

As Introduced

**127th General Assembly
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H. B. No. 323

Representative Gibbs

**Cosponsors: Representatives Peterson, McGregor, J., Evans, Huffman,
Wagner, Miller, Fessler, Seitz, Bubp, Okey, McGregor, R., Fende**

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A B I L L

To amend sections 971.01, 971.04, 971.05, 971.06, 1
971.07, 971.08, 971.09, 971.10, 971.33, 971.34, 2
and 971.99; to amend for the purpose of adopting 3
new section numbers as indicated in parentheses 4
sections 971.04 (971.09), 971.05 (971.10), 971.06 5
(971.11), 971.07 (971.12), 971.08 (971.13), 971.09 6
(971.14), and 971.10 (971.15); to enact new 7
sections 971.02, 971.03, 971.04, 971.05, 971.06, 8
971.07, 971.08, 971.16, 971.17, and 971.18; and to 9
repeal sections 971.02, 971.03, 971.11, 971.12, 10
971.13, 971.14, 971.15, 971.16, 971.17, 971.18, 11
971.21, 971.22, 971.23, 971.24, 971.25, 971.26, 12
971.27, 971.28, 971.29, 971.30, 971.31, and 971.32 13
of the Revised Code to revise the Fences Law. 14

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

Section 1. That sections 971.01, 971.04, 971.05, 971.06, 15
971.07, 971.08, 971.09, 971.10, 971.33, 971.34, and 971.99 be 16
amended, sections 971.04 (971.09), 971.05 (971.10), 971.06 17
(971.11), 971.07 (971.12), 971.08 (971.13), 971.09 (971.14), and 18
971.10 (971.15) be amended for the purpose of adopting new section 19

numbers as indicated in parentheses, and new sections 971.02, 20
971.03, 971.04, 971.05, 971.06, 971.07, 971.08, 971.16, 971.17, 21
and 971.18 of the Revised Code be enacted as follows: 22

Sec. 971.01. As used in this chapter, "owner": 23

(A) "Applicable county recorder" means the county recorder of 24
a county in which a partition fence is, was, or is not required to 25
be constructed and maintained in good repair. 26

(B) "Build a fence," "construct a fence," and "maintain a 27
fence in good repair" include any necessary clearing of land. 28

(C) "Livestock" means horses, mules, asses, hogs, sheep, 29
goats, cattle, and any other animal that is raised or maintained 30
domestically for food, fiber, or hunting purposes. 31

(D) "Owner" means both of the following: 32

~~(A)(1)~~ The owner of land in fee simple, of estates for life, 33
of easements, or of rights-of-way while used by the owners thereof 34
as farm outlets; 35

~~(B) The department of natural resources~~ (2) Any of the 36
following with regard to any land that it owns, leases, manages, 37
or otherwise controls and that is adjacent to land used to graze 38
livestock: 39

(a) The department of natural resources; 40

(b) A conservancy district organized under Chapter 6101. of 41
the Revised Code; 42

(c) A political subdivision with a real property interest in 43
recreational trails. 44

~~Proceedings under this chapter do not bind the owner unless 45
the owner is notified as provided in section 971.13 of the Revised 46
Code. 47~~

(E) "Partition fence" means a fence that is located on the 48
division line between the adjoining properties of two owners. 49
"Partition fence" includes a fence that has been considered a 50
division line between two such properties even though a subsequent 51
land survey indicates that the fence is not located directly on 52
the division line. 53

(F) "Preferred partition fence" means a partition fence that 54
is a woven wire fence, either standard or high tensile, with one 55
or two strands of barbed wire located not less than forty-eight 56
inches from the ground or a nonelectric high tensile fence of at 57
least seven strands and that is constructed in accordance with the 58
United States natural resources conservation service conservation 59
practice standard for fences, code 382. "Preferred partition 60
fence" includes a barbed wire, electric, or live fence, provided 61
that the owners of adjoining properties agree, in writing, to 62
allow such fences. 63

(G) "Recreational trail" has the same meaning as in section 64
1519.07 of the Revised Code. 65

Sec. 971.02. (A) Except as otherwise provided in this 66
section, all fields and enclosures in which livestock are kept or 67
placed and that are bordered by a division line between the 68
adjoining properties of different owners shall be enclosed by a 69
preferred partition fence. 70

(B) Nothing in this chapter prevents an owner from building a 71
fence that exceeds the requirements for a preferred partition 72
fence established under this chapter. The owner building such a 73
fence shall pay all additional costs and expenses of building the 74
fence and maintaining it in good repair. 75

(C) This section does not apply to either of the following: 76

(1) The owners of adjoining properties that enter into an 77

agreement in accordance with section 971.04 of the Revised Code; 78

(2) Fences that were constructed prior to the effective date 79
of this section. 80

Sec. 971.03. This chapter does not apply to any of the 81
following: 82

(A) The enclosure of lots in municipal corporations; 83

(B) The enclosure of adjoining properties that are laid out 84
into lots outside of municipal corporations; 85

(C) Fences that are required to be constructed by persons or 86
corporations owning, controlling, or managing a railroad pursuant 87
to Chapter 4959. of the Revised Code. 88

Sec. 971.04. Nothing in this chapter prevents the owners of 89
adjoining properties from entering into a written agreement that 90
states that no fence is needed between the properties, a fence 91
other than a preferred partition fence may be built and maintained 92
pursuant to division (C)(1) of section 971.02 of the Revised Code, 93
or the rights and obligations of the owners are different from 94
what is established in this chapter. The agreement shall be filed 95
with the applicable county recorder and placed in the partition 96
fence record established under section 971.15 of the Revised Code. 97
In addition, the agreement runs with the properties that are 98
subject to the agreement. 99

Sec. 971.05. (A) If there is evidence that a partition fence 100
previously existed between the adjoining properties of two owners, 101
one of the owners, or both, may file an affidavit with the 102
applicable county recorder to be placed in the partition fence 103
record established under section 971.15 of the Revised Code 104
stating that a partition fence existed between the adjoining 105
properties within ten years prior to the filing of the affidavit. 106

The affidavit also shall specify the location of the properties 107
and that the fence has been removed and not replaced. The 108
affidavit shall be filed no later than one year after the 109
effective date of this section. 110

(B) If an affidavit is filed under this section, section 111
971.06 of the Revised Code applies. 112

(C) If an affidavit is not filed under this section, section 113
971.07 of the Revised Code applies. 114

Sec. 971.06. (A) If a partition fence exists between 115
adjoining properties, the owners of the adjoining properties shall 116
maintain the fence in good repair in equitable shares. If the 117
owners decide to build a new fence, they shall do so in equitable 118
shares in accordance with this chapter unless the owners enter 119
into an agreement in accordance with section 971.04 of the Revised 120
Code. 121

(B) The owners of adjoining properties shall build and 122
maintain in good repair a partition fence in equitable shares in 123
accordance with this chapter if there is evidence that a partition 124
fence previously existed between the adjoining properties or if 125
either of the owners of the adjoining properties, or the previous 126
owners of the adjoining properties, has or had filed an affidavit 127
with the applicable county recorder under section 971.05 of the 128
Revised Code. However, the owners of the adjoining properties are 129
not required to build and maintain in good repair a partition 130
fence in equitable shares if the owners enter or the previous 131
owners entered, as applicable, into an agreement in accordance 132
with section 971.04 of the Revised Code. 133

(C)(1) If a partition fence is removed by an owner and not 134
replaced within one year after removal, the owner of adjoining 135
property may file an affidavit with the applicable county recorder 136

to be placed in the partition fence record established under 137
section 971.15 of the Revised Code stating that a partition fence 138
existed between the adjoining properties within one year prior to 139
the filing of the affidavit. The affidavit also shall specify the 140
location of the properties and state that the fence has been 141
removed and not replaced. 142

(2) If an affidavit is filed and a partition fence is 143
rebuilt, the owners of the adjoining properties shall build and 144
maintain in good repair the new fence in equitable shares in 145
accordance with this chapter unless the owners enter into an 146
agreement in accordance with section 971.04 of the Revised Code. 147

(3) If an affidavit is not filed and a partition fence is 148
rebuilt, the owner constructing the fence shall bear the total 149
costs of building and maintaining it in good repair. 150

Sec. 971.07. (A) If a partition fence does not exist between 151
adjoining properties, there is no evidence that a partition fence 152
previously existed, an affidavit has not been filed with the 153
applicable county recorder in accordance with section 971.05 or 154
971.06 of the Revised Code, or a written agreement between the 155
owners of adjoining properties has not been filed with the 156
applicable county recorder in accordance with section 971.04 of 157
the Revised Code and an owner wants to build a partition fence, 158
that owner shall bear the costs of building and maintaining in 159
good repair the partition fence. The owner may file with the 160
applicable county recorder an affidavit that specifies the costs 161
incurred by the owner to build the partition fence. Each year 162
after the fence is built, the owner may file with the applicable 163
county recorder an affidavit that specifies the costs incurred 164
that year by the owner to maintain the fence in good repair. 165

(B) If an owner of adjoining property that did not assist in 166
bearing the costs of building and maintaining in good repair a 167

partition fence, or any successor in interest of the property, 168
subsequently uses the fence to keep livestock enclosed on the 169
property within thirty years after the fence was built, the owner 170
that built the fence, or any successor in interest of the 171
property, may file a claim for reimbursement of fifty per cent of 172
the total cost of building and maintaining in good repair the 173
partition fence with the owner of the adjoining property or that 174
owner's successor in interest, provided that an affidavit has been 175
filed under division (A) of this section. An owner that receives a 176
claim for reimbursement under this division promptly shall pay it. 177
In addition, if necessary, the owners shall modify the partition 178
fence so that it complies with the standards for preferred 179
partition fences established in this chapter. The owners shall 180
equally divide the costs of the modification of the partition 181
fence. 182

(C) If the owner of adjoining property, or that owner's 183
successor in interest, fails to pay the claim for reimbursement of 184
fifty per cent of the total cost of building and maintaining in 185
good repair the partition fence that was filed under division (B) 186
of this section, the owner that filed the claim for reimbursement 187
may file an action in a court of competent jurisdiction to recover 188
not more than fifty per cent of the total cost of building and 189
maintaining in good repair the partition fence. 190

(D) If the owner of adjoining property, or that owner's 191
successor in interest, pays the claim for reimbursement filed by 192
the owner that built and maintained in good repair the partition 193
fence under division (B) of this section or is required to 194
reimburse that owner by a court under division (C) of this 195
section, the owner of the adjoining property, or that owner's 196
successor in interest, subsequently is subject to section 971.06 197
of the Revised Code. 198

(E) If the owner that builds and maintains in good repair a 199

partition fence does not file an affidavit under division (A) of 200
this section, the owner forfeits the owner's right to 201
reimbursement from the owner of adjoining property as authorized 202
under this section. 203

Sec. 971.08. (A) If an owner chooses to build a partition 204
fence and the owner of adjoining property does not share in the 205
construction of the fence, the owner building the fence, or a 206
contractor hired by the owner, may enter on the adjoining property 207
for no more than ten feet for the length of the fence to build and 208
maintain in good repair the fence. The owner or contractor 209
building the fence is not guilty of a violation of section 2911.21 210
of the Revised Code or an ordinance of a municipal corporation 211
that is substantially equivalent, provided that the owner or 212
contractor does not enter onto the property beyond the ten feet 213
specified in this division. However, that owner or contractor is 214
liable for all damages caused by the entry onto the adjoining 215
property, including damages to crops. 216

(B) No person shall obstruct or interfere with anyone who is 217
lawfully engaged in the construction or maintenance of a partition 218
fence. 219

Sec. 971.04 971.09. (A) When a ~~person~~ an owner neglects to 220
build or maintain in good repair a partition fence, or the portion 221
thereof ~~which he~~ that the owner is required to build or maintain, 222
the aggrieved ~~person~~ owner may ~~complain to~~ do either of the 223
following: 224

(1) File an action in a court of common pleas as provided in 225
section 971.16 of the Revised Code; 226

(2) File a complaint with the board of township trustees of 227
the township in which ~~such~~ the land or fence is located. ~~Such~~ or 228
is to be built. 229

When a partition fence is on a township or county line, the boards of township trustees of the adjacent townships have concurrent jurisdiction, and the board of township trustees of either of the townships may be called to perform the applicable duties established in this chapter. Either party to the complaint may call the board of the other township, in which case they shall act jointly, but a separate record shall be made in both townships.

(B) If a complaint is filed with a board of township trustees, the board, after not less than ten days' written notice to all adjoining ~~landowners~~ owners of the time and place of meeting, shall view the fence or premises where ~~such~~ the fence is located or is to be built, and assign, in writing, to each person his equal share thereof, to be constructed or kept in repair by him. At the meeting, the board shall determine whether a partition fence exists, regardless of whether it is in disrepair, or there is evidence that a partition fence previously existed. If there is no evidence that a partition fence exists, even in disrepair, or if there is no evidence that a partition fence previously existed, the board shall review the applicable county recorder's records to determine whether an affidavit has been filed in accordance with section 971.05, 971.06, or 971.07 of the Revised Code or an agreement has been filed in accordance with section 971.04 of the Revised Code.

(C) After viewing the fence or premises and reviewing the applicable county recorder's records, if applicable, the board may request additional information from either owner that is a party to the complaint.

(D)(1) At the next regularly scheduled meeting of the board after viewing the fence or premises and reviewing the applicable county recorder's records, if applicable, the board shall determine if a partition fence is required to be built or

maintained in good repair, as applicable. If the board determines 262
that a partition fence is required to be built or maintained, the 263
board shall decide each owner's responsibility for building or 264
maintaining in good repair the partition fence. 265

(2) If the board finds that both owners are responsible, the 266
board shall equitably assign, in writing, each owner's share of 267
building or maintaining in good repair the partition fence. When 268
making an equitable assignment, the board may assign a specific 269
portion of the partition fence to be built or maintained in good 270
repair, or the board may assign a portion of the total cost of 271
building or maintaining in good repair the partition fence if the 272
owners have submitted to the board an estimate from a contractor 273
of the necessary cost to perform the applicable work. If the 274
partition fence does or will contain livestock, the board shall 275
include in the equitable assignment the cost of building or 276
modifying the fence to meet the standards for preferred partition 277
fences established in this chapter. 278

(3) If the board finds that one owner is responsible, the 279
board shall require that owner, in writing, to pay the total cost 280
of building or maintaining in good repair the partition fence or 281
the portion of the partition fence for which the owner is 282
responsible, as applicable. 283

(4) If the board determines that a partition fence is not 284
required to be built or maintained in good repair, as applicable, 285
the board shall notify each owner of that determination in 286
writing. 287

(E) When making an equitable assignment under division (D)(2) 288
of this section, the board shall consider, without limitation, all 289
of the following: 290

(1) The topography of the applicable property; 291

(2) The presence of streams, creeks, rivers, or other bodies 292

<u>of water;</u>	293
<u>(3) The presence of trees, vines, or other vegetation;</u>	294
<u>(4) The level of risk of trespassers on either property due to the population density surrounding the property or the recreational use of adjoining properties;</u>	295 296 297
<u>(5) The importance of marking division lines between the properties;</u>	298 299
<u>(6) The number and type of livestock owned by either owner that may be contained by the partition fence.</u>	300 301
<u>(F) The board shall certify a report of an assignment made under division (D)(2) of this section or a finding made under division (D)(3) of this section to the applicable county recorder, who shall record the assignment or finding in the partition fence record established under section 971.15 of the Revised Code.</u>	302 303 304 305 306
<u>(G)(1) If either owner does not agree to the board's assignment of responsibility under division (D)(2) of this section for building or maintaining in good repair a partition fence, the owner, not later than thirty days after the assignment has been made, may deliver to the board and the other owner a written request for binding arbitration. An owner that requests binding arbitration also shall deliver a copy of the request to the court of common pleas of the county in which the arbitration is to be held, which shall be the county in which the owner that seeks the binding arbitration resides.</u>	307 308 309 310 311 312 313 314 315 316
<u>(2) The court of common pleas in which the arbitration is to be held shall appoint an arbitrator. The owners and the board shall pay the costs of the arbitrator's services in equal amounts. An arbitrator that has knowledge of this chapter shall be appointed, if possible.</u>	317 318 319 320 321
<u>(3) Not later than thirty days after appointment of an</u>	322

arbitrator, each owner and the board shall deliver to the 323
arbitrator a recommendation for the assignment of responsibility 324
for building or maintaining in good repair the partition fence. 325
Not later than sixty days after appointment of the arbitrator, the 326
arbitrator shall approve one of the recommendations submitted or 327
assign responsibility for building or maintaining in good repair 328
the partition fence based on the arbitrator's judgment. 329

The arbitrator shall deliver to each owner and the board a 330
written statement of the arbitration decision that states each 331
owner's responsibility for building or maintaining in good repair 332
the partition fence. The arbitrator shall certify a report of the 333
arbitration decision to the applicable county recorder, who shall 334
record the decision in the partition fence record established 335
under section 971.15 of the Revised Code. 336

The owners shall abide by the arbitration decision. The 337
arbitration decision shall be enforced, upon petition by either 338
owner, by the court of common pleas of the county in which the 339
petitioner resides. 340

Sec. ~~971.05~~ 971.10. The cost due the township fiscal officer 341
and the board of township trustees for making the assignment set 342
forth in section ~~971.04~~ 917.09 of the Revised Code shall be taxed 343
equally against each of the persons and, if not paid to the fiscal 344
officer within thirty days from the date of the assignment, shall 345
be certified by the fiscal officer to the county auditor, with a 346
correct description of the lands and the amount charged against 347
each portion. 348

Sec. ~~971.06~~ 971.11. The county auditor shall place the amount 349
authorized in section ~~971.05~~ 971.10 of the Revised Code upon the 350
duplicate to be collected as other taxes, and the county treasurer 351
shall pay it, when collected, to the township fiscal officer as 352

other funds are paid. 353

Sec. ~~971.07~~ 971.12. (A) If either ~~person~~ owner fails to build 354
or maintain in good repair the portion of a partition fence 355
assigned to ~~him~~ the owner under section ~~971.04~~ 971.09 of the 356
Revised Code, the board of township trustees, upon the application 357
of the aggrieved ~~person~~ owner, shall award the contract to the 358
lowest responsible bidder agreeing to furnish the labor and 359
material, and build ~~such~~ or maintain the fence according to the 360
specifications proposed by the board, after advertising for bids 361
once a week for three consecutive weeks in a newspaper of general 362
circulation in the county in which the township is situated. 363

(B) If no bids are received from responsible bidders as 364
provided in this section, the trustees shall procure labor and 365
materials at prevailing rates and cause ~~such~~ the fence to be 366
constructed or maintained. 367

(C) No person shall obstruct or interfere with anyone 368
lawfully engaged in construction or maintenance of a partition 369
fence or in the performance of any other act described in this 370
section. 371

Sec. ~~971.08~~ 971.13. When the work provided for under section 372
971.12 of the Revised Code is completed to the satisfaction of the 373
board of township trustees, it shall certify the costs to the 374
township fiscal officer. If the costs are not paid within thirty 375
days, the township fiscal officer shall certify them to the county 376
auditor with a statement of the cost of the construction or 377
maintenance and incidental costs incurred by the trustees and a 378
correct description of each piece of land upon which the costs are 379
assessed. 380

Sec. ~~971.09~~ 971.14. The county auditor shall place the 381
amounts certified, as provided in section ~~971.08~~ 971.13 of the 382

Revised Code, upon the tax duplicate, which amounts shall become a 383
lien and be collected as other taxes. The board of township 384
trustees shall certify the amount due each person for building or 385
maintaining the fence and the amount due each trustee and the 386
township fiscal officer for services rendered. In anticipation of 387
the collection of the amounts, the auditor shall draw orders for 388
the payment of the amounts out of the county treasury. 389

Sec. ~~971.10~~ 971.15. The applicable county recorder shall keep 390
a book known as the "Partition Fence Record partition fence 391
record" and all divisions of. All agreements between the owners of 392
adjoining properties filed in accordance with this chapter, all 393
affidavits filed by owners in accordance with this chapter, and 394
all assignments of and findings and decisions regarding 395
responsibility for building and maintaining in good repair 396
partition fences made under this chapter shall be recorded 397
therein, and in the record. A document recorded in the record 398
shall be final between the parties thereto and successive owners 399
thereafter, until such divisions become unequal by a sale or 400
division of land or a portion thereof, in which case a new 401
division may be had modified by a subsequent document. All 402
documents recorded in the record shall describe the land where a 403
partition fence is located and the portion of the fence assigned 404
to each applicable owner. In addition, the documents shall 405
describe the purposes and use of the partition fence. 406

Sec. 971.16. (A) An owner may file an action in a court of 407
common pleas of the county in which the owner resides if the owner 408
of adjoining property neglects to build or maintain in good repair 409
a partition fence or the portion of a partition fence that the 410
owner is required to build or maintain. 411

(B) In an action filed under this section, a court shall 412
consider all of the following when making an assignment of 413

<u>responsibility for building or maintaining in good repair a</u>	414
<u>partition fence:</u>	415
<u>(1) Whether a partition fence currently exists even if it is</u>	416
<u>in disrepair;</u>	417
<u>(2) Whether there is evidence that a partition fence existed</u>	418
<u>in the past;</u>	419
<u>(3) Whether a written agreement between the owners has been</u>	420
<u>filed with the applicable county recorder in accordance with</u>	421
<u>section 971.04 of the Revised Code;</u>	422
<u>(4) Whether an affidavit has been filed with the applicable</u>	423
<u>county recorder in accordance with section 971.05, 971.06, or</u>	424
<u>971.07 of the Revised Code;</u>	425
<u>(5) All of the following:</u>	426
<u>(a) The topography of the applicable property;</u>	427
<u>(b) The presence of streams, creeks, rivers, or other bodies</u>	428
<u>of water;</u>	429
<u>(c) The presence of trees, vines, or other vegetation;</u>	430
<u>(d) The level of risk of trespassers on either property due</u>	431
<u>to the population density surrounding the property or the</u>	432
<u>recreational use of adjoining properties;</u>	433
<u>(e) The importance of marking division lines between the</u>	434
<u>properties;</u>	435
<u>(f) The number and type of livestock owned by either owner</u>	436
<u>that may be contained by the partition fence.</u>	437
<u>The court shall make an assignment in equitable shares.</u>	438
<u>(C) The court shall assign attorney's fees and court costs in</u>	439
<u>an equitable manner to the parties.</u>	440
<u>Sec. 971.17. (A) Not fewer than twenty-eight days prior to</u>	441

removing a partition fence, an owner shall notify the owner of 442
adjoining property in writing that the owner intends to remove the 443
partition fence. The notice may be delivered personally or by 444
certified mail, return receipt requested, to the last known 445
address of the adjoining owner. If the notice delivered by 446
certified mail is refused or unclaimed, the notice may be 447
delivered by ordinary mail. If the notice delivered by ordinary 448
mail is returned for failure of delivery, or if the address of the 449
adjoining owner is unknown and cannot be ascertained with 450
reasonable diligence, notice may be served by publication once a 451
week for three consecutive weeks in a newspaper of general 452
circulation in the county in which the partition fence is located. 453

(B) If an owner removes a partition fence without notifying 454
the owner of adjoining property in accordance with division (A) of 455
this section, the owner forfeits the owner's right to seek 456
reimbursement under section 971.07 of the Revised Code for the 457
construction and maintenance of a new partition fence. 458

(C) An action for trespass by the owner of adjoining property 459
against the owner removing a partition fence may include a 460
reasonable request for court costs, attorney's fees, and other 461
litigation costs. 462

(D) No owner shall place any debris accumulated from the 463
removal of a partition fence on adjoining property without 464
entering into a written agreement with the owner of the adjoining 465
property. An adjoining owner who has not entered into a written 466
agreement under this division shall have a cause of action against 467
the owner that placed debris from the removal of a partition fence 468
on the adjoining owner's property for the cost of removing that 469
debris. Any action against the owner may include any attorney's 470
fees. 471

Sec. 971.18. An owner of livestock who permits the livestock 472
to run at large out of the livestock's enclosure is liable for all 473
damages caused by the livestock on the premises of another. 474

Sec. 971.33. An owner of land, adjacent to a ~~line or~~ 475
partition fence, shall keep all brush, briars, thistles, or other 476
noxious weeds cut in the fence corners and a strip four feet wide 477
on ~~his~~ the owner's side along the line of a partition fence, but 478
this section does not affect the planting of vines or trees for 479
use. 480

Sec. 971.34. If the owner or tenant occupying land, neglects 481
or refuses to cut brush, briars, thistles, or other noxious weeds, 482
as provided in section 971.33 of the Revised Code, an owner or 483
occupant of land abutting on the ~~line or~~ partition fence, after 484
having given the owner or tenant not less than ten days' notice to 485
cut or remove them, may notify the board of township trustees of 486
the township in which the land is situated, who shall forthwith 487
view the premises, and if satisfied that there is just cause of 488
complaint, shall cause them to be cut, by letting the work to the 489
lowest bidder, or by entering into a private contract therefor. 490

Sec. 971.99. (A) ~~Whoever~~ Except as otherwise provided in 491
division (B), (C), or (D) of this section, whoever violates 492
division (B) of section ~~971.03~~ 971.08 or division (C) of section 493
971.12 of the Revised Code is guilty of a misdemeanor of the 494
~~fourth~~ third degree. 495

~~(B) Whoever violates division (C) of section 971.07 of the~~ 496
~~Revised Code is guilty of a misdemeanor of the third degree.~~ 497

(B) Whoever violates division (B) of section 971.08 or 498
division (C) of section 971.12 of the Revised Code is guilty of a 499
misdemeanor of the second degree if, in committing the offense, 500

the violator made a threat of physical harm to the person that was 501
building or maintaining a partition fence. 502

(C) Whoever violates division (B) of section 971.08 or 503
division (C) of section 971.12 of the Revised Code is guilty of a 504
misdemeanor of the first degree if, in committing the offense, the 505
violator caused physical harm to the person that was building or 506
maintaining a partition fence. 507

(D) Whoever violates division (B) of section 971.08 or 508
division (C) of section 971.12 of the Revised Code is guilty of a 509
felony of the fifth degree if, in committing the offense, the 510
violator caused serious physical harm or death to the person that 511
was building or maintaining a partition fence. 512

(E) Prosecution for a violation of division (B) of section 513
971.08 or division (C) of section 971.12 of the Revised Code does 514
not preclude prosecution for a violation of any other section of 515
the Revised Code. One or more acts, a series of acts, or a course 516
of behavior that can be prosecuted under this section or any other 517
section of the Revised Code may be prosecuted under this section, 518
the other section, or both sections. 519

Section 2. That existing sections 971.01, 971.04, 971.05, 520
971.06, 971.07, 971.08, 971.09, 971.10, 971.33, 971.34, and 971.99 521
and sections 971.02, 971.03, 971.11, 971.12, 971.13, 971.14, 522
971.15, 971.16, 971.17, 971.18, 971.21, 971.22, 971.23, 971.24, 523
971.25, 971.26, 971.27, 971.28, 971.29, 971.30, 971.31, and 971.32 524
of the Revised Code are hereby repealed. 525