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**Sub. S. B. No. 320**

**Senator Seitz**

**Cosponsors: Senators Spada, Schuring, Padgett, Coughlin, Schaffer,  
Grendell, Fedor, Amstutz, Austria, Boccieri, Buehrer, Cates, Faber, Harris,  
Kearney, Mason, Miller, R., Morano, Mumper, Niehaus, Sawyer, Schuler,  
Stivers, Wagoner, Wilson, Smith, Jacobson**

**—**

**A B I L L**

To amend section 2923.31 of the Revised Code to 1  
include organized retail theft and substantially 2  
similar conduct occurring in another state within 3  
the definition of corrupt activity as used in the 4  
Ohio Corrupt Activities Law. 5

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

**Section 1.** That section 2923.31 of the Revised Code be 6  
amended to read as follows: 7

**Sec. 2923.31.** As used in sections 2923.31 to 2923.36 of the 8  
Revised Code: 9

(A) "Beneficial interest" means any of the following: 10

(1) The interest of a person as a beneficiary under a trust 11  
in which the trustee holds title to personal or real property; 12

(2) The interest of a person as a beneficiary under any other 13  
trust arrangement under which any other person holds title to 14  
personal or real property for the benefit of such person; 15

(3) The interest of a person under any other form of express 16  
fiduciary arrangement under which any other person holds title to 17  
personal or real property for the benefit of such person. 18

"Beneficial interest" does not include the interest of a 19  
stockholder in a corporation or the interest of a partner in 20  
either a general or limited partnership. 21

(B) "Costs of investigation and prosecution" and "costs of 22  
investigation and litigation" mean all of the costs incurred by 23  
the state or a county or municipal corporation under sections 24  
2923.31 to 2923.36 of the Revised Code in the prosecution and 25  
investigation of any criminal action or in the litigation and 26  
investigation of any civil action, and includes, but is not 27  
limited to, the costs of resources and personnel. 28

(C) "Enterprise" includes any individual, sole 29  
proprietorship, partnership, limited partnership, corporation, 30  
trust, union, government agency, or other legal entity, or any 31  
organization, association, or group of persons associated in fact 32  
although not a legal entity. "Enterprise" includes illicit as well 33  
as licit enterprises. 34

(D) "Innocent person" includes any bona fide purchaser of 35  
property that is allegedly involved in a violation of section 36  
2923.32 of the Revised Code, including any person who establishes 37  
a valid claim to or interest in the property in accordance with 38  
division (E) of section 2981.04 of the Revised Code, and any 39  
victim of an alleged violation of that section or of any 40  
underlying offense involved in an alleged violation of that 41  
section. 42

(E) "Pattern of corrupt activity" means two or more incidents 43  
of corrupt activity, whether or not there has been a prior 44  
conviction, that are related to the affairs of the same 45  
enterprise, are not isolated, and are not so closely related to 46

each other and connected in time and place that they constitute a 47  
single event. 48

At least one of the incidents forming the pattern shall occur 49  
on or after January 1, 1986. Unless any incident was an aggravated 50  
murder or murder, the last of the incidents forming the pattern 51  
shall occur within six years after the commission of any prior 52  
incident forming the pattern, excluding any period of imprisonment 53  
served by any person engaging in the corrupt activity. 54

For the purposes of the criminal penalties that may be 55  
imposed pursuant to section 2923.32 of the Revised Code, at least 56  
one of the incidents forming the pattern shall constitute a felony 57  
under the laws of this state in existence at the time it was 58  
committed or, if committed in violation of the laws of the United 59  
States or of any other state, shall constitute a felony under the 60  
law of the United States or the other state and would be a 61  
criminal offense under the law of this state if committed in this 62  
state. 63

(F) "Pecuniary value" means money, a negotiable instrument, a 64  
commercial interest, or anything of value, as defined in section 65  
1.03 of the Revised Code, or any other property or service that 66  
has a value in excess of one hundred dollars. 67

(G) "Person" means any person, as defined in section 1.59 of 68  
the Revised Code, and any governmental officer, employee, or 69  
entity. 70

(H) "Personal property" means any personal property, any 71  
interest in personal property, or any right, including, but not 72  
limited to, bank accounts, debts, corporate stocks, patents, or 73  
copyrights. Personal property and any beneficial interest in 74  
personal property are deemed to be located where the trustee of 75  
the property, the personal property, or the instrument evidencing 76  
the right is located. 77

(I) "Corrupt activity" means engaging in, attempting to 78  
engage in, conspiring to engage in, or soliciting, coercing, or 79  
intimidating another person to engage in any of the following: 80

(1) Conduct defined as "racketeering activity" under the 81  
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 82  
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 83

(2) Conduct constituting any of the following: 84

(a) A violation of section 1315.55, 1322.02, 2903.01, 85  
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 86  
2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 87  
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 88  
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 89  
2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 90  
2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division 91  
(F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) 92  
of section 1707.042; division (B), (C)(4), (D), (E), or (F) of 93  
section 1707.44; division (A)(1) or (2) of section 2923.20; 94  
division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 95  
4719.06; division (C), (D), or (E) of section 4719.07; section 96  
4719.08; or division (A) of section 4719.09 of the Revised Code. 97

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 98  
3769.19 of the Revised Code as it existed prior to July 1, 1996, 99  
any violation of section 2915.02 of the Revised Code that occurs 100  
on or after July 1, 1996, and that, had it occurred prior to that 101  
date, would have been a violation of section 3769.11 of the 102  
Revised Code as it existed prior to that date, or any violation of 103  
section 2915.05 of the Revised Code that occurs on or after July 104  
1, 1996, and that, had it occurred prior to that date, would have 105  
been a violation of section 3769.15, 3769.16, or 3769.19 of the 106  
Revised Code as it existed prior to that date. 107

(c) Any violation of section 2907.21, 2907.22, 2907.31, 108

2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 109  
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 110  
of the Revised Code, any violation of section 2925.11 of the 111  
Revised Code that is a felony of the first, second, third, or 112  
fourth degree and that occurs on or after July 1, 1996, any 113  
violation of section 2915.02 of the Revised Code that occurred 114  
prior to July 1, 1996, any violation of section 2915.02 of the 115  
Revised Code that occurs on or after July 1, 1996, and that, had 116  
it occurred prior to that date, would not have been a violation of 117  
section 3769.11 of the Revised Code as it existed prior to that 118  
date, any violation of section 2915.06 of the Revised Code as it 119  
existed prior to July 1, 1996, or any violation of division (B) of 120  
section 2915.05 of the Revised Code as it exists on and after July 121  
1, 1996, when the proceeds of the violation, the payments made in 122  
the violation, the amount of a claim for payment or for any other 123  
benefit that is false or deceptive and that is involved in the 124  
violation, or the value of the contraband or other property 125  
illegally possessed, sold, or purchased in the violation exceeds 126  
five hundred dollars, or any combination of violations described 127  
in division (I)(2)(c) of this section when the total proceeds of 128  
the combination of violations, payments made in the combination of 129  
violations, amount of the claims for payment or for other benefits 130  
that is false or deceptive and that is involved in the combination 131  
of violations, or value of the contraband or other property 132  
illegally possessed, sold, or purchased in the combination of 133  
violations exceeds five hundred dollars; 134

(d) Any violation of section 5743.112 of the Revised Code 135  
when the amount of unpaid tax exceeds one hundred dollars; 136

(e) Any violation or combination of violations of section 137  
2907.32 of the Revised Code involving any material or performance 138  
containing a display of bestiality or of sexual conduct, as 139  
defined in section 2907.01 of the Revised Code, that is explicit 140

and depicted with clearly visible penetration of the genitals or 141  
clearly visible penetration by the penis of any orifice when the 142  
total proceeds of the violation or combination of violations, the 143  
payments made in the violation or combination of violations, or 144  
the value of the contraband or other property illegally possessed, 145  
sold, or purchased in the violation or combination of violations 146  
exceeds five hundred dollars; 147

(f) Any combination of violations described in division 148  
(I)(2)(c) of this section and violations of section 2907.32 of the 149  
Revised Code involving any material or performance containing a 150  
display of bestiality or of sexual conduct, as defined in section 151  
2907.01 of the Revised Code, that is explicit and depicted with 152  
clearly visible penetration of the genitals or clearly visible 153  
penetration by the penis of any orifice when the total proceeds of 154  
the combination of violations, payments made in the combination of 155  
violations, amount of the claims for payment or for other benefits 156  
that is false or deceptive and that is involved in the combination 157  
of violations, or value of the contraband or other property 158  
illegally possessed, sold, or purchased in the combination of 159  
violations exceeds five hundred dollars. 160

(3) Conduct constituting a violation of any law of any state 161  
other than this state that is substantially similar to the conduct 162  
described in division (I)(2) of this section, provided the 163  
defendant was convicted of the conduct in a criminal proceeding in 164  
the other state; 165

(4) Animal or ecological terrorism; 166

(5)(a) Conduct constituting any of the following: 167

(i) Organized retail theft; 168

(ii) Conduct that constitutes one or more violations of any 169  
law of any state other than this state, that is substantially 170  
similar to organized retail theft, and that if committed in this 171

state would be organized retail theft, if the defendant was 172  
convicted of or pleaded guilty to the conduct in a criminal 173  
proceeding in the other state. 174

(b) By enacting division (I)(5)(a) of this section, it is the 175  
intent of the general assembly to add organized retail theft and 176  
the conduct described in division (I)(5)(a)(ii) of this section as 177  
conduct constituting corrupt activity. The enactment of division 178  
(I)(5)(a) of this section and the addition by division (I)(5)(a) 179  
of this section of organized retail theft and the conduct 180  
described in division (I)(5)(a)(ii) of this section as conduct 181  
constituting corrupt activity does not limit or preclude, and 182  
shall not be construed as limiting or precluding, any prosecution 183  
for a violation of section 2923.32 of the Revised Code that is 184  
based on one or more violations of section 2913.02 or 2913.51 of 185  
the Revised Code, one or more similar offenses under the laws of 186  
this state or any other state, or any combination of any of those 187  
violations or similar offenses, even though the conduct 188  
constituting the basis for those violations or offenses could be 189  
construed as also constituting organized retail theft or conduct 190  
of the type described in division (I)(5)(a)(ii) of this section. 191

(J) "Real property" means any real property or any interest 192  
in real property, including, but not limited to, any lease of, or 193  
mortgage upon, real property. Real property and any beneficial 194  
interest in it is deemed to be located where the real property is 195  
located. 196

(K) "Trustee" means any of the following: 197

(1) Any person acting as trustee under a trust in which the 198  
trustee holds title to personal or real property; 199

(2) Any person who holds title to personal or real property 200  
for which any other person has a beneficial interest; 201

(3) Any successor trustee. 202

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

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

(M) "Animal activity" means any activity that involves the use of animals or animal parts, including, but not limited to, hunting, fishing, trapping, traveling, camping, the production, preparation, or processing of food or food products, clothing or garment manufacturing, medical research, other research, entertainment, recreation, agriculture, biotechnology, or service activity that involves the use of animals or animal parts.

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

(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 235  
involves an intent to obstruct, impede, or deter any person from 236  
participating in a lawful animal activity, from mining, foresting, 237  
harvesting, gathering, or processing natural resources, or from 238  
being lawfully present in or on an animal facility or research 239  
facility. 240

(P) "Research facility" means a place, laboratory, 241  
institution, medical care facility, government facility, or public 242  
or private educational institution in which a scientific test, 243  
experiment, or investigation involving the use of animals or other 244  
living organisms is lawfully carried out, conducted, or attempted. 245  
246

(O) "Organized retail theft" means the theft of retail 247  
property with a retail value of five hundred dollars or more from 248  
one or more retail establishments with the intent to sell, 249  
deliver, or transfer that property to a retail property fence. 250

(R) "Retail property" means any tangible personal property 251  
displayed, held, stored, or offered for sale in or by a retail 252  
establishment. 253

(S) "Retail property fence" means a person who possesses, 254  
procures, receives, or conceals retail property that was 255  
represented to the person as being stolen or that the person knows 256  
or believes to be stolen. 257

(T) "Retail value" means the full retail value of the retail 258  
property. In determining whether the retail value of retail 259  
property equals or exceeds five hundred dollars, the value of all 260  
retail property stolen from the retail establishment or retail 261  
establishments by the same person or persons within any 262  
one-hundred-eighty-day period shall be aggregated. 263

**Section 2.** That existing section 2923.31 of the Revised Code 264  
is hereby repealed. 265