

As Introduced

**127th General Assembly
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S. B. No. 320

Senator Seitz

**Cosponsors: Senators Spada, Schuring, Padgett, Coughlin, Schaffer,
Grendell**

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A B I L L

To amend section 2923.31 of the Revised Code to 1
include organized retail theft within the 2
definition of corrupt activity as used in the Ohio 3
Corrupt Activities Law. 4

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

Section 1. That section 2923.31 of the Revised Code be 5
amended to read as follows: 6

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the 7
Revised Code: 8

(A) "Beneficial interest" means any of the following: 9

(1) The interest of a person as a beneficiary under a trust 10
in which the trustee holds title to personal or real property; 11

(2) The interest of a person as a beneficiary under any other 12
trust arrangement under which any other person holds title to 13
personal or real property for the benefit of such person; 14

(3) The interest of a person under any other form of express 15
fiduciary arrangement under which any other person holds title to 16
personal or real property for the benefit of such person. 17

"Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership.

(B) "Costs of investigation and prosecution" and "costs of investigation and litigation" mean all of the costs incurred by the state or a county or municipal corporation under sections 2923.31 to 2923.36 of the Revised Code in the prosecution and investigation of any criminal action or in the litigation and investigation of any civil action, and includes, but is not limited to, the costs of resources and personnel.

(C) "Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. "Enterprise" includes illicit as well as licit enterprises.

(D) "Innocent person" includes any bona fide purchaser of property that is allegedly involved in a violation of section 2923.32 of the Revised Code, including any person who establishes a valid claim to or interest in the property in accordance with division (E) of section 2981.04 of the Revised Code, and any victim of an alleged violation of that section or of any underlying offense involved in an alleged violation of that section.

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

At least one of the incidents forming the pattern shall occur

on or after January 1, 1986. Unless any incident was an aggravated 49
murder or murder, the last of the incidents forming the pattern 50
shall occur within six years after the commission of any prior 51
incident forming the pattern, excluding any period of imprisonment 52
served by any person engaging in the corrupt activity. 53

For the purposes of the criminal penalties that may be 54
imposed pursuant to section 2923.32 of the Revised Code, at least 55
one of the incidents forming the pattern shall constitute a felony 56
under the laws of this state in existence at the time it was 57
committed or, if committed in violation of the laws of the United 58
States or of any other state, shall constitute a felony under the 59
law of the United States or the other state and would be a 60
criminal offense under the law of this state if committed in this 61
state. 62

(F) "Pecuniary value" means money, a negotiable instrument, a 63
commercial interest, or anything of value, as defined in section 64
1.03 of the Revised Code, or any other property or service that 65
has a value in excess of one hundred dollars. 66

(G) "Person" means any person, as defined in section 1.59 of 67
the Revised Code, and any governmental officer, employee, or 68
entity. 69

(H) "Personal property" means any personal property, any 70
interest in personal property, or any right, including, but not 71
limited to, bank accounts, debts, corporate stocks, patents, or 72
copyrights. Personal property and any beneficial interest in 73
personal property are deemed to be located where the trustee of 74
the property, the personal property, or the instrument evidencing 75
the right is located. 76

(I) "Corrupt activity" means engaging in, attempting to 77
engage in, conspiring to engage in, or soliciting, coercing, or 78
intimidating another person to engage in any of the following: 79

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

(2) Conduct constituting any of the following:

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

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

(c) Any violation of section 2907.21, 2907.22, 2907.31, 2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 of the Revised Code, any violation of section 2925.11 of the Revised Code that is a felony of the first, second, third, or

fourth degree and that occurs on or after July 1, 1996, any 112
violation of section 2915.02 of the Revised Code that occurred 113
prior to July 1, 1996, any violation of section 2915.02 of the 114
Revised Code that occurs on or after July 1, 1996, and that, had 115
it occurred prior to that date, would not have been a violation of 116
section 3769.11 of the Revised Code as it existed prior to that 117
date, any violation of section 2915.06 of the Revised Code as it 118
existed prior to July 1, 1996, or any violation of division (B) of 119
section 2915.05 of the Revised Code as it exists on and after July 120
1, 1996, when the proceeds of the violation, the payments made in 121
the violation, the amount of a claim for payment or for any other 122
benefit that is false or deceptive and that is involved in the 123
violation, or the value of the contraband or other property 124
illegally possessed, sold, or purchased in the violation exceeds 125
five hundred dollars, or any combination of violations described 126
in division (I)(2)(c) of this section when the total proceeds of 127
the combination of violations, payments made in the combination of 128
violations, amount of the claims for payment or for other benefits 129
that is false or deceptive and that is involved in the combination 130
of violations, or value of the contraband or other property 131
illegally possessed, sold, or purchased in the combination of 132
violations exceeds five hundred dollars; 133

(d) Any violation of section 5743.112 of the Revised Code 134
when the amount of unpaid tax exceeds one hundred dollars; 135

(e) Any violation or combination of violations of section 136
2907.32 of the Revised Code involving any material or performance 137
containing a display of bestiality or of sexual conduct, as 138
defined in section 2907.01 of the Revised Code, that is explicit 139
and depicted with clearly visible penetration of the genitals or 140
clearly visible penetration by the penis of any orifice when the 141
total proceeds of the violation or combination of violations, the 142
payments made in the violation or combination of violations, or 143

the value of the contraband or other property illegally possessed, 144
sold, or purchased in the violation or combination of violations 145
exceeds five hundred dollars; 146

(f) Any combination of violations described in division 147
(I)(2)(c) of this section and violations of section 2907.32 of the 148
Revised Code involving any material or performance containing a 149
display of bestiality or of sexual conduct, as defined in section 150
2907.01 of the Revised Code, that is explicit and depicted with 151
clearly visible penetration of the genitals or clearly visible 152
penetration by the penis of any orifice when the total proceeds of 153
the combination of violations, payments made in the combination of 154
violations, amount of the claims for payment or for other benefits 155
that is false or deceptive and that is involved in the combination 156
of violations, or value of the contraband or other property 157
illegally possessed, sold, or purchased in the combination of 158
violations exceeds five hundred dollars. 159

(3) Conduct constituting a violation of any law of any state 160
other than this state that is substantially similar to the conduct 161
described in division (I)(2) of this section, provided the 162
defendant was convicted of the conduct in a criminal proceeding in 163
the other state; 164

(4) Animal or ecological terrorism; 165

(5) Organized retail theft. 166

(J) "Real property" means any real property or any interest 167
in real property, including, but not limited to, any lease of, or 168
mortgage upon, real property. Real property and any beneficial 169
interest in it is deemed to be located where the real property is 170
located. 171

(K) "Trustee" means any of the following: 172

(1) Any person acting as trustee under a trust in which the 173
trustee holds title to personal or real property; 174

(2) Any person who holds title to personal or real property	175
for which any other person has a beneficial interest;	176
(3) Any successor trustee.	177
"Trustee" does not include an assignee or trustee for an	178
insolvent debtor or an executor, administrator, administrator with	179
the will annexed, testamentary trustee, guardian, or committee,	180
appointed by, under the control of, or accountable to a court.	181
(L) "Unlawful debt" means any money or other thing of value	182
constituting principal or interest of a debt that is legally	183
unenforceable in this state in whole or in part because the debt	184
was incurred or contracted in violation of any federal or state	185
law relating to the business of gambling activity or relating to	186
the business of lending money at an usurious rate unless the	187
creditor proves, by a preponderance of the evidence, that the	188
usurious rate was not intentionally set and that it resulted from	189
a good faith error by the creditor, notwithstanding the	190
maintenance of procedures that were adopted by the creditor to	191
avoid an error of that nature.	192
(M) "Animal activity" means any activity that involves the	193
use of animals or animal parts, including, but not limited to,	194
hunting, fishing, trapping, traveling, camping, the production,	195
preparation, or processing of food or food products, clothing or	196
garment manufacturing, medical research, other research,	197
entertainment, recreation, agriculture, biotechnology, or service	198
activity that involves the use of animals or animal parts.	199
(N) "Animal facility" means a vehicle, building, structure,	200
nature preserve, or other premises in which an animal is lawfully	201
kept, handled, housed, exhibited, bred, or offered for sale,	202
including, but not limited to, a zoo, rodeo, circus, amusement	203
park, hunting preserve, or premises in which a horse or dog event	204
is held.	205

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

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

(O) "Organized retail theft" means the theft of retail property with a retail value of five hundred dollars or more from a retail establishment with the intent to sell, deliver, or transfer that property to a retail property fence.

(R) "Retail property" means any tangible personal property displayed, held, stored, or offered for sale in or by a retail establishment.

(S) "Retail property fence" means a person who possesses, procures, receives, or conceals retail property that was represented to the person as being stolen or that the person knows or believes to be stolen.

(T) "Retail value" means the full retail value of the retail property. In determining whether the retail value of retail property equals or exceeds five hundred dollars, the value of all retail property stolen from the retail establishment by the same

person or persons within any one-hundred-eighty-day period shall 237
be aggregated. 238

Section 2. That existing section 2923.31 of the Revised Code 239
is hereby repealed. 240