.43~~ Chapter 2981. of 6744
the Revised Code, and, unless any such section provides for a 6745
different manner of disposition, shall be disposed of as follows: 6746

(A) The court or magistrate having jurisdiction shall order 6747
the controlled substances forfeited and destroyed. The agency 6748
served by the peace officer who obtained or took custody of the 6749
controlled substances may destroy them or may send them to the 6750
bureau of criminal identification and investigation for 6751
destruction by it. A record of the place where the controlled 6752
substances were seized, of the kinds and quantities of controlled 6753
substances so destroyed, and of the time, place, and manner of 6754
destruction, shall be kept, and a return under oath, reporting the 6755
destruction, shall be made by the officer who destroys them to the 6756
court or magistrate and to the United States director, bureau of 6757
narcotics and dangerous drugs. 6758

(B) Upon written application by the department of health, the 6759
court or magistrate that ordered the forfeiture of the controlled 6760
substances may order the delivery of any of them, except heroin 6761
and its salts and derivatives, to the department for distribution 6762
or destruction as provided in this section. 6763

(C) Upon application by any hospital within this state that 6764

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; 6794

(b) The peace officer who makes the sale determines that the 6795
sale is necessary in the performance of the officer's official 6796
duties; 6797

(c) Any of the following applies: 6798

(i) The person to whom the sale is made or any other person 6799
who is involved in the sale does not know that the officer who 6800
makes the sale is a peace officer, and the peace officer who makes 6801
the sale determines that the sale is necessary to prevent the 6802
person from determining or suspecting that the officer who makes 6803
the sale is a peace officer. 6804

(ii) The peace officer who makes the sale determines that the 6805
sale is necessary to preserve an identity that the peace officer 6806
who makes the sale has assumed in the performance of the officer's 6807
official duties. 6808

(iii) The sale involves a controlled substance that, during 6809
the course of another sale, was intercepted by the peace officer 6810
who makes the sale or any other peace officer who serves the same 6811
agency served by the peace officer who makes the sale; the 6812
intended recipient of the controlled substance in the other sale 6813
does not know that the controlled substance has been so 6814
intercepted; the sale in question is made to the intended 6815
recipient of the controlled substance in the other sale and is 6816
undertaken with the intent of obtaining evidence of a drug abuse 6817
offense against the intended recipient of the controlled 6818
substance; and the sale in question does not involve the transfer 6819
of any money or other thing of value to the peace officer who 6820
makes the sale or any other peace officer who serves the same 6821
agency served by the peace officer who makes the sale in exchange 6822
for the controlled substance. 6823

(d) If the sale is made under the circumstances described in 6824

division (A)(1)(c)(i) or (ii) of this section, no person is 6825
charged with any criminal offense or any delinquent act based upon 6826
the sale unless both of the following apply: 6827

(i) The person also is charged with a criminal offense or a 6828
delinquent act that is based upon an act or omission that is 6829
independent of the sale but that either is connected together with 6830
the sale, or constitutes a part of a common scheme or plan with 6831
the sale, or is part of a course of criminal conduct involving the 6832
sale. 6833

(ii) The criminal offense or delinquent act based upon the 6834
sale and the other criminal offense or delinquent act are charged 6835
in the same indictment, information, or complaint. 6836

(e) The sale is not part of a continuing course of conduct 6837
involving the sale of controlled substances by the peace officer 6838
who makes the sale. 6839

(f) The amount of the controlled substance sold and the scope 6840
of the sale of the controlled substance is as limited as possible 6841
under the circumstances. 6842

(g) Prior to the sale, the law enforcement agency served by 6843
the peace officer who makes the sale has adopted a written 6844
internal control policy that does all of the following: 6845

(i) Addresses the keeping of detailed records as to the 6846
amount of money or other things of value obtained in the sale in 6847
exchange for the controlled substance; 6848

(ii) Addresses the delivery of all moneys or things of value 6849
so obtained to the prosecuting attorney pursuant to division (D) 6850
of this section; 6851

(iii) Addresses the agency's use and disposition of all such 6852
moneys or things of value that are deposited in the law 6853
enforcement trust fund of the sheriff, municipal corporation, or 6854

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 6885
it and the proceeds as evidence to be used in a subsequent 6886
prosecution. 6887

(ii) The peace officer makes a reasonable, good faith effort 6888
to arrest the purchaser of the controlled substance and to recover 6889
the controlled substance and the proceeds of the sale, but the 6890
officer is unable to make the arrest and recover all of the 6891
controlled substance and proceeds for reasons beyond the officer's 6892
control, and the peace officer secures all of the controlled 6893
substance recovered and all of the proceeds recovered as evidence 6894
to be used in a subsequent prosecution. 6895

(B) The approval of a prosecuting attorney required by 6896
division (A)(1)(a) or (2)(a) of this section may be in either of 6897
the following forms: 6898

(1) A general approval that is given by the prosecuting 6899
attorney to the peace officer who makes the sale or to the law 6900
enforcement agency served by that peace officer, that grants 6901
approval only to that peace officer, and that grants approval for 6902
any such sale that may be necessary, after the approval has been 6903
granted, under the standards described in division (A)(1) or (2) 6904
of this section; 6905

(2) A specific approval that is given by the prosecuting 6906
attorney to the peace officer who makes the sale or to the law 6907
enforcement agency served by that peace officer, and that grants 6908
approval only to that peace officer and only for the particular 6909
sale in question, under the standards described in division (A)(1) 6910
or (2) of this section. 6911

(C) If a peace officer sells a controlled substance in the 6912
performance of the officer's official duties under division (A)(1) 6913
or (2) of this section, the peace officer, within a reasonable 6914
time after the sale, shall provide the prosecuting attorney who 6915

granted approval for the sale with a written summary that 6916
identifies the amount and type of controlled substance sold, the 6917
circumstances of the sale, and the amount of any money or other 6918
thing of value obtained in the sale in exchange for the controlled 6919
substance. The summary shall not identify or enable the 6920
identification of any peace officer involved in the sale and shall 6921
not contain any information that is or may be needed in an ongoing 6922
investigation. 6923

(D)(1) Except as provided in division (D)(2) of this section, 6924
if a peace officer sells a controlled substance in the performance 6925
of the officer's official duties under division (A)(1) or (2) of 6926
this section, the peace officer, as soon as possible after the 6927
sale, shall deliver all money or other things of value obtained in 6928
the sale in exchange for the controlled substance to the 6929
prosecuting attorney who granted approval for the sale. The 6930
prosecuting attorney shall safely keep all money and other things 6931
of value the prosecuting attorney receives under this division for 6932
use as evidence in any criminal action or delinquency proceeding 6933
based upon the sale. All money so received by a prosecuting 6934
attorney that no longer is needed as evidence in any criminal 6935
action or delinquency proceeding shall be deposited by the 6936
prosecuting attorney in the law enforcement trust fund of the 6937
sheriff if the peace officer who made the sale is the sheriff or a 6938
deputy sheriff or the law enforcement trust fund of a municipal 6939
corporation or township if it is served by the peace officer who 6940
made the sale, as established pursuant to section ~~2933.43~~ 2981.13 6941
of the Revised Code, and upon deposit shall be expended only as 6942
provided in that section. All other things of value so received by 6943
a prosecuting attorney that no longer are needed as evidence in 6944
any criminal action or delinquency proceeding shall be disposed 6945
of, without appraisal, at a public auction to the highest bidder 6946
for cash; the proceeds of the sale shall be deposited by the 6947

prosecuting attorney in the law enforcement trust fund of the 6948
sheriff if the peace officer who made the sale is the sheriff or a 6949
deputy sheriff or the law enforcement trust fund of a municipal 6950
corporation or township if it is served by the peace officer who 6951
made the sale, as established pursuant to section ~~2933.43~~ 2981.13 6952
of the Revised Code, and upon deposit shall be expended only as 6953
provided in that section. Each law enforcement agency that uses 6954
any money that was deposited in a law enforcement trust fund 6955
pursuant to this division shall comply with the written internal 6956
control policy adopted by the agency, as required by division 6957
(A)(1)(g) or (2)(b) of this section, in its use of the money. 6958

(2) Division (D)(1) of this section does not apply in 6959
relation to a peace officer who sells a controlled substance in 6960
the performance of the officer's official duties under division 6961
(A)(1) of this section in any of the following circumstances: 6962

(a) The person to whom the sale is made or any other person 6963
who is involved in the sale does not know that the officer is a 6964
peace officer, and, if the officer were to retain and deliver the 6965
money or other things of value to the prosecuting attorney, the 6966
person would determine or suspect that the officer is a peace 6967
officer. 6968

(b) If the officer were to retain and deliver the money or 6969
other things of value to the prosecuting attorney, an identity 6970
that has been assumed in the performance of the officer's official 6971
duties would not be preserved. 6972

(c) The sale is made under the circumstances described in 6973
division (A)(1)(c)(iii) of this section. 6974

(3) If division (D)(1) of this section does not apply in 6975
relation to a peace officer who sells a controlled substance in 6976
the performance of the officer's official duties under division 6977
(A)(1) of this section due to the operation of division (D)(2) of 6978

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 7042
of justice may sell a controlled substance in the performance of 7043
the officer's, agent's, or employee's official duties if the sale 7044
is made in accordance with federal statutes and regulations. 7045

(H) As used in this section, "peace officer" has the same 7046
meaning as in section 2935.01 of the Revised Code and also 7047
includes a special agent of the bureau of criminal identification 7048
and investigation. 7049

Sec. 3719.21. Except as provided in division (C) of section 7050
2923.42, division (B)~~(5)~~ of section 2923.44, divisions (D)(1), 7051
(F), and (H) of section 2925.03, division (D)(1) of section 7052
2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, 7053
division (F) of section 2925.13, division (F) of section 2925.36, 7054
division (D) of section 2925.22, division (H) of section 2925.23, 7055
division (M) of section 2925.37, division (B)~~(5)~~ of section 7056
2925.42, division (B) of section 2929.18, division (D) of section 7057
3719.99, division (B)(1) of section 4729.65, and division (E)(3) 7058
of section 4729.99 of the Revised Code, the clerk of the court 7059
shall pay all fines or forfeited bail assessed and collected under 7060
prosecutions or prosecutions commenced for violations of this 7061
chapter, section 2923.42 of the Revised Code, or Chapter 2925. of 7062
the Revised Code, within thirty days, to the executive director of 7063
the state board of pharmacy, and the executive director shall 7064
deposit the fines into the state treasury to the credit of the 7065
occupational licensing and regulatory fund. 7066

Sec. 3729.13. (A) A campsite user who enters into a campsite 7067
use agreement with a camp operator for the use of a campsite at a 7068
recreational vehicle park, recreation camp, combined park-camp, or 7069
temporary park-camp, at the expiration of the campsite use period 7070
under the agreement, shall remove from the campsite all of the 7071

campsite user's property and all property any other person placed 7072
on the campsite with the permission of the campsite user. If the 7073
campsite user fails to remove all of that property from the 7074
campsite within the five-consecutive-day period after the 7075
expiration of that campsite use period, all of the following 7076
apply: 7077

(1) The camp operator shall perform an inventory of the 7078
property that the campsite user did not remove from the campsite. 7079

(2) The camp operator may send a letter to the campsite user 7080
informing the campsite user that the campsite user has abandoned 7081
the property on the campsite in violation of the campsite use 7082
agreement and that the camp operator will commence an action for 7083
the seizure of the property if the campsite user does not remove 7084
the property from the campsite within ten days after the date on 7085
which the letter is mailed. 7086

(3) If the campsite user does not remove the property from 7087
the campsite within ten days after the date on which the letter 7088
described in division (A)(2) of this section is mailed, the camp 7089
operator may file an action for the seizure of the property that 7090
remains on the campsite in the municipal court or county court 7091
that has territorial jurisdiction over the park or camp. The 7092
complaint shall contain all of the following: 7093

(a) The name, address, and phone number of the campsite user 7094
that is in the campsite use agreement; 7095

(b) A description of the property that the campsite user has 7096
not removed from the campsite; 7097

(c) A demand that all of the property listed in the complaint 7098
be removed from the campsite within seven days after service of 7099
the complaint upon the campsite user; 7100

(d) A description of the procedure that will be followed if 7101
the campsite user does not remove the listed property within the 7102

seven-day period; 7103

(e) A statement that the campsite user shall pay to the clerk 7104
of the court the amount of the filing fees charged for the filing 7105
of the complaint, that the campsite user shall pay those fees 7106
prior to the campsite user's removal of the listed property from 7107
the campsite, and that if the campsite user fails to pay the 7108
amount of the filing fees the property may be sold to pay the 7109
filing fees. 7110

(4) When the camp operator files an action under division 7111
(A)(3) of this section, the clerk of the court shall issue a 7112
summons and a copy of the complaint pursuant to the Rules of Civil 7113
Procedure to the campsite user at the address provided in the 7114
campsite use agreement. 7115

(5) If the campsite user does not file an answer to the 7116
complaint filed under division (A)(3) of this section and remove 7117
all of the property listed in the complaint within seven days 7118
after service of the complaint upon the campsite user, the court 7119
shall do either of the following: 7120

(a) Issue an order authorizing the sheriff, another peace 7121
officer, or a bailiff to remove the property from the campsite and 7122
place it in storage; 7123

(b) Authorize the camp operator to seize the property and 7124
cause the issuance to the camp operator of a new certificate of 7125
title for the property if the property is a titled vehicle. 7126

(6) Upon the removal and storage of the property, the 7127
sheriff, peace officer, bailiff, or camp operator shall conduct or 7128
cause to be conducted a search of the appropriate public records 7129
that relate to the property and shall make or cause to be made 7130
reasonably diligent inquiries for the purpose of identifying 7131
persons who have any right, title, or interest in any of the 7132
property. Then, the sheriff, peace officer, bailiff, or camp 7133

operator may commence proceedings for the sale of the property. 7134
The sheriff, peace officer, bailiff, or camp operator shall send 7135
by certified mail, return receipt requested, a written notice of 7136
the date, time, and place of the sale to each person who, because 7137
of the conduct of the search, the making of inquiries, or 7138
otherwise, the sheriff, peace officer, bailiff, or camp operator 7139
believes has any right, title, or interest in the property. The 7140
sheriff, peace officer, bailiff, or camp operator shall send the 7141
notice to the last known address of each of those persons. 7142

(7) If the sheriff, peace officer, bailiff, or camp operator 7143
sells the property, the sheriff, peace officer, bailiff, or camp 7144
operator shall dispose of the proceeds of the sale in the 7145
following order: 7146

(a) The sheriff, peace officer, bailiff, or camp operator 7147
shall first pay the costs for any moving or any storage of the 7148
property, the costs of the sale, and any unpaid court costs 7149
assessed against the campsite user in the underlying action. 7150

(b) Following the payment required by division (A)(7)(a) of 7151
this section, the sheriff, peace officer, bailiff, or camp 7152
operator shall pay all other outstanding security interests, 7153
liens, or encumbrances on the property by priority of filing or 7154
other priority. 7155

(c) After complying with divisions (A)(7)(a) and (b) of this 7156
section, the sheriff, peace officer, bailiff, or camp operator 7157
shall transfer any remaining money to the owner of the property. 7158

(8) If the sheriff, peace officer, bailiff, or camp operator 7159
does not conduct a sale of the property, the sheriff, peace 7160
officer, bailiff, or camp operator shall dispose of the property 7161
in the following manner: 7162

(a) If the property is a motor vehicle or recreational 7163
vehicle, in accordance with the procedure in section 4513.61 or 7164

4513.63 of the Revised Code; 7165

(b) If the property is personal property, in accordance with 7166
the procedure in ~~section 2933.41~~ sections 2981.11 and 2981.12 of 7167
the Revised Code. 7168

(B) Upon collection from the campsite user, the municipal 7169
court or county court shall reimburse the filing fees to the camp 7170
operator. 7171

Sec. 3743.68. (A) The fire marshal, an assistant fire 7172
marshal, or a certified fire safety inspector may arrest, or may 7173
cause the arrest of, any person whom the fire marshal, assistant 7174
fire marshal, or certified fire safety inspector finds in the act 7175
of violating, or who the fire marshal, assistant fire marshal, or 7176
certified fire safety inspector has reasonable cause to believe 7177
has violated, sections 3743.60 to 3743.66 of the Revised Code. Any 7178
arrest shall be made in accordance with statutory and 7179
constitutional provisions governing arrests by law enforcement 7180
officers. 7181

(B) If the fire marshal, an assistant fire marshal, or 7182
certified fire safety inspector has probable cause to believe that 7183
fireworks are being manufactured, sold, possessed, transported, or 7184
used in violation of this chapter, the fire marshal, assistant 7185
fire marshal, or certified fire safety inspector may seize the 7186
fireworks. Any seizure of fireworks shall be made in accordance 7187
with statutory and constitutional provisions governing searches 7188
and seizures by law enforcement officers. The fire marshal's or 7189
certified fire safety inspector's office shall impound at the site 7190
or safely keep seized fireworks pending the time they are no 7191
longer needed as evidence. A sample of the seized fireworks is 7192
sufficient for evidentiary purposes. The remainder of the seized 7193
fireworks may be disposed of pursuant to an order from a court of 7194
competent jurisdiction after notice and a hearing. 7195

Fireworks manufactured, sold, possessed, transported, or used 7196
in violation of this chapter shall be forfeited by the violator. 7197
The fire marshal's or certified fire safety inspector's office 7198
shall dispose of seized fireworks pursuant to the procedures 7199
specified in ~~section 2933.41~~ sections 2911.11 to 2911.13 of the 7200
Revised Code for the disposal of forfeited property by law 7201
enforcement agencies, and the fire marshal or that office is not 7202
liable for claims for the loss of or damages to the seized 7203
fireworks. 7204

(C) This section does not affect the authority of a peace 7205
officer, as defined in section 2935.01 of the Revised Code, to 7206
make arrests for violations of this chapter or to seize fireworks 7207
manufactured, sold, possessed, transported, or used in violation 7208
of this chapter. 7209

(D) Any fines imposed for a violation of this chapter 7210
relating to the sale, purchase, possession, or discharge of 7211
fireworks shall be distributed in the following manner if a 7212
municipal corporation, county, or township either filed or 7213
enforced the complaint regarding the violation. One-half of the 7214
amount of the fine shall be distributed to the municipal 7215
corporation, county, or township which filed the complaint 7216
regarding the violation and one-half of the amount of the fine 7217
shall be distributed to the municipal corporation, county, or 7218
township which enforced the complaint. If the same municipal 7219
corporation, county, or township both filed the complaint 7220
regarding the violation and enforced the complaint, the entire 7221
amount of the fine shall be distributed to that municipal 7222
corporation, county, or township. 7223

Sec. 3745.13. (A) When emergency action is required to 7224
protect the public health or safety or the environment, any person 7225
responsible for causing or allowing an unauthorized spill, 7226

release, or discharge of material into or upon the environment or 7227
responsible for the operation of an illegal methamphetamine 7228
manufacturing laboratory that has caused contamination of the 7229
environment is liable to the municipal corporation, county, 7230
township, countywide emergency management agency established under 7231
section 5502.26 of the Revised Code, regional authority for 7232
emergency management established under section 5507.27 of the 7233
Revised Code, or emergency management program established by a 7234
political subdivision under section 5502.271 of the Revised Code, 7235
having territorial jurisdiction, or responsibility for emergency 7236
management activities in the location of the spill, release, 7237
discharge, or contamination, for the necessary and reasonable, 7238
additional or extraordinary costs it incurs in investigating, 7239
mitigating, minimizing, removing, or abating the spill, release, 7240
discharge, or contamination, in the course of its emergency 7241
action, but, to the extent criteria and methods for response 7242
actions prescribed under 40 C.F.R. 300, as amended, may be applied 7243
to the type of material involved and the conditions of the spill, 7244
release, discharge, or contamination, that person is liable for 7245
those costs only if the political subdivision, countywide agency, 7246
or regional authority employed those criteria and methods in its 7247
emergency action. 7248

The officers of the municipal corporation, county, township, 7249
countywide emergency management agency, or regional authority for 7250
emergency management performing the emergency action shall keep a 7251
detailed record of its costs for investigating, mitigating, 7252
minimizing, removing, or abating the unauthorized spill, release, 7253
discharge, or contamination; promptly after the completion of 7254
those measures, shall certify those costs to the city director of 7255
law or village solicitor, as appropriate, of the municipal 7256
corporation, the prosecuting attorney of the county in the case of 7257
a county, township, or countywide emergency management agency, or 7258
the legal counsel retained thereby in the case of a regional 7259

authority for emergency management; and may request that the legal 7260
officer or counsel bring a civil action for recovery of costs 7261
against the person responsible for the unauthorized spill, 7262
release, or discharge or responsible for the operation of the 7263
illegal methamphetamine manufacturing laboratory that caused 7264
contamination of the environment. If the officers request that the 7265
legal officer or counsel bring such a civil action regarding 7266
emergency action taken in relation to the operation of an illegal 7267
methamphetamine manufacturing laboratory that has caused 7268
contamination of the environment, the legal officer or counsel 7269
also may pursue a forfeiture proceeding against the responsible 7270
person under ~~sections 2923.31 to 2923.36, 2923.44 to 2923.47,~~ 7271
~~sections 2925.41 to 2925.45, or sections 2933.42 to 2933.43~~ 7272
Chapter 2981. of the Revised Code, or in any other manner 7273
authorized by law. 7274

The legal officer or counsel shall submit a written, itemized 7275
claim for the total certified costs incurred by the municipal 7276
corporation, county, township, countywide agency, or regional 7277
authority for the emergency action to the responsible party and a 7278
written demand that those costs be paid to the political 7279
subdivision, countywide agency, or regional authority. Not less 7280
than thirty days before bringing a civil action for recovery of 7281
those costs, the legal officer or counsel shall mail written 7282
notice to the responsible party informing the responsible party 7283
that, unless the total certified costs are paid to the political 7284
subdivision, countywide agency, or regional authority within 7285
thirty days after the date of mailing of the notice, the legal 7286
officer or counsel will bring a civil action for that amount. 7287
Except for emergency action taken in relation to the operation of 7288
an illegal methamphetamine manufacturing laboratory that has 7289
caused contamination of the environment, in making a determination 7290
of an award for reimbursement, the responsible party's status as a 7291

taxpayer to the governmental entity shall be taken into 7292
consideration. Nothing in this section prevents a political 7293
subdivision, countywide emergency management agency, or regional 7294
authority for emergency management from entering into a settlement 7295
of a claim against a responsible party that compromises the amount 7296
of the claim. Moneys recovered as described in this section shall 7297
be credited to the appropriate funds of the political subdivision, 7298
countywide agency, or regional authority from which moneys were 7299
expended in performing the emergency action. 7300

(B) As used in this section: 7301

(1) "Methamphetamine" means methamphetamine, any salt, 7302
isomer, or salt of an isomer of methamphetamine, or any compound, 7303
mixture, preparation, or substance containing methamphetamine or 7304
any salt, isomer, or salt of an isomer of methamphetamine. 7305

(2) "Illegal methamphetamine manufacturing laboratory" means 7306
any laboratory or other premises that is used for the manufacture 7307
or production of methamphetamine in violation of section 2925.04 7308
of the Revised Code, whether or not there has been a prior 7309
conviction of that violation. 7310

Sec. 4301.29. (A) Whenever the department of public safety 7311
seizes beer or intoxicating liquor, the department shall destroy 7312
or distribute the beer or intoxicating liquor, in accordance with 7313
division (D)(4) of ~~section 2933.41~~ sections 2981.11 to 2981.13 of 7314
the Revised Code. 7315

(B)(1) In case of any seizure of beer or intoxicating liquor 7316
under execution of any judgment rendered against the holder of a 7317
permit, in relation to the foreclosure of any lien on any beer or 7318
intoxicating liquor belonging to a holder of a permit, in relation 7319
to the insolvency or bankruptcy of a holder of a permit, or in any 7320
other case in which judicial process is employed to subject any 7321

beer or intoxicating liquor belonging to or in the possession of 7322
the holder of a permit to any claim, the person seizing the beer 7323
or intoxicating liquor or the person's designee may sell it, 7324
subject to division (B)(2) of this section, after obtaining the 7325
written consent of the division of liquor control. Proceeds from 7326
the sale of the beer or intoxicating liquor shall be paid in 7327
accordance with the applicable law and the orders of the court 7328
issuing the process. 7329

(2) Beer or intoxicating liquor that is sold under division 7330
(B)(1) of this section shall not be sold to or purchased by the 7331
holder of a liquor permit, an applicant for a liquor permit, or 7332
any other business. 7333

Sec. 4301.45. When any law enforcement officer discovers any 7334
person in the act of transporting in violation of law beer or 7335
intoxicating liquors in any wagon, buggy, automobile, watercraft, 7336
aircraft, or other vehicle, ~~he~~ the officer shall seize all beer or 7337
intoxicating liquors found therein being transported contrary to 7338
law. Whenever beer or intoxicating liquors transported or 7339
possessed illegally are seized by a law enforcement officer, the 7340
officer shall take possession of the vehicle and team, or 7341
automobile, boat, watercraft, aircraft, or any other conveyance, 7342
and shall arrest any person in charge thereof. The law enforcement 7343
officer shall at once proceed against the person arrested under 7344
Chapters 4301. and 4303. of the Revised Code, in any court having 7345
jurisdiction of offenses under those chapters, but the vehicle or 7346
conveyance shall be returned to the owner upon execution by ~~him~~ 7347
the owner of a valid bond with sufficient sureties, in a sum equal 7348
to the value of the property, which bond shall be approved by the 7349
law enforcement officer and shall be conditioned to return said 7350
property to the custody of said officer on the day of trial to 7351
abide by the judgment of the court. The court, upon conviction of 7352

the person so arrested, shall order the beer or intoxicating 7353
liquor that was not illegally manufactured to be forfeited to the 7354
state and disposed of under ~~section 2933.41~~ sections 2981.11 to 7355
2981.13 of the Revised Code, and unless good cause to the contrary 7356
is shown by the owner, shall order a sale at public auction of the 7357
property seized, and the officer making the sale, after deducting 7358
the expenses of keeping the property, the fee for the seizure, and 7359
the cost of the sale, shall pay all liens, according to their 7360
priorities, which are established, by intervention or otherwise at 7361
said hearing or in other proceeding brought for said purpose, as 7362
being bona fide and as having been created without the lienor 7363
having any notice that the carrying vehicle was being used or was 7364
to be used for illegal transportation of beer or intoxicating 7365
liquor, and shall distribute the balance as money arising from 7366
fines and forfeited bonds under such chapters is distributed. The 7367
court, upon conviction of the person so arrested, shall order the 7368
beer or intoxicating liquor that was illegally manufactured to be 7369
destroyed. 7370

All liens against property sold under this section shall be 7371
transferred from the property to the proceeds of the sale of the 7372
property. If no claimant is found for the team, vehicle, 7373
watercraft, aircraft, automobile, or other conveyance, the taking 7374
of the same, with its description, shall be advertised in some 7375
newspaper published in the city or county where taken, or if there 7376
is no newspaper published in such city or county, in a newspaper 7377
having circulation in the county, once a week for four weeks and 7378
by handbills posted in three public places near the place of 7379
seizure, and if no claimant appears within ten days after the last 7380
publication of the advertisement, the property shall be sold and 7381
the proceeds after deducting the expense and costs shall be 7382
distributed as if there were a claimant for said vehicle or 7383
conveyance. 7384

Sec. 4301.53. The judge of a court of record may issue 7385
warrants to search a house, building, place, vehicle, watercraft, 7386
aircraft, or conveyance for beer, alcohol, or intoxicating liquor 7387
manufactured, possessed, stored, concealed, sold, furnished, given 7388
away, or transported in violation of Chapters 4301. and 4303. of 7389
the Revised Code, and the containers in which the same is found, 7390
or machinery, tools, implements, equipment, supplies, and 7391
materials used or kept for use in manufacturing beer or 7392
intoxicating liquor in violation of those chapters, and to seize 7393
any of that property and things found in it, together with the 7394
vehicle, watercraft, aircraft, or conveyance in which the same is 7395
found. The issuance of those warrants is subject in all respects 7396
to sections 2933.22 to 2933.27 of the Revised Code; except that 7397
any such vehicle, watercraft, aircraft, or other conveyance shall 7398
be returned to its owner upon execution by the owner of a bond 7399
with surety to the satisfaction of the enforcement agent of the 7400
department of public safety or other law enforcement officer 7401
making the seizure in an equal amount to its value, conditioned 7402
upon its return to the custody of such agent or officer on the day 7403
of trial to abide by the judgment of the court. Upon conviction of 7404
any violation of Chapters 4301. and 4303. of the Revised Code, any 7405
property found in the possession of the person convicted or the 7406
person's agent or employee shall be disposed of as provided in 7407
section 4301.45 of the Revised Code. If the accused is discharged 7408
by the judge or magistrate, such vehicle, watercraft, aircraft, or 7409
other conveyance shall be returned to its owner, and any bond 7410
given pursuant to this section shall be canceled. If the accused 7411
is the holder of a permit issued under Chapters 4301. and 4303. of 7412
the Revised Code, any beer, intoxicating liquor, or alcohol seized 7413
shall be disposed of as provided in section 4301.29 of the Revised 7414
Code, and any other property seized shall be returned to its owner 7415
by the officer having the custody or possession of such property. 7416

If the accused is not the holder of such a permit in force at the 7417
time, any beer, intoxicating liquor, or alcohol that was not 7418
illegally manufactured shall be forfeited to the state and shall 7419
forthwith be disposed of under ~~section 2933.41~~ sections 2981.11 to 7420
2981.13 of the Revised Code. Illegally manufactured beer, 7421
intoxicating liquor, or alcohol, and other property, except as 7422
provided in this section, shall be destroyed, and any such beer, 7423
intoxicating liquor, or alcohol, or other property is hereby 7424
declared to be a public nuisance. 7425

Sec. 4305.13. (A) If the tax commissioner finds that any 7426
permit holder, liable for tax under Chapter 4301., 4305., or 4307. 7427
of the Revised Code, is about to depart from the state, remove the 7428
permit holder's property from the state, conceal the permit 7429
holder's self or property, or do any other act tending to 7430
prejudice, obstruct, or render wholly or partially ineffectual 7431
proceedings to collect the tax, unless the proceedings are 7432
commenced without delay, or if the commissioner believes that the 7433
collection of the amount due from any permit holder will be 7434
jeopardized by delay, the commissioner may issue a jeopardy 7435
assessment against the permit holder for the amount of the tax, 7436
plus a penalty of up to thirty per cent. Upon issuance of a 7437
jeopardy assessment under this division, the total amount assessed 7438
shall immediately be due and payable unless security is provided 7439
pursuant to division (C) of this section. Any assessment issued 7440
under this section shall bear interest as prescribed by section 7441
4305.131 of the Revised Code. 7442

(B) The commissioner immediately shall file an entry with the 7443
clerk of the court of common pleas in the same manner and with the 7444
same effect as provided in section 4305.131 of the Revised Code. 7445
Notice of the jeopardy assessment shall be served on the permit 7446
holder assessed or the permit holder's legal representative, as 7447
provided in section 5703.37 of the Revised Code, within five days 7448

of the filing of the entry. The permit holder assessed may 7449
petition for reassessment within sixty days of receipt of the 7450
notice of jeopardy assessment in the same manner as provided in 7451
section 4305.131 of the Revised Code. Full or partial payment of 7452
the assessment shall not prejudice the commissioner's 7453
consideration of the merits of the assessment as contested by the 7454
petition for reassessment. Upon notification of the existence of 7455
the judgment filed pursuant to this division, any public official 7456
having control or custody of any funds or property of the person 7457
assessed immediately shall pay or deliver the funds or property to 7458
the commissioner as full or partial satisfaction of the jeopardy 7459
assessment. However, funds or property needed as evidence in 7460
criminal proceedings or that is expected to be forfeited pursuant 7461
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 7462
Revised Code need not be relinquished by the public official. Upon 7463
disposition of criminal and forfeiture proceedings, funds and 7464
property not needed as evidence and not forfeited shall be 7465
delivered to the commissioner. 7466

(C) If the permit holder subject to a jeopardy assessment 7467
files a petition for reassessment and posts security satisfactory 7468
to the commissioner in an amount sufficient to satisfy the unpaid 7469
balance of the assessment, execution on the judgment shall be 7470
stayed pending disposition of the petition for reassessment and 7471
all appeals resulting from the petition. If the security is 7472
sufficient to satisfy the full amount of the assessment, the 7473
commissioner shall return any funds or property of the permit 7474
holder previously seized. Upon satisfaction of the assessment the 7475
commissioner shall order the security released and the judgment 7476
vacated. 7477

(D) The commissioner may adopt rules providing for the 7478
imposition and remission of penalties added to assessments under 7479
this section. 7480

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 7511
that owns the place, or the authorized agent of that private 7512
entity or person, has given express written consent for the 7513
immobilization to be carried out at that place. 7514

(iv) The place is a public street or highway on which the 7515
vehicle is parked in accordance with the law. 7516

(c) The person or agency designated by the court to execute 7517
the order, which shall be either the law enforcement agency that 7518
employs the law enforcement officer who seized the vehicle, a 7519
bailiff of the court, another person the court determines to be 7520
appropriate to execute the order, or the law enforcement agency 7521
with jurisdiction over the place of residence of the vehicle 7522
owner; 7523

(d) That neither the registrar nor a deputy registrar will be 7524
permitted to accept an application for the license plate 7525
registration of any motor vehicle in the name of the vehicle owner 7526
until the immobilization fee is paid. 7527

(2) The person or agency the court designates to immobilize 7528
the vehicle shall seize or retain that vehicle's license plates 7529
and forward them to the bureau of motor vehicles. 7530

(3) In all cases, the offender shall be assessed an 7531
immobilization fee of one hundred dollars, and the immobilization 7532
fee shall be paid to the registrar before the vehicle may be 7533
released to the offender. Neither the registrar nor a deputy 7534
registrar shall accept an application for the registration of any 7535
motor vehicle in the name of the offender until the immobilization 7536
fee is paid. 7537

(4) If the vehicle subject to the order is immobilized 7538
pursuant to the order and is found being operated upon any street 7539
or highway in this state during the immobilization period, it 7540
shall be seized, removed from the street or highway, and 7541

criminally forfeited and disposed of pursuant to section 4503.234 7542
of the Revised Code. 7543

(5) The registrar shall deposit the immobilization fee into 7544
the law enforcement reimbursement fund created by section 4501.19 7545
of the Revised Code. Money in the fund shall be expended only as 7546
provided in division (A)(5) of this section. If the court 7547
designated in the order a court bailiff or another appropriate 7548
person other than a law enforcement officer to immobilize the 7549
vehicle, the amount of the fee deposited into the law enforcement 7550
reimbursement fund shall be paid out to the county treasury if the 7551
court that issued the order is a county court, to the treasury of 7552
the municipal corporation served by the court if the court that 7553
issued the order is a mayor's court, or to the city treasury of 7554
the legislative authority of the court, both as defined in section 7555
1901.03 of the Revised Code, if the court that issued the order is 7556
a municipal court. If the court designated a law enforcement 7557
agency to immobilize the vehicle and if the law enforcement agency 7558
immobilizes the vehicle, the amount of the fee deposited into the 7559
law enforcement reimbursement fund shall be paid out to the law 7560
enforcement agency to reimburse the agency for the costs it incurs 7561
in obtaining immobilization equipment and, if required, in sending 7562
an officer or other person to search for and locate the vehicle 7563
specified in the immobilization order and to immobilize the 7564
vehicle. 7565

In addition to the immobilization fee required to be paid 7566
under division (A)(3) of this section, the offender may be charged 7567
expenses or charges incurred in the removal and storage of the 7568
immobilized vehicle. 7569

(B) If a court issues an immobilization order under division 7570
(A)(1) of this section, the person or agency designated by the 7571
court to execute the immobilization order promptly shall 7572
immobilize or continue the immobilization of the vehicle at the 7573

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 7606
under this provision shall be considered contraband for purposes 7607
of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981. of the 7608
Revised Code, but shall be held by the law enforcement agency that 7609
employs the officer who seized it for disposal in accordance with 7610
section 4503.234 of the Revised Code. 7611

(3) If a court issues an immobilization order under division 7612
(A) of this section, and if the vehicle is not claimed within 7613
seven days after the end of the period of immobilization or if the 7614
offender has not paid the immobilization fee, the person or agency 7615
that immobilized the vehicle shall send a written notice to the 7616
offender at the offender's last known address informing the 7617
offender of the date on which the period of immobilization ended, 7618
that the offender has twenty days after the date of the notice to 7619
pay the immobilization fee and obtain the release of the vehicle, 7620
and that if the offender does not pay the fee and obtain the 7621
release of the vehicle within that twenty-day period, the vehicle 7622
will be forfeited under section 4503.234 of the Revised Code to 7623
the entity that is entitled to the immobilization fee. 7624

(4) An offender whose motor vehicle is subject to an 7625
immobilization order issued under division (A) of this section 7626
shall not sell the motor vehicle without approval of the court 7627
that issued the order. If such an offender wishes to sell the 7628
motor vehicle during the immobilization period, the offender shall 7629
apply to the court that issued the immobilization order for 7630
permission to assign the title to the vehicle. If the court is 7631
satisfied that the sale will be in good faith and not for the 7632
purpose of circumventing the provisions of division (A)(1) of this 7633
section, it may certify its consent to the offender and to the 7634
registrar. Upon receipt of the court's consent, the registrar 7635
shall enter the court's notice in the offender's vehicle license 7636
plate registration record. 7637

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 7670
entity entitled to the immobilization fee under division (A)(5) of 7671
this section, next into the name of a lienholder, or lastly, into 7672
the name of the owner of the place of storage. 7673

A lienholder that receives title under a court order shall do 7674
so on the condition that it pay any expenses or charges incurred 7675
in the vehicle's removal and storage. If the entity that receives 7676
title to the vehicle is the entity that is entitled to the 7677
immobilization fee under division (A)(5) of this section, it shall 7678
receive title on the condition that it pay any lien on the 7679
vehicle. The court shall not order that title be transferred to 7680
any person or entity other than the owner of the place of storage 7681
if the person or entity refuses to receive the title. Any person 7682
or entity that receives title may either keep title to the vehicle 7683
or may dispose of the vehicle in any legal manner that it 7684
considers appropriate, including assignment of the certificate of 7685
title to the motor vehicle to a salvage dealer or a scrap metal 7686
processing facility. The person or entity shall not transfer the 7687
vehicle to the person who is the vehicle's immediate previous 7688
owner. 7689

If the person or entity assigns the motor vehicle to a 7690
salvage dealer or scrap metal processing facility, the person or 7691
entity shall send the assigned certificate of title to the motor 7692
vehicle to the clerk of the court of common pleas of the county in 7693
which the salvage dealer or scrap metal processing facility is 7694
located. The person or entity shall mark the face of the 7695
certificate of title with the words "FOR DESTRUCTION" and shall 7696
deliver a photocopy of the certificate of title to the salvage 7697
dealer or scrap metal processing facility for its records. 7698

(2) Whenever a court issues an order under division (E)(1) of 7699
this section, the court also shall order removal of the license 7700
plates from the vehicle and cause them to be sent to the registrar 7701

if they have not already been sent to the registrar. Thereafter, 7702
no further proceedings shall take place under this section, but 7703
the offender remains liable for payment of the immobilization fee 7704
described in division (A)(3) of this section if an immobilization 7705
order previously had been issued by the court. 7706

(3) Prior to initiating a proceeding under division (E)(1) of 7707
this section, and upon payment of the fee under division (B) of 7708
section 4505.14 of the Revised Code, any interested party may 7709
cause a search to be made of the public records of the bureau of 7710
motor vehicles or the clerk of the court of common pleas, to 7711
ascertain the identity of any lienholder of the vehicle. The 7712
initiating party shall furnish this information to the clerk of 7713
the court with jurisdiction over the case, and the clerk shall 7714
provide notice to the vehicle owner, the defendant, any 7715
lienholder, and any other interested parties listed by the 7716
initiating party, at the last known address supplied by the 7717
initiating party, by certified mail or, at the option of the 7718
initiating party, by personal service or ordinary mail. 7719

As used in this section, "interested party" includes the 7720
offender, all lienholders, the owner of the place of storage, the 7721
person or entity that caused the vehicle to be removed, and the 7722
person or entity, if any, entitled to the immobilization fee under 7723
division (A)(5) of this section. 7724

Sec. 4503.234. (A) If a court is required by section 7725
4503.233, 4503.236, 4510.11, 4510.14, 4510.16, 4510.41, 4511.19, 7726
4511.193, or 4511.203 of the Revised Code to order the criminal 7727
forfeiture of a vehicle, the order shall be issued and enforced in 7728
accordance with this division, subject to division (B) of this 7729
section. An order of criminal forfeiture issued under this 7730
division shall authorize an appropriate law enforcement agency to 7731
seize the vehicle ordered criminally forfeited upon the terms and 7732

conditions that the court determines proper. No vehicle ordered 7733
criminally forfeited pursuant to this division shall be considered 7734
contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~ 7735
Chapter 2981. of the Revised Code, but the law enforcement agency 7736
that employs the officer who seized it shall hold the vehicle for 7737
disposal in accordance with this section. A forfeiture order may 7738
be issued only after the offender has been provided with an 7739
opportunity to be heard. The prosecuting attorney shall give the 7740
offender written notice of the possibility of forfeiture by 7741
sending a copy of the relevant uniform traffic ticket or other 7742
written notice to the offender not less than seven days prior to 7743
the date of issuance of the forfeiture order. A vehicle is subject 7744
to an order of criminal forfeiture pursuant to this division upon 7745
the conviction of the offender of or plea of guilty by the 7746
offender to a violation of division (A) of section 4503.236, 7747
section 4510.11, 4510.14, 4510.16, or 4511.203, or division (A) of 7748
section 4511.19 of the Revised Code, or a municipal ordinance that 7749
is substantially equivalent to any of those sections or divisions. 7750

(B)(1) Prior to the issuance of an order of criminal 7751
forfeiture pursuant to this section, the law enforcement agency 7752
that employs the law enforcement officer who seized the vehicle 7753
shall conduct or cause to be conducted a search of the appropriate 7754
public records that relate to the vehicle and shall make or cause 7755
to be made reasonably diligent inquiries to identify any 7756
lienholder or any person or entity with an ownership interest in 7757
the vehicle. The court that is to issue the forfeiture order also 7758
shall cause a notice of the potential order relative to the 7759
vehicle and of the expected manner of disposition of the vehicle 7760
after its forfeiture to be sent to any lienholder or person who is 7761
known to the court to have any right, title, or interest in the 7762
vehicle. The court shall give the notice by certified mail, return 7763
receipt requested, or by personal service. 7764

(2) No order of criminal forfeiture shall be issued pursuant 7765
to this section if a lienholder or other person with an ownership 7766
interest in the vehicle establishes to the court, by a 7767
preponderance of the evidence after filing a motion with the 7768
court, that the lienholder or other person neither knew nor should 7769
have known after a reasonable inquiry that the vehicle would be 7770
used or involved, or likely would be used or involved, in the 7771
violation resulting in the issuance of the order of criminal 7772
forfeiture or the violation of the order of immobilization issued 7773
under section 4503.233 of the Revised Code, that the lienholder or 7774
other person did not expressly or impliedly consent to the use or 7775
involvement of the vehicle in that violation, and that the lien or 7776
ownership interest was perfected pursuant to law prior to the 7777
seizure of the vehicle under section 4503.236, 4510.41, 4511.195, 7778
or 4511.203 of the Revised Code. If the lienholder or holder of 7779
the ownership interest satisfies the court that these criteria 7780
have been met, the court shall preserve the lienholder's or other 7781
person's lien or interest, and the court either shall return the 7782
vehicle to the holder, or shall order that the proceeds of any 7783
sale held pursuant to division (C)(2) of this section be paid to 7784
the lienholder or holder of the interest less the costs of 7785
seizure, storage, and maintenance of the vehicle. The court shall 7786
not return a vehicle to a lienholder or a holder of an ownership 7787
interest unless the lienholder or holder submits an affidavit to 7788
the court that states that the lienholder or holder will not 7789
return the vehicle to the person from whom the vehicle was seized 7790
pursuant to the order of criminal forfeiture or to any member of 7791
that person's family and will not otherwise knowingly permit that 7792
person or any member of that person's family to obtain possession 7793
of the vehicle. 7794

(3) No order of criminal forfeiture shall be issued pursuant 7795
to this section if a person with an interest in the vehicle 7796

establishes to the court, by a preponderance of the evidence after 7797
filing a motion with the court, that the person neither knew nor 7798
should have known after a reasonable inquiry that the vehicle had 7799
been used or was involved in the violation resulting in the 7800
issuance of the order of criminal forfeiture or the violation of 7801
the order of immobilization issued under section 4503.233 of the 7802
Revised Code, that the person did not expressly or impliedly 7803
consent to the use or involvement of the vehicle in that 7804
violation, that the interest was perfected in good faith and for 7805
value pursuant to law between the time of the arrest of the 7806
offender and the final disposition of the criminal charge in 7807
question, and that the vehicle was in the possession of the 7808
interest holder at the time of the perfection of the interest. If 7809
the court is satisfied that the interest holder has met these 7810
criteria, the court shall preserve the interest holder's interest, 7811
and the court either shall return the vehicle to the interest 7812
holder or order that the proceeds of any sale held pursuant to 7813
division (C) of this section be paid to the holder of the interest 7814
less the costs of seizure, storage, and maintenance of the 7815
vehicle. The court shall not return a vehicle to an interest 7816
holder unless the holder submits an affidavit to the court stating 7817
that the holder will not return the vehicle to the person from 7818
whom the holder acquired the holder's interest, nor to any member 7819
of that person's family, and the holder will not otherwise 7820
knowingly permit that person or any member of that person's family 7821
to obtain possession of the vehicle. 7822

(C) A vehicle ordered criminally forfeited to the state 7823
pursuant to this section shall be disposed of as follows: 7824

(1) It shall be given to the law enforcement agency that 7825
employs the law enforcement officer who seized the vehicle, if 7826
that agency desires to have it; 7827

(2) If a vehicle is not disposed of pursuant to division 7828

(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 7860
this section shall be applied so that fifty per cent of those 7861
remaining proceeds is paid into the reparation fund established by 7862
section 2743.191 of the Revised Code, twenty-five per cent is paid 7863
into the drug abuse resistance education programs fund created by 7864
division (F)(2)(e) of section 4511.191 of the Revised Code and 7865
shall be used only for the purposes authorized by division 7866
(F)(2)(e) of that section, and twenty-five per cent is applied to 7867
the appropriate funds in accordance with ~~division (D)(1)(e)~~ 7868
divisions (B) and (C) of section ~~2933.43~~ 2981.13 of the Revised 7869
Code. The proceeds deposited into any fund described in section 7870
~~2933.43~~ 2981.13 of the Revised Code shall be used only for the 7871
purposes authorized by ~~division (D)(1)(e), (2), and (3)(a)(ii)~~ 7872
divisions (B)(4)(c), (C), and (D) of that section. 7873

(D) Except as provided in division (E) of section 4511.203 of 7874
the Revised Code and notwithstanding any other provision of law, 7875
neither the registrar of motor vehicles nor any deputy registrar 7876
shall accept an application for the registration of any motor 7877
vehicle in the name of any person, or register any motor vehicle 7878
in the name of any person, if both of the following apply: 7879

(1) Any vehicle registered in the person's name was 7880
criminally forfeited under this section and section 4503.233, 7881
4503.236, 4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 7882
4511.19, 4511.193, or 4511.203 of the Revised Code; 7883

(2) Less than five years have expired since the issuance of 7884
the most recent order of criminal forfeiture issued in relation to 7885
a vehicle registered in the person's name. 7886

(E) If a court is required by section 4503.233, 4503.236, 7887
4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 4511.19, 7888
4511.193, or 4511.203 of the Revised Code to order the criminal 7889
forfeiture to the state of a vehicle, and the title to the motor 7890

vehicle is assigned or transferred, and division (B)(2) or (3) of 7891
this section applies, in addition to or independent of any other 7892
penalty established by law, the court may fine the offender the 7893
value of the vehicle as determined by publications of the national 7894
auto dealer's association. The proceeds from any fine imposed 7895
under this division shall be distributed in accordance with 7896
division (C)(2) of this section. 7897

(F) As used in this section and divisions ~~(D)(1)(c), (D)(2),~~ 7898
~~and (D)(3)(a)(ii)~~ (B)(4)(c), (C), and (D) of section ~~2933.43~~ 7899
2981.13 of the Revised Code in relation to proceeds of the sale of 7900
a vehicle under division (C) of this section, "prosecuting 7901
attorney" includes the prosecuting attorney, village solicitor, 7902
city director of law, or similar chief legal officer of a 7903
municipal corporation who prosecutes the case resulting in the 7904
conviction or guilty plea in question. 7905

(G) If the vehicle to be forfeited has an average retail 7906
value of less than two thousand dollars as determined by 7907
publications of the national auto dealer's association, no public 7908
auction is required to be held. In such a case, the court may 7909
direct that the vehicle be disposed of in any manner that it 7910
considers appropriate, including assignment of the certificate of 7911
title to the motor vehicle to a salvage dealer or a scrap metal 7912
processing facility. The court shall not transfer the vehicle to 7913
the person who is the vehicle's immediate previous owner. 7914

If the court assigns the motor vehicle to a salvage dealer or 7915
scrap metal processing facility and the court is in possession of 7916
the certificate of title to the motor vehicle, it shall send the 7917
assigned certificate of title to the motor vehicle to the clerk of 7918
the court of common pleas of the county in which the salvage 7919
dealer or scrap metal processing facility is located. The court 7920
shall mark the face of the certificate of title with the words 7921
"FOR DESTRUCTION" and shall deliver a photocopy of the certificate 7922

of title to the salvage dealer or scrap metal processing facility 7923
for its records. 7924

If the court is not in possession of the certificate of title 7925
to the motor vehicle, the court shall issue an order transferring 7926
ownership of the motor vehicle to a salvage dealer or scrap metal 7927
processing facility, send the order to the clerk of the court of 7928
common pleas of the county in which the salvage dealer or scrap 7929
metal processing facility is located, and send a photocopy of the 7930
order to the salvage dealer or scrap metal processing facility for 7931
its records. The clerk shall make the proper notations or entries 7932
in the clerk's records concerning the disposition of the motor 7933
vehicle. 7934

Sec. 4510.41. (A) As used in this section: 7935

(1) "Arrested person" means a person who is arrested for a 7936
violation of section 4510.14, 4510.16, or 4511.203 of the Revised 7937
Code, or a municipal ordinance that is substantially equivalent to 7938
any of those sections, and whose arrest results in a vehicle being 7939
seized under division (B) of this section. 7940

(2) "Vehicle owner" means either of the following: 7941

(a) The person in whose name is registered, at the time of 7942
the seizure, a vehicle that is seized under division (B) of this 7943
section; 7944

(b) A person to whom the certificate of title to a vehicle 7945
that is seized under division (B) of this section has been 7946
assigned and who has not obtained a certificate of title to the 7947
vehicle in that person's name, but who is deemed by the court as 7948
being the owner of the vehicle at the time the vehicle was seized 7949
under division (B) of this section. 7950

(3) "Interested party" includes the owner of a vehicle seized 7951
under this section, all lienholders, the arrested person, the 7952

owner of the place of storage at which a vehicle seized under this 7953
section is stored, and the person or entity that caused the 7954
vehicle to be removed. 7955

(B)(1) If a person is arrested for a violation of section 7956
4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal 7957
ordinance that is substantially equivalent to any of those 7958
sections, the arresting officer or another officer of the law 7959
enforcement agency that employs the arresting officer, in addition 7960
to any action that the arresting officer is required or authorized 7961
to take by any other provision of law, shall seize the vehicle 7962
that the person was operating at the time of, or that was involved 7963
in, the alleged offense if the vehicle is registered in the 7964
arrested person's name and its license plates. A law enforcement 7965
agency that employs a law enforcement officer who makes an arrest 7966
of a type that is described in this division and that involves a 7967
rented or leased vehicle that is being rented or leased for a 7968
period of thirty days or less shall notify, within twenty-four 7969
hours after the officer makes the arrest, the lessor or owner of 7970
the vehicle regarding the circumstances of the arrest and the 7971
location at which the vehicle may be picked up. At the time of the 7972
seizure of the vehicle, the law enforcement officer who made the 7973
arrest shall give the arrested person written notice that the 7974
vehicle and its license plates have been seized; that the vehicle 7975
either will be kept by the officer's law enforcement agency or 7976
will be immobilized at least until the person's initial appearance 7977
on the charge of the offense for which the arrest was made; that, 7978
at the initial appearance, the court in certain circumstances may 7979
order that the vehicle and license plates be released to the 7980
arrested person until the disposition of that charge; that, if the 7981
arrested person is convicted of that charge, the court generally 7982
must order the immobilization of the vehicle and the impoundment 7983
of its license plates or the forfeiture of the vehicle; and that 7984

the arrested person may be charged expenses or charges incurred 7985
under this section and section 4503.233 of the Revised Code for 7986
the removal and storage of the vehicle. 7987

(2) The arresting officer or a law enforcement officer of the 7988
agency that employs the arresting officer shall give written 7989
notice of the seizure to the court that will conduct the initial 7990
appearance of the arrested person on the charges arising out of 7991
the arrest. Upon receipt of the notice, the court promptly shall 7992
determine whether the arrested person is the vehicle owner. If the 7993
court determines that the arrested person is not the vehicle 7994
owner, it promptly shall send by regular mail written notice of 7995
the seizure to the vehicle's registered owner. The written notice 7996
shall contain all of the information required by division (B)(1) 7997
of this section to be in a notice to be given to the arrested 7998
person and also shall specify the date, time, and place of the 7999
arrested person's initial appearance. The notice also shall inform 8000
the vehicle owner that if title to a motor vehicle that is subject 8001
to an order for criminal forfeiture under this section is assigned 8002
or transferred and division (B)(2) or (3) of section 4503.234 of 8003
the Revised Code applies, the court may fine the arrested person 8004
the value of the vehicle. The notice also shall state that if the 8005
vehicle is immobilized under division (A) of section 4503.233 of 8006
the Revised Code, seven days after the end of the period of 8007
immobilization a law enforcement agency will send the vehicle 8008
owner a notice, informing the owner that if the release of the 8009
vehicle is not obtained in accordance with division (D)(3) of 8010
section 4503.233 of the Revised Code, the vehicle shall be 8011
forfeited. The notice also shall inform the vehicle owner that the 8012
owner may be charged expenses or charges incurred under this 8013
section and section 4503.233 of the Revised Code for the removal 8014
and storage of the vehicle. 8015

The written notice that is given to the arrested person also 8016

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. 8049

(4) A vehicle seized under division (B)(1) of this section 8050
either shall be towed to a place specified by the law enforcement 8051
agency that employs the arresting officer to be safely kept by the 8052
agency at that place for the time and in the manner specified in 8053
this section or shall be otherwise immobilized for the time and in 8054
the manner specified in this section. A law enforcement officer of 8055
that agency shall remove the identification license plates of the 8056
vehicle, and they shall be safely kept by the agency for the time 8057
and in the manner specified in this section. No vehicle that is 8058
seized and either towed or immobilized pursuant to this division 8059
shall be considered contraband for purposes of ~~section 2933.41,~~ 8060
~~2933.42, or 2933.43~~ Chapter 2981. of the Revised Code. The vehicle 8061
shall not be immobilized at any place other than a commercially 8062
operated private storage lot, a place owned by a law enforcement 8063
or other government agency, or a place to which one of the 8064
following applies: 8065

(a) The place is leased by or otherwise under the control of 8066
a law enforcement or other government agency. 8067

(b) The place is owned by the arrested person, the arrested 8068
person's spouse, or a parent or child of the arrested person. 8069

(c) The place is owned by a private person or entity, and, 8070
prior to the immobilization, the private entity or person that 8071
owns the place, or the authorized agent of that private entity or 8072
person, has given express written consent for the immobilization 8073
to be carried out at that place. 8074

(d) The place is a public street or highway on which the 8075
vehicle is parked in accordance with the law. 8076

(C)(1) A vehicle seized under division (B) of this section 8077
shall be safely kept at the place to which it is towed or 8078
otherwise moved by the law enforcement agency that employs the 8079

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 8112
any of those sections is dismissed for any reason, the court shall 8113
order that the vehicle seized at the time of the arrest and its 8114
license plates immediately be released to the person. 8115

(D) If a vehicle and its license plates are seized under 8116
division (B) of this section and are not returned or released to 8117
the arrested person pursuant to division (C) of this section, the 8118
vehicle and its license plates shall be retained until the final 8119
disposition of the charge in question. Upon the final disposition 8120
of that charge, the court shall do whichever of the following is 8121
applicable: 8122

(1) If the arrested person is convicted of or pleads guilty 8123
to the violation of section 4510.14, 4510.16, or 4511.203 of the 8124
Revised Code, or a municipal ordinance that is substantially 8125
equivalent to any of those sections, the court shall impose 8126
sentence upon the person as provided by law or ordinance and shall 8127
order the immobilization of the vehicle the person was operating 8128
at the time of, or that was involved in, the offense if it is 8129
registered in the arrested person's name and the impoundment of 8130
its license plates under section 4503.233 and section 4510.14, 8131
4510.16, 4510.161, or 4511.203 of the Revised Code or the criminal 8132
forfeiture of the vehicle if it is registered in the arrested 8133
person's name under section 4503.234 and section 4510.14, 4510.16, 8134
4510.161, or 4511.203 of the Revised Code, whichever is 8135
applicable. 8136

(2) If the arrested person is found not guilty of the 8137
violation of section 4510.14, 4510.16, or 4511.203 of the Revised 8138
Code, or a municipal ordinance that is substantially equivalent to 8139
any of those sections, the court shall order that the vehicle and 8140
its license plates immediately be released to the arrested person. 8141

(3) If the charge that the arrested person violated section 8142

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. 8175
8176

Any lienholder that receives title under a court order shall 8177
do so on the condition that it pay any expenses or charges 8178
incurred in the vehicle's removal and storage. If the person or 8179
entity that receives title to the vehicle is the person or entity 8180
that removed it, the person or entity shall receive title on the 8181
condition that it pay any lien on the vehicle. The court shall not 8182
order that title be transferred to any person or entity other than 8183
the owner of the place of storage if the person or entity refuses 8184
to receive the title. Any person or entity that receives title 8185
either may keep title to the vehicle or may dispose of the vehicle 8186
in any legal manner that it considers appropriate, including 8187
assignment of the certificate of title to the motor vehicle to a 8188
salvage dealer or a scrap metal processing facility. The person or 8189
entity shall not transfer the vehicle to the person who is the 8190
vehicle's immediate previous owner. 8191

If the person or entity that receives title assigns the motor 8192
vehicle to a salvage dealer or scrap metal processing facility, 8193
the person or entity shall send the assigned certificate of title 8194
to the motor vehicle to the clerk of the court of common pleas of 8195
the county in which the salvage dealer or scrap metal processing 8196
facility is located. The person or entity shall mark the face of 8197
the certificate of title with the words "FOR DESTRUCTION" and 8198
shall deliver a photocopy of the certificate of title to the 8199
salvage dealer or scrap metal processing facility for its records. 8200

(2) Whenever a court issues an order under division (F)(1) of 8201
this section, the court also shall order removal of the license 8202
plates from the vehicle and cause them to be sent to the registrar 8203
if they have not already been sent to the registrar. Thereafter, 8204
no further proceedings shall take place under this section or 8205
under section 4503.233 of the Revised Code. 8206

(3) Prior to initiating a proceeding under division (F)(1) of 8207
this section, and upon payment of the fee under division (B) of 8208
section 4505.14, any interested party may cause a search to be 8209
made of the public records of the bureau of motor vehicles or the 8210
clerk of the court of common pleas, to ascertain the identity of 8211
any lienholder of the vehicle. The initiating party shall furnish 8212
this information to the clerk of the court with jurisdiction over 8213
the case, and the clerk shall provide notice to the arrested 8214
person, any lienholder, and any other interested parties listed by 8215
the initiating party, at the last known address supplied by the 8216
initiating party, by certified mail, or, at the option of the 8217
initiating party, by personal service or ordinary mail. 8218

Sec. 4511.195. (A) As used in this section: 8219

(1) "Arrested person" means a person who is arrested for a 8220
violation of division (A) of section 4511.19 of the Revised Code 8221
or a municipal OVI ordinance and whose arrest results in a vehicle 8222
being seized under division (B) of this section. 8223

(2) "Vehicle owner" means either of the following: 8224

(a) The person in whose name is registered, at the time of 8225
the seizure, a vehicle that is seized under division (B) of this 8226
section; 8227

(b) A person to whom the certificate of title to a vehicle 8228
that is seized under division (B) of this section has been 8229
assigned and who has not obtained a certificate of title to the 8230
vehicle in that person's name, but who is deemed by the court as 8231
being the owner of the vehicle at the time the vehicle was seized 8232
under division (B) of this section. 8233

(3) "Interested party" includes the owner of a vehicle seized 8234
under this section, all lienholders, the arrested person, the 8235
owner of the place of storage at which a vehicle seized under this 8236

section is stored, and the person or entity that caused the 8237
vehicle to be removed. 8238

(B)(1) The arresting officer or another officer of the law 8239
enforcement agency that employs the arresting officer, in addition 8240
to any action that the arresting officer is required or authorized 8241
to take by section 4511.19 or 4511.191 of the Revised Code or by 8242
any other provision of law, shall seize the vehicle that a person 8243
was operating at the time of the alleged offense and its license 8244
plates if the vehicle is registered in the arrested person's name 8245
and if either of the following applies: 8246

(a) The person is arrested for a violation of division (A) of 8247
section 4511.19 of the Revised Code or of a municipal OVI 8248
ordinance and, within six years of the alleged violation, the 8249
person previously has been convicted of or pleaded guilty to one 8250
or more violations of division (A) or (B) of section 4511.19 of 8251
the Revised Code or one or more other equivalent offenses. 8252

(b) The person is arrested for a violation of division (A) of 8253
section 4511.19 of the Revised Code or of a municipal OVI 8254
ordinance and the person previously has been convicted of or 8255
pleaded guilty to a violation of division (A) of section 4511.19 8256
of the Revised Code under circumstances in which the violation was 8257
a felony, regardless of when the prior felony violation of 8258
division (A) of section 4511.19 of the Revised Code and the 8259
conviction or guilty plea occurred. 8260

(2) A law enforcement agency that employs a law enforcement 8261
officer who makes an arrest of a type that is described in 8262
division (B)(1) of this section and that involves a rented or 8263
leased vehicle that is being rented or leased for a period of 8264
thirty days or less shall notify, within twenty-four hours after 8265
the officer makes the arrest, the lessor or owner of the vehicle 8266
regarding the circumstances of the arrest and the location at 8267

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.

8300
8301
8302
8303
8304
8305
8306
8307
8308
8309

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.

8310
8311
8312
8313
8314
8315
8316

(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

8317
8318
8319
8320
8321
8322
8323
8324
8325
8326
8327
8328
8329
8330
8331

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, 8364
prior to the immobilization, the private entity or person that 8365
owns the place, or the authorized agent of that private entity or 8366
person, has given express written consent for the immobilization 8367
to be carried out at that place. 8368

(d) The place is a street or highway on which the vehicle is 8369
parked in accordance with the law. 8370

(C)(1) A vehicle seized under division (B) of this section 8371
shall be safely kept at the place to which it is towed or 8372
otherwise moved by the law enforcement agency that employs the 8373
arresting officer until the initial appearance of the arrested 8374
person relative to the charge in question. The license plates of 8375
the vehicle that are removed pursuant to division (B) of this 8376
section shall be safely kept by the law enforcement agency that 8377
employs the arresting officer until the initial appearance of the 8378
arrested person relative to the charge in question. 8379

(2)(a) At the initial appearance or not less than seven days 8380
prior to the date of final disposition, the court shall notify the 8381
arrested person that, if title to a motor vehicle that is subject 8382
to an order for criminal forfeiture under this section is assigned 8383
or transferred and division (B)(2) or (3) of section 4503.234 of 8384
the Revised Code applies, the court may fine the arrested person 8385
the value of the vehicle. If, at the initial appearance, the 8386
arrested person pleads guilty to the violation of division (A) of 8387
section 4511.19 of the Revised Code or of the municipal OVI 8388
ordinance or pleads no contest to and is convicted of the 8389
violation, the court shall impose sentence upon the person as 8390
provided by law or ordinance; the court shall order the 8391
immobilization of the vehicle the arrested person was operating at 8392
the time of the offense if registered in the arrested person's 8393
name and the impoundment of its license plates under section 8394
4503.233 and section 4511.19 or 4511.193 of the Revised Code or 8395

the criminal forfeiture to the state of the vehicle if registered 8396
in the arrested person's name under section 4503.234 and section 8397
4511.19 or 4511.193 of the Revised Code, whichever is applicable; 8398
and the vehicle and its license plates shall not be returned or 8399
released to the arrested person. 8400

(b) If, at any time, the charge that the arrested person 8401
violated division (A) of section 4511.19 of the Revised Code or 8402
the municipal OVI ordinance is dismissed for any reason, the court 8403
shall order that the vehicle seized at the time of the arrest and 8404
its license plates immediately be released to the person. 8405

(D) If a vehicle and its license plates are seized under 8406
division (B) of this section and are not returned or released to 8407
the arrested person pursuant to division (C) of this section, the 8408
vehicle and its license plates shall be retained until the final 8409
disposition of the charge in question. Upon the final disposition 8410
of that charge, the court shall do whichever of the following is 8411
applicable: 8412

(1) If the arrested person is convicted of or pleads guilty 8413
to the violation of division (A) of section 4511.19 of the Revised 8414
Code or of the municipal OVI ordinance, the court shall impose 8415
sentence upon the person as provided by law or ordinance and shall 8416
order the immobilization of the vehicle the person was operating 8417
at the time of the offense if it is registered in the arrested 8418
person's name and the impoundment of its license plates under 8419
section 4503.233 and section 4511.19 or 4511.193 of the Revised 8420
Code, or the criminal forfeiture of the vehicle if it is 8421
registered in the arrested person's name under section 4503.234 8422
and section 4511.19 or 4511.193 of the Revised Code, whichever is 8423
applicable. 8424

(2) If the arrested person is found not guilty of the 8425
violation of division (A) of section 4511.19 of the Revised Code 8426

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 8458
and charges incurred in its removal and storage, may order that 8459
title to the vehicle be transferred, in order of priority, first 8460
into the name of the person or entity that removed it, next into 8461
the name of a lienholder, or lastly into the name of the owner of 8462
the place of storage. 8463

Any lienholder that receives title under a court order shall 8464
do so on the condition that it pay any expenses or charges 8465
incurred in the vehicle's removal and storage. If the person or 8466
entity that receives title to the vehicle is the person or entity 8467
that removed it, the person or entity shall receive title on the 8468
condition that it pay any lien on the vehicle. The court shall not 8469
order that title be transferred to any person or entity other than 8470
the owner of the place of storage if the person or entity refuses 8471
to receive the title. Any person or entity that receives title 8472
either may keep title to the vehicle or may dispose of the vehicle 8473
in any legal manner that it considers appropriate, including 8474
assignment of the certificate of title to the motor vehicle to a 8475
salvage dealer or a scrap metal processing facility. The person or 8476
entity shall not transfer the vehicle to the person who is the 8477
vehicle's immediate previous owner. 8478

If the person or entity that receives title assigns the motor 8479
vehicle to a salvage dealer or scrap metal processing facility, 8480
the person or entity shall send the assigned certificate of title 8481
to the motor vehicle to the clerk of the court of common pleas of 8482
the county in which the salvage dealer or scrap metal processing 8483
facility is located. The person or entity shall mark the face of 8484
the certificate of title with the words "FOR DESTRUCTION" and 8485
shall deliver a photocopy of the certificate of title to the 8486
salvage dealer or scrap metal processing facility for its records. 8487

(2) Whenever a court issues an order under division (F)(1) of 8488
this section, the court also shall order removal of the license 8489

plates from the vehicle and cause them to be sent to the registrar 8490
of motor vehicles if they have not already been sent to the 8491
registrar. Thereafter, no further proceedings shall take place 8492
under this section or under section 4503.233 of the Revised Code. 8493

(3) Prior to initiating a proceeding under division (F)(1) of 8494
this section, and upon payment of the fee under division (B) of 8495
section 4505.14 of the Revised Code, any interested party may 8496
cause a search to be made of the public records of the bureau of 8497
motor vehicles or the clerk of the court of common pleas, to 8498
ascertain the identity of any lienholder of the vehicle. The 8499
initiating party shall furnish this information to the clerk of 8500
the court with jurisdiction over the case, and the clerk shall 8501
provide notice to the arrested person, any lienholder, and any 8502
other interested parties listed by the initiating party, at the 8503
last known address supplied by the initiating party, by certified 8504
mail or, at the option of the initiating party, by personal 8505
service or ordinary mail. 8506

Sec. 4549.62. (A) No person, with purpose to conceal or 8507
destroy the identity of a vehicle or vehicle part, shall remove, 8508
deface, cover, alter, or destroy any vehicle identification number 8509
or derivative of a vehicle identification number on a vehicle or 8510
vehicle part. 8511

(B) No person, with purpose to conceal or destroy the 8512
identity of a vehicle or a vehicle part, shall remove, deface, 8513
cover, alter, or destroy any identifying number that has been 8514
lawfully placed upon a vehicle or vehicle part by an owner of the 8515
vehicle or vehicle part, other than the manufacturer, for the 8516
purpose of deterring its theft and facilitating its recovery if 8517
stolen. 8518

(C) No person, with purpose to conceal or destroy the 8519
identity of a vehicle or vehicle part, shall place a counterfeit 8520

vehicle identification number or derivative of a vehicle 8521
identification number upon the vehicle or vehicle part. 8522

(D)(1) No person shall buy, offer to buy, sell, offer to 8523
sell, receive, dispose of, conceal, or, except as provided in 8524
division (D)(4) of this section, possess any vehicle or vehicle 8525
part with knowledge that the vehicle identification number or a 8526
derivative of the vehicle identification number has been removed, 8527
defaced, covered, altered, or destroyed in such a manner that the 8528
identity of the vehicle or part cannot be determined by a visual 8529
examination of the number at the site where the manufacturer 8530
placed the number. 8531

(2)(a) A vehicle or vehicle part from which the vehicle 8532
identification number or a derivative of the vehicle 8533
identification number has been so removed, defaced, covered, 8534
altered, or destroyed shall be seized and forfeited under ~~section~~ 8535
~~2933.41~~ Chapter 2981. of the Revised Code unless division (D)(3) 8536
or (4) of this section applies to the vehicle or part. If a 8537
derivative of the vehicle identification number has been removed, 8538
defaced, covered, altered, or destroyed in such a manner that the 8539
identity of the part cannot be determined, the entire vehicle is 8540
subject to seizure pending a determination of the original 8541
identity and ownership of the vehicle and parts of the vehicle, 8542
and the rights of innocent owners to reclaim the remainder or any 8543
part of the vehicle. 8544

(b) The lawful owners of parts upon a vehicle that has been 8545
seized under this section and that is subject to forfeiture under 8546
~~section 2933.41~~ Chapter 2981. of the Revised Code are entitled to 8547
reclaim their respective parts upon satisfactory proof of all of 8548
the following: 8549

(i) That the part is not needed for evidence in pending 8550
proceedings involving the vehicle or part and is not subject to 8551

forfeiture under ~~section 2933.41~~ Chapter 2981. of the Revised Code; 8552
8553

(ii) That the original identity and ownership of the part can be determined and that the claimant is the lawful owner of the part; 8554
8555
8556

(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; 8557
8558
8559
8560

(iv) Payment of all costs of removing the part. 8561

(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. 8562
8563
8564
8565
8566
8567
8568
8569
8570

(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: 8571
8572
8573

(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; 8574
8575
8576
8577
8578
8579
8580

(ii) That the person is the owner of the vehicle as shown on 8581

a valid certificate of title issued by this state or certificate 8582
of title or other lawful evidence of title issued in another 8583
state, in a clear chain of title beginning with the manufacturer; 8584

(iii) That the original identity of the vehicle can be 8585
established in a manner that excludes any reasonable probability 8586
that the vehicle has been stolen from another person. 8587

(b) The registrar of motor vehicles shall adopt rules under 8588
Chapter 119. of the Revised Code to permit an owner described in 8589
division (D)(4)(a) of this section, upon application and 8590
submission of satisfactory evidence to the registrar, to obtain 8591
authority to replace the vehicle identification number under the 8592
supervision of a peace officer, trooper of the state highway 8593
patrol, or representative of the registrar. The rules shall be 8594
designed to restore the identification of the vehicle in a manner 8595
that will deter its theft and facilitate its marketability. Until 8596
such rules are adopted, the registrar shall follow the existing 8597
procedure for the replacement of vehicle identification numbers 8598
that have been established by the registrar, with such 8599
modifications as the registrar determines to be necessary or 8600
appropriate for the administration of the laws the registrar is 8601
required to administer. 8602

The registrar may issue a temporary permit to an owner of a 8603
motor vehicle who is described in division (D)(4)(a) of this 8604
section to authorize the owner to retain possession of the motor 8605
vehicle and to transfer title to the motor vehicle with the 8606
consent of the registrar. 8607

(c) No owner described in division (D)(4)(a) of this section 8608
shall fail knowingly to apply to the registrar for authority to 8609
replace the vehicle identification number, within thirty days 8610
after the later of the following dates: 8611

(i) The date of receipt by the applicant of actual knowledge 8612

of the concealment or destruction; 8613

(ii) If the property has been stolen, the date thereafter 8614
upon which the applicant obtains possession of the vehicle or has 8615
been notified by a law enforcement agency that the vehicle has 8616
been recovered. 8617

The requirement of division (D)(4)(c) of this section may be 8618
excused by the registrar for good cause shown. 8619

(E) Whoever violates division (A), (B), (C), or (D)(1) of 8620
this section is guilty of a felony of the fifth degree on a first 8621
offense and a felony of the fourth degree on each subsequent 8622
offense. 8623

(F) Whoever violates division (D)(4)(c) of this section is 8624
guilty of a minor misdemeanor. 8625

Sec. 4549.63. (A) A law enforcement officer may seize and 8626
take possession of a vehicle or vehicle part if the officer has 8627
probable cause to believe that any vehicle identification number 8628
or derivative thereof on the vehicle or part has been removed, 8629
defaced, covered, altered, or destroyed in such a manner that the 8630
identity of the vehicle or part cannot be determined by visual 8631
examination of the number at the site where the manufacturer 8632
placed the number. The seizure shall be pursuant to a warrant, 8633
unless the circumstances are within one of the exceptions to the 8634
warrant requirement that have been established by the supreme 8635
court of the United States or of the supreme court of this state. 8636

(B) A vehicle or vehicle part seized under division (A) of 8637
this section shall be held in custody pursuant to section ~~2933.41~~ 8638
2981.11 of the Revised Code or any applicable municipal ordinance. 8639

(C) A law enforcement officer who acts in good faith in the 8640
belief that the seizure of a vehicle or vehicle part is justified 8641
under division (A) of this section is immune from any civil or 8642

criminal liability for such seizure. 8643

(D) The lawful owner of a vehicle or vehicle part seized 8644
under this section that is not needed as evidence and is not 8645
subject to forfeiture under division (D)(2) of section 4549.62 of 8646
the Revised Code may reclaim the property by submitting 8647
satisfactory proof of ownership to the law enforcement agency or 8648
court holding the property. 8649

Sec. 4728.04. (A) The application for a license under this 8650
chapter shall state fully the name and address of the person, or 8651
corporation, and of every member of the firm, partnership, or 8652
association, authorized to do business thereunder, the name of the 8653
individual responsible for the daily operation of the business, 8654
and the location of the office or place of business in which the 8655
business is conducted. In the case of a corporation, the 8656
application also shall state the date and place of incorporation, 8657
the name and address of the corporation's manager, the names and 8658
addresses of corporate directors, and the name and address of the 8659
agent, as provided in section 4728.03 of the Revised Code. 8660

The holder of a precious metals dealer's license shall keep 8661
the license posted in a conspicuous place in the office where 8662
business is transacted. No licensee shall transact or solicit 8663
business under any other name or location. Not more than one 8664
office or place of business shall be maintained under the same 8665
license, except as provided under division (C) of this section. In 8666
case of removal, the licensee shall provide written notice in 8667
advance to the division of financial institutions in the 8668
department of commerce of a prospective change of address of a 8669
business location. Upon approval by the superintendent of 8670
financial institutions, the division shall issue a new license. If 8671
the new location is outside the municipal corporation or county of 8672
the original licensed location, the licensee shall pay an 8673

additional license fee according to section 4728.03 of the Revised Code. 8674
8675

(B) A person licensed under this chapter shall post a 8676
conspicuous notice in its place of business visible to all 8677
patrons, in a form and at places designated by rule of the 8678
division, that the licensee has no right to retain goods stolen 8679
from the true owner, and that the owner may recover the goods or 8680
their value from the licensee in an action at law or, if the chief 8681
or head of a local police department or the chief's or head's 8682
representative takes custody of the goods, by release pursuant to 8683
section ~~2933.41~~ 2981.11 of the Revised Code. 8684

(C)(1) The superintendent may issue to a person licensed 8685
under this chapter or Chapter 4727. of the Revised Code a 8686
temporary exhibition permit for a term that coincides with that of 8687
the license of the licensee. A person issued a permit under this 8688
division may engage in the business of purchasing articles made of 8689
or containing gold, silver, platinum, or other precious metals or 8690
jewels from the public at a bona fide auction, convention, 8691
exhibition, fair, or show, the primary purpose of which is to 8692
display, trade, and sell articles made of or containing precious 8693
metals or jewels, for a period not to exceed seven days for any 8694
one auction, convention, exhibition, fair, or show. 8695

(2) The superintendent shall determine the application 8696
procedures for and the form of the temporary exhibition permit 8697
described in this division, provided that a temporary permit shall 8698
state fully the name and permanent business address of the 8699
licensee to whom it is issued. 8700

(3) The holder of a temporary exhibition permit shall, when 8701
participating in any auction, convention, fair, or show, 8702
conspicuously display the holder's permit at the location at which 8703
the holder transacts business. 8704

(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)~~(1)~~ 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 8736
federal law shall be deposited into the fund. Subject to division 8737
(B)(2) of this section, ~~division (D)(2)(c) of section 2923.35,~~ 8738
division (B)(~~5~~) of section 2923.44, ~~division (B)(7)(c) of section~~ 8739
~~2923.46,~~ and divisions ~~(D)(1)(c) and (3)(B),~~ (C), and (D) of 8740
section ~~2933.43~~ 2981.13 of the Revised Code, the moneys in the 8741
fund shall be used solely to subsidize the drug law enforcement 8742
efforts of the board. 8743

(2) Notwithstanding any contrary provision in the Revised 8744
Code, moneys that are derived from forfeitures of property 8745
pursuant to federal law and that are deposited into the board of 8746
pharmacy drug law enforcement fund in accordance with division 8747
(B)(1) of this section shall be used and accounted for in 8748
accordance with the applicable federal law, and the board 8749
otherwise shall comply with that law in connection with the 8750
moneys. 8751

(C) All fines and forfeited bonds assessed and collected 8752
under prosecution or prosecution commenced in the enforcement of 8753
this chapter shall be paid to the executive director of the board 8754
within thirty days and by the executive director paid into the 8755
state treasury to the credit of the occupational licensing and 8756
regulatory fund. The board, subject to the approval of the 8757
controlling board and except for fees required to be established 8758
by the board at amounts "adequate" to cover designated expenses, 8759
may establish fees in excess of the amounts provided by this 8760
chapter, provided that such fees do not exceed the amounts 8761
permitted by this chapter by more than fifty per cent. 8762

Sec. 5735.121. (A) If the tax commissioner finds that any 8763
person liable for tax under this chapter is about to depart from 8764
the state, remove property from the state, conceal self, or 8765
conceal the person's property, or do any other act tending to 8766

prejudice, obstruct, or render wholly or partly ineffectual 8767
proceedings to collect the tax, unless proceedings are commenced 8768
without delay, or if the commissioner believes that the collection 8769
of the amount due from any person will be jeopardized by delay, 8770
the commissioner may issue a jeopardy assessment against the 8771
person for the amount of the tax, plus a penalty of up to fifteen 8772
per cent. Upon issuance of a jeopardy assessment under this 8773
division, the total amount assessed shall immediately be due and 8774
payable unless security is provided pursuant to division (C) of 8775
this section. Any assessment issued under this section shall bear 8776
interest in the manner prescribed in section 5735.12 of the 8777
Revised Code. 8778

(B) The commissioner immediately shall file an entry with the 8779
clerk of the court of common pleas in the same manner and with the 8780
same effect as provided in section 5735.12 of the Revised Code. 8781
Notice of the jeopardy assessment shall be served on the person 8782
assessed or the legal representative of the person assessed, as 8783
provided in section 5703.37 of the Revised Code, within five days 8784
of the filing of the entry. The person assessed may petition for 8785
reassessment within sixty days of receipt of the notice of 8786
jeopardy assessment in the same manner as provided in section 8787
5735.12 of the Revised Code. Full or partial payment of the 8788
assessment shall not prejudice the commissioner's consideration of 8789
the merits of the assessment as contested by the petition for 8790
reassessment. Upon notification of the existence of the judgment 8791
filed pursuant to this division, any public official having 8792
control or custody of any funds or property of the person assessed 8793
immediately shall pay or deliver the funds or property to the 8794
commissioner as full or partial satisfaction of the jeopardy 8795
assessment. However, funds or property needed as evidence in 8796
criminal proceedings or that is expected to be forfeited pursuant 8797
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 8798
Revised Code, need not be relinquished by the public official. 8799

Upon disposition of criminal and forfeiture proceedings, funds and 8800
property not needed as evidence and not forfeited shall be 8801
delivered to the commissioner. 8802

(C) If the person subject to a jeopardy assessment files a 8803
petition for reassessment and posts security satisfactory to the 8804
commissioner in an amount sufficient to satisfy the unpaid balance 8805
of the assessment, execution on the judgment shall be stayed 8806
pending disposition of the petition for reassessment and all 8807
appeals resulting from the petition. If the security is sufficient 8808
to satisfy the full amount of the assessment, the commissioner 8809
shall return any funds or property of the person that previously 8810
were seized. Upon satisfaction of the assessment, the commissioner 8811
shall order the security released and the judgment vacated. 8812

(D) The commissioner may adopt rules providing for the 8813
imposition and remission of penalties added to assessments made 8814
under this section. 8815

Sec. 5739.15. (A) If the tax commissioner finds that a 8816
vendor, consumer, or officer, employee, or trustee of a 8817
corporation or business trust who is liable for any tax or charge 8818
levied by this chapter or Chapter 5741. of the Revised Code is 8819
about to depart from the state, remove the person's property from 8820
the state, conceal the person's self or property, or do any other 8821
act tending to prejudice, obstruct, or render wholly or partly 8822
ineffectual proceedings to collect the tax unless the proceedings 8823
are commenced without delay, or if the commissioner believes that 8824
the collection of the amount due from any vendor, consumer, or 8825
officer, employee, or trustee of a corporation or business trust 8826
will be jeopardized by delay, the commissioner may issue a 8827
jeopardy assessment against the person for the amount of the tax 8828
or charge plus a penalty as provided by section 5739.133 of the 8829
Revised Code. Upon issuance of a jeopardy assessment under this 8830

division, the total amount assessed shall immediately be due and 8831
payable unless security is provided pursuant to division (C) of 8832
this section. Any assessment issued under this section shall bear 8833
interest as prescribed by section 5739.13 of the Revised Code. 8834

(B) The commissioner immediately shall file an entry with the 8835
clerk of the court of common pleas in the same manner and with the 8836
same effect as provided in section 5739.13 of the Revised Code. 8837
Notice of the jeopardy assessment shall be served on the person 8838
assessed or the person's legal representative, as provided in 8839
section 5703.37 of the Revised Code, within five days of the 8840
filing of the entry. The person assessed may petition for 8841
reassessment within sixty days of receipt of the notice of 8842
jeopardy assessment in the same manner as provided in section 8843
5739.13 of the Revised Code. Full or partial payment of the 8844
assessment shall not prejudice the commissioner's consideration of 8845
the merits of the assessment as contested by the petition for 8846
reassessment. Upon notification of the existence of the judgment 8847
filed pursuant to this division, any public official having 8848
control or custody of any funds or property of the person assessed 8849
immediately shall pay or deliver the funds or property to the 8850
commissioner as full or partial satisfaction of the jeopardy 8851
assessment. However, funds or property needed as evidence in 8852
criminal proceedings or that is expected to be forfeited pursuant 8853
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 8854
Revised Code, need not be relinquished by the public official. 8855
Upon disposition of criminal and forfeiture proceedings, funds and 8856
property not needed as evidence and not forfeited shall be 8857
delivered to the commissioner. 8858

(C) If the person subject to a jeopardy assessment files a 8859
petition for reassessment and posts security satisfactory to the 8860
commissioner in an amount sufficient to satisfy the unpaid balance 8861
of the assessment, execution on the judgment shall be stayed 8862

pending disposition of the petition for reassessment and all 8863
appeals resulting from the petition. If the security is sufficient 8864
to satisfy the full amount of the assessment, the commissioner 8865
shall return any funds or property of the person previously 8866
seized. Upon satisfaction of the assessment, the commissioner 8867
shall order the security released and the judgment vacated. 8868

Sec. 5743.082. (A) If the tax commissioner finds that a 8869
wholesale dealer or retail dealer, liable for tax under sections 8870
5743.01 to 5743.20 of the Revised Code, is about to depart from 8871
the state, remove the wholesale or retail dealer's property from 8872
the state, conceal the wholesale or retail dealer's person or 8873
property, or do any other act tending to prejudice, obstruct, or 8874
render wholly or partly ineffectual proceedings to collect the 8875
tax, unless the proceedings are commenced without delay, or if the 8876
commissioner believes that the collection of the amount due from 8877
any wholesale dealer or retail dealer will be jeopardized by 8878
delay, the commissioner may issue a jeopardy assessment against 8879
the wholesale or retail dealer for the amount of the tax, plus a 8880
penalty of up to thirty per cent. Upon issuance of a jeopardy 8881
assessment under this division, the total amount assessed shall 8882
immediately be due and payable unless security is provided 8883
pursuant to division (C) of this section. Any assessment issued 8884
under this section shall bear interest as prescribed by section 8885
5743.081 of the Revised Code. 8886

(B) The commissioner immediately shall file an entry with the 8887
clerk of the court of common pleas in the same manner and with the 8888
same effect as provided in section 5743.081 of the Revised Code. 8889
Notice of the jeopardy assessment shall be served on the dealer 8890
assessed or the dealer's legal representative, as provided in 8891
section 5703.37 of the Revised Code, within five days of the 8892
filing of the entry. The dealer assessed may petition for 8893

reassessment within sixty days of receipt of the notice of 8894
jeopardy assessment in the same manner as provided in section 8895
5743.081 of the Revised Code. Full or partial payment of the 8896
assessment shall not prejudice the commissioner's consideration of 8897
the merits of the assessment as contested by the petition for 8898
reassessment. Upon notification of the existence of the judgment 8899
filed pursuant to this division, any public official having 8900
control or custody of any funds or property of the person assessed 8901
immediately shall pay or deliver the funds or property to the 8902
commissioner as full or partial satisfaction of the jeopardy 8903
assessment. However, funds or property needed as evidence in 8904
criminal proceedings or that is expected to be forfeited pursuant 8905
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 8906
Revised Code, need not be relinquished by the public official. 8907
Upon disposition of criminal and forfeiture proceedings, funds and 8908
property not needed as evidence and not forfeited shall be 8909
delivered to the commissioner. 8910

(C) If the dealer subject to a jeopardy assessment files a 8911
petition for reassessment and posts security satisfactory to the 8912
commissioner in an amount sufficient to satisfy the unpaid balance 8913
of the assessment, execution on the judgment shall be stayed 8914
pending disposition of the petition for reassessment and all 8915
appeals resulting from the petition. If the security is sufficient 8916
to satisfy the full amount of the assessment, the commissioner 8917
shall return any funds or property of the dealer that previously 8918
were seized. Upon satisfaction of the assessment the commissioner 8919
shall order the security released and the judgment vacated. 8920

(D) The commissioner may adopt rules providing for the 8921
imposition and remission of penalties imposed under this section. 8922

Sec. 5743.112. (A) No person shall prepare for shipment, 8923
ship, transport, deliver, prepare for distribution, or distribute 8924

cigarettes, or otherwise engage or participate in the wholesale or 8925
retail business of trafficking in cigarettes, with the intent to 8926
avoid payment of the tax imposed by this chapter, when the 8927
wholesale value of such cigarettes exceeds sixty dollars during 8928
any twelve-month period. 8929

(B) Any vending machine containing cigarettes which do not 8930
have affixed the stamps or impressions provided for by sections 8931
5743.03 and 5743.04 of the Revised Code shall be seized and 8932
forfeited to the state in accordance with ~~section 2933.43~~ Chapter 8933
2981. of the Revised Code. Forfeiture shall not affect the rights 8934
of a holder of a valid lien. 8935

(C) A vehicle that is seized as contraband under ~~section~~ 8936
~~2933.43~~ Chapter 2981. of the Revised Code because of its use in 8937
violation of this chapter is subject to the procedures set forth 8938
in ~~section 2933.43 of the Revised Code~~ that chapter. 8939

Section 2. That existing sections 9.92, 109.85, 309.08, 8940
311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2923.01, 8941
2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 8942
2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 8943
2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 8944
3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 8945
4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 8946
5739.15, 5743.082, and 5743.112 and sections 2923.33, 2923.35, 8947
2923.45, 2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 2925.45, 8948
2933.41, 2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 2933.73, and 8949
2933.74 of the Revised Code are hereby repealed. 8950

Section 3. Section 2901.01 of the Revised Code is presented 8951
in this act as a composite of the section as amended by Sub. H.B. 8952
364, Sub. H.B. 545, and H.B. 675 of the 124th General Assembly. 8953
Section 2935.03 of the Revised Code is presented in this act as a 8954

composite of the section as amended by Sub. H.B. 545, H.B. 675, 8955
and Am. Sub. S.B. 123 of the 124th General Assembly. The General 8956
Assembly, applying the principle stated in division (B) of section 8957
1.52 of the Revised Code that amendments are to be harmonized if 8958
reasonably capable of simultaneous operation, finds that the 8959
composites are the resulting versions of the sections in effect 8960
prior to the effective date of the sections as presented in this 8961
act. 8962

Section 4. This act shall take effect on July 1, 2006. 8963