

As Reported by the Senate Judiciary--Criminal Justice Committee

126th General Assembly

Regular Session

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Sub. H. B. No. 241

**Representatives Latta, McGregor, C. Evans, D. Evans, Hughes, Perry,
Blessing, Combs, Domenick, Faber, Schneider, Seitz, Taylor, Wagoner,
Willamowski, Yuko**

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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
2913.421, 2923.01, 2923.31, 2923.32, 2923.34, 3
2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 4
2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 5
2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 6
3719.21, 3729.13, 3743.68, 3745.13, 4301.29, 7
4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 8
4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 9
4729.65, 5735.121, 5739.15, 5743.082, and 10
5743.112, to enact sections 2941.1417, 2981.01, 11
2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 12
2981.07, 2981.08, 2981.09, 2981.11, 2981.12, 13
2981.13, and 2981.14, and to repeal sections 14
2923.33, 2923.35, 2923.45, 2923.46, 2923.47, 15
2925.41, 2925.43, 2925.44, 2925.45, 2933.41, 16
2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 17
2933.73, and 2933.74 of the Revised Code to adopt 18
the Criminal Sentencing Commission's 19
recommendations regarding revision of the 20
Forfeiture Laws. 21

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

Section 1. That sections 9.92, 109.85, 309.08, 311.07, 22
1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 2923.01, 23
2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 24
2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 25
2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 26
3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 27
4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 28
5739.15, 5743.082, and 5743.112 be amended and sections 2941.1417, 29
2981.01, 2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 30
2981.08, 2981.09, 2981.11, 2981.12, 2981.13, and 2981.14 of the 31
Revised Code be enacted to read as follows: 32

Sec. 9.92. (A) As used in this section: 33

(1) "Citizens' reward program" means any organization that 34
satisfies all of the following criteria: 35

(a) It is a nonprofit organization; 36

(b) It is organized and operated exclusively to offer and pay 37
rewards to citizens for volunteering tips and information to law 38
enforcement agencies concerning felonies, offenses of violence, or 39
misdemeanors that have been committed; 40

(c) It has established a reward fund to be used solely for 41
the payment of rewards to citizens for volunteering tips and 42
information to law enforcement agencies concerning felonies, 43
offenses of violence, or misdemeanors that have been committed. 44

(2) "Detention facility" has the same meaning as in section 45
2921.01 of the Revised Code. 46

(B) A citizens' reward program may apply to the board of 47
county commissioners of any county or counties in which it 48

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

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

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

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

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(D)(1) Any citizens' reward program that is recognized under 80
division (B) of this section may enter into a written agreement of 81
affiliation with a board of county commissioners in the county in 82
which the program operates. Agreements of affiliation executed 83
pursuant to this division shall be valid for two years and may be 84
renewed. The agreements shall do all of the following: 85

(a) Specify the relationship between the citizens' reward 86
program, the county, and law enforcement agencies in the county; 87

(b) Specify that the citizens' reward program shall account 88
annually to the board of county commissioners for all funds raised 89
by the organization from all sources and all funds expended by the 90
organization for any purpose; 91

(c) Allow the citizens' reward program to itemize the sources 92
of funds raised without referring to the name of the source; 93

(d) Prohibit the citizens' reward program from divulging the 94
identity of any person to whom a reward was paid. 95

(2) In every county in which the board of county 96
commissioners approves of an agreement of affiliation, the board 97
shall notify the clerk of each municipal court, county court, and 98
court of common pleas within the county of that agreement of 99
affiliation and of the duty to collect the additional court costs 100
imposed pursuant to division (C) of this section. 101

(E) The recognition of a citizens' reward program under this 102
section does not make it a governmental unit for purposes of 103
section 149.43 of the Revised Code and does not subject it to the 104
disclosure provisions of that section. A board of county 105
commissioners that recognizes a citizens' reward program pursuant 106
to this section shall require the program to provide the board 107
with an accounting of all funds the program receives or disburses 108
subsequent to its recognition in order to maintain recognition. 109

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

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

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

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

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

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

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

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

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

program. 140

(B) When it appears to the attorney general, as a result of 141
an investigation under division (A) of this section, that there is 142
cause to prosecute for the commission of a crime or to pursue a 143
civil remedy, the attorney general may refer the evidence to the 144
prosecuting attorney having jurisdiction of the matter, or to a 145
regular grand jury drawn and impaneled pursuant to sections 146
2939.01 to 2939.24 of the Revised Code, or to a special grand jury 147
drawn and impaneled pursuant to section 2939.17 of the Revised 148
Code, or the attorney general may initiate and prosecute any 149
necessary criminal or civil actions in any court or tribunal of 150
competent jurisdiction in this state. When proceeding under this 151
section, the attorney general, and any assistant or special 152
counsel designated by the attorney general for that purpose, have 153
all rights, privileges, and powers of prosecuting attorneys. The 154
attorney general shall have exclusive supervision and control of 155
all investigations and prosecutions initiated by the attorney 156
general under this section. The forfeiture provisions of ~~sections~~ 157
~~2933.71 to 2933.75~~ Chapter 2981. of the Revised Code apply in 158
relation to any such criminal action initiated and prosecuted by 159
the attorney general. 160

(C) Nothing in this section shall prevent a county 161
prosecuting attorney from investigating and prosecuting criminal 162
activity related to Chapter 3721. of the Revised Code and the 163
medical assistance program established under section 5111.01 of 164
the Revised Code. The forfeiture provisions of ~~sections 2933.71 to~~ 165
~~2933.75~~ Chapter 2981. of the Revised Code apply in relation to any 166
prosecution of criminal activity related to the medical assistance 167
program undertaken by the prosecuting attorney. 168

Sec. 309.08. (A) The prosecuting attorney may inquire into 169
the commission of crimes within the county. The prosecuting 170

attorney shall prosecute, on behalf of the state, all complaints, 171
suits, and controversies in which the state is a party, except for 172
those required to be prosecuted by a special prosecutor pursuant 173
to section 177.03 of the Revised Code or by the attorney general 174
pursuant to section 109.83 of the Revised Code, and other suits, 175
matters, and controversies that the prosecuting attorney is 176
required to prosecute within or outside the county, in the probate 177
court, court of common pleas, and court of appeals. In conjunction 178
with the attorney general, the prosecuting attorney shall 179
prosecute in the supreme court cases arising in the prosecuting 180
attorney's county, except for those cases required to be 181
prosecuted by a special prosecutor pursuant to section 177.03 of 182
the Revised Code or by the attorney general pursuant to section 183
109.83 of the Revised Code. 184

In every case of conviction, the prosecuting attorney 185
forthwith shall cause execution to be issued for the fine and 186
costs, or costs only, as the case may be, and faithfully shall 187
urge the collection until it is effected or found to be 188
impracticable to collect. The prosecuting attorney forthwith shall 189
pay to the county treasurer all moneys belonging to the state or 190
county which come into the prosecuting attorney's possession. 191

The prosecuting attorney or an assistant prosecuting attorney 192
of a county may participate, as a member of the investigatory 193
staff of an organized crime task force established under section 194
177.02 of the Revised Code that has jurisdiction in that county, 195
in an investigation of organized criminal activity under sections 196
177.01 to 177.03 of the Revised Code. 197

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

of the following sources, of rewards to a person who has
volunteered tips and information to a law enforcement agency in
the county concerning a drug-related offense that is planned to
occur, is occurring, or has occurred, in whole or in part, in the
county:

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

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

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

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

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

Sec. 311.07. (A) Each sheriff shall preserve the public peace

and cause all persons guilty of any breach of the peace, within 233
the sheriff's knowledge or view, to enter into recognizance with 234
sureties to keep the peace and to appear at the succeeding term of 235
the court of common pleas, and the sheriff shall commit such 236
persons to jail in case they refuse to do so. The sheriff shall 237
return a transcript of all the sheriff's proceedings with the 238
recognizance so taken to such court. The sheriff shall, except as 239
provided in division (C) of this section, execute all warrants, 240
writs, and other process directed to the sheriff by any proper and 241
lawful authority of this state, and those issued by a proper and 242
lawful authority of any other state. The sheriff shall attend upon 243
the court of common pleas and the court of appeals during their 244
sessions, and, when required, shall attend upon the probate court. 245
In the execution of official duties of the sheriff, the sheriff 246
may call to the sheriff's aid such persons or power of the county 247
as is necessary. Under the direction and control of the board of 248
county commissioners, such sheriff shall have charge of the court 249
house. A sheriff or deputy sheriff of a county may participate, as 250
the director of an organized crime task force established under 251
section 177.02 of the Revised Code or as a member of the 252
investigatory staff of such a task force, in an investigation of 253
organized criminal activity in any county or counties in this 254
state under sections 177.01 to 177.03 of the Revised Code. 255

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

fire protection appearing necessary under the circumstances. Law 266
enforcement and fire protection personnel acting outside the 267
territory of their regular employment shall be considered as 268
performing services within the territory of their regular 269
employment for the purposes of compensation, pension or indemnity 270
fund rights, workers' compensation, and other rights or benefits 271
to which they may be entitled as incidents of their regular 272
employment. The county receiving aid shall reimburse, as provided 273
in this section, the political subdivision furnishing it the cost 274
of furnishing such aid, including compensation of personnel, 275
expenses incurred by reason of the injury or death of any such 276
personnel while rendering such aid, expenses of furnishing 277
equipment and apparatus, compensation for damage to or loss of 278
equipment or apparatus while in service outside the territory of 279
its regular use, and such other reasonable expenses as may be 280
incurred by any such political subdivision in furnishing aid. The 281
cost of furnishing such aid may be paid from the sheriff's 282
furtherance of justice fund created pursuant to section 325.071 of 283
the Revised Code or from the law enforcement trust fund created 284
pursuant to section ~~2933.43~~ 2981.13 of the Revised Code, or from 285
the county general fund to the extent moneys have been 286
appropriated for such purposes pursuant to section 5705.38 of the 287
Revised Code unless the board of county commissioners adopts a 288
resolution restricting or prohibiting the use of general fund 289
moneys without the prior approval of the board of county 290
commissioners. Nothing in this section shall be construed as 291
superseding or modifying in any way any provision of a contract 292
entered into pursuant to section 311.29 of the Revised Code. Law 293
enforcement officers acting pursuant to this section outside the 294
territory of their regular employment have the same authority to 295
enforce the law as when acting within the territory of their 296
regular employment. 297

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

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

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

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

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

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

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

(B) Any motor vehicle, as defined in section 4501.01 of the

Revised Code, watercraft, as defined in section 1547.01 of the 328
Revised Code, mechanical or other assistance, scuba gear, sonar 329
equipment, or other equipment used by any person in the course of 330
committing a third or subsequent violation of division (K) of 331
section 1506.32 of the Revised Code shall be considered contraband 332
for the purposes of ~~sections 2933.42 and 2933.43~~ Chapter 2981. of 333
the Revised Code, except that proceeds from the sale of such 334
contraband shall be disposed of in the following order: 335

(1) To the payment of the costs incurred in the forfeiture 336
proceedings under ~~section 2933.43~~ Chapter 2981. of the Revised 337
Code; 338

(2) To the payment of the balance due on any security 339
interest preserved under division ~~(C)~~(F) of section ~~2933.43~~ 340
2981.04 of the Revised Code; 341

(3) To the payment of any costs incurred by the seizing 342
agency under ~~section 2933.43~~ Chapter 2981. of the Revised Code in 343
connection with the storage, maintenance, security, and forfeiture 344
of the contraband; 345

(4) Fifty per cent of the remaining money to the credit of 346
the Lake Erie submerged lands preserves fund created in division 347
(C) of this section, and fifty per cent of the remaining money to 348
the Ohio historical society for deposit into the fund created 349
pursuant to division (C) of section 149.56 of the Revised Code. 350

(C) There is hereby created in the state treasury the Lake 351
Erie submerged lands preserves fund. The fund shall be composed of 352
moneys credited to it under division (B)(4) of this section and 353
division (D)(2) of section 1506.33 of the Revised Code, all 354
appropriations, contributions, and gifts made to it, and any 355
federal grants received by the department of natural resources for 356
the purposes of sections 1506.30 to 1506.36 of the Revised Code. 357
The director shall use the moneys in the Lake Erie submerged lands 358

preserves fund solely to implement and administer sections 1506.30 359
to 1506.36 of the Revised Code. 360

(D) The director may request the attorney general to, and the 361
attorney general shall, bring a civil action in any court of 362
competent jurisdiction for any of the following purposes: 363

(1) To enforce compliance with or restrain violation of 364
sections 1506.30 to 1506.36 of the Revised Code, any rules adopted 365
under those sections, or any permit issued under section 1506.32 366
of the Revised Code; 367

(2) To enjoin the further removal of abandoned property or 368
archaeological material from Lake Erie; 369

(3) To order the restoration of an area affected by a 370
violation of sections 1506.30 to 1506.36 of the Revised Code or of 371
a permit issued under section 1506.32 of the Revised Code to its 372
prior condition. 373

Any action under this division is a civil action governed by 374
the Rules of Civil Procedure. 375

(E) A peace officer of a county, township, or municipal 376
corporation, and a preserve officer, wildlife officer, park 377
officer, or watercraft officer designated under section 1517.10, 378
1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, 379
may enforce compliance with sections 1506.30 to 1506.36 of the 380
Revised Code, any rules adopted under those sections, and any 381
permit issued under section 1506.32 of the Revised Code and may 382
make arrests for violation of those laws, rules, and permits. 383

Sec. 2152.20. (A) If a child is adjudicated a delinquent 384
child or a juvenile traffic offender, the court may order any of 385
the following dispositions, in addition to any other disposition 386
authorized or required by this chapter: 387

(1) Impose a fine in accordance with the following schedule: 388

(a) For an act that would be a minor misdemeanor or an unclassified misdemeanor if committed by an adult, a fine not to exceed fifty dollars;	389 390 391
(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;	392 393 394
(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;	395 396 397
(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;	398 399 400
(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;	401 402 403
(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;	404 405 406
(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;	407 408
(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;	409 410 411
(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;	412 413
(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;	414 415 416
(k) For an act that would be aggravated murder or murder if committed by an adult, a fine not to exceed two thousand dollars.	417 418

(2) Require the child to pay costs; 419

(3) Unless the child's delinquent act or juvenile traffic 420
offense would be a minor misdemeanor if committed by an adult or 421
could be disposed of by the juvenile traffic violations bureau 422
serving the court under Traffic Rule 13.1 if the court has 423
established a juvenile traffic violations bureau, require the 424
child to make restitution to the victim of the child's delinquent 425
act or juvenile traffic offense or, if the victim is deceased, to 426
a survivor of the victim in an amount based upon the victim's 427
economic loss caused by or related to the delinquent act or 428
juvenile traffic offense. The court may not require a child to 429
make restitution pursuant to this division if the child's 430
delinquent act or juvenile traffic offense would be a minor 431
misdemeanor if committed by an adult or could be disposed of by 432
the juvenile traffic violations bureau serving the court under 433
Traffic Rule 13.1 if the court has established a juvenile traffic 434
violations bureau. If the court requires restitution under this 435
division, the restitution shall be made directly to the victim in 436
open court or to the probation department that serves the 437
jurisdiction or the clerk of courts on behalf of the victim. 438

If the court requires restitution under this division, the 439
restitution may be in the form of a cash reimbursement paid in a 440
lump sum or in installments, the performance of repair work to 441
restore any damaged property to its original condition, the 442
performance of a reasonable amount of labor for the victim or 443
survivor of the victim, the performance of community service work, 444
any other form of restitution devised by the court, or any 445
combination of the previously described forms of restitution. 446

If the court requires restitution under this division, the 447
court may base the restitution order on an amount recommended by 448
the victim or survivor of the victim, the delinquent child, the 449
juvenile traffic offender, a presentence investigation report, 450

estimates or receipts indicating the cost of repairing or 451
replacing property, and any other information, provided that the 452
amount the court orders as restitution shall not exceed the amount 453
of the economic loss suffered by the victim as a direct and 454
proximate result of the delinquent act or juvenile traffic 455
offense. If the court decides to order restitution under this 456
division and the amount of the restitution is disputed by the 457
victim or survivor or by the delinquent child or juvenile traffic 458
offender, the court shall hold a hearing on the restitution. If 459
the court requires restitution under this division, the court 460
shall determine, or order the determination of, the amount of 461
restitution to be paid by the delinquent child or juvenile traffic 462
offender. All restitution payments shall be credited against any 463
recovery of economic loss in a civil action brought by or on 464
behalf of the victim against the delinquent child or juvenile 465
traffic offender or the delinquent child's or juvenile traffic 466
offender's parent, guardian, or other custodian. 467

If the court requires restitution under this division, the 468
court may order that the delinquent child or juvenile traffic 469
offender pay a surcharge, in an amount not exceeding five per cent 470
of the amount of restitution otherwise ordered under this 471
division, to the entity responsible for collecting and processing 472
the restitution payments. 473

The victim or the survivor of the victim may request that the 474
prosecuting authority file a motion, or the delinquent child or 475
juvenile traffic offender may file a motion, for modification of 476
the payment terms of any restitution ordered under this division. 477
If the court grants the motion, it may modify the payment terms as 478
it determines appropriate. 479

(4) Require the child to reimburse any or all of the costs 480
incurred for services or sanctions provided or imposed, including, 481
but not limited to, the following: 482

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

(b) All or part of the costs of confinement in a residential facility described in section 2152.19 of the Revised Code or in a department of youth services institution, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged while so confined. The amount of reimbursement ordered for a child under this division shall not exceed the total amount of reimbursement the child is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement. The court may collect any reimbursement ordered under this division. If the court does not order reimbursement under this division, confinement costs may be assessed pursuant to a repayment policy adopted under section 2929.37 of the Revised Code and division (D) of section 307.93, division (A) of section 341.19, division (C) of section 341.23 or 753.16, division (C) of section 2301.56, or division (B) of section 341.14, 753.02, 753.04, or 2947.19 of the Revised Code.

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

~~(2) Sections 2925.41 to 2925.45 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act that, if committed by an adult, would be a felony drug abuse offense. Subject to division (B) of section 2925.42 and division (E) of section 2925.43 of the Revised Code, a delinquent child of that nature~~

~~loses any right to the possession of, and forfeits to the state
any right, title, and interest that the delinquent child may have
in, property as defined in section 2925.41 of the Revised Code and
further described in section 2925.42 or 2925.43 of the Revised
Code or for committing an act that, if committed by an adult,
would be a felony drug abuse offense.~~

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

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

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

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

(E) The clerk of the court, or another person authorized by

law or by the court to collect a financial sanction imposed under 546
this section, may do any of the following: 547

(1) Enter into contracts with one or more public agencies or 548
private vendors for the collection of the amounts due under the 549
financial sanction, which amounts may include interest from the 550
date of imposition of the financial sanction; 551

(2) Permit payment of all, or any portion of, the financial 552
sanction in installments, by credit or debit card, by another type 553
of electronic transfer, or by any other reasonable method, within 554
any period of time, and on any terms that the court considers 555
just, except that the maximum time permitted for payment shall not 556
exceed five years. The clerk may pay any fee associated with 557
processing an electronic transfer out of public money and may 558
charge the fee to the delinquent child. 559

(3) To defray administrative costs, charge a reasonable fee 560
to a child who elects a payment plan rather than a lump sum 561
payment of a financial sanction. 562

Sec. 2901.01. (A) As used in the Revised Code: 563

(1) "Force" means any violence, compulsion, or constraint 564
physically exerted by any means upon or against a person or thing. 565

(2) "Deadly force" means any force that carries a substantial 566
risk that it will proximately result in the death of any person. 567

(3) "Physical harm to persons" means any injury, illness, or 568
other physiological impairment, regardless of its gravity or 569
duration. 570

(4) "Physical harm to property" means any tangible or 571
intangible damage to property that, in any degree, results in loss 572
to its value or interferes with its use or enjoyment. "Physical 573
harm to property" does not include wear and tear occasioned by 574
normal use. 575

(5) "Serious physical harm to persons" means any of the	576
following:	577
(a) Any mental illness or condition of such gravity as would	578
normally require hospitalization or prolonged psychiatric	579
treatment;	580
(b) Any physical harm that carries a substantial risk of	581
death;	582
(c) Any physical harm that involves some permanent	583
incapacity, whether partial or total, or that involves some	584
temporary, substantial incapacity;	585
(d) Any physical harm that involves some permanent	586
disfigurement or that involves some temporary, serious	587
disfigurement;	588
(e) Any physical harm that involves acute pain of such	589
duration as to result in substantial suffering or that involves	590
any degree of prolonged or intractable pain.	591
(6) "Serious physical harm to property" means any physical	592
harm to property that does either of the following:	593
(a) Results in substantial loss to the value of the property	594
or requires a substantial amount of time, effort, or money to	595
repair or replace;	596
(b) Temporarily prevents the use or enjoyment of the property	597
or substantially interferes with its use or enjoyment for an	598
extended period of time.	599
(7) "Risk" means a significant possibility, as contrasted	600
with a remote possibility, that a certain result may occur or that	601
certain circumstances may exist.	602
(8) "Substantial risk" means a strong possibility, as	603
contrasted with a remote or significant possibility, that a	604
certain result may occur or that certain circumstances may exist.	605

(9) "Offense of violence" means any of the following: 606

(a) A violation of section 2903.01, 2903.02, 2903.03, 607
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 608
2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 609
2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 610
2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 611
2923.161, of division (A)(1), (2), or (3) of section 2911.12, or 612
of division (B)(1), (2), (3), or (4) of section 2919.22 of the 613
Revised Code or felonious sexual penetration in violation of 614
former section 2907.12 of the Revised Code; 615

(b) A violation of an existing or former municipal ordinance 616
or law of this or any other state or the United States, 617
substantially equivalent to any section, division, or offense 618
listed in division (A)(9)(a) of this section; 619

(c) An offense, other than a traffic offense, under an 620
existing or former municipal ordinance or law of this or any other 621
state or the United States, committed purposely or knowingly, and 622
involving physical harm to persons or a risk of serious physical 623
harm to persons; 624

(d) A conspiracy or attempt to commit, or complicity in 625
committing, any offense under division (A)(9)(a), (b), or (c) of 626
this section. 627

(10)(a) "Property" means any property, real or personal, 628
tangible or intangible, and any interest or license in that 629
property. "Property" includes, but is not limited to, cable 630
television service, other telecommunications service, 631
telecommunications devices, information service, computers, data, 632
computer software, financial instruments associated with 633
computers, other documents associated with computers, or copies of 634
the documents, whether in machine or human readable form, trade 635
secrets, trademarks, copyrights, patents, and property protected 636

by a trademark, copyright, or patent. "Financial instruments
associated with computers" include, but are not limited to,
checks, drafts, warrants, money orders, notes of indebtedness,
certificates of deposit, letters of credit, bills of credit or
debit cards, financial transaction authorization mechanisms,
marketable securities, or any computer system representations of
any of them.

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

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

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

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

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

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

(d) A member of an auxiliary police force organized by 667
county, township, or municipal law enforcement authorities, within 668
the scope of the member's appointment or commission; 669

(e) A person lawfully called pursuant to section 311.07 of 670
the Revised Code to aid a sheriff in keeping the peace, for the 671
purposes and during the time when the person is called; 672

(f) A person appointed by a mayor pursuant to section 737.01 673
of the Revised Code as a special patrolling officer during riot or 674
emergency, for the purposes and during the time when the person is 675
appointed; 676

(g) A member of the organized militia of this state or the 677
armed forces of the United States, lawfully called to duty to aid 678
civil authorities in keeping the peace or protect against domestic 679
violence; 680

(h) A prosecuting attorney, assistant prosecuting attorney, 681
secret service officer, or municipal prosecutor; 682

(i) A veterans' home police officer appointed under section 683
5907.02 of the Revised Code; 684

(j) A member of a police force employed by a regional transit 685
authority under division (Y) of section 306.35 of the Revised 686
Code; 687

(k) A special police officer employed by a port authority 688
under section 4582.04 or 4582.28 of the Revised Code; 689

(l) The house of representatives sergeant at arms if the 690
house of representatives sergeant at arms has arrest authority 691
pursuant to division (E)(1) of section 101.311 of the Revised Code 692
and an assistant house of representatives sergeant at arms; 693

(m) A special police officer employed by a municipal 694
corporation at a municipal airport, or other municipal air 695
navigation facility, that has scheduled operations, as defined in 696

section 119.3 of Title 14 of the Code of Federal Regulations, 14 697
C.F.R. 119.3, as amended, and that is required to be under a 698
security program and is governed by aviation security rules of the 699
transportation security administration of the United States 700
department of transportation as provided in Parts 1542. and 1544. 701
of Title 49 of the Code of Federal Regulations, as amended. 702

(12) "Privilege" means an immunity, license, or right 703
conferred by law, bestowed by express or implied grant, arising 704
out of status, position, office, or relationship, or growing out 705
of necessity. 706

(13) "Contraband" means any property ~~described in the~~ 707
~~following categories:~~ 708

~~(a) Property that in and of itself is unlawful illegal for a~~ 709
~~person to acquire or possess;~~ 710

~~(b) Property that is not in and of itself unlawful for a~~ 711
~~person to acquire or possess, but that has been determined by a~~ 712
~~court of this state, in accordance with law, to be contraband~~ 713
~~because of its use in an unlawful activity or manner, of its~~ 714
~~nature, or of the circumstances of the person who acquires or~~ 715
~~possesses it, including, but not limited to, goods and personal~~ 716
~~property described in division (D) of section 2913.34 of the~~ 717
~~Revised Code;~~ 718

~~(c) Property that is specifically stated to be contraband by~~ 719
~~a section of the Revised Code or by an ordinance, regulation, or~~ 720
~~resolution;~~ 721

~~(d) Property that is forfeitable pursuant to a section of the~~ 722
~~Revised Code, or an ordinance, regulation, or resolution,~~ 723
~~including, but not limited to, forfeitable firearms, dangerous~~ 724
~~ordnance, obscene materials, and goods and personal property~~ 725
~~described in division (D) of section 2913.34 of the Revised Code;~~ 726
under a statute, ordinance, or rule, or that a trier of fact 727

lawfully determines to be illegal to possess by reason of the 728
property's involvement in an offense. "Contraband" includes, but 729
is not limited to, all of the following: 730

~~(e)(a) Any controlled substance, as defined in section~~ 731
~~3719.01 of the Revised Code, or any device, or paraphernalia,~~ 732
~~money as defined in section 1301.01 of the Revised Code, or other~~ 733
~~means of exchange that has been, is being, or is intended to be~~ 734
~~used in an attempt or conspiracy to violate, or in a violation of,~~ 735
~~Chapter 2925. or 3719. of the Revised Code;~~ 736

~~(f)(b) Any unlawful gambling device, or paraphernalia, money~~ 737
~~as defined in section 1301.01 of the Revised Code, or other means~~ 738
~~of exchange that has been, is being, or is intended to be used in~~ 739
~~an attempt or conspiracy to violate, or in the violation of,~~ 740
~~Chapter 2915. of the Revised Code;~~ 741

~~(g) Any equipment, machine, device, apparatus, vehicle,~~ 742
~~vessel, container, liquid, or substance that has been, is being,~~ 743
~~or is intended to be used in an attempt or conspiracy to violate,~~ 744
~~or in the violation of, any law of this state relating to alcohol~~ 745
~~or tobacco;~~ 746

~~(h) Any personal property that has been, is being, or is~~ 747
~~intended to be used in an attempt or conspiracy to commit, or in~~ 748
~~the commission of, any offense or in the transportation of the~~ 749
~~fruits of any offense;~~ 750

~~(i) Any property that is acquired through the sale or other~~ 751
~~transfer of contraband or through the proceeds of contraband,~~ 752
~~other than by a court or a law enforcement agency acting within~~ 753
~~the scope of its duties;~~ 754

~~(j) Any computer, computer system, computer network, computer~~ 755
~~software, or other telecommunications device that is used in a~~ 756
~~conspiracy to commit, an attempt to commit, or the commission of~~ 757
~~any offense, if the owner of the computer, computer system,~~ 758

~~computer network, computer software, or other telecommunications
device is convicted of or pleads guilty to the offense in which it
is used;~~ 759
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~~(k) Any property that is material support or resources and
that has been, is being, or is intended to be used in an attempt
or conspiracy to violate, or in the violation of, section 2909.22,
2909.23, or 2909.24 of the Revised Code or of section 2921.32 of
the Revised Code when the offense or act committed by the person
aided or to be aided as described in that section is an act of
terrorism. As used in division (A)(13)(k) of this section,
"material support or resources" and "act of terrorism" have the
same meanings as in section 2909.21 of the Revised Code.~~ 762
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(c) Any dangerous ordnance or obscene material. 771

(14) A person is "not guilty by reason of insanity" relative 772
to a charge of an offense only if the person proves, in the manner 773
specified in section 2901.05 of the Revised Code, that at the time 774
of the commission of the offense, the person did not know, as a 775
result of a severe mental disease or defect, the wrongfulness of 776
the person's acts. 777

(B)(1)(a) Subject to division (B)(2) of this section, as used 778
in any section contained in Title XXIX of the Revised Code that 779
sets forth a criminal offense, "person" includes all of the 780
following: 781

(i) An individual, corporation, business trust, estate, 782
trust, partnership, and association; 783

(ii) An unborn human who is viable. 784

(b) As used in any section contained in Title XXIX of the 785
Revised Code that does not set forth a criminal offense, "person" 786
includes an individual, corporation, business trust, estate, 787
trust, partnership, and association. 788

(c) As used in division (B)(1)(a) of this section:	789
(i) "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.	790 791
(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.	792 793 794 795
(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:	796 797 798 799 800 801
(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable.	802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819

Consent is sufficient under this division if it is of the type 820
otherwise adequate to permit medical treatment to the pregnant 821
woman, even if it does not comply with section 2919.12 of the 822
Revised Code. 823

(b) In a manner so that the offense is applied or is 824
construed as applying to a woman based on an act or omission of 825
the woman that occurs while she is or was pregnant and that 826
results in any of the following: 827

(i) Her delivery of a stillborn baby; 828

(ii) Her causing, in any other manner, the death in utero of 829
a viable, unborn human that she is carrying; 830

(iii) Her causing the death of her child who is born alive 831
but who dies from one or more injuries that are sustained while 832
the child is a viable, unborn human; 833

(iv) Her causing her child who is born alive to sustain one 834
or more injuries while the child is a viable, unborn human; 835

(v) Her causing, threatening to cause, or attempting to 836
cause, in any other manner, an injury, illness, or other 837
physiological impairment, regardless of its duration or gravity, 838
or a mental illness or condition, regardless of its duration or 839
gravity, to a viable, unborn human that she is carrying. 840

(C) As used in Title XXIX of the Revised Code: 841

(1) "School safety zone" consists of a school, school 842
building, school premises, school activity, and school bus. 843

(2) "School," "school building," and "school premises" have 844
the same meanings as in section 2925.01 of the Revised Code. 845

(3) "School activity" means any activity held under the 846
auspices of a board of education of a city, local, exempted 847
village, joint vocational, or cooperative education school 848
district; a governing authority of a community school established 849

under Chapter 3314. of the Revised Code; a governing board of an 850
educational service center, or the governing body of a school for 851
which the state board of education prescribes minimum standards 852
under section 3301.07 of the Revised Code. 853

(4) "School bus" has the same meaning as in section 4511.01 854
of the Revised Code. 855

Sec. 2909.08. (A) As used in this section: 856

(1) "Air gun" means a hand pistol or rifle that propels its 857
projectile by means of releasing compressed air, carbon dioxide, 858
or other gas. 859

(2) "Firearm" has the same meaning as in section 2923.11 of 860
the Revised Code. 861

(3) "Spring-operated gun" means a hand pistol or rifle that 862
propels a projectile not less than four or more than five 863
millimeters in diameter by means of a spring. 864

(4) "Airport operational surface" means any surface of land 865
or water that is developed, posted, or marked so as to give an 866
observer reasonable notice that the surface is designed and 867
developed for the purpose of storing, parking, taxiing, or 868
operating aircraft, or any surface of land or water that is 869
actually being used for any of those purposes. 870

(B) No person shall do either of the following: 871

(1) Knowingly throw an object at, or drop an object upon, any 872
moving aircraft; 873

(2) Knowingly shoot with a bow and arrow, or knowingly 874
discharge a firearm, air gun, or spring-operated gun, at or toward 875
any aircraft. 876

(C) No person shall knowingly or recklessly shoot with a bow 877
and arrow, or shall knowingly or recklessly discharge a firearm, 878

air gun, or spring-operated gun, upon or over any airport 879
operational surface. This division does not apply to the 880
following: 881

(1) An officer, agent, or employee of this or any other state 882
or the United States, or a law enforcement officer, authorized to 883
discharge firearms and acting within the scope of the officer's, 884
agent's, or employee's duties; 885

(2) A person who, with the consent of the owner or operator 886
of the airport operational surface or the authorized agent of 887
either, is lawfully engaged in any hunting or sporting activity or 888
is otherwise lawfully discharging a firearm. 889

(D) Whoever violates division (B) of this section is guilty 890
of endangering aircraft, a misdemeanor of the first degree. If the 891
violation creates a risk of physical harm to any person, 892
endangering aircraft is a felony of the fifth degree. If the 893
violation creates a substantial risk of physical harm to any 894
person or if the aircraft that is the subject of the violation is 895
occupied, endangering aircraft is a felony of the fourth degree. 896

(E) Whoever violates division (C) of this section is guilty 897
of endangering airport operations, a misdemeanor of the second 898
degree. If the violation creates a risk of physical harm to any 899
person, endangering airport operations is a felony of the fifth 900
degree. If the violation creates a substantial risk of physical 901
harm to any person, endangering airport operations is a felony of 902
the fourth degree. In addition to any other penalty or sanction 903
imposed for the violation, the hunting license or permit of a 904
person who violates division (C) of this section while hunting 905
shall be suspended or revoked pursuant to section 1533.68 of the 906
Revised Code. 907

(F) Any bow and arrow, air gun, spring-operated gun, or 908
firearm that has been used in a felony violation of this section 909

shall be seized or forfeited, and shall be disposed of pursuant to 910
~~section 2933.41~~ Chapter 2981. of the Revised Code. 911

Sec. 2913.34. (A) No person shall knowingly do any of the 912
following: 913

(1) Attach, affix, or otherwise use a counterfeit mark in 914
connection with the manufacture of goods or services, whether or 915
not the goods or services are intended for sale or resale; 916

(2) Possess, sell, or offer for sale tools, machines, 917
instruments, materials, articles, or other items of personal 918
property with the knowledge that they are designed for the 919
production or reproduction of counterfeit marks; 920

(3) Purchase or otherwise acquire goods, and keep or 921
otherwise have the goods in the person's possession, with the 922
knowledge that a counterfeit mark is attached to, affixed to, or 923
otherwise used in connection with the goods and with the intent to 924
sell or otherwise dispose of the goods; 925

(4) Sell, offer for sale, or otherwise dispose of goods with 926
the knowledge that a counterfeit mark is attached to, affixed to, 927
or otherwise used in connection with the goods; 928

(5) Sell, offer for sale, or otherwise provide services with 929
the knowledge that a counterfeit mark is used in connection with 930
that sale, offer for sale, or other provision of the services. 931

(B)(1) Whoever violates this section is guilty of trademark 932
counterfeiting. 933

(2) Except as otherwise provided in this division, a 934
violation of division (A)(1) of this section is a felony of the 935
fifth degree. Except as otherwise provided in this division, if 936
the cumulative sales price of the goods or services to which or in 937
connection with which the counterfeit mark is attached, affixed, 938
or otherwise used in the offense is five thousand dollars or more 939

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

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

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

thousand dollars or more but less than one hundred thousand 972
dollars or if the number of units of goods to which or in 973
connection with which the counterfeit mark is attached, affixed, 974
or otherwise used in the offense is more than one hundred units 975
but less than one thousand units, a violation of division (A)(3), 976
(4), or (5) of this section is a felony of the fourth degree. If 977
the cumulative sales price of the goods or services to which or in 978
connection with which the counterfeit mark is attached, affixed, 979
or otherwise used in the offense is one hundred thousand dollars 980
or more or if the number of units of goods to which or in 981
connection with which the counterfeit mark is attached, affixed, 982
or otherwise used in the offense is one thousand units or more, a 983
violation of division (A)(3), (4), or (5) of this section is a 984
felony of the third degree. 985

(C) A defendant may assert as an affirmative defense to a 986
charge of a violation of this section defenses, affirmative 987
defenses, and limitations on remedies that would be available in a 988
civil, criminal, or administrative action or proceeding under the 989
"Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as 990
amended, "The Trademark Counterfeiting Act of 1984," 98 Stat. 991
2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section 992
of the Revised Code, or common law. 993

(D)(1) Law enforcement officers may seize pursuant to 994
Criminal Rule 41 or Chapter 2933. or 2981. of the Revised Code 995
either of the following: 996

(a) Goods to which or in connection with which a person 997
attached, affixed, otherwise used, or intended to attach, affix, 998
or otherwise use a counterfeit mark in violation of this section; 999

(b) Tools, machines, instruments, materials, articles, 1000
vehicles, or other items of personal property that are possessed, 1001
sold, offered for sale, or used in a violation of this section or 1002

in an attempt to commit or complicity in the commission of a 1003
violation of this section. 1004

(2) Notwithstanding any contrary provision of ~~sections~~ 1005
~~2923.31 to 2923.35 or 2933.41 to 2933.43~~ Chapter 2981. of the 1006
Revised Code, if a person is convicted of or pleads guilty to a 1007
violation of this section, an attempt to violate this section, or 1008
complicity in a violation of this section, the court involved 1009
shall declare that the goods described in division (D)(1)(a) of 1010
this section and the personal property described in division 1011
(D)(1)(b) of this section are contraband and are forfeited. Prior 1012
to the court's entry of judgment under Criminal Rule 32, the owner 1013
of a registered trademark or service mark that is the subject of 1014
the counterfeit mark may recommend a manner in which the forfeited 1015
goods and forfeited personal property should be disposed of. If 1016
that owner makes a timely recommendation of a manner of 1017
disposition, the court is not bound by the recommendation. If that 1018
owner makes a timely recommendation of a manner of disposition, 1019
the court may include in its entry of judgment an order that 1020
requires appropriate persons to dispose of the forfeited goods and 1021
forfeited personal property in the recommended manner. If that 1022
owner fails to make a timely recommendation of a manner of 1023
disposition or if that owner makes a timely recommendation of the 1024
manner of disposition but the court determines to not follow the 1025
recommendation, the court shall include in its entry of judgment 1026
an order that requires the law enforcement agency that employs the 1027
law enforcement officer who seized the forfeited goods or the 1028
forfeited personal property to destroy them or cause their 1029
destruction. 1030

(E) This section does not affect the rights of an owner of a 1031
trademark or a service mark, or the enforcement in a civil action 1032
or in administrative proceedings of the rights of an owner of a 1033
trademark or a service mark, under the "Lanham Act," 60 Stat. 1034

427-443 (1946), 15 U.S.C. 1051-1127, as amended, "The Trademark Counterfeiting Act of 1984," 92 Stat. 2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section of the Revised Code, or common law. 1035
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(F) As used in this section: 1039

(1)(a) Except as provided in division (F)(1)(b) of this section, "counterfeit mark" means a spurious trademark or a spurious service mark that satisfies both of the following: 1040
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(i) It is identical with or substantially indistinguishable from a mark that is registered on the principal register in the United States patent and trademark office for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used or from a mark that is registered with the secretary of state pursuant to sections 1329.54 to 1329.67 of the Revised Code for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used, and the owner of the registration uses the registered mark, whether or not the offender knows that the mark is registered in a manner described in division (F)(1)(a)(i) of this section. 1043
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(ii) Its use is likely to cause confusion or mistake or to deceive other persons. 1057
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(b) "Counterfeit mark" does not include a mark or other designation that is attached to, affixed to, or otherwise used in connection with goods or services if the holder of the right to use the mark or other designation authorizes the manufacturer, producer, or vendor of those goods or services to attach, affix, or otherwise use the mark or other designation in connection with those goods or services at the time of their manufacture, 1059
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production, or sale. 1066

(2) "Cumulative sales price" means the product of the lowest 1067
single unit sales price charged or sought to be charged by an 1068
offender for goods to which or in connection with which a 1069
counterfeit mark is attached, affixed, or otherwise used or of the 1070
lowest single service transaction price charged or sought to be 1071
charged by an offender for services in connection with which a 1072
counterfeit mark is used, multiplied by the total number of those 1073
goods or services, whether or not units of goods are sold or are 1074
in an offender's possession, custody, or control. 1075

(3) "Registered trademark or service mark" means a trademark 1076
or service mark that is registered in a manner described in 1077
division (F)(1) of this section. 1078

(4) "Trademark" and "service mark" have the same meanings as 1079
in section 1329.54 of the Revised Code. 1080

Sec. 2913.421. (A) As used in this section: 1081

(1) "Computer," "computer network," and "computer system" 1082
have the same meanings as in section 2913.01 of the Revised Code. 1083

(2) "Commercial electronic mail message" means any electronic 1084
mail message the primary purpose of which is the commercial 1085
advertisement or promotion of a commercial product or service, 1086
including content on an internet web site operated for a 1087
commercial purpose, but does not include a transactional or 1088
relationship message. The inclusion of a reference to a commercial 1089
entity or a link to the web site of a commercial entity does not, 1090
by itself, cause that message to be treated as a commercial 1091
electronic mail message for the purpose of this section, if the 1092
contents or circumstances of the message indicate a primary 1093
purpose other than commercial advertisement or promotion of a 1094
commercial product or service. 1095

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

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

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

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

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

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

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

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

other computers connected to the internet. 1126

(11) "Materially falsify" means to alter or conceal in a 1127
manner that would impair the ability of a recipient of an 1128
electronic mail message, an electronic mail service provider 1129
processing an electronic mail message on behalf of a recipient, a 1130
person alleging a violation of this section, or a law enforcement 1131
agency to identify, locate, or respond to the person that 1132
initiated the electronic mail message or to investigate an alleged 1133
violation of this section. 1134

(12) "Multiple" means more than ten commercial electronic 1135
mail messages during a twenty-four-hour period, more than one 1136
hundred commercial electronic mail messages during a thirty-day 1137
period, or more than one thousand commercial electronic mail 1138
messages during a one-year period. 1139

(13) "Recipient" means a person who receives a commercial 1140
electronic mail message at any one of the following receiving 1141
addresses: 1142

(a) A receiving address furnished by an electronic mail 1143
service provider that bills for furnishing and maintaining that 1144
receiving address to a mailing address within this state; 1145

(b) A receiving address ordinarily accessed from a computer 1146
located within this state or by a person domiciled within this 1147
state; 1148

(c) Any other receiving address with respect to which this 1149
section can be imposed consistent with the United States 1150
Constitution. 1151

(14) "Routine conveyance" means the transmission, routing, 1152
relaying, handling, or storing, through an automated technical 1153
process, of an electronic mail message for which another person 1154
has identified the recipients or provided the recipient addresses. 1155

(15) "Transactional or relationship message" means an 1156
electronic mail message the primary purpose of which is to do any 1157
of the following: 1158

(a) Facilitate, complete, or confirm a commercial transaction 1159
that the recipient has previously agreed to enter into with the 1160
sender; 1161

(b) Provide warranty information, product recall information, 1162
or safety or security information with respect to a commercial 1163
product or service used or purchased by the recipient; 1164

(c) Provide notification concerning a change in the terms or 1165
features of; a change in the recipient's standing or status with 1166
respect to; or, at regular periodic intervals, account balance 1167
information or other type of account statement with respect to, a 1168
subscription, membership, account, loan, or comparable ongoing 1169
commercial relationship involving the ongoing purchase or use by 1170
the recipient of products or services offered by the sender; 1171

(d) Provide information directly related to an employment 1172
relationship or related benefit plan in which the recipient is 1173
currently involved, participating, or enrolled; 1174

(e) Deliver goods or services, including product updates or 1175
upgrades, that the recipient is entitled to receive under the 1176
terms of a transaction that the recipient has previously agreed to 1177
enter into with the sender. 1178

(B) No person, with regard to commercial electronic mail 1179
messages sent from or to a computer in this state, shall do any of 1180
the following: 1181

(1) Knowingly use a computer to relay or retransmit multiple 1182
commercial electronic mail messages, with the intent to deceive or 1183
mislead recipients or any electronic mail service provider, as to 1184
the origin of those messages; 1185

(2) Knowingly and materially falsify header information in 1186
multiple commercial electronic mail messages and purposely 1187
initiate the transmission of those messages; 1188

(3) Knowingly register, using information that materially 1189
falsifies the identity of the actual registrant, for five or more 1190
electronic mail accounts or online user accounts or two or more 1191
domain names and purposely initiate the transmission of multiple 1192
commercial electronic mail messages from one, or any combination, 1193
of those accounts or domain names; 1194

(4) Knowingly falsely represent the right to use five or more 1195
internet protocol addresses, and purposely initiate the 1196
transmission of multiple commercial electronic mail messages from 1197
those addresses. 1198

(C)(1) Whoever violates division (B) of this section is 1199
guilty of illegally transmitting multiple commercial electronic 1200
mail messages. Except as otherwise provided in division (C)(2) or 1201
(E) of this section, illegally transmitting multiple commercial 1202
electronic mail messages is a felony of the fifth degree. 1203

(2) Illegally transmitting multiple commercial electronic 1204
mail messages is a felony of the fourth degree if any of the 1205
following apply: 1206

(a) Regarding a violation of division (B)(3) of this section, 1207
the offender, using information that materially falsifies the 1208
identity of the actual registrant, knowingly registers for twenty 1209
or more electronic mail accounts or online user accounts or ten or 1210
more domain names, and purposely initiates, or conspires to 1211
initiate, the transmission of multiple commercial electronic mail 1212
messages from the accounts or domain names. 1213

(b) Regarding any violation of division (B) of this section, 1214
the volume of commercial electronic mail messages the offender 1215
transmitted in committing the violation exceeds two hundred and 1216

fifty during any twenty-four-hour period, two thousand five 1217
hundred during any thirty-day period, or twenty-five thousand 1218
during any one-year period. 1219

(c) Regarding any violation of division (B) of this section, 1220
during any one-year period the aggregate loss to the victim or 1221
victims of the violation is five hundred dollars or more, or 1222
during any one-year period the aggregate value of the property or 1223
services obtained by any offender as a result of the violation is 1224
five hundred dollars or more. 1225

(d) Regarding any violation of division (B) of this section, 1226
the offender committed the violation with three or more other 1227
persons with respect to whom the offender was the organizer or 1228
leader of the activity that resulted in the violation. 1229

(e) Regarding any violation of division (B) of this section, 1230
the offender knowingly assisted in the violation through the 1231
provision or selection of electronic mail addresses to which the 1232
commercial electronic mail message was transmitted, if that 1233
offender knew that the electronic mail addresses of the recipients 1234
were obtained using an automated means from an internet web site 1235
or proprietary online service operated by another person, and that 1236
web site or online service included, at the time the electronic 1237
mail addresses were obtained, a notice stating that the operator 1238
of that web site or online service will not transfer addresses 1239
maintained by that web site or online service to any other party 1240
for the purposes of initiating the transmission of, or enabling 1241
others to initiate the transmission of, electronic mail messages. 1242

(f) Regarding any violation of division (B) of this section, 1243
the offender knowingly assisted in the violation through the 1244
provision or selection of electronic mail addresses of the 1245
recipients obtained using an automated means that generates 1246
possible electronic mail addresses by combining names, letters, or 1247

numbers into numerous permutations. 1248

(D)(1) No person, with regard to commercial electronic mail 1249
messages sent from or to a computer in this state, shall knowingly 1250
access a computer without authorization and purposely initiate the 1251
transmission of multiple commercial electronic mail messages from 1252
or through the computer. 1253

(2) Except as otherwise provided in division (E) of this 1254
section, whoever violates division (D)(1) of this section is 1255
guilty of unauthorized access of a computer, a felony of the 1256
fourth degree. 1257

(E) Illegally transmitting multiple commercial electronic 1258
mail messages and unauthorized access of a computer in violation 1259
of this section are felonies of the third degree if the offender 1260
previously has been convicted of a violation of this section, or a 1261
violation of a law of another state or the United States regarding 1262
the transmission of electronic mail messages or unauthorized 1263
access to a computer, or if the offender committed the violation 1264
of this section in the furtherance of a felony. 1265

(F)(1) The attorney general or an electronic mail service 1266
provider that is injured by a violation of this section may bring 1267
a civil action in an appropriate court of common pleas of this 1268
state seeking relief from any person whose conduct violated this 1269
section. The civil action may be commenced at any time within one 1270
year of the date after the act that is the basis of the civil 1271
action. 1272

(2) In a civil action brought by the attorney general 1273
pursuant to division (F)(1) of this section for a violation of 1274
this section, the court may award temporary, preliminary, or 1275
permanent injunctive relief. The court also may impose a civil 1276
penalty against the offender, as the court considers just, in an 1277
amount that is the lesser of: (a) twenty-five thousand dollars for 1278

each day a violation occurs, or (b) not less than two dollars but 1279
not more than eight dollars for each commercial electronic mail 1280
message initiated in violation of this section. 1281

(3) In a civil action brought by an electronic mail service 1282
provider pursuant to division (F)(1) of this section for a 1283
violation of this section, the court may award temporary, 1284
preliminary, or permanent injunctive relief, and also may award 1285
damages in an amount equal to the greater of the following: 1286

(a) The sum of the actual damages incurred by the electronic 1287
mail service provider as a result of a violation of this section, 1288
plus any receipts of the offender that are attributable to a 1289
violation of this section and that were not taken into account in 1290
computing actual damages; 1291

(b) Statutory damages, as the court considers just, in an 1292
amount that is the lesser of: (i) twenty-five thousand dollars for 1293
each day a violation occurs, or (ii) not less than two dollars but 1294
not more than eight dollars for each commercial electronic mail 1295
message initiated in violation of this section. 1296

(4) In assessing damages awarded under division (F)(3) of 1297
this section, the court may consider whether the offender has 1298
established and implemented, with due care, commercially 1299
reasonable practices and procedures designed to effectively 1300
prevent the violation, or the violation occurred despite 1301
commercially reasonable efforts to maintain the practices and 1302
procedures established. 1303

(G) Any equipment, software, or other technology of a person 1304
who violates this section that is used or intended to be used in 1305
the commission of a violation of this section, and any real or 1306
personal property that constitutes or is traceable to the gross 1307
proceeds obtained from the commission of a violation of this 1308
section, is contraband and is subject to seizure and forfeiture 1309

pursuant to ~~sections 2933.42 and 2933.43~~ Chapter 2981. of the 1310
Revised Code. 1311

(H) The attorney general may bring a civil action, pursuant 1312
to the "CAN-SPAM Act of 2003," Pub. L. No. 108-187, 117 Stat. 1313
2699, 15 U.S.C. 7701 et seq., on behalf of the residents of the 1314
state in a district court of the United States that has 1315
jurisdiction for a violation of the CAN-SPAM Act of 2003, but the 1316
attorney general shall not bring a civil action under both this 1317
division and division (F) of this section. If a federal court 1318
dismisses a civil action brought under this division for reasons 1319
other than upon the merits, a civil action may be brought under 1320
division (F) of this section in the appropriate court of common 1321
pleas of this state. 1322

(I) Nothing in this section shall be construed: 1323

(1) To require an electronic mail service provider to block, 1324
transmit, route, relay, handle, or store certain types of 1325
electronic mail messages; 1326

(2) To prevent or limit, in any way, an electronic mail 1327
service provider from adopting a policy regarding electronic mail, 1328
including a policy of declining to transmit certain types of 1329
electronic mail messages, or from enforcing such policy through 1330
technical means, through contract, or pursuant to any remedy 1331
available under any other federal, state, or local criminal or 1332
civil law; 1333

(3) To render lawful any policy adopted under division (I)(2) 1334
of this section that is unlawful under any other law. 1335

Sec. 2923.01. (A) No person, with purpose to commit or to 1336
promote or facilitate the commission of aggravated murder, murder, 1337
kidnapping, compelling prostitution, promoting prostitution, 1338
aggravated arson, arson, aggravated robbery, robbery, aggravated 1339

burglary, burglary, engaging in a pattern of corrupt activity, 1340
corrupting another with drugs, a felony drug trafficking, 1341
manufacturing, processing, or possession offense, theft of drugs, 1342
or illegal processing of drug documents, the commission of a 1343
felony offense of unauthorized use of a vehicle, illegally 1344
transmitting multiple commercial electronic mail messages or 1345
unauthorized access of a computer in violation of section 2923.421 1346
of the Revised Code, or the commission of a violation of any 1347
provision of Chapter 3734. of the Revised Code, other than section 1348
3734.18 of the Revised Code, that relates to hazardous wastes, 1349
shall do either of the following: 1350

(1) With another person or persons, plan or aid in planning 1351
the commission of any of the specified offenses; 1352

(2) Agree with another person or persons that one or more of 1353
them will engage in conduct that facilitates the commission of any 1354
of the specified offenses. 1355

(B) No person shall be convicted of conspiracy unless a 1356
substantial overt act in furtherance of the conspiracy is alleged 1357
and proved to have been done by the accused or a person with whom 1358
the accused conspired, subsequent to the accused's entrance into 1359
the conspiracy. For purposes of this section, an overt act is 1360
substantial when it is of a character that manifests a purpose on 1361
the part of the actor that the object of the conspiracy should be 1362
completed. 1363

(C) When the offender knows or has reasonable cause to 1364
believe that a person with whom the offender conspires also has 1365
conspired or is conspiring with another to commit the same 1366
offense, the offender is guilty of conspiring with that other 1367
person, even though the other person's identity may be unknown to 1368
the offender. 1369

(D) It is no defense to a charge under this section that, in 1370

retrospect, commission of the offense that was the object of the 1371
conspiracy was impossible under the circumstances. 1372

(E) A conspiracy terminates when the offense or offenses that 1373
are its objects are committed or when it is abandoned by all 1374
conspirators. In the absence of abandonment, it is no defense to a 1375
charge under this section that no offense that was the object of 1376
the conspiracy was committed. 1377

(F) A person who conspires to commit more than one offense is 1378
guilty of only one conspiracy, when the offenses are the object of 1379
the same agreement or continuous conspiratorial relationship. 1380

(G) When a person is convicted of committing or attempting to 1381
commit a specific offense or of complicity in the commission of or 1382
attempt to commit the specific offense, the person shall not be 1383
convicted of conspiracy involving the same offense. 1384

(H)(1) No person shall be convicted of conspiracy upon the 1385
testimony of a person with whom the defendant conspired, 1386
unsupported by other evidence. 1387

(2) If a person with whom the defendant allegedly has 1388
conspired testifies against the defendant in a case in which the 1389
defendant is charged with conspiracy and if the testimony is 1390
supported by other evidence, the court, when it charges the jury, 1391
shall state substantially the following: 1392

"The testimony of an accomplice that is supported by other 1393
evidence does not become inadmissible because of the accomplice's 1394
complicity, moral turpitude, or self-interest, but the admitted or 1395
claimed complicity of a witness may affect the witness' 1396
credibility and make the witness' testimony subject to grave 1397
suspicion, and require that it be weighed with great caution. 1398

It is for you, as jurors, in the light of all the facts 1399
presented to you from the witness stand, to evaluate such 1400

testimony and to determine its quality and worth or its lack of
quality and worth." 1401
1402

(3) "Conspiracy," as used in division (H)(1) of this section, 1403
does not include any conspiracy that results in an attempt to 1404
commit an offense or in the commission of an offense. 1405

(I) The following are affirmative defenses to a charge of 1406
conspiracy: 1407

(1) After conspiring to commit an offense, the actor thwarted 1408
the success of the conspiracy under circumstances manifesting a 1409
complete and voluntary renunciation of the actor's criminal 1410
purpose. 1411

(2) After conspiring to commit an offense, the actor 1412
abandoned the conspiracy prior to the commission of or attempt to 1413
commit any offense that was the object of the conspiracy, either 1414
by advising all other conspirators of the actor's abandonment, or 1415
by informing any law enforcement authority of the existence of the 1416
conspiracy and of the actor's participation in the conspiracy. 1417

(J) Whoever violates this section is guilty of conspiracy, 1418
which is one of the following: 1419

(1) A felony of the first degree, when one of the objects of 1420
the conspiracy is aggravated murder, murder, or an offense for 1421
which the maximum penalty is imprisonment for life; 1422

(2) A felony of the next lesser degree than the most serious 1423
offense that is the object of the conspiracy, when the most 1424
serious offense that is the object of the conspiracy is a felony 1425
of the first, second, third, or fourth degree; 1426

(3) A felony punishable by a fine of not more than 1427
twenty-five thousand dollars or imprisonment for not more than 1428
eighteen months, or both, when the offense that is the object of 1429
the conspiracy is a violation of any provision of Chapter 3734. of 1430

the Revised Code, other than section 3734.18 of the Revised Code, 1431
that relates to hazardous wastes; 1432

(4) A misdemeanor of the first degree, when the most serious 1433
offense that is the object of the conspiracy is a felony of the 1434
fifth degree. 1435

(K) This section does not define a separate conspiracy 1436
offense or penalty where conspiracy is defined as an offense by 1437
one or more sections of the Revised Code, other than this section. 1438
In such a case, however: 1439

(1) With respect to the offense specified as the object of 1440
the conspiracy in the other section or sections, division (A) of 1441
this section defines the voluntary act or acts and culpable mental 1442
state necessary to constitute the conspiracy; 1443

(2) Divisions (B) to (I) of this section are incorporated by 1444
reference in the conspiracy offense defined by the other section 1445
or sections of the Revised Code. 1446

(L)(1) In addition to the penalties that otherwise are 1447
imposed for conspiracy, a person who is found guilty of conspiracy 1448
to engage in a pattern of corrupt activity is subject to divisions 1449
(B)(2), and (3), ~~(4), and (5)~~ of section 2923.32, division (A) of 1450
section 2981.04, and division (D) of section 2981.06 of the 1451
Revised Code. 1452

(2) If a person is convicted of or pleads guilty to 1453
conspiracy and if the most serious offense that is the object of 1454
the conspiracy is a felony drug trafficking, manufacturing, 1455
processing, or possession offense, in addition to the penalties or 1456
sanctions that may be imposed for the conspiracy under division 1457
(J)(2) or (4) of this section and Chapter 2929. of the Revised 1458
Code, both of the following apply: 1459

(a) The provisions of divisions (D), (F), and (G) of section 1460

2925.03, division (D) of section 2925.04, division (D) of section 1461
2925.05, division (D) of section 2925.06, and division (E) of 1462
section 2925.11 of the Revised Code that pertain to mandatory and 1463
additional fines, driver's or commercial driver's license or 1464
permit suspensions, and professionally licensed persons and that 1465
would apply under the appropriate provisions of those divisions to 1466
a person who is convicted of or pleads guilty to the felony drug 1467
trafficking, manufacturing, processing, or possession offense that 1468
is the most serious offense that is the basis of the conspiracy 1469
shall apply to the person who is convicted of or pleads guilty to 1470
the conspiracy as if the person had been convicted of or pleaded 1471
guilty to the felony drug trafficking, manufacturing, processing, 1472
or possession offense that is the most serious offense that is the 1473
basis of the conspiracy. 1474

(b) The court that imposes sentence upon the person who is 1475
convicted of or pleads guilty to the conspiracy shall comply with 1476
the provisions identified as being applicable under division 1477
(L)(2) of this section, in addition to any other penalty or 1478
sanction that it imposes for the conspiracy under division (J)(2) 1479
or (4) of this section and Chapter 2929. of the Revised Code. 1480

(M) As used in this section: 1481

(1) "Felony drug trafficking, manufacturing, processing, or 1482
possession offense" means any of the following that is a felony: 1483

(a) A violation of section 2925.03, 2925.04, 2925.05, or 1484
2925.06 of the Revised Code; 1485

(b) A violation of section 2925.11 of the Revised Code that 1486
is not a minor drug possession offense. 1487

(2) "Minor drug possession offense" has the same meaning as 1488
in section 2925.01 of the Revised Code. 1489

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the 1490

Revised Code:	1491
(A) "Beneficial interest" means any of the following:	1492
(1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property;	1493 1494
(2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person;	1495 1496 1497
(3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person.	1498 1499 1500
"Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership.	1501 1502 1503
(B) "Costs of investigation and prosecution" and "costs of investigation and litigation" mean all of the costs incurred by the state or a county or municipal corporation under sections 2923.31 to 2923.36 of the Revised Code in the prosecution and investigation of any criminal action or in the litigation and investigation of any civil action, and includes, but is not limited to, the costs of resources and personnel.	1504 1505 1506 1507 1508 1509 1510
(C) "Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. "Enterprise" includes illicit as well as licit enterprises.	1511 1512 1513 1514 1515 1516
(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	1517 1518 1519 1520

division (E) of section ~~2923.32~~ 2981.04 of the Revised Code, and 1521
any victim of an alleged violation of that section or of any 1522
underlying offense involved in an alleged violation of that 1523
section. 1524

(E) "Pattern of corrupt activity" means two or more incidents 1525
of corrupt activity, whether or not there has been a prior 1526
conviction, that are related to the affairs of the same 1527
enterprise, are not isolated, and are not so closely related to 1528
each other and connected in time and place that they constitute a 1529
single event. 1530

At least one of the incidents forming the pattern shall occur 1531
on or after January 1, 1986. Unless any incident was an aggravated 1532
murder or murder, the last of the incidents forming the pattern 1533
shall occur within six years after the commission of any prior 1534
incident forming the pattern, excluding any period of imprisonment 1535
served by any person engaging in the corrupt activity. 1536

For the purposes of the criminal penalties that may be 1537
imposed pursuant to section 2923.32 of the Revised Code, at least 1538
one of the incidents forming the pattern shall constitute a felony 1539
under the laws of this state in existence at the time it was 1540
committed or, if committed in violation of the laws of the United 1541
States or of any other state, shall constitute a felony under the 1542
law of the United States or the other state and would be a 1543
criminal offense under the law of this state if committed in this 1544
state. 1545

(F) "Pecuniary value" means money, a negotiable instrument, a 1546
commercial interest, or anything of value, as defined in section 1547
1.03 of the Revised Code, or any other property or service that 1548
has a value in excess of one hundred dollars. 1549

(G) "Person" means any person, as defined in section 1.59 of 1550
the Revised Code, and any governmental officer, employee, or 1551

entity. 1552

(H) "Personal property" means any personal property, any 1553
interest in personal property, or any right, including, but not 1554
limited to, bank accounts, debts, corporate stocks, patents, or 1555
copyrights. Personal property and any beneficial interest in 1556
personal property are deemed to be located where the trustee of 1557
the property, the personal property, or the instrument evidencing 1558
the right is located. 1559

(I) "Corrupt activity" means engaging in, attempting to 1560
engage in, conspiring to engage in, or soliciting, coercing, or 1561
intimidating another person to engage in any of the following: 1562

(1) Conduct defined as "racketeering activity" under the 1563
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1564
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 1565

(2) Conduct constituting any of the following: 1566

(a) A violation of section 1315.55, 1322.02, 2903.01, 1567
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 1568
2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 1569
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 1570
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 1571
2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 1572
2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division 1573
(F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) 1574
of section 1707.042; division (B), (C)(4), (D), (E), or (F) of 1575
section 1707.44; division (A)(1) or (2) of section 2923.20; 1576
division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 1577
4719.06; division (C), (D), or (E) of section 4719.07; section 1578
4719.08; or division (A) of section 4719.09 of the Revised Code. 1579

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 1580
3769.19 of the Revised Code as it existed prior to July 1, 1996, 1581
any violation of section 2915.02 of the Revised Code that occurs 1582

on or after July 1, 1996, and that, had it occurred prior to that 1583
date, would have been a violation of section 3769.11 of the 1584
Revised Code as it existed prior to that date, or any violation of 1585
section 2915.05 of the Revised Code that occurs on or after July 1586
1, 1996, and that, had it occurred prior to that date, would have 1587
been a violation of section 3769.15, 3769.16, or 3769.19 of the 1588
Revised Code as it existed prior to that date. 1589

(c) Any violation of section 2907.21, 2907.22, 2907.31, 1590
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 1591
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 1592
of the Revised Code, any violation of section 2925.11 of the 1593
Revised Code that is a felony of the first, second, third, or 1594
fourth degree and that occurs on or after July 1, 1996, any 1595
violation of section 2915.02 of the Revised Code that occurred 1596
prior to July 1, 1996, any violation of section 2915.02 of the 1597
Revised Code that occurs on or after July 1, 1996, and that, had 1598
it occurred prior to that date, would not have been a violation of 1599
section 3769.11 of the Revised Code as it existed prior to that 1600
date, any violation of section 2915.06 of the Revised Code as it 1601
existed prior to July 1, 1996, or any violation of division (B) of 1602
section 2915.05 of the Revised Code as it exists on and after July 1603
1, 1996, when the proceeds of the violation, the payments made in 1604
the violation, the amount of a claim for payment or for any other 1605
benefit that is false or deceptive and that is involved in the 1606
violation, or the value of the contraband or other property 1607
illegally possessed, sold, or purchased in the violation exceeds 1608
five hundred dollars, or any combination of violations described 1609
in division (I)(2)(c) of this section when the total proceeds of 1610
the combination of violations, payments made in the combination of 1611
violations, amount of the claims for payment or for other benefits 1612
that is false or deceptive and that is involved in the combination 1613
of violations, or value of the contraband or other property 1614

illegally possessed, sold, or purchased in the combination of 1615
violations exceeds five hundred dollars; 1616

(d) Any violation of section 5743.112 of the Revised Code 1617
when the amount of unpaid tax exceeds one hundred dollars; 1618

(e) Any violation or combination of violations of section 1619
2907.32 of the Revised Code involving any material or performance 1620
containing a display of bestiality or of sexual conduct, as 1621
defined in section 2907.01 of the Revised Code, that is explicit 1622
and depicted with clearly visible penetration of the genitals or 1623
clearly visible penetration by the penis of any orifice when the 1624
total proceeds of the violation or combination of violations, the 1625
payments made in the violation or combination of violations, or 1626
the value of the contraband or other property illegally possessed, 1627
sold, or purchased in the violation or combination of violations 1628
exceeds five hundred dollars; 1629

(f) Any combination of violations described in division 1630
(I)(2)(c) of this section and violations of section 2907.32 of the 1631
Revised Code involving any material or performance containing a 1632
display of bestiality or of sexual conduct, as defined in section 1633
2907.01 of the Revised Code, that is explicit and depicted with 1634
clearly visible penetration of the genitals or clearly visible 1635
penetration by the penis of any orifice when the total proceeds of 1636
the combination of violations, payments made in the combination of 1637
violations, amount of the claims for payment or for other benefits 1638
that is false or deceptive and that is involved in the combination 1639
of violations, or value of the contraband or other property 1640
illegally possessed, sold, or purchased in the combination of 1641
violations exceeds five hundred dollars. 1642

(3) Conduct constituting a violation of any law of any state 1643
other than this state that is substantially similar to the conduct 1644
described in division (I)(2) of this section, provided the 1645

defendant was convicted of the conduct in a criminal proceeding in 1646
the other state; 1647

(4) Animal or ecological terrorism. 1648

(J) "Real property" means any real property or any interest 1649
in real property, including, but not limited to, any lease of, or 1650
mortgage upon, real property. Real property and any beneficial 1651
interest in it is deemed to be located where the real property is 1652
located. 1653

(K) "Trustee" means any of the following: 1654

(1) Any person acting as trustee under a trust in which the 1655
trustee holds title to personal or real property; 1656

(2) Any person who holds title to personal or real property 1657
for which any other person has a beneficial interest; 1658

(3) Any successor trustee. 1659

"Trustee" does not include an assignee or trustee for an 1660
insolvent debtor or an executor, administrator, administrator with 1661
the will annexed, testamentary trustee, guardian, or committee, 1662
appointed by, under the control of, or accountable to a court. 1663

(L) "Unlawful debt" means any money or other thing of value 1664
constituting principal or interest of a debt that is legally 1665
unenforceable in this state in whole or in part because the debt 1666
was incurred or contracted in violation of any federal or state 1667
law relating to the business of gambling activity or relating to 1668
the business of lending money at an usurious rate unless the 1669
creditor proves, by a preponderance of the evidence, that the 1670
usurious rate was not intentionally set and that it resulted from 1671
a good faith error by the creditor, notwithstanding the 1672
maintenance of procedures that were adopted by the creditor to 1673
avoid an error of that nature. 1674

(M) "Animal activity" means any activity that involves the 1675

use of animals or animal parts, including, but not limited to, 1676
hunting, fishing, trapping, traveling, camping, the production, 1677
preparation, or processing of food or food products, clothing or 1678
garment manufacturing, medical research, other research, 1679
entertainment, recreation, agriculture, biotechnology, or service 1680
activity that involves the use of animals or animal parts. 1681

(N) "Animal facility" means a vehicle, building, structure, 1682
nature preserve, or other premises in which an animal is lawfully 1683
kept, handled, housed, exhibited, bred, or offered for sale, 1684
including, but not limited to, a zoo, rodeo, circus, amusement 1685
park, hunting preserve, or premises in which a horse or dog event 1686
is held. 1687

(O) "Animal or ecological terrorism" means the commission of 1688
any felony that involves causing or creating a substantial risk of 1689
physical harm to any property of another, the use of a deadly 1690
weapon or dangerous ordnance, or purposely, knowingly, or 1691
recklessly causing serious physical harm to property and that 1692
involves an intent to obstruct, impede, or deter any person from 1693
participating in a lawful animal activity, from mining, foresting, 1694
harvesting, gathering, or processing natural resources, or from 1695
being lawfully present in or on an animal facility or research 1696
facility. 1697

(P) "Research facility" means a place, laboratory, 1698
institution, medical care facility, government facility, or public 1699
or private educational institution in which a scientific test, 1700
experiment, or investigation involving the use of animals or other 1701
living organisms is lawfully carried out, conducted, or attempted. 1702

Sec. 2923.32. (A)(1) No person employed by, or associated 1703
with, any enterprise shall conduct or participate in, directly or 1704
indirectly, the affairs of the enterprise through a pattern of 1705
corrupt activity or the collection of an unlawful debt. 1706

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

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

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

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

aggravated murder, or murder if committed on or after ~~the~~ 1739
~~effective date of this amendment July 1, 1996~~, or if at least one 1740
of the incidents of corrupt activity is a felony under the law of 1741
the United States or of another state that, if committed in this 1742
state on or after ~~the effective date of this amendment July 1,~~ 1743
1996, would constitute a felony of the first, second, or third 1744
degree, aggravated murder, or murder under the law of this state, 1745
engaging in a pattern of corrupt activity is a felony of the first 1746
degree. Notwithstanding any other provision of law, a person may 1747
be convicted of violating the provisions of this section as well 1748
as of a conspiracy to violate one or more of those provisions 1749
under section 2923.01 of the Revised Code. 1750

(2) Notwithstanding the financial sanctions authorized by 1751
section 2929.18 of the Revised Code, the court may do all of the 1752
following with respect to any person who derives pecuniary value 1753
or causes property damage, personal injury other than pain and 1754
suffering, or other loss through or by the violation of this 1755
section: 1756

(a) In lieu of the fine authorized by that section, impose a 1757
fine not exceeding the greater of three times the gross value 1758
gained or three times the gross loss caused and order the clerk of 1759
the court to pay the fine into the state treasury to the credit of 1760
the corrupt activity investigation and prosecution fund, which is 1761
hereby created in section 2923.35 of the Revised Code; 1762

(b) In addition to the fine described in division (B)(2)(a) 1763
of this section and the financial sanctions authorized by section 1764
2929.18 of the Revised Code, order the person to pay court costs; 1765

(c) In addition to the fine described in division (B)(2)(a) 1766
of this section and the financial sanctions authorized by section 1767
2929.18 of the Revised Code, order the person to pay to the state, 1768
municipal, or county law enforcement agencies that handled the 1769
investigation and prosecution the costs of investigation and 1770

prosecution that are reasonably incurred. 1771

The court shall hold a hearing to determine the amount of 1772
fine, court costs, and other costs to be imposed under this 1773
division. 1774

(3) In addition to any other penalty or disposition 1775
authorized or required by law, the court shall order any person 1776
who is convicted of or pleads guilty to a violation of this 1777
section or who is adjudicated delinquent by reason of a violation 1778
of this section to criminally forfeit to the state under Chapter 1779
2981. of the Revised Code any personal or real property in which 1780
the person has an interest and that was used in the course of or 1781
intended for use in the course of a violation of this section, or 1782
that was derived from or realized through conduct in violation of 1783
this section, including any property constituting an interest in, 1784
means of control over, or influence over the enterprise involved 1785
in the violation and any property constituting proceeds derived 1786
from the violation, including all of the following: 1787

(a) Any position, office, appointment, tenure, commission, or 1788
employment contract of any kind acquired or maintained by the 1789
person in violation of this section, through which the person, in 1790
violation of this section, conducted or participated in the 1791
conduct of an enterprise, or that afforded the person a source of 1792
influence or control over an enterprise that the person exercised 1793
in violation of this section; 1794

(b) Any compensation, right, or benefit derived from a 1795
position, office, appointment, tenure, commission, or employment 1796
contract described in division (B)(3)(a) of this section that 1797
accrued to the person in violation of this section during the 1798
period of the pattern of corrupt activity; 1799

(c) Any interest in, security of, claim against, or property 1800
or contractual right affording the person a source of influence or 1801

control over the affairs of an enterprise that the person 1802
exercised in violation of this section; 1803

(d) Any amount payable or paid under any contract for goods 1804
or services that was awarded or performed in violation of this 1805
section. 1806

~~(4)(a) A sentence or disposition of criminal forfeiture 1807
pursuant to division (B)(3) of this section shall not be entered 1808
unless either of the following applies: 1809~~

~~(i) The indictment, count in the indictment, or information 1810
charging the offense, or the complaint, indictment, or information 1811
filed in juvenile court charging the violation as a delinquent act 1812
alleges the extent of the property subject to forfeiture; 1813~~

~~(ii) The criminal sentence or delinquency disposition 1814
requires the forfeiture of property that was not reasonably 1815
foreseen to be subject to forfeiture at the time of the 1816
indictment, count in the indictment, or information charging the 1817
offense, or the complaint, indictment, or information filed in 1818
juvenile court charging the violation as a delinquent act, 1819
provided that the prosecuting attorney gave prompt notice to the 1820
defendant or the alleged or adjudicated delinquent child of such 1821
property not reasonably foreseen to be subject to forfeiture when 1822
it is discovered to be forfeitable. 1823~~

~~(b) A special verdict shall be returned as to the extent of 1824
the property, if any, subject to forfeiture. When the special 1825
verdict is returned, a judgment of forfeiture shall be entered. 1826~~

~~(5) If any property included in a special verdict of 1827
forfeiture returned pursuant to division (B)(4) of this section 1828
cannot be located, has been sold to a bona fide purchaser for 1829
value, placed beyond the jurisdiction of the court, substantially 1830
diminished in value by the conduct of the defendant or adjudicated 1831
delinquent child, or commingled with other property that cannot be 1832~~

~~divided without difficulty or undue injury to innocent persons, or
otherwise is unreachable without undue injury to innocent persons,
the court shall order forfeiture of any other reachable property
of the defendant or adjudicated delinquent child up to the value
of the property that is unreachable.~~

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

~~(a) Indicates that the attorney general has received from law~~

~~enforcement agencies reports of the type described in this~~ 1865
~~division that cover the previous calendar year and indicates that~~ 1866
~~the reports were received under this division;~~ 1867

~~(b) Indicates that the reports are open for inspection under~~ 1868
~~section 149.43 of the Revised Code;~~ 1869

~~(c) Indicates that the attorney general will provide a copy~~ 1870
~~of any or all of the reports to the president of the senate or the~~ 1871
~~speaker of the house of representatives upon request.~~ 1872

~~(C) Notwithstanding the notice and procedure prescribed by~~ 1873
~~division (E) of this section, an order of criminal forfeiture~~ 1874
~~entered under division (B)(3) of this section shall authorize an~~ 1875
~~appropriate law enforcement agency to seize the property declared~~ 1876
~~forfeited under this section upon the terms and conditions,~~ 1877
~~relating to the time and manner of seizure, that the court~~ 1878
~~determines proper.~~ 1879

~~(D) Criminal penalties under this section are not mutually~~ 1880
~~exclusive, unless otherwise provided, and do not preclude the~~ 1881
~~application of any other criminal or civil remedy under this or~~ 1882
~~any other section of the Revised Code. A disposition of criminal~~ 1883
~~forfeiture ordered pursuant to division (B)(3) of this section in~~ 1884
~~relation to a child who was adjudicated delinquent by reason of a~~ 1885
~~violation of this section does not preclude the application of any~~ 1886
~~other order of disposition under Chapter 2152. of the Revised Code~~ 1887
~~or any other civil remedy under this or any other section of the~~ 1888
~~Revised Code.~~ 1889

~~(E)(1) Upon the entry of a judgment of forfeiture pursuant to~~ 1890
~~division (B)(3) of this section, the court shall cause notice of~~ 1891
~~the judgment to be sent by certified mail, return receipt~~ 1892
~~requested, to all persons known to have, or appearing to have, an~~ 1893
~~interest in the property that was acquired prior to the filing of~~ 1894
~~a corrupt activity lien notice or a lis pendens as authorized by~~ 1895

~~section 2923.36 of the Revised Code. If the notices cannot be
given to those persons in that manner, the court shall cause
publication of the notice of the judgment of forfeiture pursuant
to the Rules of Civil Procedure.~~

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

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

~~(4) If at a hearing held under division (E)(3) of this
section, the court, by a preponderance of the evidence, determines
either that the petitioner has a legal right, title, or interest~~

in the property that, at the time of the commission of the acts 1928
giving rise to the forfeiture of the property, was vested in the 1929
petitioner and not in the defendant or the adjudicated delinquent 1930
child or was superior to the right, title, or interest of the 1931
defendant or the adjudicated delinquent child, or that the 1932
petitioner is a bona fide purchaser for value of the right, title, 1933
or interest in the property and was at the time of the purchase 1934
reasonably without cause to believe that the property was subject 1935
to forfeiture under this section, it shall amend, in accordance 1936
with its determination, the judgment of forfeiture to protect the 1937
rights of innocent persons. 1938

(F) Except as provided in division (E) of this section, no 1939
person claiming an interest in property that is subject to 1940
forfeiture under this section shall do either of the following: 1941

(1) Intervene in a trial or appeal of a criminal case or a 1942
delinquency case that involves the forfeiture of the property; 1943

(2) File an action against the state concerning the validity 1944
of the person's alleged interest in the property subsequent to the 1945
filing of the indictment, count in the indictment, or information, 1946
or the filing of the complaint, indictment, or information in 1947
juvenile court, that alleges that the property is subject to 1948
forfeiture under this section. 1949

(G) As used in this section, "law enforcement agency" 1950
includes, but is not limited to, the state board of pharmacy. 1951

Sec. 2923.34. (A) The prosecuting attorney of the county in 1952
which a violation of section 2923.32 of the Revised Code, or a 1953
conspiracy to violate that section, occurs may institute a civil 1954
proceeding as authorized by this section in an appropriate court 1955
seeking relief from any person whose conduct violated section 1956
2923.32 of the Revised Code or who conspired to violate that 1957

section-	1958
(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.	1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970
(C) <u>(B)</u> 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:	1971 1972 1973 1974 1975 1976 1977
(1) Require the divestiture of the defendant's interest in any enterprise or in any real property;	1978 1979
(2) Impose reasonable restrictions upon the future activities or investments of any defendant in the action, including, but not limited to, restrictions that prohibit the defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of section 2923.32 of the Revised Code;	1980 1981 1982 1983 1984 1985
(3) Order the dissolution or reorganization of any enterprise;	1986 1987

(4) Order the suspension or revocation of a license, permit, 1988
or prior approval granted to any enterprise by any department or 1989
agency of the state; 1990

(5) Order the dissolution of a corporation organized under 1991
the laws of this state, or the revocation of the authorization of 1992
a foreign corporation to conduct business within this state, upon 1993
a finding that the board of directors or an agent acting on behalf 1994
of the corporation, in conducting the affairs of the corporation, 1995
has authorized or engaged in conduct in violation of section 1996
2923.32 of the Revised Code, and that, for the prevention of 1997
future criminal conduct, the public interest requires the 1998
corporation to be dissolved or its license revoked. 1999

~~(D)~~(C) Relief pursuant to division ~~(C)~~(B)(3), (4), or (5) of 2000
this section shall not be granted in any civil proceeding 2001
instituted by an injured person unless the attorney general 2002
intervenes in the civil action pursuant to this division. 2003

Upon the filing of a civil proceeding for relief under 2004
division ~~(C)~~(B)(3), (4), or (5) of this section by an allegedly 2005
injured person other than a prosecuting attorney, the allegedly 2006
injured person immediately shall notify the attorney general of 2007
the filing. The attorney general, upon timely application, may 2008
intervene in any civil proceeding for relief under division 2009
~~(C)~~(B)(3), (4), or (5) if the attorney general certifies that, in 2010
the attorney general's opinion, the proceeding is of general 2011
public interest. In any proceeding brought by an injured person 2012
under division ~~(C)~~(B)(3), (4), or (5) of this section, the 2013
attorney general is entitled to the same relief as if the attorney 2014
general instituted the proceeding. 2015

~~(E)~~(D) In a civil proceeding under division ~~(C)~~(B) of this 2016
section, the court may grant injunctive relief without a showing 2017
of special or irreparable injury. 2018

Pending final determination of a civil proceeding initiated 2019
under this section, the court may issue a temporary restraining 2020
order or a preliminary injunction upon a showing of immediate 2021
danger or significant injury to the plaintiff, including the 2022
possibility that any judgment for money damages might be difficult 2023
to execute, and, in a proceeding initiated by an aggrieved person, 2024
upon the execution of proper bond against injury for an 2025
improvidently granted injunction. 2026

~~(F)~~(E) In a civil proceeding under division ~~(B)~~(A) of this 2027
section, any person directly or indirectly injured by conduct in 2028
violation of section 2923.32 of the Revised Code or a conspiracy 2029
to violate that section, other than a violator of that section or 2030
a conspirator to violate that section, in addition to relief under 2031
division ~~(C)~~(B) of this section, shall have a cause of action for 2032
triple the actual damages the person sustained. To recover triple 2033
damages, the plaintiff shall prove the violation or conspiracy to 2034
violate that section and actual damages by clear and convincing 2035
evidence. Damages under this division may include, but are not 2036
limited to, competitive injury and injury distinct from the injury 2037
inflicted by corrupt activity. 2038

~~(G)~~(F) In a civil action in which the plaintiff prevails 2039
under division ~~(C)~~(B) or ~~(F)~~(E) of this section, the plaintiff 2040
shall recover reasonable attorney fees in the trial and appellate 2041
courts, and the court shall order the defendant to pay to the 2042
state, municipal, or county law enforcement agencies that handled 2043
the investigation and litigation the costs of investigation and 2044
litigation that reasonably are incurred and that are not ordered 2045
to be paid pursuant to division (B)(2) of section 2923.32 of the 2046
Revised Code or division ~~(I)~~(H) of this section. 2047

~~(H)~~(G) Upon application, based on the evidence presented in 2048
the case by the plaintiff, as the interests of justice may 2049
require, the trial court may grant a defendant who prevails in a 2050

civil action brought pursuant to this section all or part of the 2051
defendant's costs, including the costs of investigation and 2052
litigation reasonably incurred, and all or part of the defendant's 2053
reasonable attorney fees, unless the court finds that special 2054
circumstances, including the relative economic position of the 2055
parties, make an award unjust. 2056

~~(I)~~(H) If a person, other than an individual, is not 2057
convicted of a violation of section 2923.32 of the Revised Code, 2058
the prosecuting attorney may institute proceedings against the 2059
person to recover a civil penalty for conduct that the prosecuting 2060
attorney proves by clear and convincing evidence is in violation 2061
of section 2923.32 of the Revised Code. The civil penalty shall 2062
not exceed one hundred thousand dollars and shall be paid into the 2063
state treasury to the credit of the corrupt activity investigation 2064
and prosecution fund created in section ~~2923.35~~ 2923.32 of the 2065
Revised Code. If a civil penalty is ordered pursuant to this 2066
division, the court shall order the defendant to pay to the state, 2067
municipal, or county law enforcement agencies that handled the 2068
investigation and litigation the costs of investigation and 2069
litigation that are reasonably incurred and that are not ordered 2070
to be paid pursuant to this section. 2071

~~(J)~~(I) A final judgment, decree, or delinquency adjudication 2072
rendered against the defendant or the adjudicated delinquent child 2073
in a civil action under this section or in a criminal or 2074
delinquency action or proceeding for a violation of section 2075
2923.32 of the Revised Code shall estop the defendant or the 2076
adjudicated delinquent child in any subsequent civil proceeding or 2077
action brought by any person as to all matters as to which the 2078
judgment, decree, or adjudication would be an estoppel as between 2079
the parties to the civil, criminal, or delinquency proceeding or 2080
action. 2081

~~(K)~~(J) Notwithstanding any other provision of law providing a 2082

shorter period of limitations, a civil proceeding or action under 2083
this section may be commenced at any time within five years after 2084
the unlawful conduct terminates or the cause of action accrues or 2085
within any longer statutory period of limitations that may be 2086
applicable. If a criminal proceeding, delinquency proceeding, 2087
civil action, or other proceeding is brought or intervened in by 2088
the state to punish, prevent, or restrain any activity that is 2089
unlawful under section 2923.32 of the Revised Code, the running of 2090
the period of limitations prescribed by this division with respect 2091
to any civil action brought under this section by a person who is 2092
injured by a violation or threatened violation of section 2923.32 2093
of the Revised Code, based in whole or in part upon any matter 2094
complained of in the state prosecution, action, or proceeding, 2095
shall be suspended during the pendency of the state prosecution, 2096
action, or proceeding and for two years following its termination. 2097

~~(L)~~(K) Personal service of any process in a proceeding under 2098
this section may be made upon any person outside this state if the 2099
person was involved in any conduct constituting a violation of 2100
section 2923.32 of the Revised Code in this state. The person is 2101
deemed by the person's conduct in violation of section 2923.32 of 2102
the Revised Code to have submitted to the jurisdiction of the 2103
courts of this state for the purposes of this section. 2104

~~(M)~~(L) The application of any civil remedy under this section 2105
shall not preclude the application of any criminal remedy or 2106
criminal forfeiture under section 2923.32 of the Revised Code or 2107
any other provision of law, or the application of any delinquency 2108
disposition under Chapter 2152. of the Revised Code or any other 2109
provision of law. 2110

(M)(1) Any person who prevails in a civil action pursuant to 2111
this section has a right to any property, or the proceeds of any 2112
property, criminally forfeited to the state pursuant to section 2113
2981.04 of the Revised Code or against which any fine under 2114

section 2923.32 of the Revised Code or civil penalty under 2115
division (H) of this section may be imposed. 2116

The right of any person who prevails in a civil action 2117
pursuant to this section, other than a prosecuting attorney 2118
performing official duties under that section, to forfeited 2119
property, property against which fines and civil penalties may be 2120
imposed, and the proceeds of that property is superior to any 2121
right of the state, a municipal corporation, or a county to the 2122
property or the proceeds of the property, if the civil action is 2123
brought within one hundred eighty days after the entry of a 2124
sentence of forfeiture or a fine pursuant to sections 2923.32 and 2125
2981.04 of the Revised Code or the entry of a civil penalty 2126
pursuant to division (H) of this section. 2127

The right is limited to the total value of the treble 2128
damages, civil penalties, attorney's fees, and costs awarded to 2129
the prevailing party in an action pursuant to this section, less 2130
any restitution received by the person. 2131

(2) If the aggregate amount of claims of persons who have 2132
prevailed in a civil action pursuant to this section against any 2133
one defendant is greater than the total value of the treble fines, 2134
civil penalties, and forfeited property paid by the person against 2135
whom the actions were brought, all of the persons who brought 2136
their actions within one hundred eighty days after the entry of a 2137
sentence or disposition of forfeiture or a fine pursuant to 2138
section 2923.32 of the Revised Code or the entry of a civil 2139
penalty pursuant to division (H) of this section, first shall 2140
receive a pro rata share of the total amount of the fines, civil 2141
penalties, and forfeited property. After the persons who brought 2142
their actions within the specified one-hundred-eighty-day period 2143
have satisfied their claims out of the fines, civil penalties, and 2144
forfeited property, all other persons who prevailed in civil 2145
actions pursuant to this section shall receive a pro rata share of 2146

the total amount of the fines, civil penalties, and forfeited 2147
property that remains in the custody of the law enforcement agency 2148
or in the corrupt activity investigation and prosecution fund. 2149

(N) As used in this section, "law enforcement agency" 2150
includes, but is not limited to, the state board of pharmacy. 2151

Sec. 2923.36. (A) Upon the institution of any criminal 2152
proceeding charging a violation of section 2923.32 of the Revised 2153
Code, the filing of any complaint, indictment, or information in 2154
juvenile court alleging a violation of that section as a 2155
delinquent act, or the institution of any civil proceeding under 2156
section ~~2923.32~~ or 2923.34 or 2981.05 of the Revised Code, the 2157
state, at any time during the pendency of the proceeding, may file 2158
a corrupt activity lien notice with the county recorder of any 2159
county in which property subject to forfeiture may be located. No 2160
fee shall be required for filing the notice. The recorder 2161
immediately shall record the notice pursuant to section 317.08 of 2162
the Revised Code. 2163

(B) A corrupt activity lien notice shall be signed by the 2164
prosecuting attorney who files the lien. The notice shall set 2165
forth all of the following information: 2166

(1) The name of the person against whom the proceeding has 2167
been brought. The prosecuting attorney may specify in the notice 2168
any aliases, names, or fictitious names under which the person may 2169
be known. The prosecuting attorney also may specify any 2170
corporation, partnership, or other entity in which the person has 2171
an interest subject to forfeiture under ~~section 2923.32~~ Chapter 2172
2981. of the Revised Code and shall describe in the notice the 2173
person's interest in the corporation, partnership, or other 2174
entity. 2175

(2) If known to the prosecuting attorney, the present 2176

residence and business addresses of the person or names set forth	2177
in the notice;	2178
(3) A statement that a criminal or delinquency proceeding for	2179
a violation of section 2923.32 of the Revised Code or a civil	2180
proceeding under section 2923.32 or 2923.34 or <u>2981.05</u> of the	2181
Revised Code has been brought against the person named in the	2182
notice, the name of the county in which the proceeding has been	2183
brought, and the case number of the proceeding;	2184
(4) A statement that the notice is being filed pursuant to	2185
this section;	2186
(5) The name and address of the prosecuting attorney filing	2187
the notice;	2188
(6) A description of the real or personal property subject to	2189
the notice and of the interest in that property of the person	2190
named in the notice, to the extent the property and the interest	2191
of the person in it reasonably is known at the time the proceeding	2192
is instituted or at the time the notice is filed.	2193
(C) A corrupt activity lien notice shall apply only to one	2194
person and, to the extent applicable, any aliases, fictitious	2195
names, or other names, including names of corporations,	2196
partnerships, or other entities, to the extent permitted in this	2197
section. A separate corrupt activity lien notice is required to be	2198
filed for any other person.	2199
(D) Within seven days after the filing of each corrupt	2200
activity lien notice, the prosecuting attorney who files the	2201
notice shall furnish to the person named in the notice by	2202
certified mail, return receipt requested, to the last known	2203
business or residential address of the person, a copy of the	2204
recorded notice with a notation on it of any county in which the	2205
notice has been recorded. The failure of the prosecuting attorney	2206
to furnish a copy of the notice under this section shall not	2207

invalidate or otherwise affect the corrupt activity lien notice 2208
when the prosecuting attorney did not know and could not 2209
reasonably ascertain the address of the person entitled to notice. 2210

After receipt of a copy of the notice under this division, 2211
the person named in the notice may petition the court to authorize 2212
the person to post a surety bond in lieu of the lien or to 2213
otherwise modify the lien as the interests of justice may require. 2214
The bond shall be in an amount equal to the value of the property 2215
reasonably known to be subject to the notice and conditioned on 2216
the payment of any judgment and costs ordered in an action 2217
pursuant to ~~section 2923.32 or 2923.34~~ Chapter 2981. of the 2218
Revised Code up to the value of the bond. 2219

(E) From the date of filing of a corrupt activity lien 2220
notice, the notice creates a lien in favor of the state on any 2221
personal or real property or any beneficial interest in the 2222
property located in the county in which the notice is filed that 2223
then or subsequently is owned by the person named in the notice or 2224
under any of the names set forth in the notice. 2225

The lien created in favor of the state is superior and prior 2226
to the interest of any other person in the personal or real 2227
property or beneficial interest in the property, if the interest 2228
is acquired subsequent to the filing of the notice. 2229

(F)(1) Notwithstanding any law or rule to the contrary, in 2230
conjunction with any civil proceeding brought pursuant to section 2231
~~2923.34~~ 2981.05 of the Revised Code, the prosecuting attorney may 2232
file in any county, without prior court order, a lis pendens 2233
pursuant to sections 2703.26 and 2703.27 of the Revised Code. In 2234
such a case, any person acquiring an interest in the subject 2235
property or beneficial interest in the property, if the property 2236
interest is acquired subsequent to the filing of the lis pendens, 2237
shall take the property or interest subject to the civil 2238

proceeding and any subsequent judgment. 2239

(2) If a corrupt activity lien notice has been filed, the 2240
prosecuting attorney may name as a defendant in the lis pendens, 2241
in addition to the person named in the notice, any person 2242
acquiring an interest in the personal or real property or 2243
beneficial interest in the property subsequent to the filing of 2244
the notice. If a judgment of forfeiture is entered in the criminal 2245
or delinquency proceeding pursuant to section ~~2923.32~~ 2981.04 of 2246
the Revised Code in favor of the state, the interest of any person 2247
in the property that was acquired subsequent to the filing of the 2248
notice shall be subject to the notice and judgment of forfeiture. 2249

(G) Upon a final judgment of forfeiture in favor of the state 2250
pursuant to ~~section 2923.32~~ Chapter 2981. of the Revised Code, 2251
title of the state to the forfeited property shall do either of 2252
the following: 2253

(1) In the case of real property, or a beneficial interest in 2254
it, relate back to the date of filing of the corrupt activity lien 2255
notice in the county where the property or interest is located. If 2256
no corrupt activity lien notice was filed, title of the state 2257
relates back to the date of the filing of any lis pendens under 2258
division (F) of this section in the records of the county recorder 2259
of the county in which the real property or beneficial interest is 2260
located. If no corrupt activity lien notice or lis pendens was 2261
filed, title of the state relates back to the date of the 2262
recording of the final judgment of forfeiture in the records of 2263
the county recorder of the county in which the real property or 2264
beneficial interest is located. 2265

(2) In the case of personal property or a beneficial interest 2266
in it, relate back to the date on which the property or interest 2267
was seized by the state, or the date of filing of a corrupt 2268
activity lien notice in the county in which the property or 2269
beneficial interest is located. If the property was not seized and 2270

no corrupt activity lien notice was filed, title of the state 2271
relates back to the date of the recording of the final judgment of 2272
forfeiture in the county in which the personal property or 2273
beneficial interest is located. 2274

(H) If personal or real property, or a beneficial interest in 2275
it, that is subject to forfeiture pursuant to section 2923.32 of 2276
the Revised Code is conveyed, alienated, disposed of, or otherwise 2277
rendered unavailable for forfeiture after the filing of either a 2278
corrupt activity lien notice, or a criminal or delinquency 2279
proceeding for a violation of section 2923.32 or a civil 2280
proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised 2281
Code, whichever is earlier, the state may bring an action in any 2282
court of common pleas against the person named in the corrupt 2283
activity lien notice or the defendant in the criminal, 2284
delinquency, or civil proceeding to recover the value of the 2285
property or interest. The court shall enter final judgment against 2286
the person named in the notice or the defendant for an amount 2287
equal to the value of the property or interest together with 2288
investigative costs and attorney's fees incurred by the state in 2289
the action. If a civil proceeding is pending, an action pursuant 2290
to this section shall be filed in the court in which the 2291
proceeding is pending. 2292

(I) If personal or real property, or a beneficial interest in 2293
it, that is subject to forfeiture pursuant to ~~section 2923.32~~ 2294
Chapter 2981. of the Revised Code is alienated or otherwise 2295
transferred or disposed of after either the filing of a corrupt 2296
activity lien notice, or the filing of a criminal or delinquency 2297
proceeding for a violation of section 2923.32 or a civil 2298
proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised 2299
Code, whichever is earlier, the transfer or disposal is fraudulent 2300
as to the state and the state shall have all the rights granted a 2301
creditor under Chapter 1336. of the Revised Code. 2302

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

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

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

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

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

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

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

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

(3) The fair market value of the interest of the person named

in the notice in the property transferred. 2333

However, if the trustee transfers property for at least its 2334
fair market value and holds the proceeds that otherwise would be 2335
paid or distributed to the beneficiary, or at the direction of the 2336
beneficiary or the beneficiary's designee, the liability of the 2337
trustee shall not exceed the amount of the proceeds held by the 2338
trustee. 2339

(L) The filing of a corrupt activity lien notice does not 2340
constitute a lien on the record title to personal or real property 2341
owned by the trustee, except to the extent the trustee is named in 2342
the notice. 2343

The prosecuting attorney for the county may bring a civil 2344
action in any court of common pleas to recover from the trustee 2345
the amounts set forth in division (H) of this section. The county 2346
may recover investigative costs and attorney's fees incurred by 2347
the prosecuting attorney. 2348

(M)(1) This section does not apply to any transfer by a 2349
trustee under a court order, unless the order is entered in an 2350
action between the trustee and the beneficiary. 2351

(2) Unless the trustee has actual knowledge that a person 2352
owning a beneficial interest in the trust is named in a corrupt 2353
activity lien notice or otherwise is a defendant in a civil 2354
proceeding brought pursuant to section 2923.34 or 2981.05 of the 2355
Revised Code, this section does not apply to either of the 2356
following: 2357

(a) Any transfer by a trustee required under the terms of any 2358
trust agreement, if the agreement is a matter of public record 2359
before the filing of any corrupt activity lien notice; 2360

(b) Any transfer by a trustee to all of the persons who own a 2361
beneficial interest in the trust. 2362

(N) The filing of a corrupt activity lien notice does not 2363
affect the use to which personal or real property, or a beneficial 2364
interest in it, that is owned by the person named in the notice 2365
may be put or the right of the person to receive any proceeds 2366
resulting from the use and ownership, but not the sale, of the 2367
property, until a judgment of forfeiture is entered. 2368

(O) The term of a corrupt activity lien notice is five years 2369
from the date the notice is filed, unless a renewal notice has 2370
been filed by the prosecuting attorney of the county in which the 2371
property or interest is located. The term of any renewal of a 2372
corrupt activity lien notice granted by the court is five years 2373
from the date of its filing. A corrupt activity lien notice may be 2374
renewed any number of times while a criminal or civil proceeding 2375
under section ~~2923.32~~ or 2923.34, 2981.04, or 2981.05 of the 2376
Revised Code, or an appeal from either type of proceeding, is 2377
pending. 2378

(P) The prosecuting attorney who files the corrupt activity 2379
lien notice may terminate, in whole or part, any corrupt activity 2380
lien notice or release any personal or real property or beneficial 2381
interest in the property upon any terms that the prosecuting 2382
attorney determines are appropriate. Any termination or release 2383
shall be filed by the prosecuting attorney with each county 2384
recorder with whom the notice was filed. No fee shall be imposed 2385
for the filing. 2386

(Q)(1) If no civil proceeding has been brought by the 2387
prosecuting attorney pursuant to section 2923.34 of the Revised 2388
Code against the person named in the corrupt activity lien notice, 2389
the acquittal in a criminal or delinquency proceeding for a 2390
violation of section 2923.32 of the Revised Code of the person 2391
named in the notice or the dismissal of a criminal or delinquency 2392
proceeding for such a violation against the person named in the 2393
notice terminates the notice. In such a case, the filing of the 2394

notice has no effect.

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(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 (0) of this section.

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

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notice or releasing the personal or real property or beneficial
interest from the notice.

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

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

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

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

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

(1) It has as one of its primary activities the commission of

one or more of the offenses listed in division (B) of this section. 2457
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(2) It has a common name or one or more common, identifying signs, symbols, or colors. 2459
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(3) The persons in the organization, association, or group individually or collectively engage in or have engaged in a pattern of criminal gang activity. 2461
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(B)(1) "Pattern of criminal gang activity" means, subject to division (B)(2) of this section, that persons in the criminal gang have committed, attempted to commit, conspired to commit, been complicitors in the commission of, or solicited, coerced, or intimidated another to commit, attempt to commit, conspire to commit, or be in complicity in the commission of two or more of any of the following offenses: 2464
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(a) A felony or an act committed by a juvenile that would be a felony if committed by an adult; 2471
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(b) An offense of violence or an act committed by a juvenile that would be an offense of violence if committed by an adult; 2473
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(c) A violation of section 2907.04, 2909.06, 2911.211, 2917.04, 2919.23, or 2919.24 of the Revised Code, section 2921.04 or 2923.16 of the Revised Code, section 2925.03 of the Revised Code if the offense is trafficking in marihuana, or section 2927.12 of the Revised Code. 2475
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(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: 2480
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(a) At least one of the two or more offenses is a felony.	2487
(b) At least one of those two or more offenses occurs on or after the effective date of this section <u>January 1, 1999</u> .	2488 2489
(c) The last of those two or more offenses occurs within five years after at least one of those offenses.	2490 2491
(d) The two or more offenses are committed on separate occasions or by two or more persons.	2492 2493
(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.	2494 2495 2496 2497 2498 2499 2500 2501 2502 2503 2504 2505
(D) "Juvenile" means a person who is under eighteen years of age.	2506 2507
(E) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.	2508 2509
(F) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.	2510 2511
(G) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.	2512 2513 2514
(H) "Property" includes both of the following:	2515
(1) Real property, including, but not limited to, things	2516

~~growing on, affixed to, and found in the real property;~~ 2517

~~(2) Tangible and intangible personal property, including, but not limited to, rights, privileges, interests, claims, and securities.~~ 2518
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~~(I) "Firearms" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.~~ 2521
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~~(J) "Computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.~~ 2523
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~~(K) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.~~ 2526
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Sec. 2923.42. (A) No person who actively participates in a 2528
criminal gang, with knowledge that the criminal gang engages in or 2529
has engaged in a pattern of criminal gang activity, shall 2530
purposely promote, further, or assist any criminal conduct, as 2531
defined in division (C) of section 2923.41 of the Revised Code, or 2532
shall purposely commit or engage in any act that constitutes 2533
criminal conduct, as defined in division (C) of section 2923.41 of 2534
the Revised Code. 2535

(B) Whoever violates this section is guilty of participating 2536
in a criminal gang, a felony of the second degree. 2537

(C)(1) Notwithstanding any contrary provision of any section 2538
of the Revised Code, the clerk of the court shall pay any fine 2539
imposed for a violation of this section pursuant to division (A) 2540
of section 2929.18 of the Revised Code to the county, township, 2541
municipal corporation, park district, as created pursuant to 2542
section 511.18 or 1545.04 of the Revised Code, or state law 2543
enforcement agencies in this state that primarily were responsible 2544
for or involved in making the arrest of, and in prosecuting, the 2545
offender. However, the clerk shall not pay a fine so imposed to a 2546

law enforcement agency unless the agency has adopted a written
internal control policy under division (C)(2) of this section that
addresses the use of the fine moneys that it receives. Each agency
shall use the fines so paid in accordance with the written
internal control policy adopted by the recipient agency under
division (C)(2) of this section to subsidize the agency's law
enforcement efforts that pertain to criminal gangs.

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

(b) Each law enforcement agency that receives in any calendar
year any fine moneys under division (C)(1) of this section or
division (B)~~(5)~~ of section 2923.44 of the Revised Code shall
prepare a report covering the calendar year that cumulates all of
the information contained in all of the public financial records
kept by the agency pursuant to division (C)(2)(a) of this section

for that calendar year and shall send a copy of the cumulative 2579
report, no later than the first day of March in the calendar year 2580
following the calendar year covered by the report, to the attorney 2581
general. Each report received by the attorney general is a public 2582
record open for inspection under section 149.43 of the Revised 2583
Code. Not later than the fifteenth day of April in the calendar 2584
year in which the reports are received, the attorney general shall 2585
send the president of the senate and the speaker of the house of 2586
representatives a written notice that does all of the following: 2587

(i) Indicates that the attorney general has received from law 2588
enforcement agencies reports of the type described in division 2589
(C)(2)(b) of this section that cover the previous calendar year 2590
and indicates that the reports were received under division 2591
(C)(2)(b) of this section; 2592

(ii) Indicates that the reports are open for inspection under 2593
section 149.43 of the Revised Code; 2594

(iii) Indicates that the attorney general will provide a copy 2595
of any or all reports to the president of the senate or the 2596
speaker of the house upon request. 2597

(D) A prosecution for a violation of this section does not 2598
preclude a prosecution of a violation of any other section of the 2599
Revised Code. One or more acts, a series of acts, or a course of 2600
behavior that can be prosecuted under this section or any other 2601
section of the Revised Code may be prosecuted under this section, 2602
the other section of the Revised Code, or both sections. 2603

Sec. 2923.44. ~~(A)(1) In accordance with division (B) of this 2604
section, a person who is convicted of or pleads guilty to a 2605
violation of section 2923.42 of the Revised Code, and a juvenile 2606
who is found by a juvenile court to be a delinquent child for an 2607
act committed in violation of section 2923.42 of the Revised Code, 2608
loses any right to the possession of property and forfeits to the 2609~~

~~state any right, title, and interest the person may have in that 2610
property if either of the following applies: 2611~~

~~(a) The property constitutes, or is derived directly or 2612
indirectly from, any proceeds that the person obtained directly or 2613
indirectly from the commission of the violation of section 2923.42 2614
of the Revised Code. 2615~~

~~(b) The property was used or intended to be used in any 2616
manner to commit, or to facilitate the commission of, the 2617
violation of section 2923.42 of the Revised Code. 2618~~

~~(2) All right, title, and interest of a person in property 2619
described in division (A)(1) of this section vests in the state 2620
upon the person's commission of the violation of section 2923.42 2621
of the Revised Code of which the person is convicted or to which 2622
the person pleads guilty and that is the basis of the forfeiture, 2623
or upon the juvenile's commission of the act that is a violation 2624
of section 2923.42 of the Revised Code, that is the basis of the 2625
juvenile being found to be a delinquent child, and that is the 2626
basis of the forfeiture. Subject to divisions (F)(3)(b) and (5)(b) 2627
and (G)(2) of this section, if any right, title, or interest in 2628
property is vested in this state under division (A)(2) of this 2629
section and subsequently is transferred to a person other than the 2630
adult offender or the delinquent child who forfeits the right, 2631
title, or interest in the property under division (A)(1) of this 2632
section, then, in accordance with division (B) of this section, 2633
the right, title, or interest in the property may be the subject 2634
of a special verdict of forfeiture and, after any special verdict 2635
of forfeiture, shall be ordered forfeited to this state, unless 2636
the transferee establishes in a hearing held pursuant to division 2637
(F) of this section that the transferee is a bona fide purchaser 2638
for value of the right, title, or interest in the property and 2639
that, at the time of its purchase, the transferee was reasonably 2640~~

~~without cause to believe that it was subject to forfeiture under
this section.~~ 2641
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~~(3) The provisions of section 2923.45 of the Revised Code
that relate to the forfeiture of any right, title, or interest in
property associated with a violation of section 2923.42 of the
Revised Code pursuant to a civil action to obtain a civil
forfeiture do not apply to the forfeiture of any right, title, or
interest in property described in division (A)(1) of this section
that occurs pursuant to division (B) of this section upon a
person's conviction of or guilty plea to a violation of section
2923.42 of the Revised Code or upon a juvenile being found by a
juvenile court to be a delinquent child for an act that is a
violation of section 2923.42 of the Revised Code.~~ 2643
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~~(4) Nothing in this section precludes a financial institution
that has or purports to have a security interest in or lien on
property described in division (A)(1) of this section from
commencing a civil action or taking other appropriate legal action
in connection with the property prior to its disposition in
accordance with section 2923.46 of the Revised Code for the
purpose of obtaining possession of the property in order to
foreclose or otherwise enforce the security interest or lien. A
financial institution may commence a civil action or take other
appropriate legal action for that purpose prior to the disposition
of the property in accordance with section 2923.46 of the Revised
Code, even if a prosecution for a violation of section 2923.42 of
the Revised Code or a delinquent child proceeding for an act that
is a violation of section 2923.42 of the Revised Code has been or
could be commenced, even if the property is or could be the
subject of an order of forfeiture issued under division (B)(5) of
this section, and even if the property has been seized or is
subject to seizure pursuant to division (D) or (E) of this
section.~~ 2654
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~~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 2705
violation of section 2923.42 of the Revised Code or a delinquent 2706
child proceeding for an act that is a violation of section 2923.42 2707
of the Revised Code for disposition in accordance with section 2708
2923.46 of the Revised Code. 2709

~~(B)(1) A criminal forfeiture of any right, title, or interest 2710
in property described in division (A)(1) of this section is 2711
precluded unless one of the following applies: 2712~~

~~(a) The indictment, count in the indictment, or information 2713
charging the violation of section 2923.42 of the Revised Code 2714
specifies the nature of the right, title, or interest of the 2715
alleged offender in the property described in division (A)(1) of 2716
this section that is potentially subject to forfeiture under this 2717
section, or a description of the property of the alleged offender 2718
that is potentially subject to forfeiture under this section, to 2719
the extent the right, title, or interest in the property or the 2720
property reasonably is known at the time of the filing of the 2721
indictment or information; or the complaint, indictment, or 2722
information charging a juvenile with being a delinquent child for 2723
the commission of an act that is a violation of section 2923.42 of 2724
the Revised Code specifies the nature of the right, title, or 2725
interest of the juvenile in the property described in division 2726
(A)(1) of this section that is potentially subject to forfeiture 2727
under this section, or a description of the property of the 2728
juvenile that is potentially subject to forfeiture under this 2729
section, to the extent the right, title, or interest in the 2730
property or the property reasonably is known at the time of the 2731
filing of the complaint, indictment, or information. 2732~~

~~(b) The property in question was not reasonably foreseen to 2733
be subject to forfeiture under this section at the time of the 2734
filing of the indictment, information, or complaint, the 2735
prosecuting attorney gave prompt notice to the alleged offender or 2736~~

~~juvenile of that property when it was discovered to be subject to
forfeiture under this section, and a verdict of forfeiture
described in division (B)(3) of this section requires the
forfeiture of that property.~~

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

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

~~(b) If the trier of fact in a criminal action for a violation
of section 2923.42 of the Revised Code was a jury, then, upon the
filing of a motion by the person who was convicted of or pleaded~~

~~guilty to the violation of section 2923.42 of the Revised Code, 2769
the determinations in the proceeding described in division (B)(3) 2770
of this section instead shall be made by the judge in the criminal 2771
action. 2772~~

~~(4) In a criminal action for a violation of section 2923.42 2773
of the Revised Code, if the trier of fact is a jury, the jury 2774
shall not be informed of any specification described in division 2775
(B)(1)(a) of this section or of any property described in that 2776
division or division (B)(1)(b) of this section prior to the 2777
alleged offender being convicted of or pleading guilty to the 2778
violation of section 2923.42 of the Revised Code. 2779~~

~~(5)(a) If a verdict of forfeiture is entered pursuant to 2780
division (B)(3) of this section, then the court that imposes 2781
sentence upon a person who is convicted of or pleads guilty to a 2782
violation of section 2923.42 of the Revised Code, or the juvenile 2783
court that finds a juvenile to be a delinquent child for an act 2784
that is a violation of section 2923.42 of the Revised Code, in 2785
addition to any other sentence imposed upon the offender or order 2786
of disposition imposed upon the delinquent child, shall order that 2787
the offender or delinquent child forfeit to the state all of the 2788
offender's or delinquent child's right, title, and interest in the 2789
property described in division (A)(1) of this section. If a person 2790
is convicted of or pleads guilty to a violation of section 2923.42 2791
of the Revised Code, or a juvenile is found by a juvenile court to 2792
be a delinquent child for an act that is a violation of section 2793
2923.42 of the Revised Code, and derives profits or other proceeds 2794
from the offense or act, the court that imposes sentence or an 2795
order of disposition upon the offender or delinquent child, in 2796
lieu of any fine that the court is otherwise authorized or 2797
required to impose, may impose upon the offender or delinquent 2798
child a fine of not more than twice the gross profits or other 2799
proceeds so derived. 2800~~

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

~~(6) If any of the property that is described in division (A)(1) of this section and that is the subject of an order of forfeiture issued under division (B)(5) of this section, because of an act of the person who is convicted of or pleads guilty to the violation of section 2923.42 of the Revised Code that is the basis of the order of forfeiture or an act of the juvenile found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code and that is the basis of the forfeiture, cannot be located upon the exercise of due diligence, has been transferred to, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property that cannot be divided without difficulty, the court that issues the order of forfeiture shall~~

~~order the forfeiture of any other property of the offender or the
delinquent child up to the value of any forfeited property
described in division (B)(6) of this section.~~

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

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

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

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

~~(a) Upon the filing of an indictment, complaint, or
information charging a person who has any right, title, or
interest in the property with the commission of a violation of
section 2923.42 of the Revised Code and alleging that the property
with respect to which the order is sought will be subject to~~

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

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

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

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

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

~~(3) A court may issue an order under division (D)(1)(b) of this section without giving notice or an opportunity for a hearing to persons known to have any right, title, or interest in property if the prosecuting attorney who is prosecuting or has jurisdiction to prosecute the violation of section 2923.42 of the Revised Code demonstrates that there is probable cause to believe that the property will be subject to forfeiture under division (B) of this section if a person with any right, title, or interest in the property is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or a juvenile with any right, title, or interest in the property is found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code and that giving notice or an opportunity for a hearing to persons with any right, title, or interest in the property will jeopardize its availability for forfeiture. The order shall be a temporary order and shall expire not more than ten days after the date on which it is entered, unless it is extended for good cause shown or unless a person with any right, title, or interest in the property that is the subject of the order consents to an extension for a longer period. A hearing concerning an order issued under division (D)(3) of this~~

~~section may be requested, and, if it is requested, the court shall~~ 2928
~~hold the hearing at the earliest possible time prior to the~~ 2929
~~expiration of the order.~~ 2930

~~(4) At any hearing held under division (D) of this section,~~ 2931
~~the court may receive and consider evidence and information that~~ 2932
~~is inadmissible under the Rules of Evidence. Each hearing held~~ 2933
~~under division (D) of this section shall be recorded by shorthand,~~ 2934
~~by stenotype, or by any other mechanical, electronic, or video~~ 2935
~~recording device. If, as a result of a hearing under division (D)~~ 2936
~~of this section, property would be seized, the recording of and~~ 2937
~~any transcript of the recording of that hearing shall not be a~~ 2938
~~public record for purposes of section 149.43 of the Revised Code~~ 2939
~~until that property has been seized pursuant to division (D) of~~ 2940
~~this section. Division (D)(4) of this section does not require,~~ 2941
~~authorize, or permit the making available for inspection, or the~~ 2942
~~copying, under section 149.43 of the Revised Code of any~~ 2943
~~confidential law enforcement investigatory record or trial~~ 2944
~~preparation record, as defined in that section.~~ 2945

~~(5) A prosecuting attorney or other law enforcement officer~~ 2946
~~may request the court of common pleas of the county in which~~ 2947
~~property subject to forfeiture under this section is located to~~ 2948
~~issue a warrant authorizing the seizure of that property. The~~ 2949
~~request shall be made in the same manner as provided for a search~~ 2950
~~warrant. If the court determines that there is probable cause to~~ 2951
~~believe that the property to be seized will be subject to~~ 2952
~~forfeiture under this section when a person with any right, title,~~ 2953
~~or interest in the property is convicted of or pleads guilty to a~~ 2954
~~violation of section 2923.42 of the Revised Code or when a~~ 2955
~~juvenile with any right, title, or interest in the property is~~ 2956
~~found by a juvenile court to be a delinquent child for an act that~~ 2957
~~is a violation of section 2923.42 of the Revised Code and if the~~ 2958
~~court determines that any order issued under division (D)(1), (2),~~ 2959

~~or (3) of this section may not be sufficient to ensure the~~ 2960
~~availability of the property for forfeiture, the court shall issue~~ 2961
~~a warrant authorizing the seizure of the property.~~ 2962

~~(E)(1) Upon the entry of an order of forfeiture under this~~ 2963
~~section, the court shall order an appropriate law enforcement~~ 2964
~~officer to seize all of the forfeited property upon the terms and~~ 2965
~~conditions that the court determines are proper. In addition, upon~~ 2966
~~the request of the prosecuting attorney who prosecuted the offense~~ 2967
~~or act in violation of section 2923.42 of the Revised Code, the~~ 2968
~~court shall enter any appropriate restraining orders or~~ 2969
~~injunctions, require the execution of satisfactory performance~~ 2970
~~bonds, appoint receivers, conservators, appraisers, accountants,~~ 2971
~~or trustees, or take any other action to protect the interest of~~ 2972
~~the state in the forfeited property. Any income accruing to or~~ 2973
~~derived from property ordered forfeited under this section may be~~ 2974
~~used to offset ordinary and necessary expenses related to the~~ 2975
~~property that are required by law or that are necessary to protect~~ 2976
~~the interest of the state or third parties.~~ 2977

~~After forfeited property is seized, the prosecuting attorney~~ 2978
~~who prosecuted the offense or act in violation of section 2923.42~~ 2979
~~of the Revised Code shall direct its disposition in accordance~~ 2980
~~with section 2923.46 of the Revised Code, making due provision for~~ 2981
~~the rights of any innocent persons. Any right, title, or interest~~ 2982
~~in property not exercisable by, or transferable for value to, the~~ 2983
~~state shall expire and shall not revert to the offender whose~~ 2984
~~conviction or plea of guilty or act as a delinquent child is the~~ 2985
~~basis of the order of forfeiture. Neither the adult offender or~~ 2986
~~delinquent child nor any person acting in concert with or on~~ 2987
~~behalf of the adult offender or delinquent child is eligible to~~ 2988
~~purchase forfeited property at any sale held pursuant to section~~ 2989
~~2923.46 of the Revised Code.~~ 2990

~~Upon the application of any person other than the adult~~ 2991

~~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. 3023

~~(3) To facilitate the identification and location of property 3024
that is the subject of an order of forfeiture under this section 3025
and to facilitate the disposition of petitions for remission or 3026
mitigation issued under division (E)(2) of this section, after the 3027
issuance of an order of forfeiture under this section and upon 3028
application by the prosecuting attorney who prosecuted the offense 3029
or act in violation of section 2923.42 of the Revised Code, the 3030
court may order that the testimony of any witness relating to the 3031
forfeited property be taken by deposition, and that any designated 3032
book, paper, document, record, recording, or other material that 3033
is not privileged be produced at the same time and place as the 3034
testimony, in the same manner as provided for the taking of 3035
depositions under the Rules of Civil Procedure. 3036~~

~~(F)(1) Except as provided in divisions (F)(2) to (5) of this 3037
section, no person claiming any right, title, or interest in 3038
property subject to forfeiture under this section or section 3039
2923.45 of the Revised Code may intervene in a criminal trial or 3040
appeal, or a delinquent child proceeding or appeal, involving the 3041
forfeiture of the property under this section or in a civil action 3042
for a civil forfeiture under section 2923.45 of the Revised Code 3043
or may commence an action at law or equity against the state 3044
concerning the validity of the person's alleged right, title, or 3045
interest in the property subsequent to the filing of an 3046
indictment, complaint, or information alleging that the property 3047
is subject to forfeiture under this section or subsequent to the 3048
filing of a complaint, indictment, or information alleging that a 3049
juvenile who has any right, title, or interest in the property is 3050
a delinquent child because of the commission of an act that is a 3051
violation of section 2923.42 of the Revised Code and alleging that 3052
the property is subject to forfeiture under this section. 3053~~

~~(2) After the entry of an order of forfeiture under this 3054~~

~~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.~~ 3087

~~(b) In lieu of filing a petition as described in division 3088
(F)(3)(a) of this section, a secured party or other lienholder of 3089
record that asserts a legal right, title, or interest in the 3090
property that is the subject of the order, including, but not 3091
limited to, a mortgage, security interest, or other type of lien, 3092
may file an affidavit as described in division (F)(3)(b) of this 3093
section to establish the validity of the alleged right, title, or 3094
interest in the property. The secured party or lienholder shall 3095
file the affidavit within thirty days after the earlier of the 3096
final publication of notice or the receipt of notice under 3097
division (F)(2) of this section and, except as otherwise provided 3098
in this section, the affidavit shall constitute prima facie 3099
evidence of the validity of the secured party's or other 3100
lienholder's alleged right, title, or interest in the property. 3101
Unless the prosecuting attorney files a motion challenging the 3102
affidavit within ten days after its filing and unless the 3103
prosecuting attorney establishes by a preponderance of the 3104
evidence at a subsequent hearing before the court that issued the 3105
forfeiture order, that the secured party or other lienholder does 3106
not possess the alleged right, title, or interest in the property 3107
or that the secured party or other lienholder had actual knowledge 3108
of facts pertaining to the violation that was the basis of the 3109
forfeiture order, the affidavit shall constitute conclusive 3110
evidence of the validity of the secured party's or other 3111
lienholder's right, title, or interest in the property and shall 3112
have the legal effect described in division (G)(2) of this 3113
section. To the extent practicable and consistent with the 3114
interests of justice, the court shall hold any hearing held 3115
pursuant to division (F)(3)(b) of this section within thirty days 3116
after the prosecuting attorney files the motion. At any such 3117
hearing, the prosecuting attorney and the secured party or other 3118~~

~~lienholder may present evidence and witnesses and may
cross examine witnesses.~~ 3119
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~~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 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.~~ 3121
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~~(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.~~ 3133
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~~(5)(a) The court shall amend its order of forfeiture in accordance with its determination if it determines at the hearing that the petitioner has established either of the following by a preponderance of the evidence:~~

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

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

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

~~(G)(1) Subject to division (G)(2) of this section, if the court has disposed of all petitions filed under division (F) of this section or if no petitions are filed under that division and the time for filing petitions under that division has expired, the~~

~~state shall have clear title to all property that is the subject
of an order of forfeiture issued under this section and may
warrant good title to any subsequent purchaser or other
transferee.~~

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

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

(1) Sell or offer to sell a controlled substance;

(2) Prepare for shipment, ship, transport, deliver, prepare
for distribution, or distribute a controlled substance, when the
offender knows or has reasonable cause to believe that the
controlled substance is intended for sale or resale by the
offender or another person.

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

(1) Manufacturers, licensed health professionals authorized 3212
to prescribe drugs, pharmacists, owners of pharmacies, and other 3213
persons whose conduct is in accordance with Chapters 3719., 4715., 3214
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 3215

(2) If the offense involves an anabolic steroid, any person 3216
who is conducting or participating in a research project involving 3217
the use of an anabolic steroid if the project has been approved by 3218
the United States food and drug administration; 3219

(3) Any person who sells, offers for sale, prescribes, 3220
dispenses, or administers for livestock or other nonhuman species 3221
an anabolic steroid that is expressly intended for administration 3222
through implants to livestock or other nonhuman species and 3223
approved for that purpose under the "Federal Food, Drug, and 3224
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 3225
and is sold, offered for sale, prescribed, dispensed, or 3226
administered for that purpose in accordance with that act. 3227

(C) Whoever violates division (A) of this section is guilty 3228
of one of the following: 3229

(1) If the drug involved in the violation is any compound, 3230
mixture, preparation, or substance included in schedule I or 3231
schedule II, with the exception of marihuana, cocaine, L.S.D., 3232
heroin, and hashish, whoever violates division (A) of this section 3233
is guilty of aggravated trafficking in drugs. The penalty for the 3234
offense shall be determined as follows: 3235

(a) Except as otherwise provided in division (C)(1)(b), (c), 3236
(d), (e), or (f) of this section, aggravated trafficking in drugs 3237
is a felony of the fourth degree, and division (C) of section 3238
2929.13 of the Revised Code applies in determining whether to 3239
impose a prison term on the offender. 3240

(b) Except as otherwise provided in division (C)(1)(c), (d), 3241
(e), or (f) of this section, if the offense was committed in the 3242

vicinity of a school or in the vicinity of a juvenile, aggravated 3243
trafficking in drugs is a felony of the third degree, and division 3244
(C) of section 2929.13 of the Revised Code applies in determining 3245
whether to impose a prison term on the offender. 3246

(c) Except as otherwise provided in this division, if the 3247
amount of the drug involved equals or exceeds the bulk amount but 3248
is less than five times the bulk amount, aggravated trafficking in 3249
drugs is a felony of the third degree, and the court shall impose 3250
as a mandatory prison term one of the prison terms prescribed for 3251
a felony of the third degree. If the amount of the drug involved 3252
is within that range and if the offense was committed in the 3253
vicinity of a school or in the vicinity of a juvenile, aggravated 3254
trafficking in drugs is a felony of the second degree, and the 3255
court shall impose as a mandatory prison term one of the prison 3256
terms prescribed for a felony of the second degree. 3257

(d) Except as otherwise provided in this division, if the 3258
amount of the drug involved equals or exceeds five times the bulk 3259
amount but is less than fifty times the bulk amount, aggravated 3260
trafficking in drugs is a felony of the second degree, and the 3261
court shall impose as a mandatory prison term one of the prison 3262
terms prescribed for a felony of the second degree. If the amount 3263
of the drug involved is within that range and if the offense was 3264
committed in the vicinity of a school or in the vicinity of a 3265
juvenile, aggravated trafficking in drugs is a felony of the first 3266
degree, and the court shall impose as a mandatory prison term one 3267
of the prison terms prescribed for a felony of the first degree. 3268

(e) If the amount of the drug involved equals or exceeds 3269
fifty times the bulk amount but is less than one hundred times the 3270
bulk amount and regardless of whether the offense was committed in 3271
the vicinity of a school or in the vicinity of a juvenile, 3272
aggravated trafficking in drugs is a felony of the first degree, 3273
and the court shall impose as a mandatory prison term one of the 3274

prison terms prescribed for a felony of the first degree. 3275

(f) If the amount of the drug involved equals or exceeds one 3276
hundred times the bulk amount and regardless of whether the 3277
offense was committed in the vicinity of a school or in the 3278
vicinity of a juvenile, aggravated trafficking in drugs is a 3279
felony of the first degree, the offender is a major drug offender, 3280
and the court shall impose as a mandatory prison term the maximum 3281
prison term prescribed for a felony of the first degree and may 3282
impose an additional prison term prescribed for a major drug 3283
offender under division (D)(3)(b) of section 2929.14 of the 3284
Revised Code. 3285

(2) If the drug involved in the violation is any compound, 3286
mixture, preparation, or substance included in schedule III, IV, 3287
or V, whoever violates division (A) of this section is guilty of 3288
trafficking in drugs. The penalty for the offense shall be 3289
determined as follows: 3290

(a) Except as otherwise provided in division (C)(2)(b), (c), 3291
(d), or (e) of this section, trafficking in drugs is a felony of 3292
the fifth degree, and division (C) of section 2929.13 of the 3293
Revised Code applies in determining whether to impose a prison 3294
term on the offender. 3295

(b) Except as otherwise provided in division (C)(2)(c), (d), 3296
or (e) of this section, if the offense was committed in the 3297
vicinity of a school or in the vicinity of a juvenile, trafficking 3298
in drugs is a felony of the fourth degree, and division (C) of 3299
section 2929.13 of the Revised Code applies in determining whether 3300
to impose a prison term on the offender. 3301

(c) Except as otherwise provided in this division, if the 3302
amount of the drug involved equals or exceeds the bulk amount but 3303
is less than five times the bulk amount, trafficking in drugs is a 3304
felony of the fourth degree, and there is a presumption for a 3305

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

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

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

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

(a) Except as otherwise provided in division (C)(3)(b), (c),

(d), (e), (f), or (g) of this section, trafficking in marihuana is 3337
a felony of the fifth degree, and division (C) of section 2929.13 3338
of the Revised Code applies in determining whether to impose a 3339
prison term on the offender. 3340

(b) Except as otherwise provided in division (C)(3)(c), (d), 3341
(e), (f), or (g) of this section, if the offense was committed in 3342
the vicinity of a school or in the vicinity of a juvenile, 3343
trafficking in marihuana is a felony of the fourth degree, and 3344
division (C) of section 2929.13 of the Revised Code applies in 3345
determining whether to impose a prison term on the offender. 3346

(c) Except as otherwise provided in this division, if the 3347
amount of the drug involved equals or exceeds two hundred grams 3348
but is less than one thousand grams, trafficking in marihuana is a 3349
felony of the fourth degree, and division (C) of section 2929.13 3350
of the Revised Code applies in determining whether to impose a 3351
prison term on the offender. If the amount of the drug involved is 3352
within that range and if the offense was committed in the vicinity 3353
of a school or in the vicinity of a juvenile, trafficking in 3354
marihuana is a felony of the third degree, and division (C) of 3355
section 2929.13 of the Revised Code applies in determining whether 3356
to impose a prison term on the offender. 3357

(d) Except as otherwise provided in this division, if the 3358
amount of the drug involved equals or exceeds one thousand grams 3359
but is less than five thousand grams, trafficking in marihuana is 3360
a felony of the third degree, and division (C) of section 2929.13 3361
of the Revised Code applies in determining whether to impose a 3362
prison term on the offender. 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
marihuana is a felony of the second degree, and there is a 3366
presumption that a prison term shall be imposed for the offense. 3367

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

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

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

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of

trafficking in cocaine. The penalty for the offense shall be 3400
determined as follows: 3401

(a) Except as otherwise provided in division (C)(4)(b), (c), 3402
(d), (e), (f), or (g) of this section, trafficking in cocaine is a 3403
felony of the fifth degree, and division (C) of section 2929.13 of 3404
the Revised Code applies in determining whether to impose a prison 3405
term on the offender. 3406

(b) Except as otherwise provided in division (C)(4)(c), (d), 3407
(e), (f), or (g) of this section, if the offense was committed in 3408
the vicinity of a school or in the vicinity of a juvenile, 3409
trafficking in cocaine is a felony of the fourth degree, and 3410
division (C) of section 2929.13 of the Revised Code applies in 3411
determining whether to impose a prison term on the offender. 3412

(c) Except as otherwise provided in this division, if the 3413
amount of the drug involved equals or exceeds five grams but is 3414
less than ten grams of cocaine that is not crack cocaine or equals 3415
or exceeds one gram but is less than five grams of crack cocaine, 3416
trafficking in cocaine is a felony of the fourth degree, and there 3417
is a presumption for a prison term for the offense. If the amount 3418
of the drug involved is within one of those ranges and if the 3419
offense was committed in the vicinity of a school or in the 3420
vicinity of a juvenile, trafficking in cocaine is a felony of the 3421
third degree, and there is a presumption for a prison term for the 3422
offense. 3423

(d) Except as otherwise provided in this division, if the 3424
amount of the drug involved equals or exceeds ten grams but is 3425
less than one hundred grams of cocaine that is not crack cocaine 3426
or equals or exceeds five grams but is less than ten grams of 3427
crack cocaine, trafficking in cocaine is a felony of the third 3428
degree, and the court shall impose as a mandatory prison term one 3429
of the prison terms prescribed for a felony of the third degree. 3430

If the amount of the drug involved is within one of those ranges 3431
and if the offense was committed in the vicinity of a school or in 3432
the vicinity of a juvenile, trafficking in cocaine is a felony of 3433
the second degree, and the court shall impose as a mandatory 3434
prison term one of the prison terms prescribed for a felony of the 3435
second degree. 3436

(e) Except as otherwise provided in this division, if the 3437
amount of the drug involved equals or exceeds one hundred grams 3438
but is less than five hundred grams of cocaine that is not crack 3439
cocaine or equals or exceeds ten grams but is less than 3440
twenty-five grams of crack cocaine, trafficking in cocaine is a 3441
felony of the second degree, and the court shall impose as a 3442
mandatory prison term one of the prison terms prescribed for a 3443
felony of the second degree. If the amount of the drug involved is 3444
within one of those ranges and if the offense was committed in the 3445
vicinity of a school or in the vicinity of a juvenile, trafficking 3446
in cocaine is a felony of the first degree, and the court shall 3447
impose as a mandatory prison term one of the prison terms 3448
prescribed for a felony of the first degree. 3449

(f) If the amount of the drug involved equals or exceeds five 3450
hundred grams but is less than one thousand grams of cocaine that 3451
is not crack cocaine or equals or exceeds twenty-five grams but is 3452
less than one hundred grams of crack cocaine and regardless of 3453
whether the offense was committed in the vicinity of a school or 3454
in the vicinity of a juvenile, trafficking in cocaine is a felony 3455
of the first degree, and the court shall impose as a mandatory 3456
prison term one of the prison terms prescribed for a felony of the 3457
first degree. 3458

(g) If the amount of the drug involved equals or exceeds one 3459
thousand grams of cocaine that is not crack cocaine or equals or 3460
exceeds one hundred grams of crack cocaine and regardless of 3461
whether the offense was committed in the vicinity of a school or 3462

in the vicinity of a juvenile, trafficking in cocaine is a felony 3463
of the first degree, the offender is a major drug offender, and 3464
the court shall impose as a mandatory prison term the maximum 3465
prison term prescribed for a felony of the first degree and may 3466
impose an additional mandatory prison term prescribed for a major 3467
drug offender under division (D)(3)(b) of section 2929.14 of the 3468
Revised Code. 3469

(5) If the drug involved in the violation is L.S.D. or a 3470
compound, mixture, preparation, or substance containing L.S.D., 3471
whoever violates division (A) of this section is guilty of 3472
trafficking in L.S.D. The penalty for the offense shall be 3473
determined as follows: 3474

(a) Except as otherwise provided in division (C)(5)(b), (c), 3475
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 3476
felony of the fifth degree, and division (C) of section 2929.13 of 3477
the Revised Code applies in determining whether to impose a prison 3478
term on the offender. 3479

(b) Except as otherwise provided in division (C)(5)(c), (d), 3480
(e), (f), or (g) of this section, if the offense was committed in 3481
the vicinity of a school or in the vicinity of a juvenile, 3482
trafficking in L.S.D. is a felony of the fourth degree, and 3483
division (C) of section 2929.13 of the Revised Code applies in 3484
determining whether to impose a prison term on the offender. 3485

(c) Except as otherwise provided in this division, if the 3486
amount of the drug involved equals or exceeds ten unit doses but 3487
is less than fifty unit doses of L.S.D. in a solid form or equals 3488
or exceeds one gram but is less than five grams of L.S.D. in a 3489
liquid concentrate, liquid extract, or liquid distillate form, 3490
trafficking in L.S.D. is a felony of the fourth degree, and there 3491
is a presumption for a prison term for the offense. If the amount 3492
of the drug involved is within that range and if the offense was 3493

committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

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

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

(f) If the amount of the drug involved equals or exceeds one

thousand unit doses but is less than five thousand unit doses of 3526
L.S.D. in a solid form or equals or exceeds one hundred grams but 3527
is less than five hundred grams of L.S.D. in a liquid concentrate, 3528
liquid extract, or liquid distillate form and regardless of 3529
whether the offense was committed in the vicinity of a school or 3530
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 3531
of the first degree, and the court shall impose as a mandatory 3532
prison term one of the prison terms prescribed for a felony of the 3533
first degree. 3534

(g) If the amount of the drug involved equals or exceeds five 3535
thousand unit doses of L.S.D. in a solid form or equals or exceeds 3536
five hundred grams of L.S.D. in a liquid concentrate, liquid 3537
extract, or liquid distillate form and regardless of whether the 3538
offense was committed in the vicinity of a school or in the 3539
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 3540
first degree, the offender is a major drug offender, and the court 3541
shall impose as a mandatory prison term the maximum prison term 3542
prescribed for a felony of the first degree and may impose an 3543
additional mandatory prison term prescribed for a major drug 3544
offender under division (D)(3)(b) of section 2929.14 of the 3545
Revised Code. 3546

(6) If the drug involved in the violation is heroin or a 3547
compound, mixture, preparation, or substance containing heroin, 3548
whoever violates division (A) of this section is guilty of 3549
trafficking in heroin. The penalty for the offense shall be 3550
determined as follows: 3551

(a) Except as otherwise provided in division (C)(6)(b), (c), 3552
(d), (e), (f), or (g) of this section, trafficking in heroin is a 3553
felony of the fifth degree, and division (C) of section 2929.13 of 3554
the Revised Code applies in determining whether to impose a prison 3555
term on the offender. 3556

(b) Except as otherwise provided in division (C)(6)(c), (d), 3557
(e), (f), or (g) of this section, if the offense was committed in 3558
the vicinity of a school or in the vicinity of a juvenile, 3559
trafficking in heroin is a felony of the fourth degree, and 3560
division (C) of section 2929.13 of the Revised Code applies in 3561
determining whether to impose a prison term on the offender. 3562

(c) Except as otherwise provided in this division, if the 3563
amount of the drug involved equals or exceeds ten unit doses but 3564
is less than fifty unit doses or equals or exceeds one gram but is 3565
less than five grams, trafficking in heroin is a felony of the 3566
fourth degree, and there is a presumption for a prison term for 3567
the offense. If the amount of the drug involved is within that 3568
range and if the offense was committed in the vicinity of a school 3569
or in the vicinity of a juvenile, trafficking in heroin is a 3570
felony of the third degree, and there is a presumption for a 3571
prison term for the offense. 3572

(d) Except as otherwise provided in this division, if the 3573
amount of the drug involved equals or exceeds fifty unit doses but 3574
is less than one hundred unit doses or equals or exceeds five 3575
grams but is less than ten grams, trafficking in heroin is a 3576
felony of the third degree, and there is a presumption for a 3577
prison term for the offense. If the amount of the drug involved is 3578
within that range and if the offense was committed in the vicinity 3579
of a school or in the vicinity of a juvenile, trafficking in 3580
heroin is a felony of the second degree, and there is a 3581
presumption for a prison term for the offense. 3582

(e) Except as otherwise provided in this division, if the 3583
amount of the drug involved equals or exceeds one hundred unit 3584
doses but is less than five hundred unit doses or equals or 3585
exceeds ten grams but is less than fifty grams, trafficking in 3586
heroin is a felony of the second degree, and the court shall 3587
impose as a mandatory prison term one of the prison terms 3588

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

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

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

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

(a) Except as otherwise provided in division (C)(7)(b), (c),
(d), (e), or (f) of this section, trafficking in hashish is a

felony of the fifth degree, and division (C) of section 2929.13 of
the Revised Code applies in determining whether to impose a prison
term on the offender.

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

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

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

and if the offense was committed in the vicinity of a school or in
the vicinity of a juvenile, trafficking in hashish is a felony of
the second degree, and there is a presumption that a prison term
shall be imposed for the offense.

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

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

(D) In addition to any prison term authorized or required by
division (C) of this section and sections 2929.13 and 2929.14 of
the Revised Code, and in addition to any other sanction imposed

for the offense under this section or sections 2929.11 to 2929.18 3684
of the Revised Code, the court that sentences an offender who is 3685
convicted of or pleads guilty to a violation of division (A) of 3686
this section shall do all of the following that are applicable 3687
regarding the offender: 3688

(1) If the violation of division (A) of this section is a 3689
felony of the first, second, or third degree, the court shall 3690
impose upon the offender the mandatory fine specified for the 3691
offense under division (B)(1) of section 2929.18 of the Revised 3692
Code unless, as specified in that division, the court determines 3693
that the offender is indigent. Except as otherwise provided in 3694
division (H)(1) of this section, a mandatory fine or any other 3695
fine imposed for a violation of this section is subject to 3696
division (F) of this section. If a person is charged with a 3697
violation of this section that is a felony of the first, second, 3698
or third degree, posts bail, and forfeits the bail, the clerk of 3699
the court shall pay the forfeited bail pursuant to divisions 3700
(D)(1) and (F) of this section, as if the forfeited bail was a 3701
fine imposed for a violation of this section. If any amount of the 3702
forfeited bail remains after that payment and if a fine is imposed 3703
under division (H)(1) of this section, the clerk of the court 3704
shall pay the remaining amount of the forfeited bail pursuant to 3705
divisions (H)(2) and (3) of this section, as if that remaining 3706
amount was a fine imposed under division (H)(1) of this section. 3707

(2) The court shall suspend the driver's or commercial 3708
driver's license or permit of the offender in accordance with 3709
division (G) of this section. 3710

(3) If the offender is a professionally licensed person, the 3711
court immediately shall comply with section 2925.38 of the Revised 3712
Code. 3713

(E) When a person is charged with the sale of or offer to 3714

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

(F)(1) Notwithstanding any contrary provision of section
3719.21 of the Revised Code and except as provided in division (H)
of this section, the clerk of the court shall pay any mandatory
fine imposed pursuant to division (D)(1) of this section and any
fine other than a mandatory fine that is imposed for a violation
of this section pursuant to division (A) or (B)(5) of section
2929.18 of the Revised Code to the county, township, municipal
corporation, park district, as created pursuant to section 511.18
or 1545.04 of the Revised Code, or state law enforcement agencies
in this state that primarily were responsible for or involved in
making the arrest of, and in prosecuting, the offender. However,
the clerk shall not pay a mandatory fine so imposed to a law
enforcement agency unless the agency has adopted a written
internal control policy under division (F)(2) of this section that
addresses the use of the fine moneys that it receives. Each agency
shall use the mandatory fines so paid to subsidize the agency's
law enforcement efforts that pertain to drug offenses, in
accordance with the written internal control policy adopted by the
recipient agency under division (F)(2) of this section.

(2)(a) Prior to receiving any fine moneys under division
(F)(1) of this section or division (B)~~(5)~~ of section 2925.42 of

the Revised Code, a law enforcement agency shall adopt a written 3747
internal control policy that addresses the agency's use and 3748
disposition of all fine moneys so received and that provides for 3749
the keeping of detailed financial records of the receipts of those 3750
fine moneys, the general types of expenditures made out of those 3751
fine moneys, and the specific amount of each general type of 3752
expenditure. The policy shall not provide for or permit the 3753
identification of any specific expenditure that is made in an 3754
ongoing investigation. All financial records of the receipts of 3755
those fine moneys, the general types of expenditures made out of 3756
those fine moneys, and the specific amount of each general type of 3757
expenditure by an agency are public records open for inspection 3758
under section 149.43 of the Revised Code. Additionally, a written 3759
internal control policy adopted under this division is such a 3760
public record, and the agency that adopted it shall comply with 3761
it. 3762

(b) Each law enforcement agency that receives in any calendar 3763
year any fine moneys under division (F)(1) of this section or 3764
division (B)~~(5)~~ of section 2925.42 of the Revised Code shall 3765
prepare a report covering the calendar year that cumulates all of 3766
the information contained in all of the public financial records 3767
kept by the agency pursuant to division (F)(2)(a) of this section 3768
for that calendar year, and shall send a copy of the cumulative 3769
report, no later than the first day of March in the calendar year 3770
following the calendar year covered by the report, to the attorney 3771
general. Each report received by the attorney general is a public 3772
record open for inspection under section 149.43 of the Revised 3773
Code. Not later than the fifteenth day of April in the calendar 3774
year in which the reports are received, the attorney general shall 3775
send to the president of the senate and the speaker of the house 3776
of representatives a written notification that does all of the 3777
following: 3778

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

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

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

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

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

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

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

(H)(1) In addition to any prison term authorized or required

by division (C) of this section and sections 2929.13 and 2929.14 3809
of the Revised Code, in addition to any other penalty or sanction 3810
imposed for the offense under this section or sections 2929.11 to 3811
2929.18 of the Revised Code, and in addition to the forfeiture of 3812
property in connection with the offense as prescribed in ~~sections~~ 3813
~~2925.42 to 2925.45~~ Chapter 2981. of the Revised Code, the court 3814
that sentences an offender who is convicted of or pleads guilty to 3815
a violation of division (A) of this section may impose upon the 3816
offender an additional fine specified for the offense in division 3817
(B)(4) of section 2929.18 of the Revised Code. A fine imposed 3818
under division (H)(1) of this section is not subject to division 3819
(F) of this section and shall be used solely for the support of 3820
one or more eligible alcohol and drug addiction programs in 3821
accordance with divisions (H)(2) and (3) of this section. 3822

(2) The court that imposes a fine under division (H)(1) of 3823
this section shall specify in the judgment that imposes the fine 3824
one or more eligible alcohol and drug addiction programs for the 3825
support of which the fine money is to be used. No alcohol and drug 3826
addiction program shall receive or use money paid or collected in 3827
satisfaction of a fine imposed under division (H)(1) of this 3828
section unless the program is specified in the judgment that 3829
imposes the fine. No alcohol and drug addiction program shall be 3830
specified in the judgment unless the program is an eligible 3831
alcohol and drug addiction program and, except as otherwise 3832
provided in division (H)(2) of this section, unless the program is 3833
located in the county in which the court that imposes the fine is 3834
located or in a county that is immediately contiguous to the 3835
county in which that court is located. If no eligible alcohol and 3836
drug addiction program is located in any of those counties, the 3837
judgment may specify an eligible alcohol and drug addiction 3838
program that is located anywhere within this state. 3839

(3) Notwithstanding any contrary provision of section 3719.21 3840

of the Revised Code, the clerk of the court shall pay any fine 3841
imposed under division (H)(1) of this section to the eligible 3842
alcohol and drug addiction program specified pursuant to division 3843
(H)(2) of this section in the judgment. The eligible alcohol and 3844
drug addiction program that receives the fine moneys shall use the 3845
moneys only for the alcohol and drug addiction services identified 3846
in the application for certification under section 3793.06 of the 3847
Revised Code or in the application for a license under section 3848
3793.11 of the Revised Code filed with the department of alcohol 3849
and drug addiction services by the alcohol and drug addiction 3850
program specified in the judgment. 3851

(4) Each alcohol and drug addiction program that receives in 3852
a calendar year any fine moneys under division (H)(3) of this 3853
section shall file an annual report covering that calendar year 3854
with the court of common pleas and the board of county 3855
commissioners of the county in which the program is located, with 3856
the court of common pleas and the board of county commissioners of 3857
each county from which the program received the moneys if that 3858
county is different from the county in which the program is 3859
located, and with the attorney general. The alcohol and drug 3860
addiction program shall file the report no later than the first 3861
day of March in the calendar year following the calendar year in 3862
which the program received the fine moneys. The report shall 3863
include statistics on the number of persons served by the alcohol 3864
and drug addiction program, identify the types of alcohol and drug 3865
addiction services provided to those persons, and include a 3866
specific accounting of the purposes for which the fine moneys 3867
received were used. No information contained in the report shall 3868
identify, or enable a person to determine the identity of, any 3869
person served by the alcohol and drug addiction program. Each 3870
report received by a court of common pleas, a board of county 3871
commissioners, or the attorney general is a public record open for 3872

inspection under section 149.43 of the Revised Code. 3873

(5) As used in divisions (H)(1) to (5) of this section: 3874

(a) "Alcohol and drug addiction program" and "alcohol and 3875
drug addiction services" have the same meanings as in section 3876
3793.01 of the Revised Code. 3877

(b) "Eligible alcohol and drug addiction program" means an 3878
alcohol and drug addiction program that is certified under section 3879
3793.06 of the Revised Code or licensed under section 3793.11 of 3880
the Revised Code by the department of alcohol and drug addiction 3881
services. 3882

Sec. 2925.14. (A) As used in this section, "drug 3883
paraphernalia" means any equipment, product, or material of any 3884
kind that is used by the offender, intended by the offender for 3885
use, or designed for use, in propagating, cultivating, growing, 3886
harvesting, manufacturing, compounding, converting, producing, 3887
processing, preparing, testing, analyzing, packaging, repackaging, 3888
storing, containing, concealing, injecting, ingesting, inhaling, 3889
or otherwise introducing into the human body, a controlled 3890
substance in violation of this chapter. "Drug paraphernalia" 3891
includes, but is not limited to, any of the following equipment, 3892
products, or materials that are used by the offender, intended by 3893
the offender for use, or designed by the offender for use, in any 3894
of the following manners: 3895

(1) A kit for propagating, cultivating, growing, or 3896
harvesting any species of a plant that is a controlled substance 3897
or from which a controlled substance can be derived; 3898

(2) A kit for manufacturing, compounding, converting, 3899
producing, processing, or preparing a controlled substance; 3900

(3) Any object, instrument, or device for manufacturing, 3901
compounding, converting, producing, processing, or preparing 3902

methamphetamine;	3903
(4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;	3904 3905
(5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance;	3906 3907
(6) A scale or balance for weighing or measuring a controlled substance;	3908 3909
(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;	3910 3911 3912
(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;	3913 3914
(9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;	3915 3916
(10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;	3917 3918
(11) A container or device for storing or concealing a controlled substance;	3919 3920
(12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;	3921 3922
(13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver	3923 3924 3925 3926 3927 3928 3929 3930 3931 3932

pipe; chillum; bong; or ice pipe or chiller.	3933
(B) In determining if any equipment, product, or material is	3934
drug paraphernalia, a court or law enforcement officer shall	3935
consider, in addition to other relevant factors, the following:	3936
(1) Any statement by the owner, or by anyone in control, of	3937
the equipment, product, or material, concerning its use;	3938
(2) The proximity in time or space of the equipment, product,	3939
or material, or of the act relating to the equipment, product, or	3940
material, to a violation of any provision of this chapter;	3941
(3) The proximity of the equipment, product, or material to	3942
any controlled substance;	3943
(4) The existence of any residue of a controlled substance on	3944
the equipment, product, or material;	3945
(5) Direct or circumstantial evidence of the intent of the	3946
owner, or of anyone in control, of the equipment, product, or	3947
material, to deliver it to any person whom the owner or person in	3948
control of the equipment, product, or material knows intends to	3949
use the object to facilitate a violation of any provision of this	3950
chapter. A finding that the owner, or anyone in control, of the	3951
equipment, product, or material, is not guilty of a violation of	3952
any other provision of this chapter does not prevent a finding	3953
that the equipment, product, or material was intended or designed	3954
by the offender for use as drug paraphernalia.	3955
(6) Any oral or written instruction provided with the	3956
equipment, product, or material concerning its use;	3957
(7) Any descriptive material accompanying the equipment,	3958
product, or material and explaining or depicting its use;	3959
(8) National or local advertising concerning the use of the	3960
equipment, product, or material;	3961
(9) The manner and circumstances in which the equipment,	3962

product, or material is displayed for sale; 3963

(10) Direct or circumstantial evidence of the ratio of the 3964
sales of the equipment, product, or material to the total sales of 3965
the business enterprise; 3966

(11) The existence and scope of legitimate uses of the 3967
equipment, product, or material in the community; 3968

(12) Expert testimony concerning the use of the equipment, 3969
product, or material. 3970

(C)(1) No person shall knowingly use, or possess with purpose 3971
to use, drug paraphernalia. 3972

(2) No person shall knowingly sell, or possess or manufacture 3973
with purpose to sell, drug paraphernalia, if the person knows or 3974
reasonably should know that the equipment, product, or material 3975
will be used as drug paraphernalia. 3976

(3) No person shall place an advertisement in any newspaper, 3977
magazine, handbill, or other publication that is published and 3978
printed and circulates primarily within this state, if the person 3979
knows that the purpose of the advertisement is to promote the 3980
illegal sale in this state of the equipment, product, or material 3981
that the offender intended or designed for use as drug 3982
paraphernalia. 3983

(D) This section does not apply to manufacturers, licensed 3984
health professionals authorized to prescribe drugs, pharmacists, 3985
owners of pharmacies, and other persons whose conduct is in 3986
accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., 3987
and 4741. of the Revised Code. This section shall not be construed 3988
to prohibit the possession or use of a hypodermic as authorized by 3989
section 3719.172 of the Revised Code. 3990

(E) Notwithstanding ~~sections 2933.42 and 2933.43~~ Chapter 3991
2981. of the Revised Code, any drug paraphernalia that was used, 3992

possessed, sold, or manufactured in a violation of this section 3993
shall be seized, after a conviction for that violation shall be 3994
forfeited, and upon forfeiture shall be disposed of pursuant to 3995
division ~~(D)(8)~~ (B) of section ~~2933.41~~ 2981.12 of the Revised 3996
Code. 3997

(F)(1) Whoever violates division (C)(1) of this section is 3998
guilty of illegal use or possession of drug paraphernalia, a 3999
misdemeanor of the fourth degree. 4000

(2) Except as provided in division (F)(3) of this section, 4001
whoever violates division (C)(2) of this section is guilty of 4002
dealing in drug paraphernalia, a misdemeanor of the second degree. 4003

(3) Whoever violates division (C)(2) of this section by 4004
selling drug paraphernalia to a juvenile is guilty of selling drug 4005
paraphernalia to juveniles, a misdemeanor of the first degree. 4006

(4) Whoever violates division (C)(3) of this section is 4007
guilty of illegal advertising of drug paraphernalia, a misdemeanor 4008
of the second degree. 4009

(G) In addition to any other sanction imposed upon an 4010
offender for a violation of this section, the court shall suspend 4011
for not less than six months or more than five years the 4012
offender's driver's or commercial driver's license or permit. If 4013
the offender is a professionally licensed person, in addition to 4014
any other sanction imposed for a violation of this section, the 4015
court immediately shall comply with section 2925.38 of the Revised 4016
Code. 4017

Sec. 2925.42. ~~(A)(1) In accordance with division (B) of this 4018
section, a person who is convicted of or pleads guilty to a felony 4019
drug abuse offense, and any juvenile who is found by a juvenile 4020
court to be a delinquent child for an act that, if committed by an 4021
adult, would be a felony drug abuse offense, loses any right to 4022~~

~~the possession of property and forfeits to the state any right, 4023
title, and interest the person may have in that property if either 4024
of the following applies: 4025~~

~~(a) The property constitutes, or is derived directly or 4026
indirectly from, any proceeds that the person obtained directly or 4027
indirectly from the commission of the felony drug abuse offense or 4028
act. 4029~~

~~(b) The property was used or intended to be used in any 4030
manner to commit, or to facilitate the commission of, the felony 4031
drug abuse offense or act. 4032~~

~~(2) All right, title, and interest of a person in property 4033
described in division (A)(1) of this section vests in the state 4034
upon the person's commission of the felony drug abuse offense of 4035
which the person is convicted or to which the person pleads guilty 4036
and that is the basis of the forfeiture, or upon the juvenile's 4037
commission of the act that, if committed by an adult, would be a 4038
felony drug abuse offense, that is the basis of the juvenile being 4039
found to be a delinquent child, and that is the basis of the 4040
forfeiture. Subject to divisions (F)(3)(b) and (5)(b) and (G)(2) 4041
of this section, if any right, title, or interest in property is 4042
vested in this state under this division and subsequently is 4043
transferred to a person other than the offender who forfeits the 4044
right, title, or interest under division (A)(1) of this section, 4045
then, in accordance with division (B) of this section, the right, 4046
title, or interest in the property may be the subject of a special 4047
verdict of forfeiture and, after any special verdict of 4048
forfeiture, shall be ordered forfeited to this state, unless the 4049
transferee establishes in a hearing held pursuant to division (F) 4050
of this section that the transferee is a bona fide purchaser for 4051
value of the right, title, or interest in the property and that, 4052
at the time of its purchase, the transferee was reasonably without 4053~~

~~cause to believe that it was subject to forfeiture under this
section.~~

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~~(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.~~

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~~(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.~~

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~~If a financial institution commences a civil action or takes~~

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~~any other appropriate legal action as described in this division, 4086
if the financial institution subsequently causes the sale of the 4087
property prior to its seizure pursuant to division (D) or (E) of 4088
this section and its disposition pursuant to section 2925.44 of 4089
the Revised Code, and if the person responsible for the conduct of 4090
the sale has actual knowledge of the commencement of a felony drug 4091
abuse offense prosecution or of a delinquent child proceeding for 4092
an act that, if committed by an adult, would be a felony drug 4093
abuse offense, actual knowledge of a pending forfeiture proceeding 4094
under division (B) of this section, or actual knowledge of an 4095
order of forfeiture issued under division (B)(5) of this section, 4096
then the person responsible for the conduct of the sale shall 4097
dispose of the proceeds of the sale in the following order: 4098~~

~~(a) First, to the payment of the costs of the sale and to the 4099
payment of the costs incurred by law enforcement agencies and 4100
financial institutions in connection with the seizure of, storage 4101
of, maintenance of, and provision of security for the property. As 4102
used in this division, "costs" of a financial institution do not 4103
include attorney's fees incurred by that institution in connection 4104
with the property. 4105~~

~~(b) Second, the remaining proceeds of the sale after 4106
compliance with division (A)(4)(a) of this section, to the payment 4107
of valid security interests and liens pertaining to the property 4108
that, at the time of the vesting of the right, title, or interest 4109
of the adult or juvenile in the state under division (A)(2) of 4110
this section, are held by known secured parties and lienholders, 4111
in the order of priority of those security interests and liens; 4112~~

~~(c) Third, the remaining proceeds of the sale after 4113
compliance with division (A)(4)(b) of this section, to the court 4114
that has or would have jurisdiction in a felony drug abuse offense 4115
prosecution or a delinquent child proceeding for an act that, if 4116
committed by an adult, would be a felony drug abuse offense, for 4117~~

~~disposition in accordance with section 2925.44 of the Revised Code.~~ 4118
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~~(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:~~ 4120
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~~(a) The indictment, count in the indictment, or information charging the felony drug abuse offense specifies the nature of the right, title, or interest of the alleged offender in the property described in division (A)(1) of this section that is potentially subject to forfeiture under this section, or a description of the property of the alleged offender that is potentially subject to forfeiture under this section, to the extent the right, title, or interest in the property or the property reasonably is known at the time of the filing of the indictment or information; or the complaint, indictment, or information charging a juvenile with being a delinquent child for the commission of an act that, if committed by an adult, would be a felony drug abuse offense specifies the nature of the right, title, or interest of the juvenile in the property described in division (A)(1) of this section that is potentially subject to forfeiture under this section, or a description of the property of the juvenile that is potentially subject to forfeiture under this section, to the extent the right, title, or interest in the property or the property reasonably is known at the time of the filing of the complaint, indictment, or information.~~ 4123
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~~(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~~ 4143
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~~forfeiture of that property.~~

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~~(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.~~

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~~(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.~~

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~~(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~~

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~~this division instead shall be made by the judge in the felony
drug abuse offense criminal action or the juvenile judge.~~ 4182
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~~(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.~~ 4184
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~~(5)(a) If a verdict of forfeiture is entered pursuant to
division (B)(3) of this section, then the court that imposes
sentence upon a person who is convicted of or pleads guilty to a
felony drug abuse offense, or the juvenile court that finds a
juvenile to be a delinquent child for an act that, if committed by
an adult, would be a felony drug abuse offense, in addition to any
other sentence imposed upon the offender or order of disposition
imposed upon the delinquent child, shall order that the offender
or delinquent child forfeit to the state all of the offender's or
delinquent child's right, title, and interest in the property
described in division (A)(1) of this section. If a person is
convicted of or pleads guilty to a felony drug abuse offense, or a
juvenile is found by a juvenile court to be a delinquent child for
an act that, if committed by an adult, would be a felony drug
abuse offense, and derives profits or other proceeds from the
offense or act, the court that imposes sentence or an order of
disposition upon the offender or delinquent child, in lieu of any
fine that the court is otherwise authorized or required to impose,
may impose upon the offender or delinquent child a fine of not
more than twice the gross profits or other proceeds so derived.~~ 4193
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~~(b)(B) Notwithstanding any contrary provision of section~~ 4213

3719.21 of the Revised Code, all fines imposed pursuant to this 4214
~~division~~ section shall be paid by the clerk of the court to the 4215
county, municipal corporation, township, park district, as created 4216
pursuant to section 511.18 or 1545.01 of the Revised Code, or 4217
state law enforcement agencies in this state that were primarily 4218
responsible for or involved in making the arrest of, and in 4219
prosecuting, the offender. However, no fine so imposed shall be 4220
paid to a law enforcement agency unless the agency has adopted a 4221
written internal control policy under division (F)(2) of section 4222
2925.03 of the Revised Code that addresses the use of the fine 4223
moneys that it receives under this division and division (F)(1) of 4224
section 2925.03 of the Revised Code. The fines imposed and paid 4225
pursuant to this division shall be used by the law enforcement 4226
agencies to subsidize their efforts pertaining to drug offenses, 4227
in accordance with the written internal control policy adopted by 4228
the recipient agency under division (F)(2) of section 2925.03 of 4229
the Revised Code. 4230

~~(e)(C)~~ As used in ~~division (B)(5)~~ of this section: 4231

~~(i)(1)~~ "Law enforcement agencies" includes, but is not 4232
limited to, the state board of pharmacy and the office of a 4233
prosecutor. 4234

~~(ii)(2)~~ "Prosecutor" has the same meaning as in section 4235
2935.01 of the Revised Code. 4236

~~(6)~~ If any of the property that is described in division 4237
~~(A)(1)~~ of this section and that is the subject of an order of 4238
forfeiture issued under division (B)(5) of this section, because 4239
of an act or omission of the person who is convicted of or pleads 4240
guilty to the felony drug abuse offense that is the basis of the 4241
order of forfeiture, or an act or omission of the juvenile found 4242
by a juvenile court to be a delinquent child for an act that, if 4243
committed by an adult, would be a felony drug abuse offense and 4244
that is the basis of the forfeiture, cannot be located upon the 4245

~~exercise of due diligence, has been transferred to, sold to, or
deposited with a third party, has been placed beyond the
jurisdiction of the court, has been substantially diminished in
value, or has been commingled with other property that cannot be
divided without difficulty, the court that issues the order of
forfeiture shall order the forfeiture of any other property of the
offender up to the value of any forfeited property described in
this division.~~

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

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

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

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

~~(a) Upon the filing of an indictment, complaint, or~~

~~information charging a person who has any right, title, or 4277
interest in the property with the commission of a felony drug 4278
abuse offense and alleging that the property with respect to which 4279
the order is sought will be subject to forfeiture under division 4280
(B) of this section if the person is convicted of or pleads guilty 4281
to the offense, or upon the filing of a complaint, indictment, or 4282
information alleging that a juvenile who has any right, title, or 4283
interest in the property is a delinquent child because of the 4284
commission of an act that, if committed by an adult, would be a 4285
felony drug abuse offense and alleging that the property with 4286
respect to which the order is sought will be subject to forfeiture 4287
under division (B) of this section if the juvenile is found to be 4288
a delinquent child because of the commission of that act; 4289~~

~~(b) Except as provided in division (D)(3) of this section, 4290
prior to the filing of an indictment, complaint, or information 4291
charging a person who has any right, title, or interest in the 4292
property with the commission of a felony drug abuse offense, or 4293
prior to the filing of a complaint, indictment, or information 4294
alleging that a juvenile who has any right, title, or interest in 4295
the property is a delinquent child because of the commission of an 4296
act that, if committed by an adult, would be a felony drug abuse 4297
offense, if, after notice is given to all persons known to have 4298
any right, title, or interest in the property and an opportunity 4299
to have a hearing on the order is given to those persons, the 4300
court determines both of the following: 4301~~

~~(i) There is a substantial probability that the state will 4302
prevail on the issue of forfeiture and that failure to enter the 4303
order will result in the property subject to forfeiture being 4304
destroyed, removed from the jurisdiction of the court, or 4305
otherwise being made unavailable for forfeiture. 4306~~

~~(ii) The need to preserve the availability of the property 4307
subject to forfeiture through the entry of the requested order 4308~~

~~outweighs the hardship on any party against whom the order is to
be entered.~~ 4309
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~~(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.~~ 4311
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~~(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~~ 4322
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~~to an extension for a longer period. A hearing concerning an order
issued under this division may be requested, and, if it is
requested, the court shall hold the hearing at the earliest
possible time prior to the expiration of the order.~~

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

~~(5) A prosecuting attorney or other law enforcement officer
may request the court of common pleas of the county in which
property subject to forfeiture under this section is located to
issue a warrant authorizing the seizure of that property. The
request shall be made in the same manner as provided for a search
warrant. If the court determines that there is probable cause to
believe that the property to be seized will be subject to
forfeiture under this section when a person with any right, title,
or interest in the property is convicted of or pleads guilty to a
felony drug abuse offense or when a juvenile with any right,
title, or interest in the property is found by a juvenile court to
be a delinquent child for an act that, if committed by an adult,~~

would be a felony drug abuse offense, and if the court determines
that any order issued under division (D)(1), (2), or (3) of this
section may not be sufficient to ensure the availability of the
property for forfeiture, the court shall issue a warrant
authorizing the seizure of the property.

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

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

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

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

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

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

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

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

~~(e) Pending the disposition of any property that is the~~

~~subject of an order of forfeiture under this section, take any~~ 4436
~~appropriate measures that are necessary to safeguard and maintain~~ 4437
~~the property.~~ 4438

~~(3) To facilitate the identification and location of property~~ 4439
~~that is the subject of an order of forfeiture under this section~~ 4440
~~and to facilitate the disposition of petitions for remission or~~ 4441
~~mitigation issued under division (E)(2) of this section, after the~~ 4442
~~issuance of an order of forfeiture under this section and upon~~ 4443
~~application by the prosecuting attorney who prosecuted the felony~~ 4444
~~drug abuse offense or act, the court may order that the testimony~~ 4445
~~of any witness relating to the forfeited property be taken by~~ 4446
~~deposition, and that any designated book, paper, document, record,~~ 4447
~~recording, or other material that is not privileged be produced at~~ 4448
~~the same time and place as the testimony, in the same manner as~~ 4449
~~provided for the taking of depositions under the Rules of Civil~~ 4450
~~Procedure.~~ 4451

~~(F)(1) Except as provided in divisions (F)(2) to (5) of this~~ 4452
~~section, no person claiming any right, title, or interest in~~ 4453
~~property subject to forfeiture under this section or section~~ 4454
~~2925.43 of the Revised Code may intervene in a criminal trial or~~ 4455
~~appeal, or a delinquent child proceeding or appeal, involving the~~ 4456
~~forfeiture of the property under this section or in a civil action~~ 4457
~~for a civil forfeiture under section 2925.43 of the Revised Code,~~ 4458
~~or may commence an action at law or equity against the state~~ 4459
~~concerning the validity of the person's alleged right, title, or~~ 4460
~~interest in the property subsequent to the filing of an~~ 4461
~~indictment, complaint, or information alleging that the property~~ 4462
~~is subject to forfeiture under this section or subsequent to the~~ 4463
~~filing of a complaint, indictment, or information alleging that a~~ 4464
~~juvenile who has any right, title, or interest in the property is~~ 4465
~~a delinquent child because of the commission of an act that, if~~ 4466
~~committed by an adult, would be a felony drug abuse offense and~~ 4467

~~alleging that the property is subject to forfeiture under this section.~~ 4468
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~~(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.~~ 4470
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~~(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~~ 4488
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~~right, title, or interest in the property, the time and 4500
circumstances of the petitioner's acquisition of that right, 4501
title, or interest, any additional facts supporting the 4502
petitioner's claim, and the relief sought. 4503~~

~~(b) In lieu of filing a petition as described in division 4504
(F)(3)(a) of this section, a secured party or other lienholder of 4505
record that asserts a legal right, title, or interest in the 4506
property that is the subject of the order, including, but not 4507
limited to, a mortgage, security interest, or other type of lien, 4508
may file an affidavit as described in this division to establish 4509
the validity of the alleged right, title, or interest in the 4510
property. The affidavit shall be filed within thirty days after 4511
the earlier of the final publication of notice or the receipt of 4512
notice under division (F)(2) of this section and, except as 4513
otherwise provided in this section, shall constitute prima facie 4514
evidence of the validity of the secured party's or other 4515
lienholder's alleged right, title, or interest in the property. 4516
Unless the prosecuting attorney files a motion challenging the 4517
affidavit within ten days after its filing and unless the 4518
prosecuting attorney establishes, by a preponderance of the 4519
evidence, at a subsequent hearing before the court that issued the 4520
forfeiture order, that the secured party or other lienholder does 4521
not possess the alleged right, title, or interest in the property 4522
or that the secured party or other lienholder had actual knowledge 4523
of facts pertaining to the felony drug abuse offense or act that 4524
was the basis of the forfeiture order, the affidavit shall 4525
constitute conclusive evidence of the validity of the secured 4526
party's or other lienholder's right, title, or interest in the 4527
property and shall have the legal effect described in division 4528
(C)(2) of this section. To the extent practicable and consistent 4529
with the interests of justice, any such hearing shall be held 4530
within thirty days after the prosecuting attorney files the 4531~~

~~motion. At any such hearing, the prosecuting attorney and the
secured party or other lienholder may present evidence and
witnesses and cross examine witnesses.~~

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

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

~~felony drug abuse offense or delinquent child case that resulted
in the order of forfeiture.~~ 4564
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~~(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:~~ 4566
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~~(i) The petitioner has a legal right, title, or interest in
the property that renders the order of forfeiture completely or
partially invalid because it was vested in the petitioner, rather
than the adult offender whose conviction or guilty plea or the
delinquent child whose adjudication is the basis of the order, or
was superior to any right, title, or interest of that offender, at
the time of the commission of the felony drug abuse offense or act
that is the basis of the order.~~ 4570
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~~(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.~~ 4578
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~~(b) The court also shall amend its order of forfeiture to
reflect any right, title, or interest of a secured party or other
lienholder of record in the property subject to the order that was
established pursuant to division (F)(3)(b) of this section by
means of an affidavit, or that was established pursuant to that
division by the failure of a prosecuting attorney to establish, in
a hearing as described in that division, that the secured party or
other lienholder did not possess the alleged right, title, or
interest in the property or that the secured party or other
lienholder had actual knowledge of facts pertaining to the felony
drug abuse offense or act that was the basis of the order.~~ 4582
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~~(G)(1) Subject to division (G)(2) of this section, if the
court has disposed of all petitions filed under division (F) of~~ 4593
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~~this section or if no petitions are filed under that division and
the time for filing petitions under that division has expired, the
state shall have clear title to all property that is the subject
of an order of forfeiture issued under this section and may
warrant good title to any subsequent purchaser or other
transferee.~~

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

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

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

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

(3) "Distribute" means to furnish, give, or provide

cigarettes, other tobacco products, or papers used to roll 4625
cigarettes to the ultimate consumer of the cigarettes, other 4626
tobacco products, or papers used to roll cigarettes. 4627

(4) "Proof of age" means a driver's license, a commercial 4628
driver's license, a military identification card, a passport, or 4629
an identification card issued under sections 4507.50 to 4507.52 of 4630
the Revised Code that shows that a person is eighteen years of age 4631
or older. 4632

(5) "Tobacco product" means any product that is made from 4633
tobacco, including, but not limited to, a cigarette, a cigar, pipe 4634
tobacco, chewing tobacco, or snuff. 4635

(6) "Vending machine" has the same meaning as "coin machine" 4636
in section 2913.01 of the Revised Code. 4637

(B) No manufacturer, producer, distributor, wholesaler, or 4638
retailer of cigarettes, other tobacco products, or papers used to 4639
roll cigarettes, no agent, employee, or representative of a 4640
manufacturer, producer, distributor, wholesaler, or retailer of 4641
cigarettes, other tobacco products, or papers used to roll 4642
cigarettes, and no other person shall do any of the following: 4643

(1) Give, sell, or otherwise distribute cigarettes, other 4644
tobacco products, or papers used to roll cigarettes to any child; 4645

(2) Give away, sell, or distribute cigarettes, other tobacco 4646
products, or papers used to roll cigarettes in any place that does 4647
not have posted in a conspicuous place a sign stating that giving, 4648
selling, or otherwise distributing cigarettes, other tobacco 4649
products, or papers used to roll cigarettes to a person under 4650
eighteen years of age is prohibited by law; 4651

(3) Knowingly furnish any false information regarding the 4652
name, age, or other identification of any child with purpose to 4653
obtain cigarettes, other tobacco products, or papers used to roll 4654

cigarettes for that child; 4655

(4) Manufacture, sell, or distribute in this state any pack 4656
or other container of cigarettes containing fewer than twenty 4657
cigarettes or any package of roll-your-own tobacco containing less 4658
than six-tenths of one ounce of tobacco; 4659

(5) Sell cigarettes in a smaller quantity than that placed in 4660
the pack or other container by the manufacturer. 4661

(C) No person shall sell or offer to sell cigarettes or other 4662
tobacco products by or from a vending machine, except in the 4663
following locations: 4664

(1) An area within a factory, business, office, or other 4665
place not open to the general public; 4666

(2) An area to which children are not generally permitted 4667
access; 4668

(3) Any other place not identified in division (C)(1) or (2) 4669
of this section, upon all of the following conditions: 4670

(a) The vending machine is located within the immediate 4671
vicinity, plain view, and control of the person who owns or 4672
operates the place, or an employee of that person, so that all 4673
cigarettes and other tobacco product purchases from the vending 4674
machine will be readily observed by the person who owns or 4675
operates the place or an employee of that person. For the purpose 4676
of this section, a vending machine located in any unmonitored 4677
area, including an unmonitored coatroom, restroom, hallway, or 4678
outer waiting area, shall not be considered located within the 4679
immediate vicinity, plain view, and control of the person who owns 4680
or operates the place, or an employee of that person. 4681

(b) The vending machine is inaccessible to the public when 4682
the place is closed. 4683

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(D) The following are affirmative defenses to a charge under 4685
division (B)(1) of this section: 4686

(1) The child was accompanied by a parent, spouse who is 4687
eighteen years of age or older, or legal guardian of the child. 4688

(2) The person who gave, sold, or distributed cigarettes, 4689
other tobacco products, or papers used to roll cigarettes to a 4690
child under division (B)(1) of this section is a parent, spouse 4691
who is eighteen years of age or older, or legal guardian of the 4692
child. 4693

(E) It is not a violation of division (B)(1) or (2) of this 4694
section for a person to give or otherwise distribute to a child 4695
cigarettes, other tobacco products, or papers used to roll 4696
cigarettes while the child is participating in a research protocol 4697
if all of the following apply: 4698

(1) The parent, guardian, or legal custodian of the child has 4699
consented in writing to the child participating in the research 4700
protocol. 4701

(2) An institutional human subjects protection review board, 4702
or an equivalent entity, has approved the research protocol. 4703

(3) The child is participating in the research protocol at 4704
the facility or location specified in the research protocol. 4705

(F)(1) Whoever violates division (B)(1), (2), (4), or (5) or 4706
(C) of this section is guilty of illegal distribution of 4707
cigarettes or other tobacco products, a misdemeanor of the fourth 4708
degree. If the offender previously has been convicted of a 4709
violation of division (B)(1), (2), (4), or (5) or (C) of this 4710
section, illegal distribution of cigarettes or other tobacco 4711
products is a misdemeanor of the third degree. 4712

(2) Whoever violates division (B)(3) of this section is 4713
guilty of permitting children to use cigarettes or other tobacco 4714

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

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

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

(1) Restitution by the offender to the victim of the
offender's crime or any survivor of the victim, in an amount based
on the victim's economic loss. If the court imposes restitution,
the court shall order that the restitution be made to the victim
in open court, to the adult probation department that serves the
county on behalf of the victim, to the clerk of courts, or to
another agency designated by the court. If the court imposes
restitution, at sentencing, the court shall determine the amount
of restitution to be made by the offender. If the court imposes
restitution, the court may base the amount of restitution it

orders on an amount recommended by the victim, the offender, a
presentence investigation report, estimates or receipts indicating
the cost of repairing or replacing property, and other
information, provided that the amount the court orders as
restitution shall not exceed the amount of the economic loss
suffered by the victim as a direct and proximate result of the
commission of the offense. If the court decides to impose
restitution, the court shall hold a hearing on restitution if the
offender, victim, or survivor disputes the amount. All restitution
payments shall be credited against any recovery of economic loss
in a civil action brought by the victim or any survivor of the
victim against the offender.

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

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

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

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:	4777
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(a) For a felony of the first degree, not more than twenty thousand dollars;	4782
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(b) For a felony of the second degree, not more than fifteen thousand dollars;	4784
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(c) For a felony of the third degree, not more than ten thousand dollars;	4786
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(d) For a felony of the fourth degree, not more than five thousand dollars;	4788
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(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.	4790
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(4) A state fine or costs as defined in section 2949.111 of the Revised Code.	4792
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(5)(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:	4794
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(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;	4797
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(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.	4800
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(b) If the offender is sentenced to a sanction of confinement	4806

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

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

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

(2) Any mandatory fine imposed upon an offender under
division (B)(1) of this section and any fine imposed upon an
offender under division (A)(2) or (3) of this section for any

fourth or fifth degree felony violation of any provision of 4839
Chapter 2925., 3719., or 4729. of the Revised Code shall be paid 4840
to law enforcement agencies pursuant to division (F) of section 4841
2925.03 of the Revised Code. 4842

(3) For a fourth degree felony OVI offense and for a third 4843
degree felony OVI offense, the sentencing court shall impose upon 4844
the offender a mandatory fine in the amount specified in division 4845
(G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever 4846
is applicable. The mandatory fine so imposed shall be disbursed as 4847
provided in the division pursuant to which it is imposed. 4848

(4) Notwithstanding any fine otherwise authorized or required 4849
to be imposed under division (A)(2) or (3) or (B)(1) of this 4850
section or section 2929.31 of the Revised Code for a violation of 4851
section 2925.03 of the Revised Code, in addition to any penalty or 4852
sanction imposed for that offense under section 2925.03 or 4853
sections 2929.11 to 2929.18 of the Revised Code and in addition to 4854
the forfeiture of property in connection with the offense as 4855
prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981. of the 4856
Revised Code, the court that sentences an offender for a violation 4857
of section 2925.03 of the Revised Code may impose upon the 4858
offender a fine in addition to any fine imposed under division 4859
(A)(2) or (3) of this section and in addition to any mandatory 4860
fine imposed under division (B)(1) of this section. The fine 4861
imposed under division (B)(4) of this section shall be used as 4862
provided in division (H) of section 2925.03 of the Revised Code. A 4863
fine imposed under division (B)(4) of this section shall not 4864
exceed whichever of the following is applicable: 4865

(a) The total value of any personal or real property in which 4866
the offender has an interest and that was used in the course of, 4867
intended for use in the course of, derived from, or realized 4868
through conduct in violation of section 2925.03 of the Revised 4869
Code, including any property that constitutes proceeds derived 4870

from that offense; 4871

(b) If the offender has no interest in any property of the 4872
type described in division (B)(4)(a) of this section or if it is 4873
not possible to ascertain whether the offender has an interest in 4874
any property of that type in which the offender may have an 4875
interest, the amount of the mandatory fine for the offense imposed 4876
under division (B)(1) of this section or, if no mandatory fine is 4877
imposed under division (B)(1) of this section, the amount of the 4878
fine authorized for the level of the offense imposed under 4879
division (A)(3) of this section. 4880

(5) Prior to imposing a fine under division (B)(4) of this 4881
section, the court shall determine whether the offender has an 4882
interest in any property of the type described in division 4883
(B)(4)(a) of this section. Except as provided in division (B)(6) 4884
or (7) of this section, a fine that is authorized and imposed 4885
under division (B)(4) of this section does not limit or affect the 4886
imposition of the penalties and sanctions for a violation of 4887
section 2925.03 of the Revised Code prescribed under those 4888
sections or sections 2929.11 to 2929.18 of the Revised Code and 4889
does not limit or affect a forfeiture of property in connection 4890
with the offense as prescribed in ~~sections 2925.42 to 2925.45~~ 4891
Chapter 2981. of the Revised Code. 4892

(6) If the sum total of a mandatory fine amount imposed for a 4893
first, second, or third degree felony violation of section 2925.03 4894
of the Revised Code under division (B)(1) of this section plus the 4895
amount of any fine imposed under division (B)(4) of this section 4896
does not exceed the maximum statutory fine amount authorized for 4897
the level of the offense under division (A)(3) of this section or 4898
section 2929.31 of the Revised Code, the court may impose a fine 4899
for the offense in addition to the mandatory fine and the fine 4900
imposed under division (B)(4) of this section. The sum total of 4901
the amounts of the mandatory fine, the fine imposed under division 4902

(B)(4) of this section, and the additional fine imposed under 4903
division (B)(6) of this section shall not exceed the maximum 4904
statutory fine amount authorized for the level of the offense 4905
under division (A)(3) of this section or section 2929.31 of the 4906
Revised Code. The clerk of the court shall pay any fine that is 4907
imposed under division (B)(6) of this section to the county, 4908
township, municipal corporation, park district as created pursuant 4909
to section 511.18 or 1545.04 of the Revised Code, or state law 4910
enforcement agencies in this state that primarily were responsible 4911
for or involved in making the arrest of, and in prosecuting, the 4912
offender pursuant to division (F) of section 2925.03 of the 4913
Revised Code. 4914

(7) If the sum total of the amount of a mandatory fine 4915
imposed for a first, second, or third degree felony violation of 4916
section 2925.03 of the Revised Code plus the amount of any fine 4917
imposed under division (B)(4) of this section exceeds the maximum 4918
statutory fine amount authorized for the level of the offense 4919
under division (A)(3) of this section or section 2929.31 of the 4920
Revised Code, the court shall not impose a fine under division 4921
(B)(6) of this section. 4922

(C)(1) The offender shall pay reimbursements imposed upon the 4923
offender pursuant to division (A)(5)(a) of this section to pay the 4924
costs incurred by the department of rehabilitation and correction 4925
in operating a prison or other facility used to confine offenders 4926
pursuant to sanctions imposed under section 2929.14 or 2929.16 of 4927
the Revised Code to the treasurer of state. The treasurer of state 4928
shall deposit the reimbursements in the confinement cost 4929
reimbursement fund that is hereby created in the state treasury. 4930
The department of rehabilitation and correction shall use the 4931
amounts deposited in the fund to fund the operation of facilities 4932
used to confine offenders pursuant to sections 2929.14 and 2929.16 4933
of the Revised Code. 4934

(2) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

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

(4) Except as provided in section 2951.021 of the Revised

Code, the offender shall pay reimbursements imposed pursuant to 4967
division (A)(5)(a) of this section for the costs incurred by a 4968
private provider pursuant to a sanction imposed under this section 4969
or section 2929.16 or 2929.17 of the Revised Code to the provider. 4970

(D) Except as otherwise provided in this division, a 4971
financial sanction imposed pursuant to division (A) or (B) of this 4972
section is a judgment in favor of the state or a political 4973
subdivision in which the court that imposed the financial sanction 4974
is located, and the offender subject to the financial sanction is 4975
the judgment debtor. A financial sanction of reimbursement imposed 4976
pursuant to division (A)(5)(a)(ii) of this section upon an 4977
offender who is incarcerated in a state facility or a municipal 4978
jail is a judgment in favor of the state or the municipal 4979
corporation, and the offender subject to the financial sanction is 4980
the judgment debtor. A financial sanction of reimbursement imposed 4981
upon an offender pursuant to this section for costs incurred by a 4982
private provider of sanctions is a judgment in favor of the 4983
private provider, and the offender subject to the financial 4984
sanction is the judgment debtor. A financial sanction of 4985
restitution imposed pursuant to this section is an order in favor 4986
of the victim of the offender's criminal act that can be collected 4987
through execution as described in division (D)(1) of this section 4988
or through an order as described in division (D)(2) of this 4989
section, and the offender shall be considered for purposes of the 4990
collection as the judgment debtor. Imposition of a financial 4991
sanction and execution on the judgment does not preclude any other 4992
power of the court to impose or enforce sanctions on the offender. 4993
Once the financial sanction is imposed as a judgment or order 4994
under this division, the victim, private provider, state, or 4995
political subdivision may bring an action to do any of the 4996
following: 4997

(1) Obtain execution of the judgment or order through any 4998

available procedure, including:	4999
(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;	5000 5001
(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;	5002 5003
(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:	5004 5005
(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;	5006 5007 5008
(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;	5009 5010
(iii) A creditor's suit under section 2333.01 of the Revised Code.	5011 5012
(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;	5013 5014
(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.	5015 5016
(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.	5017 5018
(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.	5019 5020 5021 5022
(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	5023 5024 5025 5026 5027

contracts with one or more public agencies or private vendors for 5028
the collection of, amounts due under the financial sanction 5029
imposed pursuant to this section or section 2929.32 of the Revised 5030
Code. Before entering into a contract for the collection of 5031
amounts due from an offender pursuant to any financial sanction 5032
imposed pursuant to this section or section 2929.32 of the Revised 5033
Code, a court shall comply with sections 307.86 to 307.92 of the 5034
Revised Code. 5035

(G) If a court that imposes a financial sanction under 5036
division (A) or (B) of this section finds that an offender 5037
satisfactorily has completed all other sanctions imposed upon the 5038
offender and that all restitution that has been ordered has been 5039
paid as ordered, the court may suspend any financial sanctions 5040
imposed pursuant to this section or section 2929.32 of the Revised 5041
Code that have not been paid. 5042

(H) No financial sanction imposed under this section or 5043
section 2929.32 of the Revised Code shall preclude a victim from 5044
bringing a civil action against the offender. 5045

Sec. 2930.11. (A) Except as otherwise provided in this 5046
section or in ~~sections 2933.41 to 2933.43~~ Chapter 2981. of the 5047
Revised Code, the law enforcement agency responsible for 5048
investigating a crime or specified delinquent act shall promptly 5049
return to the victim of the crime or specified delinquent act any 5050
property of the victim that was taken in the course of the 5051
investigation. In accordance with Criminal Rule 26 or an 5052
applicable Juvenile Rule, the law enforcement agency may take 5053
photographs of the property for use as evidence. If the ownership 5054
of the property is in dispute, the agency shall not return the 5055
property until the dispute is resolved. 5056

(B) The law enforcement agency responsible for investigating 5057
a crime or specified delinquent act shall retain any property of 5058

the victim of the crime or specified delinquent act that is needed 5059
as evidence in the case, including any weapon used in the 5060
commission of the crime or specified delinquent act, if the 5061
prosecutor certifies to the court a need to retain the property in 5062
lieu of a photograph of the property or of another evidentiary 5063
substitute for the property itself. 5064

(C) If the defendant or alleged juvenile offender in a case 5065
files a motion requesting the court to order the law enforcement 5066
agency to retain property of the victim because the property is 5067
needed for the defense in the case, the agency shall retain the 5068
property until the court rules on the motion. The court, in making 5069
a determination on the motion, shall weigh the victim's need for 5070
the property against the defendant's or alleged juvenile 5071
offender's assertion that the property has evidentiary value for 5072
the defense. The court shall rule on the motion in a timely 5073
fashion. 5074

Sec. 2933.75. (A) Upon the institution of any criminal 5075
proceeding charging a medicaid fraud offense, the state, at any 5076
time during the pendency of the proceeding, may file a medicaid 5077
fraud lien notice with the county recorder of any county in which 5078
forfeitable property subject to forfeiture may be located. No fee 5079
shall be required for filing the notice. The recorder immediately 5080
shall record the notice pursuant to section 317.08 of the Revised 5081
Code. 5082

(B) A medicaid fraud lien notice shall be signed by the 5083
prosecuting attorney or attorney general who will prosecute the 5084
case and who files the lien. The notice shall set forth all of the 5085
following information: 5086

(1) The name of the person against whom the proceeding has 5087
been brought. The prosecuting attorney or attorney general who 5088
will prosecute the case may specify in the notice any aliases, 5089

names, or fictitious names under which the person may be known. 5090

(2) If known to the prosecuting attorney or attorney general 5091
who will prosecute the case, the present residence and business 5092
addresses of the person or names set forth in the notice; 5093

(3) A statement that a criminal proceeding for a medicaid 5094
fraud offense has been brought against the person named in the 5095
notice, the name of the county in which the proceeding has been 5096
brought, and the case number of the proceeding; 5097

(4) A statement that the notice is being filed pursuant to 5098
this section; 5099

(5) The name and address of the prosecuting attorney or 5100
attorney general filing the notice; 5101

(6) A description of the real or personal property subject to 5102
the notice and of the interest in that property of the person 5103
named in the notice, to the extent the property and the interest 5104
of the person in it reasonably is known at the time the proceeding 5105
is instituted or at the time the notice is filed. 5106

(C) A medicaid fraud lien notice shall apply only to one 5107
person and, to the extent applicable, any aliases, fictitious 5108
names, or other names, including names of corporations, 5109
partnerships, or other entities, to the extent permitted in this 5110
section. A separate medicaid fraud lien notice is required to be 5111
filed for any other person. 5112

(D) Within seven days after the filing of each medicaid fraud 5113
lien notice, the prosecuting attorney or attorney general who 5114
files the notice shall furnish to the person named in the notice 5115
by certified mail, return receipt requested, to the last known 5116
business or residential address of the person, a copy of the 5117
recorded notice with a notation on it of any county in which the 5118
notice has been recorded. The failure of the prosecuting attorney 5119

or attorney general to furnish a copy of the notice under this 5120
section shall not invalidate or otherwise affect the medicaid 5121
fraud lien notice when the prosecuting attorney or attorney 5122
general did not know and could not reasonably ascertain the 5123
address of the person entitled to notice. 5124

After receipt of a copy of the notice under this division, 5125
the person named in the notice may petition the court to authorize 5126
the person to post a surety bond in lieu of the lien or to 5127
otherwise modify the lien as the interests of justice may require. 5128
The bond shall be in an amount equal to the value of the property 5129
reasonably known to be subject to the notice and conditioned on 5130
the payment of any judgment and costs ordered in an action 5131
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code up 5132
to the value of the bond. 5133

(E) From the date of filing of a medicaid fraud lien notice, 5134
the notice creates a lien in favor of the state on any personal or 5135
real property or any beneficial interest in the property located 5136
in the county in which the notice is filed that then or 5137
subsequently is owned by the person named in the notice or under 5138
any of the names set forth in the notice. 5139

The lien created in favor of the state is superior and prior 5140
to the interest of any other person in the personal or real 5141
property or beneficial interest in the property, if the interest 5142
is acquired subsequent to the filing of the notice. 5143

(F) If a medicaid fraud lien notice has been filed, and if a 5144
forfeiture order is entered subsequent to a conviction or guilty 5145
plea in the criminal proceeding pursuant to ~~section 2933.73~~ 5146
Chapter 2981. of the Revised Code in favor of the state, the 5147
interest of any person in the property that was acquired 5148
subsequent to the filing of the notice shall be subject to the 5149
notice and order of forfeiture. 5150

(G) Upon the issuance of an order of forfeiture in favor of 5151
the state pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised 5152
Code, title of the state to the forfeited property shall do either 5153
of the following: 5154

(1) In the case of real property, or a beneficial interest in 5155
it, relate back to the date of filing of the medicaid fraud lien 5156
notice in the county where the property or interest is located. If 5157
no medicaid fraud lien notice was filed, title of the state 5158
relates back to the date of the recording of the order of 5159
forfeiture in the records of the county recorder of the county in 5160
which the real property or beneficial interest is located. 5161

(2) In the case of personal property or a beneficial interest 5162
in it, relate back to the date on which the property or interest 5163
was seized by the state, or the date of filing of a medicaid fraud 5164
lien notice in the county in which the property or beneficial 5165
interest is located. If the property was not seized and no 5166
medicaid fraud lien notice was filed, title of the state relates 5167
back to the date of the recording of the order of forfeiture in 5168
the county in which the personal property or beneficial interest 5169
is located. 5170

(H) If personal or real property, or a beneficial interest in 5171
it, that is forfeitable property and is subject to forfeiture 5172
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code is 5173
conveyed, alienated, disposed of, or otherwise rendered 5174
unavailable for forfeiture after the filing of either a medicaid 5175
fraud lien notice, or a criminal proceeding for a medicaid fraud 5176
offense, whichever is earlier, the state may bring an action in 5177
any court of common pleas against the person named in the medicaid 5178
fraud lien notice or the defendant in the criminal proceeding to 5179
recover the value of the property or interest. The court shall 5180
enter final judgment against the person named in the notice or the 5181
defendant for an amount equal to the value of the property or 5182

interest together with investigative costs and attorney's fees 5183
incurred by the state in the action. 5184

(I) If personal or real property, or a beneficial interest in 5185
it, that is forfeitable property and is subject to forfeiture 5186
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code is 5187
alienated or otherwise transferred or disposed of after either the 5188
filing of a medicaid fraud lien notice, or the filing of a 5189
criminal proceeding for a medicaid fraud offense, whichever is 5190
earlier, the transfer or disposal is fraudulent as to the state 5191
and the state shall have all the rights granted a creditor under 5192
Chapter 1336. of the Revised Code. 5193

(J) No trustee, who acquires actual knowledge that a medicaid 5194
fraud lien notice or a criminal proceeding for a medicaid fraud 5195
offense has been filed against any person for whom ~~he~~ the trustee 5196
holds legal or record title to personal or real property, shall 5197
recklessly fail to furnish promptly to the prosecuting attorney or 5198
attorney general who is prosecuting the case all of the following: 5199

(1) The name and address of the person, as known to the 5200
trustee; 5201

(2) The name and address, as known to the trustee, of all 5202
other persons for whose benefit the trustee holds title to the 5203
property; 5204

(3) If requested by the prosecuting attorney or attorney 5205
general who is prosecuting the case, a copy of the trust agreement 5206
or other instrument under which the trustee holds title to the 5207
property. 5208

Any trustee who fails to comply with division (J) of this 5209
section is guilty of failure to provide medicaid fraud lien 5210
information, a misdemeanor of the first degree. 5211

(K) If a trustee transfers title to personal or real property 5212
after a medicaid fraud lien notice is filed against the property, 5213

the lien is filed in the county in which the property is located, 5214
and the lien names a person who holds a beneficial interest in the 5215
property, the trustee, if ~~he~~ the trustee has actual notice of the 5216
notice, shall be liable to the state for the greater of the 5217
following: 5218

(1) The proceeds received directly by the person named in the 5219
notice as a result of the transfer; 5220

(2) The proceeds received by the trustee as a result of the 5221
transfer and distributed to the person named in the notice; 5222

(3) The fair market value of the interest of the person named 5223
in the notice in the property transferred. 5224

However, if the trustee transfers property for at least its 5225
fair market value and holds the proceeds that otherwise would be 5226
paid or distributed to the beneficiary, or at the direction of the 5227
beneficiary or ~~his~~ the beneficiary's designee, the liability of 5228
the trustee shall not exceed the amount of the proceeds held by 5229
the trustee. 5230

(L) The filing of a medicaid fraud lien notice does not 5231
constitute a lien on the record title to personal or real property 5232
owned by the trustee, except to the extent the trustee is named in 5233
the notice. 5234

The prosecuting attorney for the county or the attorney 5235
general may bring a civil action in any court of common pleas to 5236
recover from the trustee the amounts set forth in division (H) of 5237
this section. The county or state may recover investigative costs 5238
and attorney's fees incurred by the prosecuting attorney or the 5239
attorney general. 5240

(M)(1) This section does not apply to any transfer by a 5241
trustee under a court order, unless the order is entered in an 5242
action between the trustee and the beneficiary. 5243

(2) Unless the trustee has actual knowledge that a person 5244
owning a beneficial interest in the trust is named in a medicaid 5245
fraud lien notice, this section does not apply to either of the 5246
following: 5247

(a) Any transfer by a trustee required under the terms of any 5248
trust agreement, if the agreement is a matter of public record 5249
before the filing of any medicaid fraud lien notice; 5250

(b) Any transfer by a trustee to all of the persons who own a 5251
beneficial interest in the trust. 5252

(N) The filing of a medicaid fraud lien notice does not 5253
affect the use to which personal or real property, or a beneficial 5254
interest in it, that is owned by the person named in the notice 5255
may be put or the right of the person to receive any proceeds 5256
resulting from the use and ownership, but not the sale, of the 5257
property, until a judgment of forfeiture is entered. 5258

(O) The term of a medicaid fraud lien notice is five years 5259
from the date the notice is filed, unless a renewal notice has 5260
been filed by the prosecuting attorney of the county in which the 5261
property or interest is located or by the attorney general. The 5262
term of any renewal of a medicaid fraud lien notice granted by the 5263
court is five years from the date of its filing. A medicaid fraud 5264
lien notice may be renewed any number of times while a criminal 5265
proceeding for a medicaid fraud offense, or an appeal from such a 5266
proceeding, is pending. 5267

(P) The prosecuting attorney or attorney general who files 5268
the medicaid fraud lien notice may terminate, in whole or part, 5269
the notice or release any personal or real property or beneficial 5270
interest in the property upon any terms that ~~he~~ the prosecuting 5271
attorney or attorney general determines are appropriate. Any 5272
termination or release shall be filed by the prosecuting attorney 5273
or attorney general with each county recorder with whom the notice 5274

was filed. No fee shall be imposed for the filing. 5275

(Q) The acquittal in a criminal proceeding for a medicaid 5276
fraud offense of the person named in the medicaid fraud lien 5277
notice or the dismissal of a criminal proceeding for such an 5278
offense against the person named in the notice terminates the 5279
notice. In such a case, the filing of the notice has no effect. 5280

A person named in a medicaid fraud lien notice may bring an 5281
action against the prosecuting attorney or attorney general who 5282
filed the notice, in the county where it was filed, seeking a 5283
release of the property subject to the notice or termination of 5284
the notice. In such a case, the court of common pleas promptly 5285
shall set a date for hearing, which shall be not less than five 5286
nor more than ten days after the action is filed. The order and a 5287
copy of the complaint shall be served on the prosecuting attorney 5288
or attorney general within three days after the action is filed. 5289
At the hearing, the court shall take evidence as to whether any 5290
personal or real property, or beneficial interest in it, that is 5291
owned by the person bringing the action is covered by the notice 5292
or otherwise is subject to forfeiture. If the person bringing the 5293
action shows by a preponderance of the evidence that the notice 5294
does not apply to ~~him~~ the person or that any personal or real 5295
property, or beneficial interest in it, that is owned by ~~him~~ the 5296
person is not subject to forfeiture, the court shall enter a 5297
judgment terminating the notice or releasing the personal or real 5298
property or beneficial interest from the notice. 5299

At a hearing, the court may release from the notice any 5300
property or beneficial interest upon the posting of security, by 5301
the person against whom the notice was filed, in an amount equal 5302
to the value of the property or beneficial interest owned by the 5303
person. 5304

The court promptly shall enter an order terminating a 5305
medicaid fraud lien notice or releasing any personal or real 5306

property or beneficial interest in the property, if a sale of the 5307
property or beneficial interest is pending and the filing of the 5308
notice prevents the sale. However, the proceeds of the sale shall 5309
be deposited with the clerk of the court, subject to the further 5310
order of the court. 5311

(R) Notwithstanding any provision of this section, any person 5312
who has perfected a security interest in personal or real property 5313
or a beneficial interest in the property for the payment of an 5314
enforceable debt or other similar obligation prior to the filing 5315
of a medicaid fraud lien notice in reference to the property or 5316
interest may foreclose on the property or interest as otherwise 5317
provided by law. The foreclosure, insofar as practical, shall be 5318
made so that it otherwise will not interfere with a forfeiture 5319
under ~~section 2933.73~~ Chapter 2981. of the Revised Code. 5320

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 5321
deputy marshal, municipal police officer, township constable, 5322
police officer of a township or joint township police district, 5323
member of a police force employed by a metropolitan housing 5324
authority under division (D) of section 3735.31 of the Revised 5325
Code, member of a police force employed by a regional transit 5326
authority under division (Y) of section 306.35 of the Revised 5327
Code, state university law enforcement officer appointed under 5328
section 3345.04 of the Revised Code, veterans' home police officer 5329
appointed under section 5907.02 of the Revised Code, special 5330
police officer employed by a port authority under section 4582.04 5331
or 4582.28 of the Revised Code, or a special police officer 5332
employed by a municipal corporation at a municipal airport, or 5333
other municipal air navigation facility, that has scheduled 5334
operations, as defined in section 119.3 of Title 14 of the Code of 5335
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 5336
required to be under a security program and is governed by 5337

aviation security rules of the transportation security 5338
administration of the United States department of transportation 5339
as provided in Parts 1542. and 1544. of Title 49 of the Code of 5340
Federal Regulations, as amended, shall arrest and detain, until a 5341
warrant can be obtained, a person found violating, within the 5342
limits of the political subdivision, metropolitan housing 5343
authority housing project, regional transit authority facilities 5344
or areas of a municipal corporation that have been agreed to by a 5345
regional transit authority and a municipal corporation located 5346
within its territorial jurisdiction, college, university, 5347
veterans' home operated under Chapter 5907. of the Revised Code, 5348
port authority, or municipal airport or other municipal air 5349
navigation facility, in which the peace officer is appointed, 5350
employed, or elected, a law of this state, an ordinance of a 5351
municipal corporation, or a resolution of a township. 5352

(2) A peace officer of the department of natural resources or 5353
an individual designated to perform law enforcement duties under 5354
section 511.232, 1545.13, or 6101.75 of the Revised Code shall 5355
arrest and detain, until a warrant can be obtained, a person found 5356
violating, within the limits of the peace officer's or 5357
individual's territorial jurisdiction, a law of this state. 5358

(3) The house sergeant at arms if the house sergeant at arms 5359
has arrest authority pursuant to division (E)(1) of section 5360
101.311 of the Revised Code and an assistant house sergeant at 5361
arms shall arrest and detain, until a warrant can be obtained, a 5362
person found violating, within the limits of the sergeant at 5363
arms's or assistant sergeant at arms's territorial jurisdiction 5364
specified in division (D)(1)(a) of section 101.311 of the Revised 5365
Code or while providing security pursuant to division (D)(1)(f) of 5366
section 101.311 of the Revised Code, a law of this state, an 5367
ordinance of a municipal corporation, or a resolution of a 5368
township. 5369

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

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

(a) A written statement by a person alleging that an alleged

offender has committed the offense of menacing by stalking or
aggravated trespass; 5402
5403

(b) A written statement by the administrator of the 5404
interstate compact on mental health appointed under section 5405
5119.51 of the Revised Code alleging that a person who had been 5406
hospitalized, institutionalized, or confined in any facility under 5407
an order made pursuant to or under authority of section 2945.37, 5408
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 5409
Revised Code has escaped from the facility, from confinement in a 5410
vehicle for transportation to or from the facility, or from 5411
supervision by an employee of the facility that is incidental to 5412
hospitalization, institutionalization, or confinement in the 5413
facility and that occurs outside of the facility, in violation of 5414
section 2921.34 of the Revised Code; 5415

(c) A written statement by the administrator of any facility 5416
in which a person has been hospitalized, institutionalized, or 5417
confined under an order made pursuant to or under authority of 5418
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 5419
2945.402 of the Revised Code alleging that the person has escaped 5420
from the facility, from confinement in a vehicle for 5421
transportation to or from the facility, or from supervision by an 5422
employee of the facility that is incidental to hospitalization, 5423
institutionalization, or confinement in the facility and that 5424
occurs outside of the facility, in violation of section 2921.34 of 5425
the Revised Code. 5426

(3)(a) For purposes of division (B)(1) of this section, a 5427
peace officer described in division (A) of this section has 5428
reasonable grounds to believe that the offense of domestic 5429
violence or the offense of violating a protection order has been 5430
committed and reasonable cause to believe that a particular person 5431
is guilty of committing the offense if any of the following 5432
occurs: 5433

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

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

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

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

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

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

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of

violating a protection order against each other, a peace officer 5497
described in division (A) of this section, in addition to any 5498
other relevant circumstances, should consider all of the 5499
following: 5500

(i) Any history of domestic violence or of any other violent 5501
acts by either person involved in the alleged offense that the 5502
officer reasonably can ascertain; 5503

(ii) If violence is alleged, whether the alleged violence was 5504
caused by a person acting in self-defense; 5505

(iii) Each person's fear of physical harm, if any, resulting 5506
from the other person's threatened use of force against any person 5507
or resulting from the other person's use or history of the use of 5508
force against any person, and the reasonableness of that fear; 5509

(iv) The comparative severity of any injuries suffered by the 5510
persons involved in the alleged offense. 5511

(e)(i) A peace officer described in division (A) of this 5512
section shall not require, as a prerequisite to arresting or 5513
charging a person who has committed the offense of domestic 5514
violence or the offense of violating a protection order, that the 5515
victim of the offense specifically consent to the filing of 5516
charges against the person who has committed the offense or sign a 5517
complaint against the person who has committed the offense. 5518

(ii) If a person is arrested for or charged with committing 5519
the offense of domestic violence or the offense of violating a 5520
protection order and if the victim of the offense does not 5521
cooperate with the involved law enforcement or prosecuting 5522
authorities in the prosecution of the offense or, subsequent to 5523
the arrest or the filing of the charges, informs the involved law 5524
enforcement or prosecuting authorities that the victim does not 5525
wish the prosecution of the offense to continue or wishes to drop 5526
charges against the alleged offender relative to the offense, the 5527

involved prosecuting authorities, in determining whether to
continue with the prosecution of the offense or whether to dismiss
charges against the alleged offender relative to the offense and
notwithstanding the victim's failure to cooperate or the victim's
wishes, shall consider all facts and circumstances that are
relevant to the offense, including, but not limited to, the
statements and observations of the peace officers who responded to
the incident that resulted in the arrest or filing of the charges
and of all witnesses to that incident.

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

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

(h) If a peace officer described in division (A) of this
section responds to a report of an alleged incident of the offense
of domestic violence or an alleged incident of the offense of
violating a protection order and if the circumstances of the
incident involved the use or threatened use of a deadly weapon or
any person involved in the incident brandished a deadly weapon
during or in relation to the incident, the deadly weapon that was
used, threatened to be used, or brandished constitutes contraband,

and, to the extent possible, the officer shall seize the deadly
weapon as contraband pursuant to ~~section 2933.43~~ Chapter 2981. of
the Revised Code. Upon the seizure of a deadly weapon pursuant to
division (B)(3)(h) of this section, ~~section 2933.43~~ 2981.12 of the
Revised Code shall apply regarding the treatment and disposition
of the deadly weapon. For purposes of that section, the
"underlying criminal offense" that was the basis of the seizure of
a deadly weapon under division (B)(3)(h) of this section and to
which the deadly weapon had a relationship is any of the following
that is applicable:

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

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

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

(C) When there is reasonable ground to believe that a
violation of division (A)(1), (2), (3), (4), or (5) of section
4506.15 or a violation of section 4511.19 of the Revised Code has

been committed by a person operating a motor vehicle subject to 5591
regulation by the public utilities commission of Ohio under Title 5592
XLIX of the Revised Code, a peace officer with authority to 5593
enforce that provision of law may stop or detain the person whom 5594
the officer has reasonable cause to believe was operating the 5595
motor vehicle in violation of the division or section and, after 5596
investigating the circumstances surrounding the operation of the 5597
vehicle, may arrest and detain the person. 5598

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 5599
municipal police officer, member of a police force employed by a 5600
metropolitan housing authority under division (D) of section 5601
3735.31 of the Revised Code, member of a police force employed by 5602
a regional transit authority under division (Y) of section 306.35 5603
of the Revised Code, special police officer employed by a port 5604
authority under section 4582.04 or 4582.28 of the Revised Code, 5605
special police officer employed by a municipal corporation at a 5606
municipal airport or other municipal air navigation facility 5607
described in division (A) of this section, township constable, 5608
police officer of a township or joint township police district, 5609
state university law enforcement officer appointed under section 5610
3345.04 of the Revised Code, peace officer of the department of 5611
natural resources, individual designated to perform law 5612
enforcement duties under section 511.232, 1545.13, or 6101.75 of 5613
the Revised Code, the house sergeant at arms if the house sergeant 5614
at arms has arrest authority pursuant to division (E)(1) of 5615
section 101.311 of the Revised Code, or an assistant house 5616
sergeant at arms is authorized by division (A) or (B) of this 5617
section to arrest and detain, within the limits of the political 5618
subdivision, metropolitan housing authority housing project, 5619
regional transit authority facilities or those areas of a 5620
municipal corporation that have been agreed to by a regional 5621
transit authority and a municipal corporation located within its 5622

territorial jurisdiction, port authority, municipal airport or 5623
other municipal air navigation facility, college, or university in 5624
which the officer is appointed, employed, or elected or within the 5625
limits of the territorial jurisdiction of the peace officer, a 5626
person until a warrant can be obtained, the peace officer, outside 5627
the limits of that territory, may pursue, arrest, and detain that 5628
person until a warrant can be obtained if all of the following 5629
apply: 5630

(1) The pursuit takes place without unreasonable delay after 5631
the offense is committed; 5632

(2) The pursuit is initiated within the limits of the 5633
political subdivision, metropolitan housing authority housing 5634
project, regional transit authority facilities or those areas of a 5635
municipal corporation that have been agreed to by a regional 5636
transit authority and a municipal corporation located within its 5637
territorial jurisdiction, port authority, municipal airport or 5638
other municipal air navigation facility, college, or university in 5639
which the peace officer is appointed, employed, or elected or 5640
within the limits of the territorial jurisdiction of the peace 5641
officer; 5642

(3) The offense involved is a felony, a misdemeanor of the 5643
first degree or a substantially equivalent municipal ordinance, a 5644
misdemeanor of the second degree or a substantially equivalent 5645
municipal ordinance, or any offense for which points are 5646
chargeable pursuant to section 4510.036 of the Revised Code. 5647

(E) In addition to the authority granted under division (A) 5648
or (B) of this section: 5649

(1) A sheriff or deputy sheriff may arrest and detain, until 5650
a warrant can be obtained, any person found violating section 5651
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 5652
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 5653

portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint township police district created under section 505.481 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1)

of this section on the portion of any street or highway that is 5686
located immediately adjacent to the boundaries of the municipal 5687
corporation in which the police officer or village marshal is 5688
appointed, elected, or employed. 5689

(4) A peace officer of the department of natural resources or 5690
an individual designated to perform law enforcement duties under 5691
section 511.232, 1545.13, or 6101.75 of the Revised Code may 5692
arrest and detain, until a warrant can be obtained, any person 5693
found violating any section or chapter of the Revised Code listed 5694
in division (E)(1) of this section, other than sections 4513.33 5695
and 4513.34 of the Revised Code, on the portion of any street or 5696
highway that is located immediately adjacent to the boundaries of 5697
the lands and waters that constitute the territorial jurisdiction 5698
of the peace officer. 5699

(F)(1) A department of mental health special police officer 5700
or a department of mental retardation and developmental 5701
disabilities special police officer may arrest without a warrant 5702
and detain until a warrant can be obtained any person found 5703
committing on the premises of any institution under the 5704
jurisdiction of the particular department a misdemeanor under a 5705
law of the state. 5706

A department of mental health special police officer or a 5707
department of mental retardation and developmental disabilities 5708
special police officer may arrest without a warrant and detain 5709
until a warrant can be obtained any person who has been 5710
hospitalized, institutionalized, or confined in an institution 5711
under the jurisdiction of the particular department pursuant to or 5712
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 5713
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 5714
found committing on the premises of any institution under the 5715
jurisdiction of the particular department a violation of section 5716
2921.34 of the Revised Code that involves an escape from the 5717

premises of the institution. 5718

(2)(a) If a department of mental health special police 5719
officer or a department of mental retardation and developmental 5720
disabilities special police officer finds any person who has been 5721
hospitalized, institutionalized, or confined in an institution 5722
under the jurisdiction of the particular department pursuant to or 5723
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 5724
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 5725
violation of section 2921.34 of the Revised Code that involves an 5726
escape from the premises of the institution, or if there is 5727
reasonable ground to believe that a violation of section 2921.34 5728
of the Revised Code has been committed that involves an escape 5729
from the premises of an institution under the jurisdiction of the 5730
department of mental health or the department of mental 5731
retardation and developmental disabilities and if a department of 5732
mental health special police officer or a department of mental 5733
retardation and developmental disabilities special police officer 5734
has reasonable cause to believe that a particular person who has 5735
been hospitalized, institutionalized, or confined in the 5736
institution pursuant to or under authority of section 2945.37, 5737
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 5738
Revised Code is guilty of the violation, the special police 5739
officer, outside of the premises of the institution, may pursue, 5740
arrest, and detain that person for that violation of section 5741
2921.34 of the Revised Code, until a warrant can be obtained, if 5742
both of the following apply: 5743

(i) The pursuit takes place without unreasonable delay after 5744
the offense is committed; 5745

(ii) The pursuit is initiated within the premises of the 5746
institution from which the violation of section 2921.34 of the 5747
Revised Code occurred. 5748

(b) For purposes of division (F)(2)(a) of this section, the
execution of a written statement by the administrator of the
institution in which a person had been hospitalized,
institutionalized, or confined pursuant to or under authority of
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or
2945.402 of the Revised Code alleging that the person has escaped
from the premises of the institution in violation of section
2921.34 of the Revised Code constitutes reasonable ground to
believe that the violation was committed and reasonable cause to
believe that the person alleged in the statement to have committed
the offense is guilty of the violation.

(G) As used in this section:

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

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

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

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

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

(6) "Interstate system" has the same meaning as in section 5780
5516.01 of the Revised Code. 5781

(7) "Peace officer of the department of natural resources" 5782
means an employee of the department of natural resources who is a 5783
natural resources law enforcement staff officer designated 5784
pursuant to section 1501.013 of the Revised Code, a forest officer 5785
designated pursuant to section 1503.29 of the Revised Code, a 5786
preserve officer designated pursuant to section 1517.10 of the 5787
Revised Code, a wildlife officer designated pursuant to section 5788
1531.13 of the Revised Code, a park officer designated pursuant to 5789
section 1541.10 of the Revised Code, or a state watercraft officer 5790
designated pursuant to section 1547.521 of the Revised Code. 5791

Sec. 2941.1417. (A) Property is not subject to forfeiture in 5792
a criminal case unless the indictment, count in the indictment, or 5793
information charging the offense specifies, to the extent it is 5794
reasonably known at the time of filing, the nature and extent of 5795
the alleged offender's interest in the property, a description of 5796
the property, and, if the property is alleged to be an 5797
instrumentality, the alleged use or intended use of the property 5798
in the commission or facilitation of the offense. The 5799
specification shall be stated at the end of the body of the 5800
indictment, count, or information and shall be in substantially 5801
the following form: 5802

"SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT). The 5803
grand jurors (or insert the person's or prosecuting attorney's 5804
name when appropriate) further find and specify that (set forth 5805
the alleged offender's interest in the property, a description of 5806
the property subject to forfeiture, and any alleged use or 5807
intended use of the property in the commission or facilitation of 5808
the offense)." 5809

(B) The trier of fact shall determine whether the property is 5810

subject to forfeiture. 5811

(C) The specification described in division (A) of this 5812
section may be used in a delinquent child proceeding. 5813

Sec. 2945.44. (A) In any criminal proceeding in this state or 5814
in any criminal or civil proceeding brought pursuant to ~~sections~~ 5815
~~2923.31 to 2923.36~~ Chapter 2981. of the Revised Code, if a witness 5816
refuses to answer or produce information on the basis of ~~his~~ the 5817
witness's privilege against self-incrimination, the court of 5818
common pleas of the county in which the proceeding is being held, 5819
unless it finds that to do so would not further the administration 5820
of justice, shall compel the witness to answer or produce the 5821
information, if both of the following apply: 5822

(1) The prosecuting attorney of the county in which the 5823
proceedings are being held makes a written request to the court of 5824
common pleas to order the witness to answer or produce the 5825
information, notwithstanding ~~his~~ the witness's claim of privilege; 5826

(2) The court of common pleas informs the witness that by 5827
answering, or producing the information ~~he~~ the witness will 5828
receive immunity under division (B) of this section. 5829

(B) If, but for this section, the witness would have been 5830
privileged to withhold an answer or any information given in any 5831
criminal proceeding, and ~~he~~ the witness complies with an order 5832
under division (A) of this section compelling ~~him~~ the witness to 5833
give an answer or produce any information, ~~he~~ the witness shall 5834
not be prosecuted or subjected to any criminal penalty in the 5835
courts of this state for or on account of any transaction or 5836
matter concerning which, in compliance with the order, ~~he~~ the 5837
witness gave an answer or produced any information. 5838

(C) A witness granted immunity under this section may be 5839
subjected to a criminal penalty for any violation of section 5840

2921.11, 2921.12, or 2921.13 of the Revised Code, or for contempt 5841
committed in answering, failing to answer, or failing to produce 5842
information in compliance with the order. 5843

Sec. 2981.01. (A) Forfeitures under this chapter shall be 5844
governed by all of the following purposes: 5845

(1) To provide economic disincentives and remedies to deter 5846
and offset the economic effect of offenses by seizing and 5847
forfeiting contraband, proceeds, and certain instrumentalities; 5848

(2) To ensure that seizures and forfeitures of 5849
instrumentalities are proportionate to the offense committed; 5850

(3) To protect third parties from wrongful forfeiture of 5851
their property; 5852

(4) To prioritize restitution for victims of offenses. 5853

(B) As used in this chapter: 5854

(1) "Aircraft" has the same meaning as in section 4561.01 of 5855
the Revised Code. 5856

(2) "Computers," "computer networks," "computer systems," 5857
"computer software," and "telecommunications device" have the same 5858
meanings as in section 2913.01 of the Revised Code. 5859

(3) "Financial institution" means a bank, credit union, 5860
savings and loan association, or a licensee or registrant under 5861
Chapter 1321. of the Revised Code. 5862

(4) "Firearm" and "dangerous ordnance" have the same meanings 5863
as in section 2923.11 of the Revised Code. 5864

(5) "Innocent person" includes any bona fide purchaser of 5865
property that is subject to forfeiture, including any person who 5866
establishes a valid claim to or interest in the property in 5867
accordance with section 2923.04 of the Revised Code, and any 5868
victim of an alleged offense. 5869

(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. 5870
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(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy and the office of the prosecutor. 5876
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(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. 5878
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(9) "Money" has the same meaning as in section 1301.01 of the Revised Code. 5882
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(10) "Offense" means any act or omission that could be charged as a criminal offense or a delinquent act, whether or not a formal criminal prosecution or delinquent child proceeding began at the time the forfeiture is initiated. Except as otherwise specified, an offense for which property may be forfeited includes any felony and any misdemeanor. The commission of an "offense" includes the commission of a delinquent act. 5884
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(11) "Proceeds" means both of the following: 5891

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense. 5892
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(b) In cases involving lawful goods or services that are sold or provided in an unlawful manner, "proceeds" means the amount of money or other means of exchange acquired through the illegal 5897
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transactions resulting in the forfeiture, less the direct costs 5900
lawfully incurred in providing the goods or services. The lawful 5901
costs deduction does not include any part of the overhead expenses 5902
of, or income taxes paid by, the entity providing the goods or 5903
services. The alleged offender or delinquent child has the burden 5904
to prove that any costs are lawfully incurred. 5905

(12) "Property" means "property" as defined in section 5906
2901.01 of the Revised Code and any benefit, privilege, claim, 5907
position, interest in an enterprise, or right derived, directly or 5908
indirectly, from the offense. 5909

(13) "Property subject to forfeiture" includes contraband and 5910
proceeds and may include instrumentalities as provided in this 5911
chapter. 5912

(14) "Prosecutor" has the same meaning as in section 2935.01 5913
of the Revised Code. When relevant, "prosecutor" also includes the 5914
attorney general. 5915

(15) "Vehicle" has the same meaning as in section 4501.01 of 5916
the Revised Code. 5917

(16) "Watercraft" has the same meaning as in section 1547.01 5918
of the Revised Code. 5919

(C) The penalties and procedures under Chapters 2923., 2925., 5920
and 2933. of the Revised Code remain in effect to the extent that 5921
they do not conflict with this chapter. 5922

Sec. 2981.02. (A) The following property is subject to 5923
forfeiture to the state or a political subdivision under either 5924
the criminal or delinquency process in section 2981.04 of the 5925
Revised Code or the civil process in section 2981.05 of the 5926
Revised Code: 5927

(1) Contraband involved in an offense; 5928

<u>(2) Proceeds derived from or acquired through the commission</u>	5929
<u>of an offense;</u>	5930
<u>(3) An instrumentality that is used in or intended to be used</u>	5931
<u>in the commission or facilitation of any of the following offenses</u>	5932
<u>when the use or intended use, consistent with division (B) of this</u>	5933
<u>section, is sufficient to warrant forfeiture under this chapter:</u>	5934
<u>(a) A felony;</u>	5935
<u>(b) A misdemeanor, when forfeiture is specifically authorized</u>	5936
<u>by a section of the Revised Code or by a municipal ordinance that</u>	5937
<u>creates the offense or sets forth its penalties;</u>	5938
<u>(c) An attempt to commit, complicity in committing, or a</u>	5939
<u>conspiracy to commit an offense of the type described in divisions</u>	5940
<u>(A)(3)(a) and (b) of this section.</u>	5941
<u>(B) In determining whether an alleged instrumentality was</u>	5942
<u>used in or was intended to be used in the commission or</u>	5943
<u>facilitation of an offense or an attempt, complicity, or</u>	5944
<u>conspiracy to commit an offense in a manner sufficient to warrant</u>	5945
<u>its forfeiture, the trier of fact shall consider the following</u>	5946
<u>factors the trier of fact determines are relevant:</u>	5947
<u>(1) Whether the offense could not have been committed or</u>	5948
<u>attempted but for the presence of the instrumentality;</u>	5949
<u>(2) Whether the primary purpose in using the instrumentality</u>	5950
<u>was to commit or attempt to commit the offense;</u>	5951
<u>(3) The extent to which the instrumentality furthered the</u>	5952
<u>commission of, or attempt to commit, the offense.</u>	5953
<u>(C) This chapter does not apply to or limit forfeitures under</u>	5954
<u>Title XLV of the Revised Code, including forfeitures relating to</u>	5955
<u>section 2903.06 or 2903.08 of the Revised Code.</u>	5956
<u>Sec. 2981.03. (A)(1) The state or political subdivision</u>	5957

acquires provisional title to property subject to forfeiture under 5958
this chapter upon a person's commission of an offense giving rise 5959
to forfeiture, subject to third party claims and a final 5960
adjudication under section 2981.04 or 2981.05 of the Revised Code. 5961
Provisional title authorizes the state or political subdivision to 5962
seize and hold the property, and to act to protect the property, 5963
under this section before any proceeding under this chapter. Title 5964
to the property vests with the state or political subdivision when 5965
the trier of fact renders a final forfeiture verdict or order 5966
under section 2981.04 or 2981.05 of the Revised Code, but that 5967
title is subject to third party claims adjudicated under those 5968
sections. 5969

(2) A law enforcement officer may seize property that the 5970
officer has probable cause to believe is property subject to 5971
forfeiture. If a law enforcement officer seizes property that is 5972
titled or registered under law, the officer or the law enforcement 5973
agency that employs the officer shall notify the property owner of 5974
the seizure. The agency shall give notice to the property owner at 5975
the owner's last known address as soon as practical after the 5976
seizure and may give the notice by certified mail or orally by any 5977
means, including telephone. If the officer or agency is unable to 5978
provide the notice required by this division despite reasonable, 5979
good faith efforts, those efforts constitute fulfillment of the 5980
notice requirement. 5981

(3) In a civil forfeiture case under this chapter in which 5982
the state or political subdivision seeks to seize real property, 5983
the property owner may request a hearing before the seizure, and 5984
in the hearing the state or political subdivision shall show 5985
probable cause that the real property is subject to forfeiture. 5986

(4) A person aggrieved by an alleged unlawful seizure of 5987
property may seek relief from the seizure by filing a motion in 5988
the appropriate court that shows the person's interest in the 5989

property, states why the seizure was unlawful, and requests the 5990
property's return. If the motion is filed before an indictment, 5991
information, or a complaint seeking forfeiture of the property is 5992
filed, the court shall promptly schedule a hearing on the motion, 5993
and at the hearing the person shall demonstrate by a preponderance 5994
of the evidence that the seizure was unlawful and that the person 5995
is entitled to the property. If the motion is filed by a defendant 5996
after an indictment, information, or a complaint seeking 5997
forfeiture of the property has been filed, the court shall treat 5998
the motion as a motion to suppress evidence. If the motion is 5999
filed by a third party after an indictment, information, or 6000
complaint seeking forfeiture of the property has been filed, the 6001
court shall treat the motion as a petition of a person with an 6002
alleged interest in the subject property, pursuant to divisions 6003
(E) and (F) of section 2981.04 of the Revised Code. 6004

(5)(a) In any action under section 2981.04 or 2981.05 of the 6005
Revised Code, if a property owner or third party claims lawful 6006
interest in the subject property alleged to be proceeds, the state 6007
or political subdivision has provisional title and a right to hold 6008
property if it proves both of the following by a preponderance of 6009
the evidence: 6010

(i) The interest in the property was acquired by the alleged 6011
offender or delinquent child during the commission of the offense 6012
or within a reasonable time after that period. 6013

(ii) There is no likely source for the interest in the 6014
property other than as proceeds derived from or acquired through 6015
the commission of the offense. 6016

(b) The alleged offender or delinquent child shall have the 6017
burden to prove the amount of any direct costs lawfully incurred. 6018

(B)(1) Upon application by the prosecutor who prosecutes or 6019
brings an action that allows forfeiture under this chapter, the 6020

court in which the action is prosecuted or filed may issue an 6021
order taking any reasonable action necessary to preserve the 6022
reachability of the property including, but not limited to, a 6023
restraining order or injunction, an order requiring execution of a 6024
satisfactory bond or insurance policy, an order to inspect, 6025
photograph, or inventory the property, an order placing a lien or 6026
lis pendens against the property, or an order appointing a 6027
receiver or trustee. The court may issue an order of this nature 6028
at any of the following times: 6029

(a) Upon the filing of a complaint, indictment, or 6030
information alleging the property to be subject to forfeiture 6031
under section 2981.02 of the Revised Code; 6032

(b) Prior to the filing of a complaint, an indictment, or 6033
information alleging the property to be subject to forfeiture 6034
under section 2981.02 of the Revised Code, if, after giving notice 6035
to all persons known to have a interest in the property and giving 6036
those persons an opportunity to be heard, the court determines 6037
that all of the following apply: 6038

(i) There is a substantial probability the state or political 6039
subdivision will prevail on the forfeiture issue. 6040

(ii) There is a substantial probability that failure to enter 6041
the order will result in the property being destroyed, being 6042
removed from the court's jurisdiction, or otherwise being made 6043
unavailable for forfeiture. 6044

(iii) The need to preserve the availability of the property 6045
outweighs the hardship on the person against whom the order is to 6046
be entered. 6047

(c) As a condition of releasing the property based on a 6048
determination of substantial hardship under division (D) of this 6049
section. 6050

(2) Except as otherwise provided in division (B)(3) of this section, the court shall make an order under division (B)(1)(b) of this section effective for not more than ninety days, but the court may extend the order if the prosecutor demonstrates that the need to preserve the reachability of the property still exists or for other good cause shown and shall extend the order if an indictment, information, or a complaint is filed alleging that the property is subject to forfeiture.

(3) A court may issue an order under division (B)(1) of this section without giving notice or a hearing to a person known to have 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 if the prosecutor again demonstrates that the property is subject to forfeiture and that a hearing will jeopardize the availability of the property or for other good cause shown or if the person subject to the order consents to a longer period. If a party requests a hearing on the order, the court shall hold the hearing at the earliest possible time before the order expires.

(4) At any hearing under division (B) of this section, the court may receive and consider evidence and information that is inadmissible under the Rules of Evidence. The court shall cause the hearing to be recorded and shall cause a transcript to be made. If property is to be seized as a result of the hearing, the recording and transcript shall not be a public record for purposes of section 149.43 of the Revised Code until the property is seized. This section does not authorize making available for inspection any confidential law enforcement investigatory record

or trial preparation record, as defined in section 149.43 of the Revised Code.

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(C) Except as otherwise provided in division (E) of this section, any replevin, conversion, or other civil action brought concerning property subject to a criminal or civil forfeiture action under this chapter shall be stayed until the forfeiture action is resolved.

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

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

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If the court finds that the person meets the criteria specified in divisions (D)(3)(a), (b), and (c) of this section, the court shall order the property's conditional return to the person pending completion of the forfeiture action. In issuing this order, the court shall notify the person of the prohibitions against interfering with or diminishing property in section 2981.07 of the Revised Code and may make any order necessary to ensure that the value of the property is maintained.

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

(3) Except when there is probable cause that the property is contraband, property that must be held for a reasonable time as evidence related to an offense, or property that is likely to be used in additional offenses or except when the state or political subdivision meets the burden imposed under division (A)(5) of this section regarding alleged proceeds, a court may conditionally release property subject to forfeiture to a person who demonstrates all of the following:

(a) A possessory interest in the property;

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

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

(4) In determining whether a substantial hardship exists, the court shall weigh the claimant's likely hardship from the state's

or political subdivision's continued possession of the property 6145
against the risk that the property will be destroyed, damaged, 6146
lost, concealed, or transferred if returned to the claimant. The 6147
court shall consider in favor of release the possibility that 6148
withholding the property would prevent a legitimate business from 6149
functioning, prevent the claimant's or an innocent person from 6150
maintaining employment, or leave the claimant or an innocent 6151
person homeless. 6152

(5) If the state or political subdivision shows that the 6153
claimant's petition is frivolous, the court shall deny the 6154
petition. Otherwise, the state or political subdivision may 6155
respond to the petition by submitting evidence ex parte to avoid 6156
disclosing any matter that may adversely affect an ongoing 6157
criminal investigation or pending trial. 6158

(6) The court shall decide on the petition not more than 6159
thirty days after it is filed. If the property seized is alleged 6160
to be a mobile instrumentality, the court shall decide on the 6161
petition as soon as practicable within the thirty-day period. If 6162
personal, business, or governmental records were seized and a 6163
person files a petition to copy the records, the court shall 6164
decide on the petition as soon as practicable. In any case, the 6165
court may extend the time for deciding on the petition by consent 6166
of the parties or for good cause shown. 6167

(E) Nothing in this section precludes a financial institution 6168
that has or purports to have a security interest in or lien on 6169
property described in section 2981.02 of the Revised Code from 6170
filing an action in connection with the property, prior to its 6171
disposition under this chapter, to obtain possession of the 6172
property in order to foreclose or otherwise enforce the security 6173
interest or lien. 6174

If a financial institution commences a civil action or takes 6175

any other appropriate legal action to sell the property prior to its seizure or prior to its disposition under this chapter, if the person who is responsible for conducting the sale has actual knowledge of the commencement of a forfeiture action under either section 2981.04 or 2981.05 of the Revised Code, and if the property is sold, then the person shall dispose of the proceeds of the sale in the following order:

(1) First, to the payment of the costs of the sale, excluding any associated attorney's fees, and to the payment of the costs incurred by law enforcement agencies and financial institutions in connection with the seizure, storage, and maintenance of, and provision of security for, the property;

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

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

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

If the property seized includes property alleged to be a mobile instrumentality or includes personal, business, or governmental records, the civil forfeiture action shall be brought within thirty days of seizure. Otherwise, the action shall be

brought within sixty days of seizure. In either case, the period 6207
within which the action shall be brought may be extended by 6208
agreement of the parties or by the court for good cause shown. 6209

A prosecutor may file an appropriate charging instrument 6210
under section 2981.04 of the Revised Code to seek a criminal 6211
forfeiture after a civil forfeiture action begins. Filing a 6212
charging instrument for an offense that is also the basis of a 6213
civil forfeiture action shall stay the civil action. 6214

A civil action to obtain civil forfeiture may be commenced as 6215
described in section 2981.05 of the Revised Code regardless of 6216
whether the offender or delinquent child has pleaded guilty to, 6217
been convicted of, or been adjudicated a delinquent child for the 6218
act that is the basis of the order. 6219

(G) The prosecutor shall maintain an accurate record of each 6220
item disposed of under section 2981.04 or 2981.05 of the Revised 6221
Code. The record shall not identify or enable the identification 6222
of the officer who seized the property. The record is a public 6223
record open for inspection under section 149.43 of the Revised 6224
Code. 6225

Sec. 2981.04. (A)(1) Property described in division (A) of 6226
section 2981.02 of the Revised Code may be forfeited under this 6227
section only if the complaint, indictment, or information charging 6228
the offense or municipal violation, or the complaint charging the 6229
delinquent act, contains a specification of the type described in 6230
section 2941.1417 of the Revised Code that sets forth all of the 6231
following to the extent it is reasonably known at the time of the 6232
filing: 6233

(a) The nature and extent of the alleged offender's or 6234
delinquent child's interest in the property; 6235

(b) A description of the property; 6236

(c) If the property is alleged to be an instrumentality, the 6237
alleged use or intended use of the property in the commission or 6238
facilitation of the offense. 6239

(2) If any property is not reasonably foreseen to be subject 6240
to forfeiture at the time of filing the indictment, information, 6241
or complaint, the trier of fact still may return a verdict of 6242
forfeiture concerning that property in the hearing described in 6243
division (B) of this section if the prosecutor, upon discovering 6244
the property to be subject to forfeiture, gave prompt notice of 6245
this fact to the alleged offender or delinquent child under 6246
Criminal Rule 7(E) or Juvenile Rule 10(B). 6247

(3) For good cause shown, the court may consider issues of 6248
the guilt of the alleged offender or the delinquency of the 6249
alleged delinquent child separate from whether property specified 6250
as subject to forfeiture should be forfeited. 6251

(B) If a person pleads guilty to or is convicted of an 6252
offense or is adjudicated a delinquent child for committing a 6253
delinquent act and the complaint, indictment, or information 6254
charging the offense or act contains a specification covering 6255
property subject to forfeiture under section 2981.02 of the 6256
Revised Code, the trier of fact shall determine whether the 6257
person's property shall be forfeited. If the state or political 6258
subdivision proves by a preponderance of the evidence that the 6259
property is in whole or part subject to forfeiture under section 6260
2981.02 of the Revised Code, after a proportionality review under 6261
section 2981.09 of the Revised Code when relevant, the trier of 6262
fact shall return a verdict of forfeiture that specifically 6263
describes the extent of the property subject to forfeiture. If the 6264
trier of fact is a jury, on the offender's or delinquent child's 6265
motion, the court shall make the determination of whether the 6266
property shall be forfeited. 6267

(C) If the court enters a verdict of forfeiture under this section, the court imposing sentence or disposition, in addition to any other sentence authorized by Chapter 2929. of the Revised Code or any disposition authorized by Chapter 2152. of the Revised Code, shall order that the offender or delinquent child forfeit to the state or political subdivision the offender's or delinquent child's interest in the property. The property vests with the state or political subdivision subject to the claims of third parties. The court may issue any additional order to affect the forfeiture, including, but not limited to, an order under section 2981.06 of the Revised Code. 6268
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(D) After the entry of a forfeiture order under this section, the prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. The prosecutor shall give notice of the forfeiture that remains subject to the claims of third parties and proposed disposal of the forfeited property to any person known to have an interest in the property. The prosecutor also shall publish notice of the forfeiture that remains subject to the claims of third parties and proposed disposal of the forfeited property once each week for two consecutive weeks in a newspaper of general circulation in the county in which the property was seized. 6279
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(E)(1) Any person, other than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the forfeiture order, who asserts a legal interest in the property that is the subject of the order may petition the court that issued the order for a hearing under division (E)(3) of this section to adjudicate the validity of the person's alleged interest in the property. All of the following apply to the petition: 6291
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(a) It shall be filed within thirty days after the final 6299

publication of notice or the person's receipt of notice under 6300
division (D) of this section. 6301

(b) It shall be signed by the petitioner under the penalties 6302
for falsification specified in section 2921.13 of the Revised 6303
Code. 6304

(c) It shall describe the nature and extent of the 6305
petitioner's interest in the property, the time and circumstances 6306
of the petitioner's acquisition of that interest, any additional 6307
facts supporting the petitioner's claim, and the relief sought. 6308

(2)(a) In lieu of filing a petition as described in division 6309
(E)(1) of this section, a person, other than the offender or 6310
delinquent child whose conviction or plea of guilty or delinquency 6311
adjudication is the basis of the forfeiture order, may file an 6312
affidavit as described in this division to establish the validity 6313
of the alleged right, title, or interest in the property that is 6314
the subject of the forfeiture order if the person is a secured 6315
party or other lienholder of record that asserts a legal interest 6316
in the property, including, but not limited to, a mortgage, 6317
security interest, or other type of lien. The affidavit shall 6318
contain averments that the secured party or other lienholder 6319
acquired its alleged right, title, or interest in the property in 6320
the regular course of its business, for a specified valuable 6321
consideration, without actual knowledge of any facts pertaining to 6322
the offense that was the basis of the forfeiture order, in good 6323
faith, and without the intent to prevent or otherwise impede the 6324
state or political subdivision from seizing or obtaining a 6325
forfeiture of the property. The person shall file the affidavit 6326
within thirty days after the earlier of the final publication of 6327
notice or the receipt of notice under division (D) of this 6328
section. 6329

(b) Except as otherwise provided in this section, the 6330

affidavit shall constitute prima-facie evidence of the validity of
the affiant's alleged interest in the property.

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(c) Unless the prosecutor files a motion challenging the
affidavit within ten days after its filing and unless the
prosecutor establishes by a preponderance of the evidence at the
hearing held under division (E)(3) of this section that the
affiant does not possess the alleged interest in the property or
that the affiant had actual knowledge of facts pertaining to the
offense or delinquent act that was the basis of the forfeiture
order, the affidavit shall constitute conclusive evidence of the
validity of the affiant's interest in the property.

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(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.

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(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.

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At the hearing, the petitioner or affiant may testify,
present evidence and witnesses on the petitioner's or affiant's

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behalf, and cross-examine witnesses for the state or political 6362
subdivision. In regards to a petition, the state or political 6363
subdivision may present evidence and witnesses in rebuttal and in 6364
defense of its claim to the property and may cross-examine 6365
witnesses for the petitioner. In regards to an affidavit, the 6366
prosecutor may present evidence and witnesses and cross-examine 6367
witnesses for the affiant. 6368

In addition to the evidence and testimony presented at the 6369
hearing, the court also shall consider the relevant portions of 6370
the record in the criminal or delinquent child case that resulted 6371
in the forfeiture order. 6372

(F)(1) If the hearing involves a petition, the court shall 6373
amend its forfeiture order if it determines at the hearing held 6374
pursuant to division (E)(3) of this section that the petitioner 6375
has established either of the following by a preponderance of the 6376
evidence: 6377

(a) The petitioner has a legal interest in the property that 6378
is subject to the forfeiture order that renders the order 6379
completely or partially invalid because the legal interest in the 6380
property was vested in the petitioner, rather than the offender or 6381
delinquent child whose conviction or plea of guilty or delinquency 6382
adjudication is the basis of the order, or was superior to any 6383
interest of that offender or delinquent child, at the time of the 6384
commission of the offense or delinquent act that is the basis of 6385
the order. 6386

(b) The petitioner is a bona fide purchaser for value of the 6387
interest in the property that is subject to the forfeiture order 6388
and was, at the time of the purchase, reasonably without cause to 6389
believe that it was subject to forfeiture. 6390

(2) The court also shall amend its forfeiture order to 6391
reflect any interest of a secured party or other lienholder of 6392

record in the property subject to forfeiture who prevails at a 6393
hearing on the petition or affidavit filed pursuant to division 6394
(E)(1) or (2) of this section. 6395

(G) If the court disposes of all petitions or affidavits 6396
timely filed under this section in favor of the state or political 6397
subdivision, the state or political subdivision shall have clear 6398
title to the property that is the subject of a forfeiture order 6399
issued under this section, but only to the extent that other 6400
parties' lawful interests in the property are not infringed. To 6401
the extent that the state or political subdivision has clear title 6402
to the property, the state or political subdivision may warrant 6403
good title to any subsequent purchaser or other transferee. 6404

Sec. 2981.05. (A) The prosecutor of the political subdivision 6405
in which property described in division (A) of section 2981.02 of 6406
the Revised Code is located may commence a civil forfeiture action 6407
under this section by filing in the court of common pleas of the 6408
county in which the property is located a complaint requesting an 6409
order that forfeits the property to the state or a political 6410
subdivision. The filing shall be consistent with division (F) of 6411
section 2981.03 of the Revised Code. 6412

(B) Prior to or upon the commencement of a civil forfeiture 6413
action, the prosecutor shall attempt to identify any person with 6414
an interest in the property subject to forfeiture by searching 6415
appropriate public records and making reasonably diligent 6416
inquiries. The prosecutor shall give notice of the commencement of 6417
the civil action, together with a copy of the complaint, to each 6418
person who is reasonably known to have any interest in the 6419
property, by certified mail, return receipt requested, or by 6420
personal service. The prosecutor shall cause a similar notice to 6421
be published once each week for two consecutive weeks in a 6422
newspaper of general circulation in the county in which the 6423

property is located.

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

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(D) The court shall issue a civil forfeiture order if it determines that the prosecutor has proved by a preponderance of the evidence that the property is subject to forfeiture under section 2981.02 of the Revised Code, and, after a proportionality review under section 2981.09 of the Revised Code when relevant, the trier of fact specifically describes the extent of the property to be forfeited. A civil forfeiture order shall state that all interest in the property in question of the adult or juvenile who committed the act that is the basis of the order is forfeited to the state or political subdivision and shall make due provision for the interest in that property of any other person, when appropriate under this section. The court may issue any additional order to affect the forfeiture, including, but not limited to, one or more orders under section 2981.06 of the Revised Code.

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(E) If the court disposes of all petitions timely filed under this section in favor of the state or political subdivision, the state or political subdivision shall have clear title to the property that is the subject of a forfeiture order under this section, but only to the extent that other parties' lawful interests in the property are not infringed. To the extent that the state or political subdivision has clear title to the

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property, the state or political subdivision may warrant good 6456
title to any subsequent purchaser or other transferee. 6457

Sec. 2981.06. (A) Upon the entry of a forfeiture order under 6458
section 2981.04 or 2981.05 of the Revised Code, if necessary, the 6459
court shall order an appropriate law enforcement officer to seize 6460
the forfeited property on conditions that the court considers 6461
proper. If necessary, the court shall order the person in 6462
possession of the property to deliver the property by a specific 6463
date to the law enforcement agency involved in the initial seizure 6464
of the property. The court shall deliver the order by personal 6465
service or certified mail. 6466

(B) With respect to property that is the subject of a 6467
forfeiture order issued under section 2981.04 or 2981.05 of the 6468
Revised Code, the court that issued the order, upon petition of 6469
the prosecutor who prosecuted the underlying offense or act or 6470
brought the civil forfeiture action, may do any of the following: 6471

(1) Enter any appropriate restraining orders or injunctions; 6472
require execution of satisfactory performance bonds; appoint 6473
receivers, conservators, appraisers, accountants, or trustees; or 6474
take any other action necessary to safeguard and maintain the 6475
forfeited property; 6476

(2) Authorize the payment of rewards to persons who provide 6477
information resulting in forfeiture of the property under this 6478
chapter from funds provided under division (F) of section 2981.12 6479
of the Revised Code; 6480

(3) Authorize the prosecutor to settle claims; 6481

(4) Restore forfeited property to victims and grant petitions 6482
for mitigation or remission of forfeiture; 6483

(5) Authorize a stay of the forfeiture order pending appeal 6484
or resolution of any claim to the property if requested by a 6485

person other than the defendant or a person acting in concert 6486
with, or on behalf of, the defendant. 6487

(C) To facilitate the identification and location of property 6488
that is the subject of a forfeiture order and to facilitate the 6489
disposition of petitions for remission or mitigation issued under 6490
this section, after the issuance of a forfeiture order and upon 6491
application by the prosecutor, the court, consistent with the 6492
Civil Rules, may order that the testimony of any witness relating 6493
to the forfeited property be taken by deposition and that any 6494
designated material that is not privileged be produced at the same 6495
time and place as the testimony. 6496

(D) The court shall order forfeiture of any other property of 6497
the offender or delinquent child up to the value of the 6498
unreachable property if any of the following describe any property 6499
subject to a forfeiture order under section 2981.04 or 2981.05 of 6500
the Revised Code: 6501

(1) It cannot be located through due diligence. 6502

(2) It has been transferred, sold, or deposited with a third 6503
party. 6504

(3) It has been placed beyond the jurisdiction of the court. 6505

(4) It has been substantially diminished in value or has been 6506
commingled with other property and cannot be divided without 6507
difficulty or undue injury to innocent persons. 6508

(E) After the state or political subdivision is granted clear 6509
title under section 2981.04 or 2981.05 of the Revised Code, the 6510
prosecutor shall direct disposition of the property pursuant to 6511
this chapter, making due provisions for the rights of innocent 6512
persons. 6513

(F) Any interest in property not exercisable by, or 6514
transferable for value to, the state or political subdivision 6515

shall expire and shall not revert to the offender or delinquent 6516
child who forfeited the property. The offender or delinquent child 6517
is not eligible to purchase the property at a sale under this 6518
chapter. 6519

(G) Any income accruing to or derived from forfeited property 6520
may be used to offset ordinary and necessary expenses related to 6521
the property that are required by law or necessary to protect the 6522
interest of the state, political subdivision, or third parties. 6523

Sec. 2981.07. (A) No person shall destroy, damage, remove, or 6524
transfer property that is subject to forfeiture or otherwise take 6525
any action in regard to property that is subject to forfeiture 6526
with purpose to do any of the following: 6527

(1) Prevent or impair the state's or political subdivision's 6528
lawful authority to take the property into its custody or control 6529
under this chapter or to continue holding the property under its 6530
lawful custody or control; 6531

(2) Impair or defeat the court's continuing jurisdiction over 6532
the person and property; 6533

(3) Devalue property that the person knows, or has reasonable 6534
cause to believe, is subject to forfeiture proceedings under this 6535
chapter. 6536

(B)(1) Whoever violates this section is guilty of 6537
interference with or diminishing forfeitable property. 6538

(2) Except as otherwise provided in divisions (B)(3), (4), 6539
and (5) of this section, interference with or diminishing 6540
forfeitable property is a misdemeanor of the first degree. 6541

(3) If the value of the property is five hundred dollars or 6542
more but less than five thousand dollars, interference with or 6543
diminishing forfeitable property is a felony of the fifth degree. 6544

(4) If the value of the property is five thousand dollars or more but less than one hundred thousand dollars, interference with or diminishing forfeitable property is a felony of the fourth degree. 6545
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(5) If the value of the property is one hundred thousand dollars or more, interference with or diminishing forfeitable property is a felony of the third degree. 6549
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Sec. 2981.08. Parties to a forfeiture action under this chapter have a right to trial by jury as follows: 6552
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(A) In a criminal forfeiture action, the defendant has the right to trial by jury. 6554
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(B) In a civil forfeiture action, the defendant, the state or political subdivision, and third party claimants have the right to trial by jury. 6556
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Sec. 2981.09. (A) Property may not be forfeited as an instrumentality under this chapter to the extent that the amount or value of the property is disproportionate to the severity of the offense. The owner of the property shall have the burden of going forward with the evidence and the burden to prove by a preponderance of the evidence that the amount or value of the property subject to forfeiture is disproportionate to the severity of the offense. 6559
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(B) Contraband and any proceeds obtained from the offense are not subject to proportionality review under this section. 6567
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(C) In determining the severity of the offense for purposes of forfeiture of an instrumentality, the court shall consider all relevant factors including, but not limited to, the following: 6569
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(1) The seriousness of the offense and its impact on the community, including the duration of the activity and the harm 6572
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<u>caused or intended by the person whose property is subject to</u>	6574
<u>forfeiture;</u>	6575
<u>(2) The extent to which the person whose property is subject</u>	6576
<u>to forfeiture participated in the offense;</u>	6577
<u>(3) Whether the offense was completed or attempted.</u>	6578
<u>(D) In determining the value of the property that is an</u>	6579
<u>instrumentality and that is subject to forfeiture, the court shall</u>	6580
<u>consider relevant factors including, but not limited to, the</u>	6581
<u>following:</u>	6582
<u>(1) The fair market value of the property;</u>	6583
<u>(2) The value of the property to the person whose property is</u>	6584
<u>subject to forfeiture, including hardship to the person or to</u>	6585
<u>innocent persons if the property were forfeited.</u>	6586
<u>Sec. 2981.11. (A)(1) Any property that has been lost,</u>	6587
<u>abandoned, stolen, seized pursuant to a search warrant, or</u>	6588
<u>otherwise lawfully seized or forfeited and that is in the custody</u>	6589
<u>of a law enforcement agency shall be kept safely by the agency,</u>	6590
<u>pending the time it no longer is needed as evidence or for another</u>	6591
<u>lawful purpose, and shall be disposed of pursuant to sections</u>	6592
<u>2981.12 and 2981.13 of the Revised Code.</u>	6593
<u>(2) This chapter does not apply to the custody and disposal</u>	6594
<u>of any of the following:</u>	6595
<u>(a) Vehicles subject to forfeiture under Title XLV of the</u>	6596
<u>Revised Code, except as provided in division (A)(6) of section</u>	6597
<u>2981.12 of the Revised Code;</u>	6598
<u>(b) Abandoned junk motor vehicles or other property of</u>	6599
<u>negligible value;</u>	6600
<u>(c) Property held by a department of rehabilitation and</u>	6601
<u>correction institution that is unclaimed, that does not have an</u>	6602

identified owner, that the owner agrees to dispose of, or that is 6603
identified by the department as having little value; 6604

(d) Animals taken, and devices used in unlawfully taking 6605
animals, under section 1531.20 of the Revised Code; 6606

(e) Controlled substances sold by a peace officer in the 6607
performance of the officer's official duties under section 6608
3719.141 of the Revised Code; 6609

(f) Property recovered by a township law enforcement agency 6610
under sections 505.105 to 505.109 of the Revised Code; 6611

(g) Property held and disposed of under an ordinance of the 6612
municipal corporation or under sections 737.29 to 737.33 of the 6613
Revised Code, except that a municipal corporation that has 6614
received notice of a citizens' reward program as provided in 6615
division (F) of section 2981.12 of the Revised Code and disposes 6616
of property under an ordinance shall pay twenty-five per cent of 6617
any moneys acquired from any sale or auction to the citizens' 6618
reward program. 6619

(B)(1) Each law enforcement agency that has custody of any 6620
property that is subject to this section shall adopt and comply 6621
with a written internal control policy that does all of the 6622
following: 6623

(a) Provides for keeping detailed records as to the amount of 6624
property acquired by the agency and the date property was 6625
acquired; 6626

(b) Provides for keeping detailed records of the disposition 6627
of the property, which shall include, but not be limited to, both 6628
of the following: 6629

(i) The manner in which it was disposed, the date of 6630
disposition, detailed financial records concerning any property 6631
sold, and the name of any person who received the property. The 6632

record shall not identify or enable identification of the 6633
individual officer who seized any item of property. 6634

(ii) The general types of expenditures made with amounts that 6635
are gained from the sale of the property and that are retained by 6636
the agency, including the specific amount expended on each general 6637
type of expenditure, except that the policy shall not provide for 6638
or permit the identification of any specific expenditure that is 6639
made in an ongoing investigation. 6640

(c) Complies with section 2981.13 of the Revised Code if the 6641
agency has a law enforcement trust fund or similar fund created 6642
under that section. 6643

(2) Each law enforcement agency that during any calendar year 6644
has any seized or forfeited property covered by this section in 6645
its custody, including amounts distributed under section 2981.13 6646
of the Revised Code to its law enforcement trust fund or a similar 6647
fund created for the state highway patrol, department of public 6648
safety, or state board of pharmacy, shall prepare a report 6649
covering the calendar year that cumulates all of the information 6650
contained in all of the public records kept by the agency pursuant 6651
to this section for that calendar year. The agency shall send a 6652
copy of the cumulative report to the attorney general not later 6653
than the first day of March in the calendar year following the 6654
calendar year covered by the report. 6655

(3) The records kept under the internal control policy shall 6656
be open to public inspection during the agency's regular business 6657
hours. The policy adopted under this section and each report 6658
received by the attorney general is a public record open for 6659
inspection under section 149.43 of the Revised Code. 6660

(4) Not later than the fifteenth day of April in each 6661
calendar year in which reports are sent to the attorney general 6662
under division (B)(2) of this section, the attorney general shall 6663

send to the president of the senate and the speaker of the house 6664
of representatives a written notice that indicates that the 6665
attorney general received reports that cover the previous calendar 6666
year, that the reports are open for inspection under section 6667
149.43 of the Revised Code, and that the attorney general will 6668
provide a copy of any or all of the reports to the president of 6669
the senate or the speaker of the house of representatives upon 6670
request. 6671

(C) A law enforcement agency with custody of property to be 6672
disposed of under section 2981.12 or 2981.13 of the Revised Code 6673
shall make a reasonable effort to locate persons entitled to 6674
possession of the property, to notify them of when and where it 6675
may be claimed, and to return the property to them at the earliest 6676
possible time. In the absence of evidence identifying persons 6677
entitled to possession, it is sufficient notice to advertise in a 6678
newspaper of general circulation in the county and to briefly 6679
describe the nature of the property in custody and inviting 6680
persons to view and establish their right to it. 6681

(D) As used in sections 2981.11 to 2981.13 of the Revised 6682
Code: 6683

(1) "Citizens' reward program" has the same meaning as in 6684
section 9.92 of the Revised Code. 6685

(2) "Law enforcement agency" includes correctional 6686
institutions. 6687

(3) "Township law enforcement agency" means an organized 6688
police department of a township, a township police district, a 6689
joint township police district, or the office of a township 6690
constable. 6691

Sec. 2981.12. (A) Unclaimed or forfeited property in the 6692
custody of a law enforcement agency, other than property described 6693

in division (A)(2) of section 2981.11 of the Revised Code, shall 6694
be disposed of by order of any court of record that has 6695
territorial jurisdiction over the political subdivision that 6696
employs the law enforcement agency, as follows: 6697

(1) Drugs shall be disposed of pursuant to section 3719.11 of 6698
the Revised Code or placed in the custody of the secretary of the 6699
treasury of the United States for disposal or use for medical or 6700
scientific purposes under applicable federal law. 6701

(2) Firearms and dangerous ordnance suitable for police work 6702
may be given to a law enforcement agency for that purpose. 6703
Firearms suitable for sporting use or as museum pieces or 6704
collectors' items may be sold at public auction pursuant to 6705
division (B) of this section. The agency shall destroy other 6706
firearms and dangerous ordnance or shall send them to the bureau 6707
of criminal identification and investigation for destruction by 6708
the bureau. 6709

(3) Obscene materials shall be destroyed. 6710

(4) Beer, intoxicating liquor, or alcohol seized from a 6711
person who does not hold a permit issued under Chapters 4301. and 6712
4303. of the Revised Code or otherwise forfeited to the state for 6713
an offense under section 4301.45 or 4301.53 of the Revised Code 6714
shall be sold by the division of liquor control if the division 6715
determines that it is fit for sale or shall be placed in the 6716
custody of the investigations unit in the department of public 6717
safety and be used for training relating to law enforcement 6718
activities. The department, with the assistance of the division of 6719
liquor control, shall adopt rules in accordance with Chapter 119. 6720
of the Revised Code to provide for the distribution to state or 6721
local law enforcement agencies upon their request. If any tax 6722
imposed under Title XLIII of the Revised Code has not been paid in 6723
relation to the beer, intoxicating liquor, or alcohol, any moneys 6724

acquired from the sale shall first be used to pay the tax. All 6725
other money collected under this division shall be paid into the 6726
state treasury. Any beer, intoxicating liquor, or alcohol that the 6727
division determines to be unfit for sale shall be destroyed. 6728

(5) Money received by an inmate of a correctional institution 6729
from an unauthorized source or in an unauthorized manner shall be 6730
returned to the sender, if known, or deposited in the inmates' 6731
industrial and entertainment fund of the institution if the sender 6732
is not known. 6733

(6)(a) Any mobile instrumentality forfeited under this 6734
chapter may be given to the law enforcement agency that initially 6735
seized the mobile instrumentality for use in performing its 6736
duties, if the agency wants the mobile instrumentality. The agency 6737
shall take the mobile instrumentality subject to any security 6738
interest or lien on the mobile instrumentality. 6739

(b) Vehicles and vehicle parts forfeited under sections 6740
4549.61 to 4549.63 of the Revised Code may be given to a law 6741
enforcement agency for use in performing its duties. Those parts 6742
may be incorporated into any other official vehicle. Parts that do 6743
not bear vehicle identification numbers or derivatives of them may 6744
be sold or disposed of as provided by rules of the director of 6745
public safety. Parts from which a vehicle identification number or 6746
derivative of it has been removed, defaced, covered, altered, or 6747
destroyed and that are not suitable for police work or 6748
incorporation into an official vehicle shall be destroyed and sold 6749
as junk or scrap. 6750

(7) Computers, computer networks, computer systems, and 6751
computer software suitable for police work may be given to a law 6752
enforcement agency for that purpose or disposed of under division 6753
(B) of this section. 6754

(B) Unclaimed or forfeited property that is not described in 6755

division (A) of this section or division (A)(2) of section 2981.11 6756
of the Revised Code, with court approval, may be used by the law 6757
enforcement agency in possession of it. If it is not used by the 6758
agency, it may be sold without appraisal at a public auction to 6759
the highest bidder for cash or disposed of in another manner that 6760
the court considers proper. 6761

(C) Except as provided in divisions (A) and (F) of this 6762
section and after compliance with division (D) of this section 6763
when applicable, any moneys acquired from the sale of property 6764
disposed of pursuant to this section shall be placed in the 6765
general revenue fund of the state, or the general fund of the 6766
county, the township, or the municipal corporation of which the 6767
law enforcement agency involved is an agency. 6768

(D) If the property was in the possession of the law 6769
enforcement agency in relation to a delinquent child proceeding in 6770
a juvenile court, ten per cent of any moneys acquired from the 6771
sale of property disposed of under this section shall be applied 6772
to one or more alcohol and drug addiction treatment programs that 6773
are certified by the department of alcohol and drug addiction 6774
services under section 3793.06 of the Revised Code. A juvenile 6775
court shall not specify a program, except as provided in this 6776
division, unless the program is in the same county as the court or 6777
in a contiguous county. If no certified program is located in any 6778
of those counties, the juvenile court may specify a certified 6779
program anywhere in Ohio. The remaining ninety per cent of the 6780
proceeds or cash shall be applied as provided in division (C) of 6781
this section. 6782

Each treatment program that receives in any calendar year 6783
forfeited money under this division shall file an annual report 6784
for that year with the attorney general and with the court of 6785
common pleas and board of county commissioners of the county in 6786
which the program is located and of any other county from which 6787

the program received forfeited money. The program shall file the 6788
report on or before the first day of March in the calendar year 6789
following the calendar year in which the program received the 6790
money. The report shall include statistics on the number of 6791
persons the program served, identify the types of treatment 6792
services it provided to them, and include a specific accounting of 6793
the purposes for which it used the money so received. No 6794
information contained in the report shall identify, or enable a 6795
person to determine the identity of, any person served by the 6796
program. 6797

(E) Each certified alcohol and drug addiction treatment 6798
program that receives in any calendar year money under this 6799
section or under section 2981.13 of the Revised Code as the result 6800
of a juvenile forfeiture order shall file an annual report for 6801
that calendar year with the attorney general and with the court of 6802
common pleas and board of county commissioners of the county in 6803
which the program is located and of any other county from which 6804
the program received the money. The program shall file the report 6805
on or before the first day of March in the calendar year following 6806
the year in which the program received the money. The report shall 6807
include statistics on the number of persons served with the money, 6808
identify the types of treatment services provided, and 6809
specifically account for how the money was used. No information in 6810
the report shall identify or enable a person to determine the 6811
identity of anyone served by the program. 6812

As used in this division, "juvenile-related forfeiture order" 6813
means any forfeiture order issued by a juvenile court under 6814
section 2981.04 or 2981.05 of the Revised Code and any disposal of 6815
property ordered by a court under section 2981.11 of the Revised 6816
Code regarding property that was in the possession of a law 6817
enforcement agency in relation to a delinquent child proceeding in 6818
a juvenile court. 6819

(F) Each board of county commissioners that recognizes a 6820
citizens' reward program under section 9.92 of the Revised Code 6821
shall notify each law enforcement agency of that county and of a 6822
township or municipal corporation wholly located in that county of 6823
the recognition by filing a copy of its resolution conferring that 6824
recognition with each of those agencies. When the board recognizes 6825
a citizens' reward program and the county includes a part, but not 6826
all, of the territory of a municipal corporation, the board shall 6827
so notify the law enforcement agency of that municipal corporation 6828
of the recognition of the citizens' reward program only if the 6829
county contains the highest percentage of the municipal 6830
corporation's population. 6831

Upon being so notified, each law enforcement agency shall pay 6832
twenty-five per cent of any forfeited proceeds or cash derived 6833
from each sale of property disposed of pursuant to this section to 6834
the citizens' reward program for use exclusively to pay rewards. 6835
No part of the funds may be used to pay expenses associated with 6836
the program. If a citizens' reward program that operates in more 6837
than one county or in another state in addition to this state 6838
receives funds under this section, the funds shall be used to pay 6839
rewards only for tips and information to law enforcement agencies 6840
concerning offenses committed in the county from which the funds 6841
were received. 6842

Receiving funds under this section or section 2981.11 of the 6843
Revised Code does not make the citizens' reward program a 6844
governmental unit or public office for purposes of section 149.43 6845
of the Revised Code. 6846

(G) Any property forfeited under this chapter shall not be 6847
used to pay any fine imposed upon a person who is convicted of or 6848
pleads guilty to an underlying criminal offense or a different 6849
offense arising out of the same facts and circumstances. 6850

Sec. 2981.13. (A) Except as otherwise provided in this 6851
section, property ordered forfeited as contraband, proceeds, or an 6852
instrumentality pursuant to this chapter shall be disposed of, 6853
used, or sold pursuant to section 2981.12 of the Revised Code. If 6854
the property is to be sold under that section, the prosecutor 6855
shall cause notice of the proposed sale to be given in accordance 6856
with law. 6857

(B) If the contraband or instrumentality forfeited under this 6858
chapter is sold, any moneys acquired from a sale and any proceeds 6859
forfeited under this chapter shall be applied in the following 6860
order: 6861

(1) First, to pay costs incurred in the seizure, storage, 6862
maintenance, security, and sale of the property and in the 6863
forfeiture proceeding; 6864

(2) Second, in a criminal forfeiture case, to satisfy any 6865
restitution ordered to the victim of the offense or, in a civil 6866
forfeiture case, to satisfy any recovery ordered for the person 6867
harmed, unless paid from other assets; 6868

(3) Third, to pay the balance due on any security interest 6869
preserved under this chapter; 6870

(4) Fourth, apply the remaining amounts as follows: 6871

(a) If the forfeiture was ordered by a juvenile court, ten 6872
per cent to one or more certified alcohol and drug addiction 6873
treatment programs as provided in division (D) of section 2981.12 6874
of the Revised Code; 6875

(b) If the forfeiture was ordered in a juvenile court, ninety 6876
per cent, and if the forfeiture was ordered in a court other than 6877
a juvenile court, one hundred per cent to the law enforcement 6878
trust fund of the prosecutor and to the following fund supporting 6879
the law enforcement agency that substantially conducted the 6880

investigation: the law enforcement trust fund of the county 6881
sheriff, municipal corporation, township, or park district created 6882
under section 511.18 or 1545.01 of the Revised Code; the state 6883
highway patrol contraband, forfeiture, and other fund; the 6884
department of public safety investigative unit contraband, 6885
forfeiture, and other fund; the board of pharmacy drug law 6886
enforcement fund created by division (B)(1) of section 4729.65 of 6887
the Revised Code; the medicaid fraud investigation and prosecution 6888
fund; or the treasurer of state for deposit into the peace officer 6889
training commission fund if any other state law enforcement agency 6890
substantially conducted the investigation. In the case of property 6891
forfeited for medicaid fraud, any remaining amount shall be used 6892
by the attorney general to investigate and prosecute medicaid 6893
fraud offenses. 6894

If the prosecutor declines to accept any of the remaining 6895
amounts, the amounts shall be applied to the fund of the agency 6896
that substantially conducted the investigation. 6897

(c) If more than one law enforcement agency is substantially 6898
involved in the seizure of property forfeited under this chapter, 6899
the court ordering the forfeiture shall equitably divide the 6900
amounts, after calculating any distribution to the law enforcement 6901
trust fund of the prosecutor pursuant to division (B)(4) of this 6902
section, among the entities that the court determines were 6903
substantially involved in the seizure. 6904

(C)(1) A law enforcement trust fund shall be established by 6905
the prosecutor of each county who intends to receive any remaining 6906
amounts pursuant to this section, by the sheriff of each county, 6907
by the legislative authority of each municipal corporation, by the 6908
board of township trustees of each township that has a township 6909
police department, township police district police force, or 6910
office of the constable, and by the board of park commissioners of 6911
each park district created pursuant to section 511.18 or 1545.01 6912

of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section. 6913
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There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, and the peace officer training commission fund, for the purposes of this section. 6915
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Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, and by the board of park commissioners only to the park district police force or law enforcement department. 6921
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(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes: 6929
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(i) To pay the costs of protracted or complex investigations or prosecutions; 6936
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(ii) To provide reasonable technical training or expertise; 6938

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse; 6939
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(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory; 6943
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(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, board of township trustees, or board of park commissioners determines to be appropriate. 6948
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(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory. 6953
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(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement. 6962
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(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer 6971
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training. 6974

(3) Any of the following offices or agencies that receive 6975
amounts under this section during any calendar year shall file a 6976
report with the specified entity, not later than the thirty-first 6977
day of January of the next calendar year, verifying that the 6978
moneys were expended only for the purposes authorized by this 6979
section or other relevant statute and specifying the amounts 6980
expended for each authorized purpose: 6981

(a) Any sheriff or prosecutor shall file the report with the 6982
county auditor. 6983

(b) Any municipal corporation police department shall file 6984
the report with the legislative authority of the municipal 6985
corporation. 6986

(c) Any township police department, township police district 6987
police force, or office of the constable shall file the report 6988
with the board of township trustees of the township. 6989

(d) Any park district police force or law enforcement 6990
department shall file the report with the board of park 6991
commissioners of the park district. 6992

(e) The superintendent of the state highway patrol shall file 6993
the report with the attorney general. 6994

(f) The executive director of the state board of pharmacy 6995
shall file the report with the attorney general, verifying that 6996
cash and forfeited proceeds paid into the board of pharmacy drug 6997
law enforcement fund were used only in accordance with section 6998
4729.65 of the Revised Code. 6999

(g) The peace officer training commission shall file a report 7000
with the attorney general, verifying that cash and forfeited 7001
proceeds paid into the peace officer training commission fund 7002
pursuant to this section during the prior calendar year were used 7003

by the commission during the prior calendar year only to pay the 7004
costs of peace officer training. 7005

(D) The written internal control policy of a county sheriff, 7006
prosecutor, municipal corporation police department, township 7007
police department, township police district police force, office 7008
of the constable, or park district police force or law enforcement 7009
department shall provide that at least ten per cent of the first 7010
one hundred thousand dollars of amounts deposited during each 7011
calendar year in the agency's law enforcement trust fund under 7012
this section, and at least twenty per cent of the amounts 7013
exceeding one hundred thousand dollars that are so deposited, 7014
shall be used in connection with community preventive education 7015
programs. The manner of use shall be determined by the sheriff, 7016
prosecutor, department, police force, or office of the constable 7017
after receiving and considering advice on appropriate community 7018
preventive education programs from the county's board of alcohol, 7019
drug addiction, and mental health services, from the county's 7020
alcohol and drug addiction services board, or through appropriate 7021
community dialogue. 7022

The financial records kept under the internal control policy 7023
shall specify the amount deposited during each calendar year in 7024
the portion of that amount that was used pursuant to this 7025
division, and the programs in connection with which the portion of 7026
that amount was so used. 7027

As used in this division, "community preventive education 7028
programs" include, but are not limited to, DARE programs and other 7029
programs designed to educate adults or children with respect to 7030
the dangers associated with using drugs of abuse. 7031

(E) Upon the sale, under this section or section 2981.12 of 7032
the Revised Code, of any property that is required by law to be 7033
titled or registered, the state shall issue an appropriate 7034

certificate of title or registration to the purchaser. If the 7035
state is vested with title and elects to retain property that is 7036
required to be titled or registered under law, the state shall 7037
issue an appropriate certificate of title or registration. 7038

(F) Any failure of a law enforcement officer or agency, 7039
prosecutor, court, or the attorney general to comply with this 7040
section in relation to any property seized does not affect the 7041
validity of the seizure and shall not be considered to be the 7042
basis for suppressing any evidence resulting from the seizure, 7043
provided the seizure itself was lawful. 7044

Sec. 2981.14. (A) Nothing in this chapter precludes the head 7045
of a law enforcement agency that seizes property from seeking 7046
forfeiture under federal law. If the property is forfeitable under 7047
this chapter and federal forfeiture is not sought, the property is 7048
subject only to this chapter. 7049

(B) Any law enforcement agency that receives moneys from a 7050
sale of forfeited property under federal law shall deposit, use, 7051
and account for the amounts, including any interest derived, in 7052
accordance with applicable federal law. If the state highway 7053
patrol or the investigative unit of the department of public 7054
safety receives such federal forfeiture moneys, the appropriate 7055
official shall deposit all interest or other earnings derived from 7056
the investment of the moneys into the contraband, forfeiture, and 7057
other fund of the highway patrol or the department, whichever is 7058
appropriate. 7059

Sec. 3719.11. All controlled substances, the lawful 7060
possession of which is not established or the title to which 7061
cannot be ascertained, that have come into the custody of a peace 7062
officer, shall be forfeited pursuant to ~~sections 2923.44 to~~ 7063
~~2923.47, 2925.41 to 2925.45, 2933.41, or 2933.43~~ Chapter 2981. of 7064

the Revised Code, and, unless any such section provides for a 7065
different manner of disposition, shall be disposed of as follows: 7066

(A) The court or magistrate having jurisdiction shall order 7067
the controlled substances forfeited and destroyed. The agency 7068
served by the peace officer who obtained or took custody of the 7069
controlled substances may destroy them or may send them to the 7070
bureau of criminal identification and investigation for 7071
destruction by it. A record of the place where the controlled 7072
substances were seized, of the kinds and quantities of controlled 7073
substances so destroyed, and of the time, place, and manner of 7074
destruction, shall be kept, and a return under oath, reporting the 7075
destruction, shall be made by the officer who destroys them to the 7076
court or magistrate and to the United States director, bureau of 7077
narcotics and dangerous drugs. 7078

(B) Upon written application by the department of health, the 7079
court or magistrate that ordered the forfeiture of the controlled 7080
substances may order the delivery of any of them, except heroin 7081
and its salts and derivatives, to the department for distribution 7082
or destruction as provided in this section. 7083

(C) Upon application by any hospital within this state that 7084
is not operated for private gain, the department of health may 7085
deliver any controlled substances that have come into its custody 7086
pursuant to this section to the applicant for medicinal use. The 7087
department may deliver excess stocks of the controlled substances 7088
to the United States director, bureau of narcotics and dangerous 7089
drugs, or may destroy the excess stocks. 7090

(D) The department of health shall keep a complete record of 7091
all controlled substances received pursuant to this section and of 7092
all controlled substances disposed of pursuant to this section, 7093
showing all of the following: 7094

(1) The exact kinds, quantities, and forms of the controlled 7095

substances;	7096
(2) The persons from whom they were received and to whom they were delivered;	7097 7098
(3) By whose authority they were received, delivered, or destroyed;	7099 7100
(4) The dates of their receipt, delivery, or destruction.	7101
(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.	7102 7103 7104 7105
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:	7106 7107 7108
(1) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:	7109 7110 7111
(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;	7112 7113 7114
(b) The peace officer who makes the sale determines that the sale is necessary in the performance of the officer's official duties;	7115 7116 7117
(c) Any of the following applies:	7118
(i) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer who makes the sale is a peace officer, and the peace officer who makes the sale determines that the sale is necessary to prevent the person from determining or suspecting that the officer who makes the sale is a peace officer.	7119 7120 7121 7122 7123 7124

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

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

(d) If the sale is made under the circumstances described in division (A)(1)(c)(i) or (ii) of this section, no person is charged with any criminal offense or any delinquent act based upon the sale unless both of the following apply:

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

(ii) The criminal offense or delinquent act based upon the sale and the other criminal offense or delinquent act are charged

in the same indictment, information, or complaint. 7156

(e) The sale is not part of a continuing course of conduct 7157
involving the sale of controlled substances by the peace officer 7158
who makes the sale. 7159

(f) The amount of the controlled substance sold and the scope 7160
of the sale of the controlled substance is as limited as possible 7161
under the circumstances. 7162

(g) Prior to the sale, the law enforcement agency served by 7163
the peace officer who makes the sale has adopted a written 7164
internal control policy that does all of the following: 7165

(i) Addresses the keeping of detailed records as to the 7166
amount of money or other things of value obtained in the sale in 7167
exchange for the controlled substance; 7168

(ii) Addresses the delivery of all moneys or things of value 7169
so obtained to the prosecuting attorney pursuant to division (D) 7170
of this section; 7171

(iii) Addresses the agency's use and disposition of all such 7172
moneys or things of value that are deposited in the law 7173
enforcement trust fund of the sheriff, municipal corporation, or 7174
township, pursuant to division (D) of this section, and that are 7175
used by the sheriff, are allocated to the police department of the 7176
municipal corporation by its legislative authority, or are 7177
allocated by the board of township trustees to the township police 7178
department, township police district police force, or office of 7179
the constable; 7180

(iv) Provides for the keeping of detailed financial records 7181
of the receipts of the proceeds, the general types of expenditures 7182
made out of the proceeds received, and the specific amount of each 7183
general type of expenditure. The policy shall not provide for or 7184
permit the identification of any peace officer involved in the 7185

sale, any information that is or may be needed in an ongoing
investigation, or any specific expenditure that is made in an
ongoing investigation. 7186
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(2) A peace officer may sell any controlled substance in the
performance of the officer's official duties if all of the
following apply: 7189
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(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; 7192
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(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; 7195
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(c) The purchaser of the controlled substance acquires
possession of it in the presence of the peace officer who makes
the sale. 7199
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(d) Upon the consummation of the sale, either of the
following occurs: 7202
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(i) The peace officer arrests the purchaser of the controlled
substance, recovers it and the proceeds of the sale, and secures
it and the proceeds as evidence to be used in a subsequent
prosecution. 7204
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(ii) The peace officer makes a reasonable, good faith effort
to arrest the purchaser of the controlled substance and to recover
the controlled substance and the proceeds of the sale, but the
officer is unable to make the arrest and recover all of the
controlled substance and proceeds for reasons beyond the officer's
control, and the peace officer secures all of the controlled
substance recovered and all of the proceeds recovered as evidence
to be used in a subsequent prosecution. 7208
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(B) The approval of a prosecuting attorney required by 7216
division (A)(1)(a) or (2)(a) of this section may be in either of 7217
the following forms: 7218

(1) A general approval that is given by the prosecuting 7219
attorney to the peace officer who makes the sale or to the law 7220
enforcement agency served by that peace officer, that grants 7221
approval only to that peace officer, and that grants approval for 7222
any such sale that may be necessary, after the approval has been 7223
granted, under the standards described in division (A)(1) or (2) 7224
of this section; 7225

(2) A specific approval that is given by the prosecuting 7226
attorney to the peace officer who makes the sale or to the law 7227
enforcement agency served by that peace officer, and that grants 7228
approval only to that peace officer and only for the particular 7229
sale in question, under the standards described in division (A)(1) 7230
or (2) of this section. 7231

(C) If a peace officer sells a controlled substance in the 7232
performance of the officer's official duties under division (A)(1) 7233
or (2) of this section, the peace officer, within a reasonable 7234
time after the sale, shall provide the prosecuting attorney who 7235
granted approval for the sale with a written summary that 7236
identifies the amount and type of controlled substance sold, the 7237
circumstances of the sale, and the amount of any money or other 7238
thing of value obtained in the sale in exchange for the controlled 7239
substance. The summary shall not identify or enable the 7240
identification of any peace officer involved in the sale and shall 7241
not contain any information that is or may be needed in an ongoing 7242
investigation. 7243

(D)(1) Except as provided in division (D)(2) of this section, 7244
if a peace officer sells a controlled substance in the performance 7245
of the officer's official duties under division (A)(1) or (2) of 7246

this section, the peace officer, as soon as possible after the
sale, shall deliver all money or other things of value obtained in
the sale in exchange for the controlled substance to the
prosecuting attorney who granted approval for the sale. The
prosecuting attorney shall safely keep all money and other things
of value the prosecuting attorney receives under this division for
use as evidence in any criminal action or delinquency proceeding
based upon the sale. All money so received by a prosecuting
attorney that no longer is needed as evidence in any criminal
action or delinquency proceeding shall be deposited by the
prosecuting attorney in the law enforcement trust fund of the
sheriff if the peace officer who made the sale is the sheriff or a
deputy sheriff or the law enforcement trust fund of a municipal
corporation or township if it is served by the peace officer who
made the sale, as established pursuant to section ~~2933.43~~ 2981.13
of the Revised Code, and upon deposit shall be expended only as
provided in that section. All other things of value so received by
a prosecuting attorney that no longer are needed as evidence in
any criminal action or delinquency proceeding shall be disposed
of, without appraisal, at a public auction to the highest bidder
for cash; the proceeds of the sale shall be deposited by the
prosecuting attorney in the law enforcement trust fund of the
sheriff if the peace officer who made the sale is the sheriff or a
deputy sheriff or the law enforcement trust fund of a municipal
corporation or township if it is served by the peace officer who
made the sale, as established pursuant to section ~~2933.43~~ 2981.13
of the Revised Code, and upon deposit shall be expended only as
provided in that section. Each law enforcement agency that uses
any money that was deposited in a law enforcement trust fund
pursuant to this division shall comply with the written internal
control policy adopted by the agency, as required by division
(A)(1)(g) or (2)(b) of this section, in its use of the money.

(2) Division (D)(1) of this section does not apply in 7279
relation to a peace officer who sells a controlled substance in 7280
the performance of the officer's official duties under division 7281
(A)(1) of this section in any of the following circumstances: 7282

(a) The person to whom the sale is made or any other person 7283
who is involved in the sale does not know that the officer is a 7284
peace officer, and, if the officer were to retain and deliver the 7285
money or other things of value to the prosecuting attorney, the 7286
person would determine or suspect that the officer is a peace 7287
officer. 7288

(b) If the officer were to retain and deliver the money or 7289
other things of value to the prosecuting attorney, an identity 7290
that has been assumed in the performance of the officer's official 7291
duties would not be preserved. 7292

(c) The sale is made under the circumstances described in 7293
division (A)(1)(c)(iii) of this section. 7294

(3) If division (D)(1) of this section does not apply in 7295
relation to a peace officer who sells a controlled substance in 7296
the performance of the officer's official duties under division 7297
(A)(1) of this section due to the operation of division (D)(2) of 7298
this section, the peace officer, as soon as possible after the 7299
sale, shall deliver to the prosecuting attorney who granted 7300
approval for the sale a written summary that describes the 7301
circumstances of the sale and the reason for which division (D)(1) 7302
of this section does not apply. The summary shall not identify or 7303
enable the identification of any peace officer involved in the 7304
sale and shall not contain any information that is or may be 7305
needed in an ongoing investigation. 7306

(E)(1) A written internal control policy adopted by a law 7307
enforcement agency that is served by a peace officer who sells a 7308
controlled substance under division (A)(1) or (2) of this section, 7309

as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds received, and the specific amounts of each general type of expenditure by a law enforcement agency in relation to any sale of a controlled substance under division (A)(1) or (2) of this section are public records open for inspection under section 149.43 of the Revised Code.

(2) A summary required by division (C) or (D)(3) of this section is a public record open for inspection under section 149.43 of the Revised Code.

(F)(1) Each prosecuting attorney who grants approval for a sale of controlled substances by a peace officer and who receives in any calendar year one or more summaries under division (C) of this section relative to the sale of a controlled substance by a peace officer shall prepare a report covering the calendar year that cumulates all of the information contained in each of the summaries so received in the calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

(2) Each prosecuting attorney who receives any money or any other thing of value under division (D)(1) of this section shall keep detailed financial records of the receipts and dispositions of all such moneys or things of value so received. No record of

that nature shall identify, or enable the identification of, any
person from whom money or another thing of value was received as a
result of the sale of a controlled substance under division (A)(1)
or (2) of this section or contain any information that is or may
be needed in an ongoing investigation. Each record of that nature
is a public record open for inspection under section 149.43 of the
Revised Code and shall include, but is not limited to, all of the
following information:

(a) The identity of each law enforcement agency that has so
delivered any money or other thing of value to the prosecuting
attorney;

(b) The total amount of money or other things of value so
received from each law enforcement agency;

(c) The disposition made under this section of all money or
other things of value so received.

(G) Divisions (A) to (F) of this section do not apply to any
peace officer, or to any officer, agent, or employee of the United
States, who is operating under the management and direction of the
United States department of justice. Any peace officer, or any
officer, agent, or employee of the United States, who is operating
under the management and direction of the United States department
of justice may sell a controlled substance in the performance of
the officer's, agent's, or employee's official duties if the sale
is made in accordance with federal statutes and regulations.

(H) As used in this section, "peace officer" has the same
meaning as in section 2935.01 of the Revised Code and also
includes a special agent of the bureau of criminal identification
and investigation.

Sec. 3719.21. Except as provided in division (C) of section
2923.42, division (B)~~(5)~~ of section 2923.44, divisions (D)(1),

(F), and (H) of section 2925.03, division (D)(1) of section 2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, division (F) of section 2925.13, division (F) of section 2925.36, division (D) of section 2925.22, division (H) of section 2925.23, division (M) of section 2925.37, division (B)~~(5)~~ of section 2925.42, division (B) of section 2929.18, division (D) of section 3719.99, division (B)(1) of section 4729.65, and division (E)(3) of section 4729.99 of the Revised Code, the clerk of the court shall pay all fines or forfeited bail assessed and collected under prosecutions or prosecutions commenced for violations of this chapter, section 2923.42 of the Revised Code, or Chapter 2925. of the Revised Code, within thirty days, to the executive director of the state board of pharmacy, and the executive director shall deposit the fines into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 3729.13. (A) A campsite user who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp, at the expiration of the campsite use period under the agreement, shall remove from the campsite all of the campsite user's property and all property any other person placed on the campsite with the permission of the campsite user. If the campsite user fails to remove all of that property from the campsite within the five-consecutive-day period after the expiration of that campsite use period, all of the following apply:

(1) The camp operator shall perform an inventory of the property that the campsite user did not remove from the campsite.

(2) The camp operator may send a letter to the campsite user informing the campsite user that the campsite user has abandoned the property on the campsite in violation of the campsite use

agreement and that the camp operator will commence an action for
the seizure of the property if the campsite user does not remove
the property from the campsite within ten days after the date on
which the letter is mailed.

(3) If the campsite user does not remove the property from
the campsite within ten days after the date on which the letter
described in division (A)(2) of this section is mailed, the camp
operator may file an action for the seizure of the property that
remains on the campsite in the municipal court or county court
that has territorial jurisdiction over the park or camp. The
complaint shall contain all of the following:

(a) The name, address, and phone number of the campsite user
that is in the campsite use agreement;

(b) A description of the property that the campsite user has
not removed from the campsite;

(c) A demand that all of the property listed in the complaint
be removed from the campsite within seven days after service of
the complaint upon the campsite user;

(d) A description of the procedure that will be followed if
the campsite user does not remove the listed property within the
seven-day period;

(e) A statement that the campsite user shall pay to the clerk
of the court the amount of the filing fees charged for the filing
of the complaint, that the campsite user shall pay those fees
prior to the campsite user's removal of the listed property from
the campsite, and that if the campsite user fails to pay the
amount of the filing fees the property may be sold to pay the
filing fees.

(4) When the camp operator files an action under division
(A)(3) of this section, the clerk of the court shall issue a

summons and a copy of the complaint pursuant to the Rules of Civil
Procedure to the campsite user at the address provided in the
campsite use agreement.

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(5) If the campsite user does not file an answer to the
complaint filed under division (A)(3) of this section and remove
all of the property listed in the complaint within seven days
after service of the complaint upon the campsite user, the court
shall do either of the following:

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(a) Issue an order authorizing the sheriff, another peace
officer, or a bailiff to remove the property from the campsite and
place it in storage;

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(b) Authorize the camp operator to seize the property and
cause the issuance to the camp operator of a new certificate of
title for the property if the property is a titled vehicle.

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(6) Upon the removal and storage of the property, the
sheriff, peace officer, bailiff, or camp operator shall conduct or
cause to be conducted a search of the appropriate public records
that relate to the property and shall make or cause to be made
reasonably diligent inquiries for the purpose of identifying
persons who have any right, title, or interest in any of the
property. Then, the sheriff, peace officer, bailiff, or camp
operator may commence proceedings for the sale of the property.
The sheriff, peace officer, bailiff, or camp operator shall send
by certified mail, return receipt requested, a written notice of
the date, time, and place of the sale to each person who, because
of the conduct of the search, the making of inquiries, or
otherwise, the sheriff, peace officer, bailiff, or camp operator
believes has any right, title, or interest in the property. The
sheriff, peace officer, bailiff, or camp operator shall send the
notice to the last known address of each of those persons.

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(7) If the sheriff, peace officer, bailiff, or camp operator

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sells the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the proceeds of the sale in the following order:

(a) The sheriff, peace officer, bailiff, or camp operator shall first pay the costs for any moving or any storage of the property, the costs of the sale, and any unpaid court costs assessed against the campsite user in the underlying action.

(b) Following the payment required by division (A)(7)(a) of this section, the sheriff, peace officer, bailiff, or camp operator shall pay all other outstanding security interests, liens, or encumbrances on the property by priority of filing or other priority.

(c) After complying with divisions (A)(7)(a) and (b) of this section, the sheriff, peace officer, bailiff, or camp operator shall transfer any remaining money to the owner of the property.

(8) If the sheriff, peace officer, bailiff, or camp operator does not conduct a sale of the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the property in the following manner:

(a) If the property is a motor vehicle or recreational vehicle, in accordance with the procedure in section 4513.61 or 4513.63 of the Revised Code;

(b) If the property is personal property, in accordance with the procedure in ~~section 2933.41~~ sections 2981.11 and 2981.12 of the Revised Code.

(B) Upon collection from the campsite user, the municipal court or county court shall reimburse the filing fees to the camp operator.

Sec. 3743.68. (A) The fire marshal, an assistant fire marshal, or a certified fire safety inspector may arrest, or may

cause the arrest of, any person whom the fire marshal, assistant 7494
fire marshal, or certified fire safety inspector finds in the act 7495
of violating, or who the fire marshal, assistant fire marshal, or 7496
certified fire safety inspector has reasonable cause to believe 7497
has violated, sections 3743.60 to 3743.66 of the Revised Code. Any 7498
arrest shall be made in accordance with statutory and 7499
constitutional provisions governing arrests by law enforcement 7500
officers. 7501

(B) If the fire marshal, an assistant fire marshal, or 7502
certified fire safety inspector has probable cause to believe that 7503
fireworks are being manufactured, sold, possessed, transported, or 7504
used in violation of this chapter, the fire marshal, assistant 7505
fire marshal, or certified fire safety inspector may seize the 7506
fireworks. Any seizure of fireworks shall be made in accordance 7507
with statutory and constitutional provisions governing searches 7508
and seizures by law enforcement officers. The fire marshal's or 7509
certified fire safety inspector's office shall impound at the site 7510
or safely keep seized fireworks pending the time they are no 7511
longer needed as evidence. A sample of the seized fireworks is 7512
sufficient for evidentiary purposes. The remainder of the seized 7513
fireworks may be disposed of pursuant to an order from a court of 7514
competent jurisdiction after notice and a hearing. 7515

Fireworks manufactured, sold, possessed, transported, or used 7516
in violation of this chapter shall be forfeited by the violator. 7517
The fire marshal's or certified fire safety inspector's office 7518
shall dispose of seized fireworks pursuant to the procedures 7519
specified in ~~section 2933.41~~ sections 2981.11 to 2981.13 of the 7520
Revised Code for the disposal of forfeited property by law 7521
enforcement agencies, and the fire marshal or that office is not 7522
liable for claims for the loss of or damages to the seized 7523
fireworks. 7524

(C) This section does not affect the authority of a peace 7525

officer, as defined in section 2935.01 of the Revised Code, to 7526
make arrests for violations of this chapter or to seize fireworks 7527
manufactured, sold, possessed, transported, or used in violation 7528
of this chapter. 7529

(D) Any fines imposed for a violation of this chapter 7530
relating to the sale, purchase, possession, or discharge of 7531
fireworks shall be distributed in the following manner if a 7532
municipal corporation, county, or township either filed or 7533
enforced the complaint regarding the violation. One-half of the 7534
amount of the fine shall be distributed to the municipal 7535
corporation, county, or township which filed the complaint 7536
regarding the violation and one-half of the amount of the fine 7537
shall be distributed to the municipal corporation, county, or 7538
township which enforced the complaint. If the same municipal 7539
corporation, county, or township both filed the complaint 7540
regarding the violation and enforced the complaint, the entire 7541
amount of the fine shall be distributed to that municipal 7542
corporation, county, or township. 7543

Sec. 3745.13. (A) When emergency action is required to 7544
protect the public health or safety or the environment, any person 7545
responsible for causing or allowing an unauthorized spill, 7546
release, or discharge of material into or upon the environment or 7547
responsible for the operation of an illegal methamphetamine 7548
manufacturing laboratory that has caused contamination of the 7549
environment is liable to the municipal corporation, county, 7550
township, countywide emergency management agency established under 7551
section 5502.26 of the Revised Code, regional authority for 7552
emergency management established under section 5507.27 of the 7553
Revised Code, or emergency management program established by a 7554
political subdivision under section 5502.271 of the Revised Code, 7555
having territorial jurisdiction, or responsibility for emergency 7556

management activities in the location of the spill, release, 7557
discharge, or contamination, for the necessary and reasonable, 7558
additional or extraordinary costs it incurs in investigating, 7559
mitigating, minimizing, removing, or abating the spill, release, 7560
discharge, or contamination, in the course of its emergency 7561
action, but, to the extent criteria and methods for response 7562
actions prescribed under 40 C.F.R. 300, as amended, may be applied 7563
to the type of material involved and the conditions of the spill, 7564
release, discharge, or contamination, that person is liable for 7565
those costs only if the political subdivision, countywide agency, 7566
or regional authority employed those criteria and methods in its 7567
emergency action. 7568

The officers of the municipal corporation, county, township, 7569
countywide emergency management agency, or regional authority for 7570
emergency management performing the emergency action shall keep a 7571
detailed record of its costs for investigating, mitigating, 7572
minimizing, removing, or abating the unauthorized spill, release, 7573
discharge, or contamination; promptly after the completion of 7574
those measures, shall certify those costs to the city director of 7575
law or village solicitor, as appropriate, of the municipal 7576
corporation, the prosecuting attorney of the county in the case of 7577
a county, township, or countywide emergency management agency, or 7578
the legal counsel retained thereby in the case of a regional 7579
authority for emergency management; and may request that the legal 7580
officer or counsel bring a civil action for recovery of costs 7581
against the person responsible for the unauthorized spill, 7582
release, or discharge or responsible for the operation of the 7583
illegal methamphetamine manufacturing laboratory that caused 7584
contamination of the environment. If the officers request that the 7585
legal officer or counsel bring such a civil action regarding 7586
emergency action taken in relation to the operation of an illegal 7587
methamphetamine manufacturing laboratory that has caused 7588
contamination of the environment, the legal officer or counsel 7589

also may pursue a forfeiture proceeding against the responsible 7590
person under ~~sections 2923.31 to 2923.36, 2923.44 to 2923.47,~~ 7591
~~sections 2925.41 to 2925.45, or sections 2933.42 to 2933.43~~ 7592
Chapter 2981. of the Revised Code, or in any other manner 7593
authorized by law. 7594

The legal officer or counsel shall submit a written, itemized 7595
claim for the total certified costs incurred by the municipal 7596
corporation, county, township, countywide agency, or regional 7597
authority for the emergency action to the responsible party and a 7598
written demand that those costs be paid to the political 7599
subdivision, countywide agency, or regional authority. Not less 7600
than thirty days before bringing a civil action for recovery of 7601
those costs, the legal officer or counsel shall mail written 7602
notice to the responsible party informing the responsible party 7603
that, unless the total certified costs are paid to the political 7604
subdivision, countywide agency, or regional authority within 7605
thirty days after the date of mailing of the notice, the legal 7606
officer or counsel will bring a civil action for that amount. 7607
Except for emergency action taken in relation to the operation of 7608
an illegal methamphetamine manufacturing laboratory that has 7609
caused contamination of the environment, in making a determination 7610
of an award for reimbursement, the responsible party's status as a 7611
taxpayer to the governmental entity shall be taken into 7612
consideration. Nothing in this section prevents a political 7613
subdivision, countywide emergency management agency, or regional 7614
authority for emergency management from entering into a settlement 7615
of a claim against a responsible party that compromises the amount 7616
of the claim. Moneys recovered as described in this section shall 7617
be credited to the appropriate funds of the political subdivision, 7618
countywide agency, or regional authority from which moneys were 7619
expended in performing the emergency action. 7620

(B) As used in this section: 7621

(1) "Methamphetamine" means methamphetamine, any salt, 7622
isomer, or salt of an isomer of methamphetamine, or any compound, 7623
mixture, preparation, or substance containing methamphetamine or 7624
any salt, isomer, or salt of an isomer of methamphetamine. 7625

(2) "Illegal methamphetamine manufacturing laboratory" means 7626
any laboratory or other premises that is used for the manufacture 7627
or production of methamphetamine in violation of section 2925.04 7628
of the Revised Code, whether or not there has been a prior 7629
conviction of that violation. 7630

Sec. 4301.29. (A) Whenever the department of public safety 7631
seizes beer or intoxicating liquor, the department shall destroy 7632
or distribute the beer or intoxicating liquor, in accordance with 7633
~~division (D)(4) of section 2933.41~~ sections 2981.11 to 2981.13 of 7634
the Revised Code. 7635

(B)(1) In case of any seizure of beer or intoxicating liquor 7636
under execution of any judgment rendered against the holder of a 7637
permit, in relation to the foreclosure of any lien on any beer or 7638
intoxicating liquor belonging to a holder of a permit, in relation 7639
to the insolvency or bankruptcy of a holder of a permit, or in any 7640
other case in which judicial process is employed to subject any 7641
beer or intoxicating liquor belonging to or in the possession of 7642
the holder of a permit to any claim, the person seizing the beer 7643
or intoxicating liquor or the person's designee may sell it, 7644
subject to division (B)(2) of this section, after obtaining the 7645
written consent of the division of liquor control. Proceeds from 7646
the sale of the beer or intoxicating liquor shall be paid in 7647
accordance with the applicable law and the orders of the court 7648
issuing the process. 7649

(2) Beer or intoxicating liquor that is sold under division 7650
(B)(1) of this section shall not be sold to or purchased by the 7651
holder of a liquor permit, an applicant for a liquor permit, or 7652

any other business.

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Sec. 4301.45. When any law enforcement officer discovers any person in the act of transporting in violation of law beer or intoxicating liquors in any wagon, buggy, automobile, watercraft, aircraft, or other vehicle, ~~he~~ the officer shall seize all beer or intoxicating liquors found therein being transported contrary to law. Whenever beer or intoxicating liquors transported or possessed illegally are seized by a law enforcement officer, the officer shall take possession of the vehicle and team, or automobile, boat, watercraft, aircraft, or any other conveyance, and shall arrest any person in charge thereof. The law enforcement officer shall at once proceed against the person arrested under Chapters 4301. and 4303. of the Revised Code, in any court having jurisdiction of offenses under those chapters, but the vehicle or conveyance shall be returned to the owner upon execution by ~~him~~ the owner of a valid bond with sufficient sureties, in a sum equal to the value of the property, which bond shall be approved by the law enforcement officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide by the judgment of the court. The court, upon conviction of the person so arrested, shall order the beer or intoxicating liquor that was not illegally manufactured to be forfeited to the state and disposed of under ~~section 2933.41~~ sections 2981.11 to 2981.13 of the Revised Code, and unless good cause to the contrary is shown by the owner, shall order a sale at public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was

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to be used for illegal transportation of beer or intoxicating 7685
liquor, and shall distribute the balance as money arising from 7686
fines and forfeited bonds under such chapters is distributed. The 7687
court, upon conviction of the person so arrested, shall order the 7688
beer or intoxicating liquor that was illegally manufactured to be 7689
destroyed. 7690

All liens against property sold under this section shall be 7691
transferred from the property to the proceeds of the sale of the 7692
property. If no claimant is found for the team, vehicle, 7693
watercraft, aircraft, automobile, or other conveyance, the taking 7694
of the same, with its description, shall be advertised in some 7695
newspaper published in the city or county where taken, or if there 7696
is no newspaper published in such city or county, in a newspaper 7697
having circulation in the county, once a week for four weeks and 7698
by handbills posted in three public places near the place of 7699
seizure, and if no claimant appears within ten days after the last 7700
publication of the advertisement, the property shall be sold and 7701
the proceeds after deducting the expense and costs shall be 7702
distributed as if there were a claimant for said vehicle or 7703
conveyance. 7704

Sec. 4301.53. The judge of a court of record may issue 7705
warrants to search a house, building, place, vehicle, watercraft, 7706
aircraft, or conveyance for beer, alcohol, or intoxicating liquor 7707
manufactured, possessed, stored, concealed, sold, furnished, given 7708
away, or transported in violation of Chapters 4301. and 4303. of 7709
the Revised Code, and the containers in which the same is found, 7710
or machinery, tools, implements, equipment, supplies, and 7711
materials used or kept for use in manufacturing beer or 7712
intoxicating liquor in violation of those chapters, and to seize 7713
any of that property and things found in it, together with the 7714
vehicle, watercraft, aircraft, or conveyance in which the same is 7715
found. The issuance of those warrants is subject in all respects 7716

to sections 2933.22 to 2933.27 of the Revised Code; except that 7717
any such vehicle, watercraft, aircraft, or other conveyance shall 7718
be returned to its owner upon execution by the owner of a bond 7719
with surety to the satisfaction of the enforcement agent of the 7720
department of public safety or other law enforcement officer 7721
making the seizure in an equal amount to its value, conditioned 7722
upon its return to the custody of such agent or officer on the day 7723
of trial to abide by the judgment of the court. Upon conviction of 7724
any violation of Chapters 4301. and 4303. of the Revised Code, any 7725
property found in the possession of the person convicted or the 7726
person's agent or employee shall be disposed of as provided in 7727
section 4301.45 of the Revised Code. If the accused is discharged 7728
by the judge or magistrate, such vehicle, watercraft, aircraft, or 7729
other conveyance shall be returned to its owner, and any bond 7730
given pursuant to this section shall be canceled. If the accused 7731
is the holder of a permit issued under Chapters 4301. and 4303. of 7732
the Revised Code, any beer, intoxicating liquor, or alcohol seized 7733
shall be disposed of as provided in section 4301.29 of the Revised 7734
Code, and any other property seized shall be returned to its owner 7735
by the officer having the custody or possession of such property. 7736
If the accused is not the holder of such a permit in force at the 7737
time, any beer, intoxicating liquor, or alcohol that was not 7738
illegally manufactured shall be forfeited to the state and shall 7739
forthwith be disposed of under ~~section 2933.41~~ sections 2981.11 to 7740
2981.13 of the Revised Code. Illegally manufactured beer, 7741
intoxicating liquor, or alcohol, and other property, except as 7742
provided in this section, shall be destroyed, and any such beer, 7743
intoxicating liquor, or alcohol, or other property is hereby 7744
declared to be a public nuisance. 7745

Sec. 4305.13. (A) If the tax commissioner finds that any 7746
permit holder, liable for tax under Chapter 4301., 4305., or 4307. 7747
of the Revised Code, is about to depart from the state, remove the 7748

permit holder's property from the state, conceal the permit 7749
holder's self or property, or do any other act tending to 7750
prejudice, obstruct, or render wholly or partially ineffectual 7751
proceedings to collect the tax, unless the proceedings are 7752
commenced without delay, or if the commissioner believes that the 7753
collection of the amount due from any permit holder will be 7754
jeopardized by delay, the commissioner may issue a jeopardy 7755
assessment against the permit holder for the amount of the tax, 7756
plus a penalty of up to thirty per cent. Upon issuance of a 7757
jeopardy assessment under this division, the total amount assessed 7758
shall immediately be due and payable unless security is provided 7759
pursuant to division (C) of this section. Any assessment issued 7760
under this section shall bear interest as prescribed by section 7761
4305.131 of the Revised Code. 7762

(B) The commissioner immediately shall file an entry with the 7763
clerk of the court of common pleas in the same manner and with the 7764
same effect as provided in section 4305.131 of the Revised Code. 7765
Notice of the jeopardy assessment shall be served on the permit 7766
holder assessed or the permit holder's legal representative, as 7767
provided in section 5703.37 of the Revised Code, within five days 7768
of the filing of the entry. The permit holder assessed may 7769
petition for reassessment within sixty days of receipt of the 7770
notice of jeopardy assessment in the same manner as provided in 7771
section 4305.131 of the Revised Code. Full or partial payment of 7772
the assessment shall not prejudice the commissioner's 7773
consideration of the merits of the assessment as contested by the 7774
petition for reassessment. Upon notification of the existence of 7775
the judgment filed pursuant to this division, any public official 7776
having control or custody of any funds or property of the person 7777
assessed immediately shall pay or deliver the funds or property to 7778
the commissioner as full or partial satisfaction of the jeopardy 7779
assessment. However, funds or property needed as evidence in 7780
criminal proceedings or that is expected to be forfeited pursuant 7781

to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 7782
Revised Code need not be relinquished by the public official. Upon 7783
disposition of criminal and forfeiture proceedings, funds and 7784
property not needed as evidence and not forfeited shall be 7785
delivered to the commissioner. 7786

(C) If the permit holder subject to a jeopardy assessment 7787
files a petition for reassessment and posts security satisfactory 7788
to the commissioner in an amount sufficient to satisfy the unpaid 7789
balance of the assessment, execution on the judgment shall be 7790
stayed pending disposition of the petition for reassessment and 7791
all appeals resulting from the petition. If the security is 7792
sufficient to satisfy the full amount of the assessment, the 7793
commissioner shall return any funds or property of the permit 7794
holder previously seized. Upon satisfaction of the assessment the 7795
commissioner shall order the security released and the judgment 7796
vacated. 7797

(D) The commissioner may adopt rules providing for the 7798
imposition and remission of penalties added to assessments under 7799
this section. 7800

Sec. 4503.233. (A)(1) If a court is required to order the 7801
immobilization of a vehicle for a specified period of time 7802
pursuant to section 4510.11, 4510.14, 4510.16, 4510.41, 4511.19, 7803
4511.193, or 4511.203 of the Revised Code, the court shall issue 7804
an immobilization order in accordance with this division and for 7805
the period of time specified in the particular section, and the 7806
immobilization under the order shall be in accordance with this 7807
section. The court, at the time of sentencing the offender for the 7808
offense relative to which the immobilization order is issued or as 7809
soon thereafter as is practicable, shall give a copy of the order 7810
to the offender or the offender's counsel. The court promptly 7811
shall send a copy of the order to the registrar on a form 7812

prescribed by the registrar and to the person or agency it 7813
designates to execute the order. 7814

The order shall indicate the date on which it is issued, 7815
shall identify the vehicle that is subject to the order, and shall 7816
specify all of the following: 7817

(a) The period of the immobilization; 7818

(b) The place at which the court determines that the 7819
immobilization shall be carried out, provided that the court shall 7820
not determine and shall not specify that the immobilization is to 7821
be carried out at any place other than a commercially operated 7822
private storage lot, a place owned by a law enforcement or other 7823
government agency, or a place to which one of the following 7824
applies: 7825

(i) The place is leased by or otherwise under the control of 7826
a law enforcement or other government agency. 7827

(ii) The place is owned by the offender, the offender's 7828
spouse, or a parent or child of the offender. 7829

(iii) The place is owned by a private person or entity, and, 7830
prior to the issuance of the order, the private entity or person 7831
that owns the place, or the authorized agent of that private 7832
entity or person, has given express written consent for the 7833
immobilization to be carried out at that place. 7834

(iv) The place is a public street or highway on which the 7835
vehicle is parked in accordance with the law. 7836

(c) The person or agency designated by the court to execute 7837
the order, which shall be either the law enforcement agency that 7838
employs the law enforcement officer who seized the vehicle, a 7839
bailiff of the court, another person the court determines to be 7840
appropriate to execute the order, or the law enforcement agency 7841
with jurisdiction over the place of residence of the vehicle 7842

owner; 7843

(d) That neither the registrar nor a deputy registrar will be 7844
permitted to accept an application for the license plate 7845
registration of any motor vehicle in the name of the vehicle owner 7846
until the immobilization fee is paid. 7847

(2) The person or agency the court designates to immobilize 7848
the vehicle shall seize or retain that vehicle's license plates 7849
and forward them to the bureau of motor vehicles. 7850

(3) In all cases, the offender shall be assessed an 7851
immobilization fee of one hundred dollars, and the immobilization 7852
fee shall be paid to the registrar before the vehicle may be 7853
released to the offender. Neither the registrar nor a deputy 7854
registrar shall accept an application for the registration of any 7855
motor vehicle in the name of the offender until the immobilization 7856
fee is paid. 7857

(4) If the vehicle subject to the order is immobilized 7858
pursuant to the order and is found being operated upon any street 7859
or highway in this state during the immobilization period, it 7860
shall be seized, removed from the street or highway, and 7861
criminally forfeited and disposed of pursuant to section 4503.234 7862
of the Revised Code. 7863

(5) The registrar shall deposit the immobilization fee into 7864
the law enforcement reimbursement fund created by section 4501.19 7865
of the Revised Code. Money in the fund shall be expended only as 7866
provided in division (A)(5) of this section. If the court 7867
designated in the order a court bailiff or another appropriate 7868
person other than a law enforcement officer to immobilize the 7869
vehicle, the amount of the fee deposited into the law enforcement 7870
reimbursement fund shall be paid out to the county treasury if the 7871
court that issued the order is a county court, to the treasury of 7872
the municipal corporation served by the court if the court that 7873

issued the order is a mayor's court, or to the city treasury of 7874
the legislative authority of the court, both as defined in section 7875
1901.03 of the Revised Code, if the court that issued the order is 7876
a municipal court. If the court designated a law enforcement 7877
agency to immobilize the vehicle and if the law enforcement agency 7878
immobilizes the vehicle, the amount of the fee deposited into the 7879
law enforcement reimbursement fund shall be paid out to the law 7880
enforcement agency to reimburse the agency for the costs it incurs 7881
in obtaining immobilization equipment and, if required, in sending 7882
an officer or other person to search for and locate the vehicle 7883
specified in the immobilization order and to immobilize the 7884
vehicle. 7885

In addition to the immobilization fee required to be paid 7886
under division (A)(3) of this section, the offender may be charged 7887
expenses or charges incurred in the removal and storage of the 7888
immobilized vehicle. 7889

(B) If a court issues an immobilization order under division 7890
(A)(1) of this section, the person or agency designated by the 7891
court to execute the immobilization order promptly shall 7892
immobilize or continue the immobilization of the vehicle at the 7893
place specified by the court in the order. The registrar shall not 7894
authorize the release of the vehicle or authorize the issuance of 7895
new identification license plates for the vehicle at the end of 7896
the immobilization period until the immobilization fee has been 7897
paid. 7898

(C) Upon receipt of the license plates for a vehicle under 7899
this section, the registrar shall destroy the license plates. At 7900
the end of the immobilization period and upon the payment of the 7901
immobilization fee that must be paid under this section, the 7902
registrar shall authorize the release of the vehicle and authorize 7903
the issuance, upon the payment of the same fee as is required for 7904
the replacement of lost, mutilated, or destroyed license plates 7905

and certificates of registration, of new license plates and, if
necessary, a new certificate of registration to the offender for
the vehicle in question.

(D)(1) If a court issues an immobilization order under
division (A) of this section, the immobilization period commences
on the day on which the vehicle in question is immobilized. If the
vehicle in question had been seized under section 4510.41 or
4511.195 of the Revised Code, the time between the seizure and the
beginning of the immobilization period shall be credited against
the immobilization period specified in the immobilization order
issued under division (A) of this section. No vehicle that is
immobilized under this section is eligible to have restricted
license plates under section 4503.231 of the Revised Code issued
for that vehicle.

(2) If a court issues an immobilization order under division
(A) of this section, if the vehicle subject to the order is
immobilized under the order, and if the vehicle is found being
operated upon any street or highway of this state during the
immobilization period, it shall be seized, removed from the street
or highway, and criminally forfeited, and disposed of pursuant to
section 4503.234 of the Revised Code. No vehicle that is forfeited
under this provision shall be considered contraband for purposes
of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981. of the
Revised Code, but shall be held by the law enforcement agency that
employs the officer who seized it for disposal in accordance with
section 4503.234 of the Revised Code.

(3) If a court issues an immobilization order under division
(A) of this section, and if the vehicle is not claimed within
seven days after the end of the period of immobilization or if the
offender has not paid the immobilization fee, the person or agency
that immobilized the vehicle shall send a written notice to the
offender at the offender's last known address informing the

offender of the date on which the period of immobilization ended, 7938
that the offender has twenty days after the date of the notice to 7939
pay the immobilization fee and obtain the release of the vehicle, 7940
and that if the offender does not pay the fee and obtain the 7941
release of the vehicle within that twenty-day period, the vehicle 7942
will be forfeited under section 4503.234 of the Revised Code to 7943
the entity that is entitled to the immobilization fee. 7944

(4) An offender whose motor vehicle is subject to an 7945
immobilization order issued under division (A) of this section 7946
shall not sell the motor vehicle without approval of the court 7947
that issued the order. If such an offender wishes to sell the 7948
motor vehicle during the immobilization period, the offender shall 7949
apply to the court that issued the immobilization order for 7950
permission to assign the title to the vehicle. If the court is 7951
satisfied that the sale will be in good faith and not for the 7952
purpose of circumventing the provisions of division (A)(1) of this 7953
section, it may certify its consent to the offender and to the 7954
registrar. Upon receipt of the court's consent, the registrar 7955
shall enter the court's notice in the offender's vehicle license 7956
plate registration record. 7957

If, during a period of immobilization under an immobilization 7958
order issued under division (A) of this section, the title to the 7959
immobilized motor vehicle is transferred by the foreclosure of a 7960
chattel mortgage, a sale upon execution, the cancellation of a 7961
conditional sales contract, or an order of a court, the involved 7962
court shall notify the registrar of the action, and the registrar 7963
shall enter the court's notice in the offender's vehicle license 7964
plate registration record. 7965

Nothing in this section shall be construed as requiring the 7966
registrar or the clerk of the court of common pleas to note upon 7967
the certificate of title records any prohibition regarding the 7968
sale of a motor vehicle. 7969

(5) If the title to a motor vehicle that is subject to an immobilization order under division (A) of this section is assigned or transferred without court approval between the time of arrest of the offender who committed the offense for which such an order is to be issued and the time of the actual immobilization of the vehicle, the court shall order that, for a period of two years from the date of the order, neither the registrar nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of the offender whose vehicle was assigned or transferred without court approval. The court shall notify the registrar of the order on a form prescribed by the registrar for that purpose.

(E)(1) The court with jurisdiction over the case, after notice to all interested parties including lienholders, and after an opportunity for them to be heard, if the offender fails to appear in person, without good cause, or if the court finds that the offender does not intend to seek release of the vehicle at the end of the period of immobilization or that the offender is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the entity entitled to the immobilization fee under division (A)(5) of this section, next into the name of a lienholder, or lastly, into the name of the owner of the place of storage.

A lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the entity that receives title to the vehicle is the entity that is entitled to the immobilization fee under division (A)(5) of this section, it shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage

if the person or entity refuses to receive the title. Any person 8002
or entity that receives title may either keep title to the vehicle 8003
or may dispose of the vehicle in any legal manner that it 8004
considers appropriate, including assignment of the certificate of 8005
title to the motor vehicle to a salvage dealer or a scrap metal 8006
processing facility. The person or entity shall not transfer the 8007
vehicle to the person who is the vehicle's immediate previous 8008
owner. 8009

If the person or entity assigns the motor vehicle to a 8010
salvage dealer or scrap metal processing facility, the person or 8011
entity shall send the assigned certificate of title to the motor 8012
vehicle to the clerk of the court of common pleas of the county in 8013
which the salvage dealer or scrap metal processing facility is 8014
located. The person or entity shall mark the face of the 8015
certificate of title with the words "FOR DESTRUCTION" and shall 8016
deliver a photocopy of the certificate of title to the salvage 8017
dealer or scrap metal processing facility for its records. 8018

(2) Whenever a court issues an order under division (E)(1) of 8019
this section, the court also shall order removal of the license 8020
plates from the vehicle and cause them to be sent to the registrar 8021
if they have not already been sent to the registrar. Thereafter, 8022
no further proceedings shall take place under this section, but 8023
the offender remains liable for payment of the immobilization fee 8024
described in division (A)(3) of this section if an immobilization 8025
order previously had been issued by the court. 8026

(3) Prior to initiating a proceeding under division (E)(1) of 8027
this section, and upon payment of the fee under division (B) of 8028
section 4505.14 of the Revised Code, any interested party may 8029
cause a search to be made of the public records of the bureau of 8030
motor vehicles or the clerk of the court of common pleas, to 8031
ascertain the identity of any lienholder of the vehicle. The 8032
initiating party shall furnish this information to the clerk of 8033

the court with jurisdiction over the case, and the clerk shall
provide notice to the vehicle owner, the defendant, any
lienholder, and any other interested parties listed by the
initiating party, at the last known address supplied by the
initiating party, by certified mail or, at the option of the
initiating party, by personal service or ordinary mail.

As used in this section, "interested party" includes the
offender, all lienholders, the owner of the place of storage, the
person or entity that caused the vehicle to be removed, and the
person or entity, if any, entitled to the immobilization fee under
division (A)(5) of this section.

Sec. 4503.234. (A) If a court is required by section
4503.233, 4503.236, 4510.11, 4510.14, 4510.16, 4510.41, 4511.19,
4511.193, or 4511.203 of the Revised Code to order the criminal
forfeiture of a vehicle, the order shall be issued and enforced in
accordance with this division, subject to division (B) of this
section. An order of criminal forfeiture issued under this
division shall authorize an appropriate law enforcement agency to
seize the vehicle ordered criminally forfeited upon the terms and
conditions that the court determines proper. No vehicle ordered
criminally forfeited pursuant to this division shall be considered
contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~
Chapter 2981. of the Revised Code, but the law enforcement agency
that employs the officer who seized it shall hold the vehicle for
disposal in accordance with this section. A forfeiture order may
be issued only after the offender has been provided with an
opportunity to be heard. The prosecuting attorney shall give the
offender written notice of the possibility of forfeiture by
sending a copy of the relevant uniform traffic ticket or other
written notice to the offender not less than seven days prior to
the date of issuance of the forfeiture order. A vehicle is subject

to an order of criminal forfeiture pursuant to this division upon 8065
the conviction of the offender of or plea of guilty by the 8066
offender to a violation of division (A) of section 4503.236, 8067
section 4510.11, 4510.14, 4510.16, or 4511.203, or division (A) of 8068
section 4511.19 of the Revised Code, or a municipal ordinance that 8069
is substantially equivalent to any of those sections or divisions. 8070

(B)(1) Prior to the issuance of an order of criminal 8071
forfeiture pursuant to this section, the law enforcement agency 8072
that employs the law enforcement officer who seized the vehicle 8073
shall conduct or cause to be conducted a search of the appropriate 8074
public records that relate to the vehicle and shall make or cause 8075
to be made reasonably diligent inquiries to identify any 8076
lienholder or any person or entity with an ownership interest in 8077
the vehicle. The court that is to issue the forfeiture order also 8078
shall cause a notice of the potential order relative to the 8079
vehicle and of the expected manner of disposition of the vehicle 8080
after its forfeiture to be sent to any lienholder or person who is 8081
known to the court to have any right, title, or interest in the 8082
vehicle. The court shall give the notice by certified mail, return 8083
receipt requested, or by personal service. 8084

(2) No order of criminal forfeiture shall be issued pursuant 8085
to this section if a lienholder or other person with an ownership 8086
interest in the vehicle establishes to the court, by a 8087
preponderance of the evidence after filing a motion with the 8088
court, that the lienholder or other person neither knew nor should 8089
have known after a reasonable inquiry that the vehicle would be 8090
used or involved, or likely would be used or involved, in the 8091
violation resulting in the issuance of the order of criminal 8092
forfeiture or the violation of the order of immobilization issued 8093
under section 4503.233 of the Revised Code, that the lienholder or 8094
other person did not expressly or impliedly consent to the use or 8095
involvement of the vehicle in that violation, and that the lien or 8096

ownership interest was perfected pursuant to law prior to the 8097
seizure of the vehicle under section 4503.236, 4510.41, 4511.195, 8098
or 4511.203 of the Revised Code. If the lienholder or holder of 8099
the ownership interest satisfies the court that these criteria 8100
have been met, the court shall preserve the lienholder's or other 8101
person's lien or interest, and the court either shall return the 8102
vehicle to the holder, or shall order that the proceeds of any 8103
sale held pursuant to division (C)(2) of this section be paid to 8104
the lienholder or holder of the interest less the costs of 8105
seizure, storage, and maintenance of the vehicle. The court shall 8106
not return a vehicle to a lienholder or a holder of an ownership 8107
interest unless the lienholder or holder submits an affidavit to 8108
the court that states that the lienholder or holder will not 8109
return the vehicle to the person from whom the vehicle was seized 8110
pursuant to the order of criminal forfeiture or to any member of 8111
that person's family and will not otherwise knowingly permit that 8112
person or any member of that person's family to obtain possession 8113
of the vehicle. 8114

(3) No order of criminal forfeiture shall be issued pursuant 8115
to this section if a person with an interest in the vehicle 8116
establishes to the court, by a preponderance of the evidence after 8117
filing a motion with the court, that the person neither knew nor 8118
should have known after a reasonable inquiry that the vehicle had 8119
been used or was involved in the violation resulting in the 8120
issuance of the order of criminal forfeiture or the violation of 8121
the order of immobilization issued under section 4503.233 of the 8122
Revised Code, that the person did not expressly or impliedly 8123
consent to the use or involvement of the vehicle in that 8124
violation, that the interest was perfected in good faith and for 8125
value pursuant to law between the time of the arrest of the 8126
offender and the final disposition of the criminal charge in 8127
question, and that the vehicle was in the possession of the 8128

interest holder at the time of the perfection of the interest. If 8129
the court is satisfied that the interest holder has met these 8130
criteria, the court shall preserve the interest holder's interest, 8131
and the court either shall return the vehicle to the interest 8132
holder or order that the proceeds of any sale held pursuant to 8133
division (C) of this section be paid to the holder of the interest 8134
less the costs of seizure, storage, and maintenance of the 8135
vehicle. The court shall not return a vehicle to an interest 8136
holder unless the holder submits an affidavit to the court stating 8137
that the holder will not return the vehicle to the person from 8138
whom the holder acquired the holder's interest, nor to any member 8139
of that person's family, and the holder will not otherwise 8140
knowingly permit that person or any member of that person's family 8141
to obtain possession of the vehicle. 8142

(C) A vehicle ordered criminally forfeited to the state 8143
pursuant to this section shall be disposed of as follows: 8144

(1) It shall be given to the law enforcement agency that 8145
employs the law enforcement officer who seized the vehicle, if 8146
that agency desires to have it; 8147

(2) If a vehicle is not disposed of pursuant to division 8148
(C)(1) of this section, the vehicle shall be sold, without 8149
appraisal, if the value of the vehicle is two thousand dollars or 8150
more as determined by publications of the national auto dealer's 8151
association, at a public auction to the highest bidder for cash. 8152
Prior to the sale, the prosecuting attorney in the case shall 8153
cause a notice of the proposed sale to be given in accordance with 8154
law. The court shall cause notice of the sale of the vehicle to be 8155
published in a newspaper of general circulation in the county in 8156
which the court is located at least seven days prior to the date 8157
of the sale. The proceeds of a sale under this division or 8158
division (F) of this section shall be applied in the following 8159
order: 8160

(a) First, they shall be applied to the payment of the costs 8161
incurred in connection with the seizure, storage, and maintenance 8162
of, and provision of security for, the vehicle, any proceeding 8163
arising out of the forfeiture, and if any, the sale. 8164

(b) Second, the remaining proceeds after compliance with 8165
division (C)(2)(a) of this section, shall be applied to the 8166
payment of the value of any lien or ownership interest in the 8167
vehicle preserved under division (B) of this section. 8168

(c) Third, the remaining proceeds, after compliance with 8169
divisions (C)(2)(a) and (b) of this section, shall be applied to 8170
the appropriate funds in accordance with divisions ~~(D)(1)(e)~~(B) 8171
and ~~(2)(C)~~ of section ~~2933.43~~ 2981.13 of the Revised Code, 8172
provided that the total of the amount so deposited under this 8173
division shall not exceed one thousand dollars. The remaining 8174
proceeds deposited under this division shall be used only for the 8175
purposes authorized by those divisions and division (D)~~(3)(a)(ii)~~ 8176
of that section. 8177

(d) Fourth, the remaining proceeds after compliance with 8178
divisions (C)(2)(a) and (b) of this section and after deposit of a 8179
total amount of one thousand dollars under division (C)(2)(c) of 8180
this section shall be applied so that fifty per cent of those 8181
remaining proceeds is paid into the reparation fund established by 8182
section 2743.191 of the Revised Code, twenty-five per cent is paid 8183
into the drug abuse resistance education programs fund created by 8184
division (F)(2)(e) of section 4511.191 of the Revised Code and 8185
shall be used only for the purposes authorized by division 8186
(F)(2)(e) of that section, and twenty-five per cent is applied to 8187
the appropriate funds in accordance with ~~division (D)(1)(e)~~ 8188
divisions (B) and (C) of section ~~2933.43~~ 2981.13 of the Revised 8189
Code. The proceeds deposited into any fund described in section 8190
~~2933.43~~ 2981.13 of the Revised Code shall be used only for the 8191
purposes authorized by ~~division (D)(1)(c), (2), and (3)(a)(ii)~~ 8192

divisions (B)(4)(c), (C), and (D) of that section. 8193

(D) Except as provided in division (E) of section 4511.203 of 8194
the Revised Code and notwithstanding any other provision of law, 8195
neither the registrar of motor vehicles nor any deputy registrar 8196
shall accept an application for the registration of any motor 8197
vehicle in the name of any person, or register any motor vehicle 8198
in the name of any person, if both of the following apply: 8199

(1) Any vehicle registered in the person's name was 8200
criminally forfeited under this section and section 4503.233, 8201
4503.236, 4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 8202
4511.19, 4511.193, or 4511.203 of the Revised Code; 8203

(2) Less than five years have expired since the issuance of 8204
the most recent order of criminal forfeiture issued in relation to 8205
a vehicle registered in the person's name. 8206

(E) If a court is required by section 4503.233, 4503.236, 8207
4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 4511.19, 8208
4511.193, or 4511.203 of the Revised Code to order the criminal 8209
forfeiture to the state of a vehicle, and the title to the motor 8210
vehicle is assigned or transferred, and division (B)(2) or (3) of 8211
this section applies, in addition to or independent of any other 8212
penalty established by law, the court may fine the offender the 8213
value of the vehicle as determined by publications of the national 8214
auto dealer's association. The proceeds from any fine imposed 8215
under this division shall be distributed in accordance with 8216
division (C)(2) of this section. 8217

(F) As used in this section and divisions ~~(D)(1)(e), (D)(2),~~ 8218
~~and (D)(3)(a)(ii)~~ (B)(4)(c), (C), and (D) of section 2933.43 8219
2981.13 of the Revised Code in relation to proceeds of the sale of 8220
a vehicle under division (C) of this section, "prosecuting 8221
attorney" includes the prosecuting attorney, village solicitor, 8222
city director of law, or similar chief legal officer of a 8223

municipal corporation who prosecutes the case resulting in the conviction or guilty plea in question.

(G) If the vehicle to be forfeited has an average retail value of less than two thousand dollars as determined by publications of the national auto dealer's association, no public auction is required to be held. In such a case, the court may direct that the vehicle be disposed of in any manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The court shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the court assigns the motor vehicle to a salvage dealer or scrap metal processing facility and the court is in possession of the certificate of title to the motor vehicle, it shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The court shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

If the court is not in possession of the certificate of title to the motor vehicle, the court shall issue an order transferring ownership of the motor vehicle to a salvage dealer or scrap metal processing facility, send the order to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located, and send a photocopy of the order to the salvage dealer or scrap metal processing facility for its records. The clerk shall make the proper notations or entries in the clerk's records concerning the disposition of the motor vehicle.

Sec. 4510.41. (A) As used in this section: 8255

(1) "Arrested person" means a person who is arrested for a 8256
violation of section 4510.14, 4510.16, or 4511.203 of the Revised 8257
Code, or a municipal ordinance that is substantially equivalent to 8258
any of those sections, and whose arrest results in a vehicle being 8259
seized under division (B) of this section. 8260

(2) "Vehicle owner" means either of the following: 8261

(a) The person in whose name is registered, at the time of 8262
the seizure, a vehicle that is seized under division (B) of this 8263
section; 8264

(b) A person to whom the certificate of title to a vehicle 8265
that is seized under division (B) of this section has been 8266
assigned and who has not obtained a certificate of title to the 8267
vehicle in that person's name, but who is deemed by the court as 8268
being the owner of the vehicle at the time the vehicle was seized 8269
under division (B) of this section. 8270

(3) "Interested party" includes the owner of a vehicle seized 8271
under this section, all lienholders, the arrested person, the 8272
owner of the place of storage at which a vehicle seized under this 8273
section is stored, and the person or entity that caused the 8274
vehicle to be removed. 8275

(B)(1) If a person is arrested for a violation of section 8276
4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal 8277
ordinance that is substantially equivalent to any of those 8278
sections, the arresting officer or another officer of the law 8279
enforcement agency that employs the arresting officer, in addition 8280
to any action that the arresting officer is required or authorized 8281
to take by any other provision of law, shall seize the vehicle 8282
that the person was operating at the time of, or that was involved 8283
in, the alleged offense if the vehicle is registered in the 8284

arrested person's name and its license plates. A law enforcement 8285
agency that employs a law enforcement officer who makes an arrest 8286
of a type that is described in this division and that involves a 8287
rented or leased vehicle that is being rented or leased for a 8288
period of thirty days or less shall notify, within twenty-four 8289
hours after the officer makes the arrest, the lessor or owner of 8290
the vehicle regarding the circumstances of the arrest and the 8291
location at which the vehicle may be picked up. At the time of the 8292
seizure of the vehicle, the law enforcement officer who made the 8293
arrest shall give the arrested person written notice that the 8294
vehicle and its license plates have been seized; that the vehicle 8295
either will be kept by the officer's law enforcement agency or 8296
will be immobilized at least until the person's initial appearance 8297
on the charge of the offense for which the arrest was made; that, 8298
at the initial appearance, the court in certain circumstances may 8299
order that the vehicle and license plates be released to the 8300
arrested person until the disposition of that charge; that, if the 8301
arrested person is convicted of that charge, the court generally 8302
must order the immobilization of the vehicle and the impoundment 8303
of its license plates or the forfeiture of the vehicle; and that 8304
the arrested person may be charged expenses or charges incurred 8305
under this section and section 4503.233 of the Revised Code for 8306
the removal and storage of the vehicle. 8307

(2) The arresting officer or a law enforcement officer of the 8308
agency that employs the arresting officer shall give written 8309
notice of the seizure to the court that will conduct the initial 8310
appearance of the arrested person on the charges arising out of 8311
the arrest. Upon receipt of the notice, the court promptly shall 8312
determine whether the arrested person is the vehicle owner. If the 8313
court determines that the arrested person is not the vehicle 8314
owner, it promptly shall send by regular mail written notice of 8315
the seizure to the vehicle's registered owner. The written notice 8316

shall contain all of the information required by division (B)(1) 8317
of this section to be in a notice to be given to the arrested 8318
person and also shall specify the date, time, and place of the 8319
arrested person's initial appearance. The notice also shall inform 8320
the vehicle owner that if title to a motor vehicle that is subject 8321
to an order for criminal forfeiture under this section is assigned 8322
or transferred and division (B)(2) or (3) of section 4503.234 of 8323
the Revised Code applies, the court may fine the arrested person 8324
the value of the vehicle. The notice also shall state that if the 8325
vehicle is immobilized under division (A) of section 4503.233 of 8326
the Revised Code, seven days after the end of the period of 8327
immobilization a law enforcement agency will send the vehicle 8328
owner a notice, informing the owner that if the release of the 8329
vehicle is not obtained in accordance with division (D)(3) of 8330
section 4503.233 of the Revised Code, the vehicle shall be 8331
forfeited. The notice also shall inform the vehicle owner that the 8332
owner may be charged expenses or charges incurred under this 8333
section and section 4503.233 of the Revised Code for the removal 8334
and storage of the vehicle. 8335

The written notice that is given to the arrested person also 8336
shall state that if the person is convicted of or pleads guilty to 8337
the offense and the court issues an immobilization and impoundment 8338
order relative to that vehicle, division (D)(4) of section 8339
4503.233 of the Revised Code prohibits the vehicle from being sold 8340
during the period of immobilization without the prior approval of 8341
the court. 8342

(3) At or before the initial appearance, the vehicle owner 8343
may file a motion requesting the court to order that the vehicle 8344
and its license plates be released to the vehicle owner. Except as 8345
provided in this division and subject to the payment of expenses 8346
or charges incurred in the removal and storage of the vehicle, the 8347
court, in its discretion, then may issue an order releasing the 8348

vehicle and its license plates to the vehicle owner. Such an order 8349
may be conditioned upon such terms as the court determines 8350
appropriate, including the posting of a bond in an amount 8351
determined by the court. If the arrested person is not the vehicle 8352
owner and if the vehicle owner is not present at the arrested 8353
person's initial appearance, and if the court believes that the 8354
vehicle owner was not provided with adequate notice of the initial 8355
appearance, the court, in its discretion, may allow the vehicle 8356
owner to file a motion within seven days of the initial 8357
appearance. If the court allows the vehicle owner to file such a 8358
motion after the initial appearance, the extension of time granted 8359
by the court does not extend the time within which the initial 8360
appearance is to be conducted. If the court issues an order for 8361
the release of the vehicle and its license plates, a copy of the 8362
order shall be made available to the vehicle owner. If the vehicle 8363
owner presents a copy of the order to the law enforcement agency 8364
that employs the law enforcement officer who arrested the arrested 8365
person, the law enforcement agency promptly shall release the 8366
vehicle and its license plates to the vehicle owner upon payment 8367
by the vehicle owner of any expenses or charges incurred in the 8368
removal or storage of the vehicle. 8369

(4) A vehicle seized under division (B)(1) of this section 8370
either shall be towed to a place specified by the law enforcement 8371
agency that employs the arresting officer to be safely kept by the 8372
agency at that place for the time and in the manner specified in 8373
this section or shall be otherwise immobilized for the time and in 8374
the manner specified in this section. A law enforcement officer of 8375
that agency shall remove the identification license plates of the 8376
vehicle, and they shall be safely kept by the agency for the time 8377
and in the manner specified in this section. No vehicle that is 8378
seized and either towed or immobilized pursuant to this division 8379
shall be considered contraband for purposes of ~~section 2933.41,~~ 8380

~~2933.42, or 2933.43~~ Chapter 2981. of the Revised Code. The vehicle 8381
shall not be immobilized at any place other than a commercially 8382
operated private storage lot, a place owned by a law enforcement 8383
or other government agency, or a place to which one of the 8384
following applies: 8385

(a) The place is leased by or otherwise under the control of 8386
a law enforcement or other government agency. 8387

(b) The place is owned by the arrested person, the arrested 8388
person's spouse, or a parent or child of the arrested person. 8389

(c) The place is owned by a private person or entity, and, 8390
prior to the immobilization, the private entity or person that 8391
owns the place, or the authorized agent of that private entity or 8392
person, has given express written consent for the immobilization 8393
to be carried out at that place. 8394

(d) The place is a public street or highway on which the 8395
vehicle is parked in accordance with the law. 8396

(C)(1) A vehicle seized under division (B) of this section 8397
shall be safely kept at the place to which it is towed or 8398
otherwise moved by the law enforcement agency that employs the 8399
arresting officer until the initial appearance of the arrested 8400
person relative to the charge in question. The license plates of 8401
the vehicle that are removed pursuant to division (B) of this 8402
section shall be safely kept by the law enforcement agency that 8403
employs the arresting officer until at least the initial 8404
appearance of the arrested person relative to the charge in 8405
question. 8406

(2)(a) At the initial appearance or not less than seven days 8407
prior to the date of final disposition, the court shall notify the 8408
arrested person that, if title to a motor vehicle that is subject 8409
to an order for criminal forfeiture under this section is assigned 8410
or transferred and division (B)(2) or (3) of section 4503.234 of 8411

the Revised Code applies, the court may fine the arrested person 8412
the value of the vehicle. If, at the initial appearance, the 8413
arrested person pleads guilty to the violation of section 4510.14, 8414
4510.16, or 4511.203 of the Revised Code, or a municipal ordinance 8415
that is substantially equivalent to any of those sections or 8416
pleads no contest to and is convicted of the violation, the court 8417
shall impose sentence upon the person as provided by law or 8418
ordinance; the court shall order the immobilization of the vehicle 8419
the arrested person was operating at the time of, or that was 8420
involved in, the offense if registered in the arrested person's 8421
name and the impoundment of its license plates under section 8422
4503.233 and section 4510.14, 4510.16, 4510.161, or 4511.203 of 8423
the Revised Code or the criminal forfeiture to the state of the 8424
vehicle if registered in the arrested person's name under section 8425
4503.234 and section 4510.14, 4510.16, 4510.161, or 4511.203 of 8426
the Revised Code, whichever is applicable; and the vehicle and its 8427
license plates shall not be returned or released to the arrested 8428
person. 8429

(b) If, at any time, the charge that the arrested person 8430
violated section 4510.14, 4510.16, or 4511.203 of the Revised 8431
Code, or a municipal ordinance that is substantially equivalent to 8432
any of those sections is dismissed for any reason, the court shall 8433
order that the vehicle seized at the time of the arrest and its 8434
license plates immediately be released to the person. 8435

(D) If a vehicle and its license plates are seized under 8436
division (B) of this section and are not returned or released to 8437
the arrested person pursuant to division (C) of this section, the 8438
vehicle and its license plates shall be retained until the final 8439
disposition of the charge in question. Upon the final disposition 8440
of that charge, the court shall do whichever of the following is 8441
applicable: 8442

(1) If the arrested person is convicted of or pleads guilty 8443

to the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the court shall impose sentence upon the person as provided by law or ordinance and shall order the immobilization of the vehicle the person was operating at the time of, or that was involved in, the offense if it is registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code or the criminal forfeiture of the vehicle if it is registered in the arrested person's name under section 4503.234 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code, whichever is applicable.

(2) If the arrested person is found not guilty of the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(3) If the charge that the arrested person violated section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(4) If the impoundment of the vehicle was not authorized under this section, the court shall order that the vehicle and its license plates be returned immediately to the arrested person or, if the arrested person is not the vehicle owner, to the vehicle owner and shall order that the state or political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage.

(E) If a vehicle is seized under division (B) of this section, the time between the seizure of the vehicle and either its release to the arrested person pursuant to division (C) of this section or the issuance of an order of immobilization of the vehicle under section 4503.233 of the Revised Code shall be credited against the period of immobilization ordered by the court.

(F)(1) Except as provided in division (D)(4) of this section, the arrested person may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the court finds that the arrested person does not intend to seek release of the vehicle at the end of the period of immobilization under section 4503.233 of the Revised Code or that the arrested person is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.

Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person or entity that receives title to the vehicle is the person or entity that removed it, the person or entity shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including

assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity that receives title assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (F)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section or under section 4503.233 of the Revised Code.

(3) Prior to initiating a proceeding under division (F)(1) of this section, and upon payment of the fee under division (B) of section 4505.14, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the arrested person, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail, or, at the option of the initiating party, by personal service or ordinary mail.

Sec. 4511.195. (A) As used in this section: 8539

(1) "Arrested person" means a person who is arrested for a 8540
violation of division (A) of section 4511.19 of the Revised Code 8541
or a municipal OVI ordinance and whose arrest results in a vehicle 8542
being seized under division (B) of this section. 8543

(2) "Vehicle owner" means either of the following: 8544

(a) The person in whose name is registered, at the time of 8545
the seizure, a vehicle that is seized under division (B) of this 8546
section; 8547

(b) A person to whom the certificate of title to a vehicle 8548
that is seized under division (B) of this section has been 8549
assigned and who has not obtained a certificate of title to the 8550
vehicle in that person's name, but who is deemed by the court as 8551
being the owner of the vehicle at the time the vehicle was seized 8552
under division (B) of this section. 8553

(3) "Interested party" includes the owner of a vehicle seized 8554
under this section, all lienholders, the arrested person, the 8555
owner of the place of storage at which a vehicle seized under this 8556
section is stored, and the person or entity that caused the 8557
vehicle to be removed. 8558

(B)(1) The arresting officer or another officer of the law 8559
enforcement agency that employs the arresting officer, in addition 8560
to any action that the arresting officer is required or authorized 8561
to take by section 4511.19 or 4511.191 of the Revised Code or by 8562
any other provision of law, shall seize the vehicle that a person 8563
was operating at the time of the alleged offense and its license 8564
plates if the vehicle is registered in the arrested person's name 8565
and if either of the following applies: 8566

(a) The person is arrested for a violation of division (A) of 8567
section 4511.19 of the Revised Code or of a municipal OVI 8568

ordinance and, within six years of the alleged violation, the
person previously has been convicted of or pleaded guilty to one
or more violations of division (A) or (B) of section 4511.19 of
the Revised Code or one or more other equivalent offenses.

(b) The person is arrested for a violation of division (A) of
section 4511.19 of the Revised Code or of a municipal OVI
ordinance and the person previously has been convicted of or
pleaded guilty to a violation of division (A) of section 4511.19
of the Revised Code under circumstances in which the violation was
a felony, regardless of when the prior felony violation of
division (A) of section 4511.19 of the Revised Code and the
conviction or guilty plea occurred.

(2) A law enforcement agency that employs a law enforcement
officer who makes an arrest of a type that is described in
division (B)(1) of this section and that involves a rented or
leased vehicle that is being rented or leased for a period of
thirty days or less shall notify, within twenty-four hours after
the officer makes the arrest, the lessor or owner of the vehicle
regarding the circumstances of the arrest and the location at
which the vehicle may be picked up. At the time of the seizure of
the vehicle, the law enforcement officer who made the arrest shall
give the arrested person written notice that the vehicle and its
license plates have been seized; that the vehicle either will be
kept by the officer's law enforcement agency or will be
immobilized at least until the operator's initial appearance on
the charge of the offense for which the arrest was made; that, at
the initial appearance, the court in certain circumstances may
order that the vehicle and license plates be released to the
arrested person until the disposition of that charge; and that, if
the arrested person is convicted of that charge, the court
generally must order the immobilization of the vehicle and the
impoundment of its license plates, or the forfeiture of the

vehicle. 8601

(3) The arresting officer or a law enforcement officer of the 8602
agency that employs the arresting officer shall give written 8603
notice of the seizure to the court that will conduct the initial 8604
appearance of the arrested person on the charges arising out of 8605
the arrest. Upon receipt of the notice, the court promptly shall 8606
determine whether the arrested person is the vehicle owner. If the 8607
court determines that the arrested person is not the vehicle 8608
owner, it promptly shall send by regular mail written notice of 8609
the seizure to the vehicle's registered owner. The written notice 8610
shall contain all of the information required by division (B)(2) 8611
of this section to be in a notice to be given to the arrested 8612
person and also shall specify the date, time, and place of the 8613
arrested person's initial appearance. The notice also shall inform 8614
the vehicle owner that if title to a motor vehicle that is subject 8615
to an order for criminal forfeiture under this section is assigned 8616
or transferred and division (B)(2) or (3) of section 4503.234 of 8617
the Revised Code applies, the court may fine the arrested person 8618
the value of the vehicle. The notice also shall state that if the 8619
vehicle is immobilized under division (A) of section 4503.233 of 8620
the Revised Code, seven days after the end of the period of 8621
immobilization a law enforcement agency will send the vehicle 8622
owner a notice, informing the owner that if the release of the 8623
vehicle is not obtained in accordance with division (D)(3) of 8624
section 4503.233 of the Revised Code, the vehicle shall be 8625
forfeited. The notice also shall inform the vehicle owner that the 8626
vehicle owner may be charged expenses or charges incurred under 8627
this section and section 4503.233 of the Revised Code for the 8628
removal and storage of the vehicle. 8629

The written notice that is given to the arrested person also 8630
shall state that if the person is convicted of or pleads guilty to 8631
the offense and the court issues an immobilization and impoundment 8632

order relative to that vehicle, division (D)(4) of section 8633
4503.233 of the Revised Code prohibits the vehicle from being sold 8634
during the period of immobilization without the prior approval of 8635
the court. 8636

(4) At or before the initial appearance, the vehicle owner 8637
may file a motion requesting the court to order that the vehicle 8638
and its license plates be released to the vehicle owner. Except as 8639
provided in this division and subject to the payment of expenses 8640
or charges incurred in the removal and storage of the vehicle, the 8641
court, in its discretion, then may issue an order releasing the 8642
vehicle and its license plates to the vehicle owner. Such an order 8643
may be conditioned upon such terms as the court determines 8644
appropriate, including the posting of a bond in an amount 8645
determined by the court. If the arrested person is not the vehicle 8646
owner and if the vehicle owner is not present at the arrested 8647
person's initial appearance, and if the court believes that the 8648
vehicle owner was not provided with adequate notice of the initial 8649
appearance, the court, in its discretion, may allow the vehicle 8650
owner to file a motion within seven days of the initial 8651
appearance. If the court allows the vehicle owner to file such a 8652
motion after the initial appearance, the extension of time granted 8653
by the court does not extend the time within which the initial 8654
appearance is to be conducted. If the court issues an order for 8655
the release of the vehicle and its license plates, a copy of the 8656
order shall be made available to the vehicle owner. If the vehicle 8657
owner presents a copy of the order to the law enforcement agency 8658
that employs the law enforcement officer who arrested the arrested 8659
person, the law enforcement agency promptly shall release the 8660
vehicle and its license plates to the vehicle owner upon payment 8661
by the vehicle owner of any expenses or charges incurred in the 8662
removal and storage of the vehicle. 8663

(5) A vehicle seized under division (B)(1) of this section 8664

either shall be towed to a place specified by the law enforcement 8665
agency that employs the arresting officer to be safely kept by the 8666
agency at that place for the time and in the manner specified in 8667
this section or shall be otherwise immobilized for the time and in 8668
the manner specified in this section. A law enforcement officer of 8669
that agency shall remove the identification license plates of the 8670
vehicle, and they shall be safely kept by the agency for the time 8671
and in the manner specified in this section. No vehicle that is 8672
seized and either towed or immobilized pursuant to this division 8673
shall be considered contraband for purposes of ~~section 2933.41,~~ 8674
~~2933.42, or 2933.43~~ Chapter 2981. of the Revised Code. The vehicle 8675
shall not be immobilized at any place other than a commercially 8676
operated private storage lot, a place owned by a law enforcement 8677
agency or other government agency, or a place to which one of the 8678
following applies: 8679

(a) The place is leased by or otherwise under the control of 8680
a law enforcement agency or other government agency. 8681

(b) The place is owned by the vehicle operator, the vehicle 8682
operator's spouse, or a parent or child of the vehicle operator. 8683

(c) The place is owned by a private person or entity, and, 8684
prior to the immobilization, the private entity or person that 8685
owns the place, or the authorized agent of that private entity or 8686
person, has given express written consent for the immobilization 8687
to be carried out at that place. 8688

(d) The place is a street or highway on which the vehicle is 8689
parked in accordance with the law. 8690

(C)(1) A vehicle seized under division (B) of this section 8691
shall be safely kept at the place to which it is towed or 8692
otherwise moved by the law enforcement agency that employs the 8693
arresting officer until the initial appearance of the arrested 8694
person relative to the charge in question. The license plates of 8695

the vehicle that are removed pursuant to division (B) of this 8696
section shall be safely kept by the law enforcement agency that 8697
employs the arresting officer until the initial appearance of the 8698
arrested person relative to the charge in question. 8699

(2)(a) At the initial appearance or not less than seven days 8700
prior to the date of final disposition, the court shall notify the 8701
arrested person that, if title to a motor vehicle that is subject 8702
to an order for criminal forfeiture under this section is assigned 8703
or transferred and division (B)(2) or (3) of section 4503.234 of 8704
the Revised Code applies, the court may fine the arrested person 8705
the value of the vehicle. If, at the initial appearance, the 8706
arrested person pleads guilty to the violation of division (A) of 8707
section 4511.19 of the Revised Code or of the municipal OVI 8708
ordinance or pleads no contest to and is convicted of the 8709
violation, the court shall impose sentence upon the person as 8710
provided by law or ordinance; the court shall order the 8711
immobilization of the vehicle the arrested person was operating at 8712
the time of the offense if registered in the arrested person's 8713
name and the impoundment of its license plates under section 8714
4503.233 and section 4511.19 or 4511.193 of the Revised Code or 8715
the criminal forfeiture to the state of the vehicle if registered 8716
in the arrested person's name under section 4503.234 and section 8717
4511.19 or 4511.193 of the Revised Code, whichever is applicable; 8718
and the vehicle and its license plates shall not be returned or 8719
released to the arrested person. 8720

(b) If, at any time, the charge that the arrested person 8721
violated division (A) of section 4511.19 of the Revised Code or 8722
the municipal OVI ordinance is dismissed for any reason, the court 8723
shall order that the vehicle seized at the time of the arrest and 8724
its license plates immediately be released to the person. 8725

(D) If a vehicle and its license plates are seized under 8726
division (B) of this section and are not returned or released to 8727

the arrested person pursuant to division (C) of this section, the
vehicle and its license plates shall be retained until the final
disposition of the charge in question. Upon the final disposition
of that charge, the court shall do whichever of the following is
applicable:

(1) If the arrested person is convicted of or pleads guilty
to the violation of division (A) of section 4511.19 of the Revised
Code or of the municipal OVI ordinance, the court shall impose
sentence upon the person as provided by law or ordinance and shall
order the immobilization of the vehicle the person was operating
at the time of the offense if it is registered in the arrested
person's name and the impoundment of its license plates under
section 4503.233 and section 4511.19 or 4511.193 of the Revised
Code, or the criminal forfeiture of the vehicle if it is
registered in the arrested person's name under section 4503.234
and section 4511.19 or 4511.193 of the Revised Code, whichever is
applicable.

(2) If the arrested person is found not guilty of the
violation of division (A) of section 4511.19 of the Revised Code
or of the municipal OVI ordinance, the court shall order that the
vehicle and its license plates immediately be released to the
arrested person.

(3) If the charge that the arrested person violated division
(A) of section 4511.19 of the Revised Code or the municipal OVI
ordinance is dismissed for any reason, the court shall order that
the vehicle and its license plates immediately be released to the
arrested person.

(4) If the impoundment of the vehicle was not authorized
under this section, the court shall order that the vehicle and its
license plates be returned immediately to the arrested person or,
if the arrested person is not the vehicle owner, to the vehicle

owner, and shall order that the state or political subdivision of
the law enforcement agency served by the law enforcement officer
who seized the vehicle pay all expenses and charges incurred in
its removal and storage.

(E) If a vehicle is seized under division (B) of this
section, the time between the seizure of the vehicle and either
its release to the arrested person under division (C) of this
section or the issuance of an order of immobilization of the
vehicle under section 4503.233 of the Revised Code shall be
credited against the period of immobilization ordered by the
court.

(F)(1) Except as provided in division (D)(4) of this section,
the arrested person may be charged expenses or charges incurred in
the removal and storage of the immobilized vehicle. The court with
jurisdiction over the case, after notice to all interested
parties, including lienholders, and after an opportunity for them
to be heard, if the court finds that the arrested person does not
intend to seek release of the vehicle at the end of the period of
immobilization under section 4503.233 of the Revised Code or that
the arrested person is not or will not be able to pay the expenses
and charges incurred in its removal and storage, may order that
title to the vehicle be transferred, in order of priority, first
into the name of the person or entity that removed it, next into
the name of a lienholder, or lastly into the name of the owner of
the place of storage.

Any lienholder that receives title under a court order shall
do so on the condition that it pay any expenses or charges
incurred in the vehicle's removal and storage. If the person or
entity that receives title to the vehicle is the person or entity
that removed it, the person or entity shall receive title on the
condition that it pay any lien on the vehicle. The court shall not
order that title be transferred to any person or entity other than

the owner of the place of storage if the person or entity refuses 8791
to receive the title. Any person or entity that receives title 8792
either may keep title to the vehicle or may dispose of the vehicle 8793
in any legal manner that it considers appropriate, including 8794
assignment of the certificate of title to the motor vehicle to a 8795
salvage dealer or a scrap metal processing facility. The person or 8796
entity shall not transfer the vehicle to the person who is the 8797
vehicle's immediate previous owner. 8798

If the person or entity that receives title assigns the motor 8799
vehicle to a salvage dealer or scrap metal processing facility, 8800
the person or entity shall send the assigned certificate of title 8801
to the motor vehicle to the clerk of the court of common pleas of 8802
the county in which the salvage dealer or scrap metal processing 8803
facility is located. The person or entity shall mark the face of 8804
the certificate of title with the words "FOR DESTRUCTION" and 8805
shall deliver a photocopy of the certificate of title to the 8806
salvage dealer or scrap metal processing facility for its records. 8807

(2) Whenever a court issues an order under division (F)(1) of 8808
this section, the court also shall order removal of the license 8809
plates from the vehicle and cause them to be sent to the registrar 8810
of motor vehicles if they have not already been sent to the 8811
registrar. Thereafter, no further proceedings shall take place 8812
under this section or under section 4503.233 of the Revised Code. 8813

(3) Prior to initiating a proceeding under division (F)(1) of 8814
this section, and upon payment of the fee under division (B) of 8815
section 4505.14 of the Revised Code, any interested party may 8816
cause a search to be made of the public records of the bureau of 8817
motor vehicles or the clerk of the court of common pleas, to 8818
ascertain the identity of any lienholder of the vehicle. The 8819
initiating party shall furnish this information to the clerk of 8820
the court with jurisdiction over the case, and the clerk shall 8821
provide notice to the arrested person, any lienholder, and any 8822

other interested parties listed by the initiating party, at the 8823
last known address supplied by the initiating party, by certified 8824
mail or, at the option of the initiating party, by personal 8825
service or ordinary mail. 8826

Sec. 4549.62. (A) No person, with purpose to conceal or 8827
destroy the identity of a vehicle or vehicle part, shall remove, 8828
deface, cover, alter, or destroy any vehicle identification number 8829
or derivative of a vehicle identification number on a vehicle or 8830
vehicle part. 8831

(B) No person, with purpose to conceal or destroy the 8832
identity of a vehicle or a vehicle part, shall remove, deface, 8833
cover, alter, or destroy any identifying number that has been 8834
lawfully placed upon a vehicle or vehicle part by an owner of the 8835
vehicle or vehicle part, other than the manufacturer, for the 8836
purpose of deterring its theft and facilitating its recovery if 8837
stolen. 8838

(C) No person, with purpose to conceal or destroy the 8839
identity of a vehicle or vehicle part, shall place a counterfeit 8840
vehicle identification number or derivative of a vehicle 8841
identification number upon the vehicle or vehicle part. 8842

(D)(1) No person shall buy, offer to buy, sell, offer to 8843
sell, receive, dispose of, conceal, or, except as provided in 8844
division (D)(4) of this section, possess any vehicle or vehicle 8845
part with knowledge that the vehicle identification number or a 8846
derivative of the vehicle identification number has been removed, 8847
defaced, covered, altered, or destroyed in such a manner that the 8848
identity of the vehicle or part cannot be determined by a visual 8849
examination of the number at the site where the manufacturer 8850
placed the number. 8851

(2)(a) A vehicle or vehicle part from which the vehicle 8852

identification number or a derivative of the vehicle 8853
identification number has been so removed, defaced, covered, 8854
altered, or destroyed shall be seized and forfeited under ~~section~~ 8855
~~2933.41~~ Chapter 2981. of the Revised Code unless division (D)(3) 8856
or (4) of this section applies to the vehicle or part. If a 8857
derivative of the vehicle identification number has been removed, 8858
defaced, covered, altered, or destroyed in such a manner that the 8859
identity of the part cannot be determined, the entire vehicle is 8860
subject to seizure pending a determination of the original 8861
identity and ownership of the vehicle and parts of the vehicle, 8862
and the rights of innocent owners to reclaim the remainder or any 8863
part of the vehicle. 8864

(b) The lawful owners of parts upon a vehicle that has been 8865
seized under this section and that is subject to forfeiture under 8866
~~section 2933.41~~ Chapter 2981. of the Revised Code are entitled to 8867
reclaim their respective parts upon satisfactory proof of all of 8868
the following: 8869

(i) That the part is not needed for evidence in pending 8870
proceedings involving the vehicle or part and is not subject to 8871
forfeiture under ~~section 2933.41~~ Chapter 2981. of the Revised 8872
Code; 8873

(ii) That the original identity and ownership of the part can 8874
be determined and that the claimant is the lawful owner of the 8875
part; 8876

(iii) That no vehicle identification number or derivative of 8877
a vehicle identification number on the part has been destroyed or 8878
concealed in such a manner that the identity of the part cannot be 8879
determined from that number; 8880

(iv) Payment of all costs of removing the part. 8881

(3) Divisions (A), (B), and (D)(1) and (2) of this section do 8882
not apply to the good faith acquisition and disposition of 8883

vehicles and vehicle parts as junk or scrap in the ordinary course
of business by a scrap metal processing facility as defined in
division (D) of section 4737.05 of the Revised Code or by a motor
vehicle salvage dealer licensed under Chapter 4738. of the Revised
Code. This division does not create an element of an offense or an
affirmative defense, or affect the burden of proceeding with the
evidence or burden of proof in a criminal proceeding.

(4)(a) Divisions (D)(1) and (2) of this section do not apply
to the possession of an owner, or the owner's insurer, who
provides satisfactory evidence of all of the following:

(i) That the vehicle identification number or derivative
thereof on the vehicle or part has been removed, defaced, covered,
altered, or destroyed, after the owner acquired such possession,
by another person without the consent of the owner, by accident or
other casualty not due to the owner's purpose to conceal or
destroy the identity of the vehicle or vehicle part, or by
ordinary wear and tear;

(ii) That the person is the owner of the vehicle as shown on
a valid certificate of title issued by this state or certificate
of title or other lawful evidence of title issued in another
state, in a clear chain of title beginning with the manufacturer;

(iii) That the original identity of the vehicle can be
established in a manner that excludes any reasonable probability
that the vehicle has been stolen from another person.

(b) The registrar of motor vehicles shall adopt rules under
Chapter 119. of the Revised Code to permit an owner described in
division (D)(4)(a) of this section, upon application and
submission of satisfactory evidence to the registrar, to obtain
authority to replace the vehicle identification number under the
supervision of a peace officer, trooper of the state highway
patrol, or representative of the registrar. The rules shall be

designed to restore the identification of the vehicle in a manner 8915
that will deter its theft and facilitate its marketability. Until 8916
such rules are adopted, the registrar shall follow the existing 8917
procedure for the replacement of vehicle identification numbers 8918
that have been established by the registrar, with such 8919
modifications as the registrar determines to be necessary or 8920
appropriate for the administration of the laws the registrar is 8921
required to administer. 8922

The registrar may issue a temporary permit to an owner of a 8923
motor vehicle who is described in division (D)(4)(a) of this 8924
section to authorize the owner to retain possession of the motor 8925
vehicle and to transfer title to the motor vehicle with the 8926
consent of the registrar. 8927

(c) No owner described in division (D)(4)(a) of this section 8928
shall fail knowingly to apply to the registrar for authority to 8929
replace the vehicle identification number, within thirty days 8930
after the later of the following dates: 8931

(i) The date of receipt by the applicant of actual knowledge 8932
of the concealment or destruction; 8933

(ii) If the property has been stolen, the date thereafter 8934
upon which the applicant obtains possession of the vehicle or has 8935
been notified by a law enforcement agency that the vehicle has 8936
been recovered. 8937

The requirement of division (D)(4)(c) of this section may be 8938
excused by the registrar for good cause shown. 8939

(E) Whoever violates division (A), (B), (C), or (D)(1) of 8940
this section is guilty of a felony of the fifth degree on a first 8941
offense and a felony of the fourth degree on each subsequent 8942
offense. 8943

(F) Whoever violates division (D)(4)(c) of this section is 8944

guilty of a minor misdemeanor. 8945

Sec. 4549.63. (A) A law enforcement officer may seize and 8946
take possession of a vehicle or vehicle part if the officer has 8947
probable cause to believe that any vehicle identification number 8948
or derivative thereof on the vehicle or part has been removed, 8949
defaced, covered, altered, or destroyed in such a manner that the 8950
identity of the vehicle or part cannot be determined by visual 8951
examination of the number at the site where the manufacturer 8952
placed the number. The seizure shall be pursuant to a warrant, 8953
unless the circumstances are within one of the exceptions to the 8954
warrant requirement that have been established by the supreme 8955
court of the United States or of the supreme court of this state. 8956

(B) A vehicle or vehicle part seized under division (A) of 8957
this section shall be held in custody pursuant to section ~~2933.41~~ 8958
2981.11 of the Revised Code or any applicable municipal ordinance. 8959

(C) A law enforcement officer who acts in good faith in the 8960
belief that the seizure of a vehicle or vehicle part is justified 8961
under division (A) of this section is immune from any civil or 8962
criminal liability for such seizure. 8963

(D) The lawful owner of a vehicle or vehicle part seized 8964
under this section that is not needed as evidence and is not 8965
subject to forfeiture under division (D)(2) of section 4549.62 of 8966
the Revised Code may reclaim the property by submitting 8967
satisfactory proof of ownership to the law enforcement agency or 8968
court holding the property. 8969

Sec. 4728.04. (A) The application for a license under this 8970
chapter shall state fully the name and address of the person, or 8971
corporation, and of every member of the firm, partnership, or 8972
association, authorized to do business thereunder, the name of the 8973
individual responsible for the daily operation of the business, 8974

and the location of the office or place of business in which the 8975
business is conducted. In the case of a corporation, the 8976
application also shall state the date and place of incorporation, 8977
the name and address of the corporation's manager, the names and 8978
addresses of corporate directors, and the name and address of the 8979
agent, as provided in section 4728.03 of the Revised Code. 8980

The holder of a precious metals dealer's license shall keep 8981
the license posted in a conspicuous place in the office where 8982
business is transacted. No licensee shall transact or solicit 8983
business under any other name or location. Not more than one 8984
office or place of business shall be maintained under the same 8985
license, except as provided under division (C) of this section. In 8986
case of removal, the licensee shall provide written notice in 8987
advance to the division of financial institutions in the 8988
department of commerce of a prospective change of address of a 8989
business location. Upon approval by the superintendent of 8990
financial institutions, the division shall issue a new license. If 8991
the new location is outside the municipal corporation or county of 8992
the original licensed location, the licensee shall pay an 8993
additional license fee according to section 4728.03 of the Revised 8994
Code. 8995

(B) A person licensed under this chapter shall post a 8996
conspicuous notice in its place of business visible to all 8997
patrons, in a form and at places designated by rule of the 8998
division, that the licensee has no right to retain goods stolen 8999
from the true owner, and that the owner may recover the goods or 9000
their value from the licensee in an action at law or, if the chief 9001
or head of a local police department or the chief's or head's 9002
representative takes custody of the goods, by release pursuant to 9003
section ~~2933.41~~ 2981.11 of the Revised Code. 9004

(C)(1) The superintendent may issue to a person licensed 9005
under this chapter or Chapter 4727. of the Revised Code a 9006

temporary exhibition permit for a term that coincides with that of 9007
the license of the licensee. A person issued a permit under this 9008
division may engage in the business of purchasing articles made of 9009
or containing gold, silver, platinum, or other precious metals or 9010
jewels from the public at a bona fide auction, convention, 9011
exhibition, fair, or show, the primary purpose of which is to 9012
display, trade, and sell articles made of or containing precious 9013
metals or jewels, for a period not to exceed seven days for any 9014
one auction, convention, exhibition, fair, or show. 9015

(2) The superintendent shall determine the application 9016
procedures for and the form of the temporary exhibition permit 9017
described in this division, provided that a temporary permit shall 9018
state fully the name and permanent business address of the 9019
licensee to whom it is issued. 9020

(3) The holder of a temporary exhibition permit shall, when 9021
participating in any auction, convention, fair, or show, 9022
conspicuously display the holder's permit at the location at which 9023
the holder transacts business. 9024

(4) A permit holder who wishes to participate in an auction, 9025
convention, exhibition, fair, or show shall, at least two weeks 9026
prior to its scheduled opening, submit to the superintendent, or 9027
the chief or the head of the local police department with 9028
jurisdiction at the location of the event, the holder's name, the 9029
location of the auction, convention, exhibition, fair, or show, 9030
and the holder's permanent business address as it appears on the 9031
holder's permit issued under division (C)(2) of this section. 9032

(5) All purchases of articles made of or containing gold, 9033
silver, platinum, or other precious metals or jewels conducted 9034
under a temporary exhibition permit are subject to sections 9035
4728.06 to 4728.09, 4728.13, and 4728.99 of the Revised Code as if 9036
made under a license. 9037

Sec. 4729.65. (A) Except as provided in division (B) of this 9038
section, all receipts of the state board of pharmacy, from any 9039
source, shall be deposited into the state treasury to the credit 9040
of the occupational licensing and regulatory fund. All vouchers of 9041
the board shall be approved by the president or executive director 9042
of the board, or both, as authorized by the board. All initial 9043
issuance fees and renewal fees required by sections 4729.01 to 9044
4729.54 of the Revised Code shall be payable by the applicant at 9045
the time of making application. 9046

(B)(1) There is hereby created in the state treasury the 9047
board of pharmacy drug law enforcement fund. All moneys that are 9048
derived from any fines, mandatory fines, or forfeited bail to 9049
which the board may be entitled under Chapter 2925., division 9050
(C)~~(1)~~ of section 2923.42, or division (B)~~(5)~~ of section 2925.42 9051
of the Revised Code and all moneys that are derived from 9052
forfeitures of property to which the board may be entitled 9053
pursuant to Chapter 2925. or 2981. of the Revised Code, ~~section~~ 9054
~~2923.32, 2923.35, 2923.44, 2923.45, 2923.46, or 2933.43 of the~~ 9055
~~Revised Code,~~ any other ~~section~~ provision of the Revised Code, or 9056
federal law shall be deposited into the fund. Subject to division 9057
(B)(2) of this section, ~~division (D)(2)(c) of section 2923.35,~~ 9058
division (B)~~(5)~~ of section 2923.44, ~~division (B)(7)(c) of section~~ 9059
~~2923.46,~~ and divisions ~~(D)(1)(c) and (3)(B), (C), and (D)~~ of 9060
section ~~2933.43~~ 2981.13 of the Revised Code, the moneys in the 9061
fund shall be used solely to subsidize the drug law enforcement 9062
efforts of the board. 9063

(2) Notwithstanding any contrary provision in the Revised 9064
Code, moneys that are derived from forfeitures of property 9065
pursuant to federal law and that are deposited into the board of 9066
pharmacy drug law enforcement fund in accordance with division 9067
(B)(1) of this section shall be used and accounted for in 9068

accordance with the applicable federal law, and the board 9069
otherwise shall comply with that law in connection with the 9070
moneys. 9071

(C) All fines and forfeited bonds assessed and collected 9072
under prosecution or prosecution commenced in the enforcement of 9073
this chapter shall be paid to the executive director of the board 9074
within thirty days and by the executive director paid into the 9075
state treasury to the credit of the occupational licensing and 9076
regulatory fund. The board, subject to the approval of the 9077
controlling board and except for fees required to be established 9078
by the board at amounts "adequate" to cover designated expenses, 9079
may establish fees in excess of the amounts provided by this 9080
chapter, provided that such fees do not exceed the amounts 9081
permitted by this chapter by more than fifty per cent. 9082

Sec. 5735.121. (A) If the tax commissioner finds that any 9083
person liable for tax under this chapter is about to depart from 9084
the state, remove property from the state, conceal self, or 9085
conceal the person's property, or do any other act tending to 9086
prejudice, obstruct, or render wholly or partly ineffectual 9087
proceedings to collect the tax, unless proceedings are commenced 9088
without delay, or if the commissioner believes that the collection 9089
of the amount due from any person will be jeopardized by delay, 9090
the commissioner may issue a jeopardy assessment against the 9091
person for the amount of the tax, plus a penalty of up to fifteen 9092
per cent. Upon issuance of a jeopardy assessment under this 9093
division, the total amount assessed shall immediately be due and 9094
payable unless security is provided pursuant to division (C) of 9095
this section. Any assessment issued under this section shall bear 9096
interest in the manner prescribed in section 5735.12 of the 9097
Revised Code. 9098

(B) The commissioner immediately shall file an entry with the 9099

clerk of the court of common pleas in the same manner and with the
same effect as provided in section 5735.12 of the Revised Code.
Notice of the jeopardy assessment shall be served on the person
assessed or the legal representative of the person assessed, as
provided in section 5703.37 of the Revised Code, within five days
of the filing of the entry. The person assessed may petition for
reassessment within sixty days of receipt of the notice of
jeopardy assessment in the same manner as provided in section
5735.12 of the Revised Code. Full or partial payment of the
assessment shall not prejudice the commissioner's consideration of
the merits of the assessment as contested by the petition for
reassessment. Upon notification of the existence of the judgment
filed pursuant to this division, any public official having
control or custody of any funds or property of the person assessed
immediately shall pay or deliver the funds or property to the
commissioner as full or partial satisfaction of the jeopardy
assessment. However, funds or property needed as evidence in
criminal proceedings or that is expected to be forfeited pursuant
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the
Revised Code, need not be relinquished by the public official.
Upon disposition of criminal and forfeiture proceedings, funds and
property not needed as evidence and not forfeited shall be
delivered to the commissioner.

(C) If the person subject to a jeopardy assessment files a
petition for reassessment and posts security satisfactory to the
commissioner in an amount sufficient to satisfy the unpaid balance
of the assessment, execution on the judgment shall be stayed
pending disposition of the petition for reassessment and all
appeals resulting from the petition. If the security is sufficient
to satisfy the full amount of the assessment, the commissioner
shall return any funds or property of the person that previously
were seized. Upon satisfaction of the assessment, the commissioner

shall order the security released and the judgment vacated. 9132

(D) The commissioner may adopt rules providing for the 9133
imposition and remission of penalties added to assessments made 9134
under this section. 9135

Sec. 5739.15. (A) If the tax commissioner finds that a 9136
vendor, consumer, or officer, employee, or trustee of a 9137
corporation or business trust who is liable for any tax or charge 9138
levied by this chapter or Chapter 5741. of the Revised Code is 9139
about to depart from the state, remove the person's property from 9140
the state, conceal the person's self or property, or do any other 9141
act tending to prejudice, obstruct, or render wholly or partly 9142
ineffectual proceedings to collect the tax unless the proceedings 9143
are commenced without delay, or if the commissioner believes that 9144
the collection of the amount due from any vendor, consumer, or 9145
officer, employee, or trustee of a corporation or business trust 9146
will be jeopardized by delay, the commissioner may issue a 9147
jeopardy assessment against the person for the amount of the tax 9148
or charge plus a penalty as provided by section 5739.133 of the 9149
Revised Code. Upon issuance of a jeopardy assessment under this 9150
division, the total amount assessed shall immediately be due and 9151
payable unless security is provided pursuant to division (C) of 9152
this section. Any assessment issued under this section shall bear 9153
interest as prescribed by section 5739.13 of the Revised Code. 9154

(B) The commissioner immediately shall file an entry with the 9155
clerk of the court of common pleas in the same manner and with the 9156
same effect as provided in section 5739.13 of the Revised Code. 9157
Notice of the jeopardy assessment shall be served on the person 9158
assessed or the person's legal representative, as provided in 9159
section 5703.37 of the Revised Code, within five days of the 9160
filing of the entry. The person assessed may petition for 9161
reassessment within sixty days of receipt of the notice of 9162

jeopardy assessment in the same manner as provided in section 9163
5739.13 of the Revised Code. Full or partial payment of the 9164
assessment shall not prejudice the commissioner's consideration of 9165
the merits of the assessment as contested by the petition for 9166
reassessment. Upon notification of the existence of the judgment 9167
filed pursuant to this division, any public official having 9168
control or custody of any funds or property of the person assessed 9169
immediately shall pay or deliver the funds or property to the 9170
commissioner as full or partial satisfaction of the jeopardy 9171
assessment. However, funds or property needed as evidence in 9172
criminal proceedings or that is expected to be forfeited pursuant 9173
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 9174
Revised Code, need not be relinquished by the public official. 9175
Upon disposition of criminal and forfeiture proceedings, funds and 9176
property not needed as evidence and not forfeited shall be 9177
delivered to the commissioner. 9178

(C) If the person subject to a jeopardy assessment files a 9179
petition for reassessment and posts security satisfactory to the 9180
commissioner in an amount sufficient to satisfy the unpaid balance 9181
of the assessment, execution on the judgment shall be stayed 9182
pending disposition of the petition for reassessment and all 9183
appeals resulting from the petition. If the security is sufficient 9184
to satisfy the full amount of the assessment, the commissioner 9185
shall return any funds or property of the person previously 9186
seized. Upon satisfaction of the assessment, the commissioner 9187
shall order the security released and the judgment vacated. 9188

Sec. 5743.082. (A) If the tax commissioner finds that a 9189
wholesale dealer or retail dealer, liable for tax under sections 9190
5743.01 to 5743.20 of the Revised Code, is about to depart from 9191
the state, remove the wholesale or retail dealer's property from 9192
the state, conceal the wholesale or retail dealer's person or 9193

property, or do any other act tending to prejudice, obstruct, or 9194
render wholly or partly ineffectual proceedings to collect the 9195
tax, unless the proceedings are commenced without delay, or if the 9196
commissioner believes that the collection of the amount due from 9197
any wholesale dealer or retail dealer will be jeopardized by 9198
delay, the commissioner may issue a jeopardy assessment against 9199
the wholesale or retail dealer for the amount of the tax, plus a 9200
penalty of up to thirty per cent. Upon issuance of a jeopardy 9201
assessment under this division, the total amount assessed shall 9202
immediately be due and payable unless security is provided 9203
pursuant to division (C) of this section. Any assessment issued 9204
under this section shall bear interest as prescribed by section 9205
5743.081 of the Revised Code. 9206

(B) The commissioner immediately shall file an entry with the 9207
clerk of the court of common pleas in the same manner and with the 9208
same effect as provided in section 5743.081 of the Revised Code. 9209
Notice of the jeopardy assessment shall be served on the dealer 9210
assessed or the dealer's legal representative, as provided in 9211
section 5703.37 of the Revised Code, within five days of the 9212
filing of the entry. The dealer assessed may petition for 9213
reassessment within sixty days of receipt of the notice of 9214
jeopardy assessment in the same manner as provided in section 9215
5743.081 of the Revised Code. Full or partial payment of the 9216
assessment shall not prejudice the commissioner's consideration of 9217
the merits of the assessment as contested by the petition for 9218
reassessment. Upon notification of the existence of the judgment 9219
filed pursuant to this division, any public official having 9220
control or custody of any funds or property of the person assessed 9221
immediately shall pay or deliver the funds or property to the 9222
commissioner as full or partial satisfaction of the jeopardy 9223
assessment. However, funds or property needed as evidence in 9224
criminal proceedings or that is expected to be forfeited pursuant 9225
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 9226

Revised Code, need not be relinquished by the public official. 9227
Upon disposition of criminal and forfeiture proceedings, funds and 9228
property not needed as evidence and not forfeited shall be 9229
delivered to the commissioner. 9230

(C) If the dealer subject to a jeopardy assessment files a 9231
petition for reassessment and posts security satisfactory to the 9232
commissioner in an amount sufficient to satisfy the unpaid balance 9233
of the assessment, execution on the judgment shall be stayed 9234
pending disposition of the petition for reassessment and all 9235
appeals resulting from the petition. If the security is sufficient 9236
to satisfy the full amount of the assessment, the commissioner 9237
shall return any funds or property of the dealer that previously 9238
were seized. Upon satisfaction of the assessment the commissioner 9239
shall order the security released and the judgment vacated. 9240

(D) The commissioner may adopt rules providing for the 9241
imposition and remission of penalties imposed under this section. 9242

Sec. 5743.112. (A) No person shall prepare for shipment, 9243
ship, transport, deliver, prepare for distribution, or distribute 9244
cigarettes, or otherwise engage or participate in the wholesale or 9245
retail business of trafficking in cigarettes, with the intent to 9246
avoid payment of the tax imposed by this chapter, when the total 9247
number of cigarettes in the aggregate exceeds one thousand two 9248
hundred during any twelve-month period. 9249

(B) Any vending machine containing cigarettes which do not 9250
have affixed the stamps or impressions provided for by sections 9251
5743.03 and 5743.04 of the Revised Code shall be seized and 9252
forfeited to the state in accordance with ~~section 2933.43~~ Chapter 9253
2981. of the Revised Code. Forfeiture shall not affect the rights 9254
of a holder of a valid lien. 9255

(C) A vehicle that is seized as contraband under ~~section~~ 9256
~~2933.43~~ Chapter 2981. of the Revised Code because of its use in 9257

violation of this chapter is subject to the procedures set forth 9258
in ~~section 2933.43 of the Revised Code that chapter.~~ 9259

Section 2. That existing sections 9.92, 109.85, 309.08, 9260
311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 9261
2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 9262
2923.44, 2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 9263
2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 9264
3743.68, 3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 9265
4503.234, 4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 9266
5735.121, 5739.15, 5743.082, and 5743.112 and sections 2923.33, 9267
2923.35, 2923.45, 2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 9268
2925.45, 2933.41, 2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 9269
2933.73, and 2933.74 of the Revised Code are hereby repealed. 9270

Section 3. (A) Section 2901.01 of the Revised Code is 9271
presented in this act as a composite of the section as amended by 9272
Sub. H.B. 364, Sub. H.B. 545, and H.B. 675 of the 124th General 9273
Assembly. The General Assembly, applying the principle stated in 9274
division (B) of section 1.52 of the Revised Code that amendments 9275
are to be harmonized if reasonably capable of simultaneous 9276
operation, finds that the composites are the resulting versions of 9277
the sections in effect prior to the effective date of the sections 9278
as presented in this act. 9279

(B) Section 2925.14 of the Revised Code is presented in this 9280
act as a composite of the section as amended by both Am. Sub. S.B. 9281
53 and Sub. S.B. 154 of the 126th General Assembly. The General 9282
Assembly, applying the principle stated in division (B) of section 9283
1.52 of the Revised Code that amendments are to be harmonized if 9284
reasonably capable of simultaneous operation, finds that the 9285
composite is the resulting version of the section in effect prior 9286
to the effective date of the section as presented in this act. 9287

Section 4. Sections 1, 2, and 3 of this act shall take effect 9288
on July 1, 2007. If a criminal or civil forfeiture action relating 9289
to misconduct under Title XXIX of the Revised Code was or is 9290
commenced before July 1, 2007, and is still pending on that date, 9291
the court in which the case is pending shall, to the extent 9292
practical, apply the provisions of Chapter 2981. of the Revised 9293
Code in the case. 9294