

**As Reported by the House Agriculture and Natural Resources  
Committee**

**127th General Assembly  
Regular Session  
2007-2008**

**Am. H. B. No. 323**

**Representative Gibbs**

**Cosponsors: Representatives Peterson, McGregor, J., Evans, Huffman,  
Wagner, Miller, Fessler, Seitz, Bulp, Okey, McGregor, R., Fende, Schlichter,  
Sayre, Aslanides, Zehringer, Reinhard, Core, Hite, Domenick**

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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 Code.~~ 46  
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(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



stating that a partition fence existed between the adjoining 105  
properties within two 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 who removed the 135  
partition fence shall file an affidavit with the applicable county 136  
recorder to be placed in the partition fence record established 137  
under section 971.15 of the Revised Code stating that a partition 138  
fence existed between the adjoining properties within one year 139  
prior to the filing of the affidavit. The affidavit also shall 140  
specify the location of the properties and state that the fence 141  
has been 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 bearing the costs of building and maintaining in good repair a partition fence, or any successor in interest of the property, subsequently uses the fence to keep livestock enclosed on the property within thirty years after the fence was built, the owner that built the fence, or any successor in interest of the property, may file a claim for reimbursement of fifty per cent of the total cost of building and maintaining in good repair the partition fence with the owner of the adjoining property or that owner's successor in interest, provided that an affidavit has been filed under division (A) of this section. An owner that receives a claim for reimbursement under this division promptly shall pay it. In addition, if necessary, the owners shall modify the partition fence so that it complies with the standards for preferred partition fences established in this chapter. The owners shall equally divide the costs of the modification of the partition fence. 166  
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(C) If the owner of adjoining property, or that owner's successor in interest, fails to pay the claim for reimbursement of fifty per cent of the total cost of building and maintaining in good repair the partition fence that was filed under division (B) of this section, the owner that filed the claim for reimbursement may file an action in a court of competent jurisdiction to recover not more than fifty per cent of the total cost of building and maintaining in good repair the partition fence. 183  
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(D) If the owner of adjoining property, or that owner's successor in interest, pays the claim for reimbursement filed by the owner that built and maintained in good repair the partition fence under division (B) of this section or is required to reimburse that owner by a court under division (C) of this section, the owner of the adjoining property, or that owner's successor in interest, subsequently is subject to section 971.06 191  
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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 230  
boards of township trustees of the adjacent townships have 231  
concurrent jurisdiction, and the board of township trustees of 232  
either of the townships may be called to perform the applicable 233  
duties established in this chapter. Either party to the complaint 234  
may call the board of the other township, in which case they shall 235  
act jointly, but a separate record shall be made in both 236  
townships. 237

(B) If a complaint is filed with a board of township 238  
trustees, the board, after not less than ten days' written notice 239  
to all adjoining ~~landowners~~ owners of the time and place of 240  
meeting, shall view the fence or premises where ~~such~~ the fence is 241  
located or is to be built, and ~~assign, in writing, to each person~~ 242  
his equal share thereof, to be constructed or kept in repair by 243  
him. At the meeting, the board shall determine whether a partition 244  
fence exists, regardless of whether it is in disrepair, or there 245  
is evidence that a partition fence previously existed. If there is 246  
no evidence that a partition fence exists, even in disrepair, or 247  
if there is no evidence that a partition fence previously existed, 248  
the board shall review the applicable county recorder's records to 249  
determine whether an affidavit has been filed in accordance with 250  
section 971.05, 971.06, or 971.07 of the Revised Code or an 251  
agreement has been filed in accordance with section 971.04 of the 252  
Revised Code. 253

(C) After viewing the fence or premises and reviewing the 254  
applicable county recorder's records, if applicable, the board may 255  
request additional information from either owner that is a party 256  
to the complaint. 257

(D)(1) At the next regularly scheduled meeting of the board 258  
after viewing the fence or premises and reviewing the applicable 259

county recorder's records, if applicable, the board shall 260  
determine if a partition fence is required to be built or 261  
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

<u>(1) The topography of the applicable property;</u>	291
<u>(2) The presence of streams, creeks, rivers, or other bodies of water;</u>	292 293
<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. If either owner requests binding arbitration, the board shall submit a report of its recommendation of assignment that is made under division (D)(2) of this section or of its finding that is made under division (D)(3) of this section, as applicable, to the court of common pleas in which the arbitration is to be held.</u>	307 308 309 310 311 312 313 314 315 316 317 318 319 320 321

(2) The court of common pleas in which the arbitration is to 322  
be held shall appoint an arbitrator. The court shall furnish the 323  
board's report that is submitted to the court under division 324  
(G)(1) of this section to the arbitrator. The owners shall pay the 325  
costs of the arbitrator's services in equal amounts. An arbitrator 326  
that has knowledge of this chapter shall be appointed, if 327  
possible. 328

(3) Not later than thirty days after appointment of an 329  
arbitrator, each owner and the board shall deliver to the 330  
arbitrator a recommendation for the assignment of responsibility 331  
for building or maintaining in good repair the partition fence. 332  
Not later than sixty days after appointment of the arbitrator, the 333  
arbitrator shall approve one of the recommendations submitted or 334  
assign responsibility for building or maintaining in good repair 335  
the partition fence based on the arbitrator's judgment. 336

The arbitrator shall deliver to each owner and the board a 337  
written statement of the arbitration decision that states each 338  
owner's responsibility for building or maintaining in good repair 339  
the partition fence. The arbitrator shall certify a report of the 340  
arbitration decision to the applicable county recorder, who shall 341  
record the decision in the partition fence record established 342  
under section 971.15 of the Revised Code. 343

The owners shall abide by the arbitration decision. The 344  
arbitration decision shall be enforced, upon petition by either 345  
owner, by the court of common pleas of the county in which the 346  
petitioner resides. 347

**Sec. 971.05 971.10.** The cost due the township fiscal officer 348  
and the board of township trustees for making the assignment set 349  
forth in section ~~971.04~~ 971.09 of the Revised Code shall be taxed 350  
equally against each of the persons and, if not paid to the fiscal 351  
officer within thirty days from the date of the assignment, shall 352

be certified by the fiscal officer to the county auditor, with a 353  
correct description of the lands and the amount charged against 354  
each portion. 355

**Sec. ~~971.06~~ 971.11.** The county auditor shall place the amount 356  
authorized in section ~~971.05~~ 971.10 of the Revised Code upon the 357  
duplicate to be collected as other taxes, and the county treasurer 358  
shall pay it, when collected, to the township fiscal officer as 359  
other funds are paid. 360

**Sec. ~~971.07~~ 971.12.** (A) If either ~~person~~ owner fails to build 361  
or maintain in good repair the portion of a partition fence 362  
assigned to ~~him~~ the owner under section ~~971.04~~ 971.09 of the 363  
Revised Code, the board of township trustees, upon the application 364  
of the aggrieved ~~person~~ owner, shall award the contract to the 365  
lowest responsible bidder agreeing to furnish the labor and 366  
material, and build ~~such~~ or maintain the fence according to the 367  
specifications proposed by the board, after advertising for bids 368  
once a week for three consecutive weeks in a newspaper of general 369  
circulation in the county in which the township is situated. 370

(B) If no bids are received from responsible bidders as 371  
provided in this section, the trustees shall procure labor and 372  
materials at prevailing rates and cause ~~such~~ the fence to be 373  
constructed or maintained. 374

(C) No person shall obstruct or interfere with anyone 375  
lawfully engaged in construction or maintenance of a partition 376  
fence or in the performance of any other act described in this 377  
section. 378

**Sec. ~~971.08~~ 971.13.** When the work provided for under section 379  
971.12 of the Revised Code is completed to the satisfaction of the 380  
board of township trustees, it shall certify the costs to the 381  
township fiscal officer. If the costs are not paid within thirty 382

days, the township fiscal officer shall certify them to the county auditor with a statement of the cost of the construction or maintenance and incidental costs incurred by the trustees and a correct description of each piece of land upon which the costs are assessed.

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

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

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

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

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

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

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

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

(5) All of the following:

(a) The topography of the applicable property;

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

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

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

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

(f) The number and type of livestock owned by either owner 443  
that may be contained by the partition fence. 444

The court shall make an assignment in equitable shares. 445

(C) The court shall assign attorney's fees and court costs in 446  
an equitable manner to the parties. 447

**Sec. 971.17.** (A) Not fewer than twenty-eight days prior to 448  
removing a partition fence, an owner shall notify the owner of 449  
adjoining property in writing that the owner intends to remove the 450  
partition fence. The notice may be delivered personally or by 451  
certified mail, return receipt requested, to the last known 452  
address of the adjoining owner. If the notice delivered by 453  
certified mail is refused or unclaimed, the notice may be 454  
delivered by ordinary mail. If the notice delivered by ordinary 455  
mail is returned for failure of delivery, or if the address of the 456  
adjoining owner is unknown and cannot be ascertained with 457  
reasonable diligence, notice may be served by publication once a 458  
week for three consecutive weeks in a newspaper of general 459  
circulation in the county in which the partition fence is located. 460

(B) If an owner removes a partition fence without notifying 461  
the owner of adjoining property in accordance with division (A) of 462  
this section, the owner forfeits the owner's right to seek 463  
reimbursement under section 971.07 of the Revised Code for the 464  
construction and maintenance of a new partition fence. 465

(C) An action for trespass by the owner of adjoining property 466  
against the owner removing a partition fence may include a 467  
reasonable request for court costs, attorney's fees, and other 468  
litigation costs. 469

(D) No owner shall place any debris accumulated from the 470  
removal of a partition fence on adjoining property without 471  
entering into a written agreement with the owner of the adjoining 472



property. An adjoining owner who has not entered into a written 473  
agreement under this division shall have a cause of action against 474  
the owner that placed debris from the removal of a partition fence 475  
on the adjoining owner's property for the cost of removing that 476  
debris. Any action against the owner may include any attorney's 477  
fees. 478

Sec. 971.18. An owner of livestock who permits the livestock 479  
to run at large out of the livestock's enclosure is liable for all 480  
damages caused by the livestock on the premises of another. 481

Sec. 971.33. An owner of land, adjacent to a ~~line or~~ 482  
partition fence, shall keep all brush, briars, thistles, or other 483  
noxious weeds cut in the fence corners and a strip four feet wide 484  
on ~~his~~ the owner's side along the line of a partition fence, but 485  
this section does not affect the planting of vines or trees for 486  
use. 487

Sec. 971.34. If the owner or tenant occupying land, neglects 488  
or refuses to cut brush, briars, thistles, or other noxious weeds, 489  
as provided in section 971.33 of the Revised Code, an owner or 490  
occupant of land abutting on the ~~line or~~ partition fence, after 491  
having given the owner or tenant not less than ten days' notice to 492  
cut or remove them, may notify the board of township trustees of 493  
the township in which the land is situated, who shall forthwith 494  
view the premises, and if satisfied that there is just cause of 495  
complaint, shall cause them to be cut, by letting the work to the 496  
lowest bidder, or by entering into a private contract therefor. 497

Sec. 971.99. (A) ~~Whoever~~ Except as otherwise provided in 498  
division (B), (C), or (D) of this section, whoever violates 499  
division (B) of section ~~971.03~~ 971.08 or division (C) of section 500  
971.12 of the Revised Code is guilty of a misdemeanor of the 501

~~fourth~~ third degree. 502

~~(B) Whoever violates division (C) of section 971.07 of the Revised Code is guilty of a misdemeanor of the third degree.~~ 503  
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(B) Whoever violates division (B) of section 971.08 or division (C) of section 971.12 of the Revised Code is guilty of a misdemeanor of the second degree if, in committing the offense, the violator made a threat of physical harm to the person that was building or maintaining a partition fence. 505  
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(C) Whoever violates division (B) of section 971.08 or division (C) of section 971.12 of the Revised Code is guilty of a misdemeanor of the first degree if, in committing the offense, the violator caused physical harm to the person that was building or maintaining a partition fence. 510  
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(D) Whoever violates division (B) of section 971.08 or division (C) of section 971.12 of the Revised Code is guilty of a felony of the fifth degree if, in committing the offense, the violator caused serious physical harm or death to the person that was building or maintaining a partition fence. 515  
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(E) Prosecution for a violation of division (B) of section 971.08 or division (C) of section 971.12 of the Revised Code does not preclude prosecution for a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section, or both sections. 520  
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**Section 2.** That existing sections 971.01, 971.04, 971.05, 971.06, 971.07, 971.08, 971.09, 971.10, 971.33, 971.34, and 971.99 and sections 971.02, 971.03, 971.11, 971.12, 971.13, 971.14, 971.15, 971.16, 971.17, 971.18, 971.21, 971.22, 971.23, 971.24, 971.25, 971.26, 971.27, 971.28, 971.29, 971.30, 971.31, and 971.32 of the Revised Code are hereby repealed. 527  
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