

**As Passed by the Senate**

**127th General Assembly**

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**Sub. H. B. No. 323**

**Representative Gibbs**

**Cosponsors: Representatives Peterson, McGregor, J., Evans, Huffman,  
Wagner, Miller, Fessler, Seitz, Bubp, Okey, McGregor, R., Fende, Schlichter,  
Sayre, Aslanides, Zehringer, Reinhard, Core, Hite, Domenick, Adams,  
Batchelder, Bolon, Collier, Combs, Dolan, Dyer, Gardner, Hagan, J.,  
Harwood, Hughes, Luckie, Newcomb, Patton, Schindel, Setzer, Skindell,  
Szollosi, Uecker, Williams, B.**

**Senators Wilson, Faber, Grendell, Amstutz, Morano, Mumper, Niehaus,  
Roberts, Sawyer, Schuler, Seitz, Spada, Harris**

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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 9  
section 971.071; and to repeal sections 971.02, 10  
971.03, 971.11, 971.12, 971.13, 971.14, 971.15, 11  
971.16, 971.17, 971.18, 971.21, 971.22, 971.23, 12  
971.24, 971.25, 971.26, 971.27, 971.28, 971.29, 13  
971.30, 971.31, and 971.32 of the Revised Code to 14  
revise the Fences Law. 15

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

**Section 1.** That sections 971.01, 971.04, 971.05, 971.06, 16  
971.07, 971.08, 971.09, 971.10, 971.33, 971.34, and 971.99 be 17  
amended, sections 971.04 (971.09), 971.05 (971.10), 971.06 18  
(971.11), 971.07 (971.12), 971.08 (971.13), 971.09 (971.14), and 19  
971.10 (971.15) be amended for the purpose of adopting new section 20  
numbers as indicated in parentheses, and new sections 971.02, 21  
971.03, 971.04, 971.05, 971.06, 971.07, 971.08, 971.16, 971.17, 22  
and 971.18 and section 971.071 of the Revised Code be enacted as 23  
follows: 24

**Sec. 971.01.** As used in this chapter, ~~"owner":~~ 25

(A) "Applicable county recorder" means the county recorder of 26  
a county in which a partition fence is, was, or is not required to 27  
be constructed and maintained in good repair. 28

(B) "Build a fence," "construct a fence," and "maintain a 29  
fence in good repair" include any necessary clearing of land. 30

(C) "Livestock" means horses, mules, asses, hogs, sheep, 31  
goats, cattle, and any other animal that is raised or maintained 32  
domestically for food, fiber, or hunting purposes. 33

(D) "Owner" means both of the following: 34

~~(A)~~(1) The owner of land in fee simple, of estates for life, 35  
of easements, or of rights-of-way while used by the owners thereof 36  
as farm outlets; 37

~~(B) The department of natural resources~~ (2) Any of the 38  
following with regard to any land that it owns, leases, manages, 39  
or otherwise controls and that is adjacent to land used to graze 40  
livestock: 41

(a) The department of natural resources; 42

(b) A conservancy district organized under Chapter 6101. of 43  
the Revised Code; 44

(c) A political subdivision with a real property interest in 45  
recreational trails. 46

~~Proceedings under this chapter do not bind the owner unless~~ 47  
~~the owner is notified as provided in section 971.13 of the Revised~~ 48  
~~Code.~~ 49

(E) "Partition fence" means a fence that is located on the 50  
division line between the adjoining properties of two owners. 51  
"Partition fence" includes a fence that has been considered a 52  
division line between two such properties even though a subsequent 53  
land survey indicates that the fence is not located directly on 54  
the division line. 55

(F) "Preferred partition fence" means a partition fence that 56  
is a woven wire fence, either standard or high tensile, with one 57  
or two strands of barbed wire located not less than forty-eight 58  
inches from the ground or a nonelectric high tensile fence of at 59  
least seven strands and that is constructed in accordance with the 60  
United States natural resources conservation service conservation 61  
practice standard for fences, code 382. "Preferred partition 62  
fence" includes a barbed wire, electric, or live fence, provided 63  
that the owners of adjoining properties agree, in writing, to 64  
allow such fences. 65

(G) "Recreational trail" has the same meaning as in section 66  
1519.07 of the Revised Code. 67

**Sec. 971.02.** (A) Except as otherwise provided in this 68  
section, all fields and enclosures in which livestock are kept or 69  
placed and that are bordered by a division line between the 70  
adjoining properties of different owners shall be enclosed by a 71  
preferred partition fence. 72

(B) Nothing in this chapter prevents an owner from building a fence that exceeds the requirements for a preferred partition fence established under this chapter. The owner building such a fence shall pay all additional costs and expenses of building the fence and maintaining it in good repair. 73  
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(C) This section does not apply to either of the following: 78

(1) The owners of adjoining properties that enter into an agreement in accordance with section 971.04 of the Revised Code; 79  
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(2) Fences that were constructed prior to the effective date of this section. 81  
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Sec. 971.03. This chapter does not apply to any of the following: 83  
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(A) The enclosure of lots in municipal corporations; 85

(B) The enclosure of adjoining properties that are laid out into lots outside of municipal corporations; 86  
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(C) Fences that are required to be constructed by persons or corporations owning, controlling, or managing a railroad pursuant to Chapter 4959. of the Revised Code. 88  
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Sec. 971.04. Nothing in this chapter prevents the owners of adjoining properties from entering into a written agreement that states that no fence is needed between the properties, a fence other than a preferred partition fence may be built and maintained pursuant to division (C)(1) of section 971.02 of the Revised Code, or the rights and obligations of the owners are different from what is established in this chapter. The agreement shall be filed with the applicable county recorder and placed in the partition fence record established under section 971.15 of the Revised Code. In addition, the agreement runs with the properties that are subject to the agreement. 91  
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Sec. 971.05. (A) If there is evidence that a partition fence previously existed between the adjoining properties of two owners, one of the owners, or both, may file an affidavit with the applicable county recorder to be placed in the partition fence record established under section 971.15 of the Revised Code stating that a partition fence existed between the adjoining properties within two years prior to the filing of the affidavit. The affidavit also shall specify the location of the properties and that the fence has been removed and not replaced. The affidavit shall be filed no later than one year after the effective date of this section.

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

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

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

(B) The owners of adjoining properties shall build and maintain in good repair a partition fence in equitable shares in accordance with this chapter if there is evidence that a partition fence previously existed between the adjoining properties or if either of the owners of the adjoining properties, or the previous owners of the adjoining properties, has or had filed an affidavit with the applicable county recorder under section 971.05 of the Revised Code. However, the owners of the adjoining properties are

not required to build and maintain in good repair a partition 132  
fence in equitable shares if the owners enter or the previous 133  
owners entered, as applicable, into an agreement in accordance 134  
with section 971.04 of the Revised Code. 135

(C)(1) If a partition fence is removed by an owner and not 136  
replaced within one year after removal, the owner who removed the 137  
partition fence shall file an affidavit with the applicable county 138  
recorder to be placed in the partition fence record established 139  
under section 971.15 of the Revised Code stating that a partition 140  
fence existed between the adjoining properties within one year 141  
prior to the filing of the affidavit. The affidavit also shall 142  
specify the location of the properties and state that the fence 143  
has been removed and not replaced. 144

(2) If an affidavit is filed and a partition fence is 145  
rebuilt, the owners of the adjoining properties shall build and 146  
maintain in good repair the new fence in equitable shares in 147  
accordance with this chapter unless the owners enter into an 148  
agreement in accordance with section 971.04 of the Revised Code. 149

(3) If an affidavit is not filed and a partition fence is 150  
rebuilt, the owner constructing the fence shall bear the total 151  
costs of building and maintaining it in good repair. 152

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

applicable county recorder an affidavit that specifies the costs 163  
incurred by the owner to build the partition fence. Each year 164  
after the fence is built, the owner may file with the applicable 165  
county recorder an affidavit that specifies the costs incurred 166  
that year by the owner to maintain the fence in good repair. 167

(B) If an owner of adjoining property that did not assist in 168  
bearing the costs of building and maintaining in good repair a 169  
partition fence, or any successor in interest of the property, 170  
subsequently uses the fence to keep livestock enclosed on the 171  
property within thirty years after the fence was built, the owner 172  
that built the fence, or any successor in interest of the 173  
property, may file a claim for reimbursement of a proportionate 174  
share of the total cost of building and maintaining in good repair 175  
the partition fence with the owner of the adjoining property or 176  
that owner's successor in interest, provided that an affidavit has 177  
been filed under division (A) of this section. A reimbursement 178  
claimed under this division shall equal the total cost of building 179  
and maintaining the partition fence in good repair minus 180  
one-thirtieth of the total cost multiplied by the number of years, 181  
including parts of a year, that are included in the period 182  
beginning on the date on which the affidavit was filed and ending 183  
on the date on which the claim for reimbursement is made. An owner 184  
that receives a claim for reimbursement under this division 185  
promptly shall pay it. In addition, if necessary, the owners shall 186  
modify the partition fence so that it complies with the standards 187  
for preferred partition fences established in this chapter. The 188  
owners shall equally divide the costs of the modification of the 189  
partition fence. 190

(C) If the owner of adjoining property, or that owner's 191  
successor in interest, fails to pay the claim for reimbursement of 192  
the proportionate share of the total cost of building and 193  
maintaining in good repair the partition fence that was filed 194

under division (B) of this section, the owner that filed the claim 195  
for reimbursement may file an action in a court of competent 196  
jurisdiction to recover not more than the proportionate share of 197  
the total cost of building and maintaining in good repair the 198  
partition fence. 199

(D) If the owner of adjoining property, or that owner's 200  
successor in interest, pays the claim for reimbursement filed by 201  
the owner that built and maintained in good repair the partition 202  
fence under division (B) of this section or is required to 203  
reimburse that owner by a court under division (C) of this 204  
section, the owner of the adjoining property, or that owner's 205  
successor in interest, subsequently is subject to section 971.06 206  
of the Revised Code. 207

(E) If the owner that builds and maintains in good repair a 208  
partition fence does not file an affidavit under division (A) of 209  
this section, the owner forfeits the owner's right to 210  
reimbursement from the owner of adjoining property as authorized 211  
under this section. 212

**Sec. 971.071.** Notwithstanding any other provision in this 213  
chapter, an owner of land as defined in division (D)(2) of section 214  
971.01 of the Revised Code is responsible for fifty per cent of 215  
the total cost of building and maintaining in good repair a 216  
partition fence between that owner and the owner of adjoining 217  
property unless a written agreement has been entered into under 218  
section 971.04 of the Revised Code. 219

**Sec. 971.08.** (A) If an owner chooses to build a partition 220  
fence and the owner of adjoining property does not share in the 221  
construction of the fence, the owner building the fence, or a 222  
contractor hired by the owner, may enter on the adjoining property 223  
for no more than ten feet for the length of the fence to build and 224



maintain in good repair the fence. The owner or contractor 225  
building the fence is not guilty of a violation of section 2911.21 226  
of the Revised Code or an ordinance of a municipal corporation 227  
that is substantially equivalent, provided that the owner or 228  
contractor does not enter onto the property beyond the ten feet 229  
specified in this division. However, that owner or contractor is 230  
liable for all damages caused by the entry onto the adjoining 231  
property, including damages to crops. 232

(B) No person shall obstruct or interfere with anyone who is 233  
lawfully engaged in the construction or maintenance of a partition 234  
fence. 235

**Sec. 971.04 971.09.** (A)(1) When a ~~person~~ an owner neglects to 236  
build or maintain in good repair a partition fence, or the portion 237  
thereof ~~which he~~ that the owner is required to build or maintain, 238  
the aggrieved ~~person~~ owner may ~~complain to~~ do either of the 239  
following: 240

(a) File an action in a court of common pleas as provided in 241  
section 971.16 of the Revised Code; 242

(b) File a complaint with the board of township trustees of 243  
the township in which ~~such~~ the land or fence is located. ~~Such~~ or 244  
is to be built. 245

(2) If the aggrieved owner intends to file a complaint with 246  
the applicable board of township trustees, the board shall present 247  
the aggrieved owner with a document containing both of the 248  
following: 249

(a) Notification that in lieu of filing a complaint with the 250  
board of township trustees as provided in this section, an action 251  
may be filed in a court of common pleas as provided in section 252  
971.16 of the Revised Code; 253

(b) A description of the possible financial and maintenance 254

responsibilities that may result from the board's findings. 255

The aggrieved owner shall sign and date the document and 256  
return it to the board prior to filing a complaint with the board. 257

(3) When a partition fence is on a township or county line, 258  
the boards of township trustees of the adjacent townships have 259  
concurrent jurisdiction, and the board of township trustees of 260  
either of the townships may be called to perform the applicable 261  
duties established in this chapter. Either party to the complaint 262  
may call the board of the other township, in which case they shall 263  
act jointly, but a separate record shall be made in both 264  
townships. 265

(B) If a complaint is filed with a board of township 266  
trustees, the board, after not less than ten days' written notice 267  
to all adjoining ~~landowners~~ owners of the time and place of 268  
meeting, shall view the fence or premises where ~~such~~ the fence is 269  
located or is to be built, and assign, in writing, to each person 270  
his equal share thereof, to be constructed or kept in repair by 271  
him. At the meeting, the board shall determine whether a partition 272  
fence exists, regardless of whether it is in disrepair, or there 273  
is evidence that a partition fence previously existed. If there is 274  
no evidence that a partition fence exists, even in disrepair, or 275  
if there is no evidence that a partition fence previously existed, 276  
the board shall review the applicable county recorder's records to 277  
determine whether an affidavit has been filed in accordance with 278  
section 971.05, 971.06, or 971.07 of the Revised Code or an 279  
agreement has been filed in accordance with section 971.04 of the 280  
Revised Code. 281

(C) After viewing the fence or premises and reviewing the 282  
applicable county recorder's records, if applicable, the board may 283  
request additional information from either owner that is a party 284  
to the complaint. 285

(D)(1) At the next regularly scheduled meeting of the board 286  
after viewing the fence or premises and reviewing the applicable 287  
county recorder's records, if applicable, the board shall 288  
determine if a partition fence is required to be built or 289  
maintained in good repair, as applicable. If the board determines 290  
that a partition fence is required to be built or maintained, the 291  
board shall decide each owner's responsibility for building or 292  
maintaining in good repair the partition fence. 293

(2) If the board finds that both owners are responsible, the 294  
board shall equitably assign, in writing, each owner's share of 295  
building or maintaining in good repair the partition fence. When 296  
making an equitable assignment, the board may assign a specific 297  
portion of the partition fence to be built or maintained in good 298  
repair, or the board may assign a portion of the total cost of 299  
building or maintaining in good repair the partition fence if the 300  
owners have submitted to the board an estimate from a contractor 301  
of the necessary cost to perform the applicable work. If the 302  
partition fence does or will contain livestock, the board shall 303  
include in the equitable assignment the cost of building or 304  
modifying the fence to meet the standards for preferred partition 305  
fences established in this chapter. 306

(3) If the board finds that one owner is responsible, the 307  
board shall require that owner, in writing, to pay the total cost 308  
of building or maintaining in good repair the partition fence or 309  
the portion of the partition fence for which the owner is 310  
responsible, as applicable. 311

(4) If the board determines that a partition fence is not 312  
required to be built or maintained in good repair, as applicable, 313  
the board shall notify each owner of that determination in 314  
writing. 315

(E) When making an equitable assignment under division (D)(2) 316  
of this section, the board shall consider, without limitation, all 317

<u>of the following:</u>	318
<u>(1) The topography of the applicable property;</u>	319
<u>(2) The presence of streams, creeks, rivers, or other bodies</u> <u>of water;</u>	320 321
<u>(3) The presence of trees, vines, or other vegetation;</u>	322
<u>(4) The level of risk of trespassers on either property due</u> <u>to the population density surrounding the property or the</u> <u>recreational use of adjoining properties;</u>	323 324 325
<u>(5) The importance of marking division lines between the</u> <u>properties;</u>	326 327
<u>(6) The number and type of livestock owned by either owner</u> <u>that may be contained by the partition fence.</u>	328 329
<u>(F) The board shall certify a report of an assignment made</u> <u>under division (D)(2) of this section or a finding made under</u> <u>division (D)(3) of this section to the applicable county recorder,</u> <u>who shall record the assignment or finding in the partition fence</u> <u>record established under section 971.15 of the Revised Code.</u>	330 331 332 333 334
<u>(G)(1) If either owner does not agree to the board's</u> <u>assignment of responsibility under division (D)(2) of this section</u> <u>for building or maintaining in good repair a partition fence, the</u> <u>owner, not later than thirty days after the assignment has been</u> <u>made, may deliver to the board and the other owner a written</u> <u>request for binding arbitration. An owner that requests binding</u> <u>arbitration also shall deliver a copy of the request to the court</u> <u>of common pleas of the county in which the arbitration is to be</u> <u>held, which shall be the county in which the owner that seeks the</u> <u>binding arbitration resides. If either owner requests binding</u> <u>arbitration, the board shall submit a report of its recommendation</u> <u>of assignment that is made under division (D)(2) of this section</u> <u>or of its finding that is made under division (D)(3) of this</u>	335 336 337 338 339 340 341 342 343 344 345 346 347

section, as applicable, to the court of common pleas in which the 348  
arbitration is to be held. 349

(2) The court of common pleas in which the arbitration is to 350  
be held shall appoint an arbitrator. The court shall furnish the 351  
board's report that is submitted to the court under division 352  
(G)(1) of this section to the arbitrator. The owners shall pay the 353  
costs of the arbitrator's services in equal amounts. An arbitrator 354  
that has knowledge of this chapter shall be appointed, if 355  
possible. 356

(3) Not later than thirty days after appointment of an 357  
arbitrator, each owner and the board shall deliver to the 358  
arbitrator a recommendation for the assignment of responsibility 359  
for building or maintaining in good repair the partition fence. 360  
Not later than sixty days after appointment of the arbitrator, the 361  
arbitrator shall approve one of the recommendations submitted or 362  
assign responsibility for building or maintaining in good repair 363  
the partition fence based on the arbitrator's judgment. 364

The arbitrator shall deliver to each owner and the board a 365  
written statement of the arbitration decision that states each 366  
owner's responsibility for building or maintaining in good repair 367  
the partition fence. The arbitrator shall certify a report of the 368  
arbitration decision to the applicable county recorder, who shall 369  
record the decision in the partition fence record established 370  
under section 971.15 of the Revised Code. 371

The owners shall abide by the arbitration decision. The 372  
arbitration decision shall be enforced, upon petition by either 373  
owner, by the court of common pleas of the county in which the 374  
petitioner resides. 375

**Sec. 971.05 971.10.** The cost due the township fiscal officer 376  
and the board of township trustees for making the assignment set 377  
forth in section 971.04 971.09 of the Revised Code shall be taxed 378

equally against each of the persons and, if not paid to the fiscal officer within thirty days from the date of the assignment, shall be certified by the fiscal officer to the county auditor, with a correct description of the lands and the amount charged against each portion.

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

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

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

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

**Sec. ~~971.08~~ 971.13.** When the work provided for under section 971.12 of the Revised Code is completed to the satisfaction of the

board of township trustees, it shall certify the costs to the 409  
township fiscal officer. If the costs are not paid within thirty 410  
days, the township fiscal officer shall certify them to the county 411  
auditor with a statement of the cost of the construction or 412  
maintenance and incidental costs incurred by the trustees and a 413  
correct description of each piece of land upon which the costs are 414  
assessed. 415

**Sec. ~~971.09~~ 971.14.** The county auditor shall place the 416  
amounts certified, as provided in section ~~971.08~~ 971.13 of the 417  
Revised Code, upon the tax duplicate, which amounts shall become a 418  
lien and be collected as other taxes. The board of township 419  
trustees shall certify the amount due each person for building or 420  
maintaining the fence and the amount due each trustee and the 421  
township fiscal officer for services rendered. In anticipation of 422  
the collection of the amounts, the auditor shall draw orders for 423  
the payment of the amounts out of the county treasury. 424

**Sec. ~~971.10~~ 971.15.** The applicable county recorder shall keep 425  
a book known as the "Partition Fence Record partition fence 426  
record" ~~and all divisions of.~~ All agreements between the owners of 427  
adjoining properties filed in accordance with this chapter, all 428  
affidavits filed by owners in accordance with this chapter, and 429  
all assignments of and findings and decisions regarding 430  
responsibility for building and maintaining in good repair 431  
partition fences made under this chapter shall be recorded 432  
~~therein, and~~ in the record. A document recorded in the record 433  
shall be final between the parties thereto and successive owners 434  
~~thereafter, until such divisions become unequal by a sale or~~ 435  
~~division of land or a portion thereof, in which case a new~~ 436  
~~division may be had~~ modified by a subsequent document. All 437  
documents recorded in the record shall describe the land where a 438  
partition fence is located and the portion of the fence assigned 439

to each applicable owner. In addition, the documents shall 440  
describe the purposes and use of the partition fence. 441

Sec. 971.16. (A) An owner may file an action in a court of 442  
common pleas of the county in which the owner resides if the owner 443  
of adjoining property neglects to build or maintain in good repair 444  
a partition fence or the portion of a partition fence that the 445  
owner is required to build or maintain. 446

(B) In an action filed under this section, a court shall 447  
consider all of the following when making an assignment of 448  
responsibility for building or maintaining in good repair a 449  
partition fence: 450

(1) Whether a partition fence currently exists even if it is 451  
in disrepair; 452

(2) Whether there is evidence that a partition fence existed 453  
in the past; 454

(3) Whether a written agreement between the owners has been 455  
filed with the applicable county recorder in accordance with 456  
section 971.04 of the Revised Code; 457

(4) Whether an affidavit has been filed with the applicable 458  
county recorder in accordance with section 971.05, 971.06, or 459  
971.07 of the Revised Code; 460

(5) All of the following: 461

(a) The topography of the applicable property; 462

(b) The presence of streams, creeks, rivers, or other bodies 463  
of water; 464

(c) The presence of trees, vines, or other vegetation; 465

(d) The level of risk of trespassers on either property due 466  
to the population density surrounding the property or the 467  
recreational use of adjoining properties; 468



(e) The importance of marking division lines between the 469  
properties; 470

(f) The number and type of livestock owned by either owner 471  
that may be contained by the partition fence. 472

The court shall make an assignment in equitable shares. 473

(C) The court shall assign attorney's fees and court costs in 474  
an equitable manner to the parties. 475

**Sec. 971.17.** (A) Not fewer than twenty-eight days prior to 476  
removing a partition fence, an owner shall notify the owner of 477  
adjoining property in writing that the owner intends to remove the 478  
partition fence. The notice may be delivered personally or by 479  
certified mail, return receipt requested, to the last known 480  
address of the adjoining owner. If the notice delivered by 481  
certified mail is refused or unclaimed, the notice may be 482  
delivered by ordinary mail. If the notice delivered by ordinary 483  
mail is returned for failure of delivery, or if the address of the 484  
adjoining owner is unknown and cannot be ascertained with 485  
reasonable diligence, notice may be served by publication once a 486  
week for three consecutive weeks in a newspaper of general 487  
circulation in the county in which the partition fence is located. 488

(B) If an owner removes a partition fence without notifying 489  
the owner of adjoining property in accordance with division (A) of 490  
this section, the owner forfeits the owner's right to seek 491  
reimbursement under section 971.07 of the Revised Code for the 492  
construction and maintenance of a new partition fence. 493

(C) An action for trespass by the owner of adjoining property 494  
against the owner removing a partition fence may include a 495  
reasonable request for court costs, attorney's fees, and other 496  
litigation costs. 497

(D) No owner shall place any debris accumulated from the 498

removal of a partition fence on adjoining property without 499  
entering into a written agreement with the owner of the adjoining 500  
property. An adjoining owner who has not entered into a written 501  
agreement under this division shall have a cause of action against 502  
the owner that placed debris from the removal of a partition fence 503  
on the adjoining owner's property for the cost of removing that 504  
debris. Any action against the owner may include any attorney's 505  
fees. 506

Sec. 971.18. An owner of livestock who permits the livestock 507  
to run at large out of the livestock's enclosure is liable for all 508  
damages caused by the livestock on the premises of another. 509

Sec. 971.33. An owner of land, adjacent to a ~~line or~~ 510  
partition fence, shall keep all brush, briars, thistles, or other 511  
noxious weeds cut in the fence corners and a strip four feet wide 512  
on ~~his~~ the owner's side along the line of a partition fence, but 513  
this section does not affect the planting of vines or trees for 514  
use. 515

Sec. 971.34. If the owner or tenant occupying land, neglects 516  
or refuses to cut brush, briars, thistles, or other noxious weeds, 517  
as provided in section 971.33 of the Revised Code, an owner or 518  
occupant of land abutting on the ~~line or~~ partition fence, after 519  
having given the owner or tenant not less than ten days' notice to 520  
cut or remove them, may notify the board of township trustees of 521  
the township in which the land is situated, who shall forthwith 522  
view the premises, and if satisfied that there is just cause of 523  
complaint, shall cause them to be cut, by letting the work to the 524  
lowest bidder, or by entering into a private contract therefor. 525

Sec. 971.99. (A) ~~Whoever~~ Except as otherwise provided in 526  
division (B), (C), or (D) of this section, whoever violates 527

division (B) of section ~~971.03~~ 971.08 or division (C) of section 528  
971.12 of the Revised Code is guilty of a misdemeanor of the 529  
~~fourth~~ third degree. 530

~~(B) Whoever violates division (C) of section 971.07 of the 531  
Revised Code is guilty of a misdemeanor of the third degree. 532~~

(B) Whoever violates division (B) of section 971.08 or 533  
division (C) of section 971.12 of the Revised Code is guilty of a 534  
misdemeanor of the second degree if, in committing the offense, 535  
the violator made a threat of physical harm to the person that was 536  
building or maintaining a partition fence. 537

(C) Whoever violates division (B) of section 971.08 or 538  
division (C) of section 971.12 of the Revised Code is guilty of a 539  
misdemeanor of the first degree if, in committing the offense, the 540  
violator caused physical harm to the person that was building or 541  
maintaining a partition fence. 542

(D) Whoever violates division (B) of section 971.08 or 543  
division (C) of section 971.12 of the Revised Code is guilty of a 544  
felony of the fifth degree if, in committing the offense, the 545  
violator caused serious physical harm or death to the person that 546  
was building or maintaining a partition fence. 547

(E) Prosecution for a violation of division (B) of section 548  
971.08 or division (C) of section 971.12 of the Revised Code does 549  
not preclude prosecution for a violation of any other section of 550  
the Revised Code. One or more acts, a series of acts, or a course 551  
of behavior that can be prosecuted under this section or any other 552  
section of the Revised Code may be prosecuted under this section, 553  
the other section, or both sections. 554

**Section 2.** That existing sections 971.01, 971.04, 971.05, 555  
971.06, 971.07, 971.08, 971.09, 971.10, 971.33, 971.34, and 971.99 556  
and sections 971.02, 971.03, 971.11, 971.12, 971.13, 971.14, 557  
971.15, 971.16, 971.17, 971.18, 971.21, 971.22, 971.23, 971.24, 558

971.25, 971.26, 971.27, 971.28, 971.29, 971.30, 971.31, and 971.32 559  
of the Revised Code are hereby repealed. 560