

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 471

Representatives Dovilla, Blair

**Cosponsors: Representatives Terhar, Adams, J., Retherford, Johnson,
Grossman**

—

A B I L L

To amend sections 2913.01, 2913.02, 2913.43, 2913.49, 1
and 2913.61 and to enact sections 2305.112 and 2
2307.611 of the Revised Code to increase the 3
penalties for theft, securing writings by 4
deception, and identity fraud when the victim is 5
an active duty service member or the spouse of an 6
active duty service member, to provide that a 7
series of theft offenses or securing writings by 8
deception offenses involving an active duty 9
service member or the spouse of an active duty 10
member must be tried as a single offense, and to 11
allow for a civil action for victims of identity 12
fraud. 13

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

Section 1. That sections 2913.01, 2913.02, 2913.43, 2913.49, 14
and 2913.61 be amended and sections 2305.112 and 2307.611 of the 15
Revised Code be enacted to read as follows: 16

Sec. 2305.112. A civil action brought pursuant to division 17
(A) of section 2307.60 of the Revised Code when the person filing 18

the action is injured in person or property by a violation of 19
division (B), (D), or (E) of section 2913.49 of the Revised Code 20
shall be commenced within five years from the date on which the 21
identity of the offender was discovered or reasonably should have 22
been discovered. 23

Sec. 2307.611. A person who brings a civil action pursuant to 24
division (A) of section 2307.60 of the Revised Code to recover 25
damages from any person who caused injury to person or property by 26
a violation of division (B), (D), or (E) of section 2913.49 of the 27
Revised Code may recover damages up to five thousand dollars for 28
each violation or three times the amount of actual damages, 29
whichever is greater, and reasonable attorney's fees. 30

Sec. 2913.01. As used in this chapter, unless the context 31
requires that a term be given a different meaning: 32

(A) "Deception" means knowingly deceiving another or causing 33
another to be deceived by any false or misleading representation, 34
by withholding information, by preventing another from acquiring 35
information, or by any other conduct, act, or omission that 36
creates, confirms, or perpetuates a false impression in another, 37
including a false impression as to law, value, state of mind, or 38
other objective or subjective fact. 39

(B) "Defraud" means to knowingly obtain, by deception, some 40
benefit for oneself or another, or to knowingly cause, by 41
deception, some detriment to another. 42

(C) "Deprive" means to do any of the following: 43

(1) Withhold property of another permanently, or for a period 44
that appropriates a substantial portion of its value or use, or 45
with purpose to restore it only upon payment of a reward or other 46
consideration; 47

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

(D) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

(E) "Services" include labor, personal services, professional services, rental services, public utility services including wireless service as defined in division (F)(1) of section 128.01 of the Revised Code, common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of section 2913.04 of the Revised Code, include cable services as defined in that section.

(F) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, typewritten, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(G) "Forge" means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

(H) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

(I) "Coin machine" means any mechanical or electronic device

designed to do both of the following:	79
(1) Receive a coin, bill, or token made for that purpose;	80
(2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.	81 82 83
(J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.	84 85 86 87
(K) "Theft offense" means any of the following:	88
(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;	89 90 91 92 93 94
(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;	95 96 97 98 99
(3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;	100 101 102 103 104
(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.	105 106 107
(L) "Computer services" includes, but is not limited to, the	108

use of a computer system, computer network, computer program, data 109
that is prepared for computer use, or data that is contained 110
within a computer system or computer network. 111

(M) "Computer" means an electronic device that performs 112
logical, arithmetic, and memory functions by the manipulation of 113
electronic or magnetic impulses. "Computer" includes, but is not 114
limited to, all input, output, processing, storage, computer 115
program, or communication facilities that are connected, or 116
related, in a computer system or network to an electronic device 117
of that nature. 118

(N) "Computer system" means a computer and related devices, 119
whether connected or unconnected, including, but not limited to, 120
data input, output, and storage devices, data communications 121
links, and computer programs and data that make the system capable 122
of performing specified special purpose data processing tasks. 123

(O) "Computer network" means a set of related and remotely 124
connected computers and communication facilities that includes 125
more than one computer system that has the capability to transmit 126
among the connected computers and communication facilities through 127
the use of computer facilities. 128

(P) "Computer program" means an ordered set of data 129
representing coded instructions or statements that, when executed 130
by a computer, cause the computer to process data. 131

(Q) "Computer software" means computer programs, procedures, 132
and other documentation associated with the operation of a 133
computer system. 134

(R) "Data" means a representation of information, knowledge, 135
facts, concepts, or instructions that are being or have been 136
prepared in a formalized manner and that are intended for use in a 137
computer, computer system, or computer network. For purposes of 138
section 2913.47 of the Revised Code, "data" has the additional 139

meaning set forth in division (A) of that section. 140

(S) "Cable television service" means any services provided by 141
or through the facilities of any cable television system or other 142
similar closed circuit coaxial cable communications system, or any 143
microwave or similar transmission service used in connection with 144
any cable television system or other similar closed circuit 145
coaxial cable communications system. 146

(T) "Gain access" means to approach, instruct, communicate 147
with, store data in, retrieve data from, or otherwise make use of 148
any resources of a computer, computer system, or computer network, 149
or any cable service or cable system both as defined in section 150
2913.04 of the Revised Code. 151

(U) "Credit card" includes, but is not limited to, a card, 152
code, device, or other means of access to a customer's account for 153
the purpose of obtaining money, property, labor, or services on 154
credit, or for initiating an electronic fund transfer at a 155
point-of-sale terminal, an automated teller machine, or a cash 156
dispensing machine. It also includes a county procurement card 157
issued under section 301.29 of the Revised Code. 158

(V) "Electronic fund transfer" has the same meaning as in 92 159
Stat. 3728, 15 U.S.C.A. 1693a, as amended. 160

(W) "Rented property" means personal property in which the 161
right of possession and use of the property is for a short and 162
possibly indeterminate term in return for consideration; the 163
rentee generally controls the duration of possession of the 164
property, within any applicable minimum or maximum term; and the 165
amount of consideration generally is determined by the duration of 166
possession of the property. 167

(X) "Telecommunication" means the origination, emission, 168
dissemination, transmission, or reception of data, images, 169
signals, sounds, or other intelligence or equivalence of 170

intelligence of any nature over any communications system by any 171
method, including, but not limited to, a fiber optic, electronic, 172
magnetic, optical, digital, or analog method. 173

(Y) "Telecommunications device" means any instrument, 174
equipment, machine, or other device that facilitates 175
telecommunication, including, but not limited to, a computer, 176
computer network, computer chip, computer circuit, scanner, 177
telephone, cellular telephone, pager, personal communications 178
device, transponder, receiver, radio, modem, or device that 179
enables the use of a modem. 180

(Z) "Telecommunications service" means the providing, 181
allowing, facilitating, or generating of any form of 182
telecommunication through the use of a telecommunications device 183
over a telecommunications system. 184

(AA) "Counterfeit telecommunications device" means a 185
telecommunications device that, alone or with another 186
telecommunications device, has been altered, constructed, 187
manufactured, or programmed to acquire, intercept, receive, or 188
otherwise facilitate the use of a telecommunications service or 189
information service without the authority or consent of the 190
provider of the telecommunications service or information service. 191
"Counterfeit telecommunications device" includes, but is not 192
limited to, a clone telephone, clone microchip, tumbler telephone, 193
or tumbler microchip; a wireless scanning device capable of 194
acquiring, intercepting, receiving, or otherwise facilitating the 195
use of telecommunications service or information service without 196
immediate detection; or a device, equipment, hardware, or software 197
designed for, or capable of, altering or changing the electronic 198
serial number in a wireless telephone. 199

(BB)(1) "Information service" means, subject to division 200
(BB)(2) of this section, the offering of a capability for 201
generating, acquiring, storing, transforming, processing, 202

retrieving, utilizing, or making available information via 203
telecommunications, including, but not limited to, electronic 204
publishing. 205

(2) "Information service" does not include any use of a 206
capability of a type described in division (BB)(1) of this section 207
for the management, control, or operation of a telecommunications 208
system or the management of a telecommunications service. 209

(CC) "Elderly person" means a person who is sixty-five years 210
of age or older. 211

(DD) "Disabled adult" means a person who is eighteen years of 212
age or older and has some impairment of body or mind that makes 213
the person unable to work at any substantially remunerative 214
employment that the person otherwise would be able to perform and 215
that will, with reasonable probability, continue for a period of 216
at least twelve months without any present indication of recovery 217
from the impairment, or who is eighteen years of age or older and 218
has been certified as permanently and totally disabled by an 219
agency of this state or the United States that has the function of 220
so classifying persons. 221

(EE) "Firearm" and "dangerous ordnance" have the same 222
meanings as in section 2923.11 of the Revised Code. 223

(FF) "Motor vehicle" has the same meaning as in section 224
4501.01 of the Revised Code. 225

(GG) "Dangerous drug" has the same meaning as in section 226
4729.01 of the Revised Code. 227

(HH) "Drug abuse offense" has the same meaning as in section 228
2925.01 of the Revised Code. 229

(II)(1) "Computer hacking" means any of the following: 230

(a) Gaining access or attempting to gain access to all or 231
part of a computer, computer system, or a computer network without 232

express or implied authorization with the intent to defraud or 233
with intent to commit a crime; 234

(b) Misusing computer or network services including, but not 235
limited to, mail transfer programs, file transfer programs, proxy 236
servers, and web servers by performing functions not authorized by 237
the owner of the computer, computer system, or computer network or 238
other person authorized to give consent. As used in this division, 239
"misuse of computer and network services" includes, but is not 240
limited to, the unauthorized use of any of the following: 241

(i) Mail transfer programs to send mail to persons other than 242
the authorized users of that computer or computer network; 243

(ii) File transfer program proxy services or proxy servers to 244
access other computers, computer systems, or computer networks; 245

(iii) Web servers to redirect users to other web pages or web 246
servers. 247

(c)(i) Subject to division (II)(1)(c)(ii) of this section, 248
using a group of computer programs commonly known as "port 249
scanners" or "probes" to intentionally access any computer, 250
computer system, or computer network without the permission of the 251
owner of the computer, computer system, or computer network or 252
other person authorized to give consent. The group of computer 253
programs referred to in this division includes, but is not limited 254
to, those computer programs that use a computer network to access 255
a computer, computer system, or another computer network to 256
determine any of the following: the presence or types of computers 257
or computer systems on a network; the computer network's 258
facilities and capabilities; the availability of computer or 259
network services; the presence or versions of computer software 260
including, but not limited to, operating systems, computer 261
services, or computer contaminants; the presence of a known 262
computer software deficiency that can be used to gain unauthorized 263

access to a computer, computer system, or computer network; or any 264
other information about a computer, computer system, or computer 265
network not necessary for the normal and lawful operation of the 266
computer initiating the access. 267

(ii) The group of computer programs referred to in division 268
(II)(1)(c)(i) of this section does not include standard computer 269
software used for the normal operation, administration, 270
management, and test of a computer, computer system, or computer 271
network including, but not limited to, domain name services, mail 272
transfer services, and other operating system services, computer 273
programs commonly called "ping," "tcpdump," and "traceroute" and 274
other network monitoring and management computer software, and 275
computer programs commonly known as "nslookup" and "whois" and 276
other systems administration computer software. 277

(d) The intentional use of a computer, computer system, or a 278
computer network in a manner that exceeds any right or permission 279
granted by the owner of the computer, computer system, or computer 280
network or other person authorized to give consent. 281

(2) "Computer hacking" does not include the introduction of a 282
computer contaminant, as defined in section 2909.01 of the Revised 283
Code, into a computer, computer system, computer program, or 284
computer network. 285

(JJ) "Police dog or horse" has the same meaning as in section 286
2921.321 of the Revised Code. 287

(KK) "Anhydrous ammonia" is a compound formed by the 288
combination of two gaseous elements, nitrogen and hydrogen, in the 289
manner described in this division. Anhydrous ammonia is one part 290
nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by 291
weight is fourteen parts nitrogen to three parts hydrogen, which 292
is approximately eighty-two per cent nitrogen to eighteen per cent 293
hydrogen. 294

(LL) "Assistance dog" has the same meaning as in section 295
955.011 of the Revised Code. 296

(MM) "Federally licensed firearms dealer" has the same 297
meaning as in section 5502.63 of the Revised Code. 298

(NN) "Active duty service member" means any uniformed member 299
ordered to or performing active duty under title 10 of the United 300
States Code in the United States army, marine corps, navy, air 301
force, or coast guard and any member of a reserve component of the 302
army, marine corps, navy, air force, or coast guard on active duty 303
or reserve duty and also includes any individual performing 304
full-time national guard duty under 32 U.S.C. 502(f). 305

Sec. 2913.02. (A) No person, with purpose to deprive the 306
owner of property or services, shall knowingly obtain or exert 307
control over either the property or services in any of the 308
following ways: 309

(1) Without the consent of the owner or person authorized to 310
give consent; 311

(2) Beyond the scope of the express or implied consent of the 312
owner or person authorized to give consent; 313

(3) By deception; 314

(4) By threat; 315

(5) By intimidation. 316

(B)(1) Whoever violates this section is guilty of theft. 317

(2) Except as otherwise provided in this division or division 318
(B)(3), (4), (5), (6), (7), (8), or (9) of this section, a 319
violation of this section is petty theft, a misdemeanor of the 320
first degree. If the value of the property or services stolen is 321
one thousand dollars or more and is less than seven thousand five 322
hundred dollars or if the property stolen is any of the property 323

listed in section 2913.71 of the Revised Code, a violation of this 324
section is theft, a felony of the fifth degree. If the value of 325
the property or services stolen is seven thousand five hundred 326
dollars or more and is less than one hundred fifty thousand 327
dollars, a violation of this section is grand theft, a felony of 328
the fourth degree. If the value of the property or services stolen 329
is one hundred fifty thousand dollars or more and is less than 330
seven hundred fifty thousand dollars, a violation of this section 331
is aggravated theft, a felony of the third degree. If the value of 332
the property or services is seven hundred fifty thousand dollars 333
or more and is less than one million five hundred thousand 334
dollars, a violation of this section is aggravated theft, a felony 335
of the second degree. If the value of the property or services 336
stolen is one million five hundred thousand dollars or more, a 337
violation of this section is aggravated theft of one million five 338
hundred thousand dollars or more, a felony of the first degree. 339

(3) Except as otherwise provided in division (B)(4), (5), 340
(6), (7), (8), or (9) of this section, if the victim of the 341
offense is an elderly person ~~or~~, disabled adult, active duty 342
service member, or spouse of an active duty service member, a 343
violation of this section is theft from ~~an elderly a person or~~ 344
~~disabled adult in a protected class,~~ and division (B)(3) of this 345
section applies. Except as otherwise provided in this division, 346
theft from ~~an elderly a person or disabled adult in a protected~~ 347
class is a felony of the fifth degree. If the value of the 348
property or services stolen is one thousand dollars or more and is 349
less than seven thousand five hundred dollars, theft from ~~an~~ 350
~~elderly a person or disabled adult in a protected class~~ is a 351
felony of the fourth degree. If the value of the property or 352
services stolen is seven thousand five hundred dollars or more and 353
is less than thirty-seven thousand five hundred dollars, theft 354
from ~~an elderly a person or disabled adult in a protected class~~ is 355
a felony of the third degree. If the value of the property or 356

services stolen is thirty-seven thousand five hundred dollars or 357
more and is less than one hundred fifty thousand dollars, theft 358
from ~~an elderly a person or disabled adult~~ in a protected class is 359
a felony of the second degree. If the value of the property or 360
services stolen is one hundred fifty thousand dollars or more, 361
theft from ~~an elderly a person or disabled adult~~ in a protected 362
class is a felony of the first degree. 363

(4) If the property stolen is a firearm or dangerous 364
ordnance, a violation of this section is grand theft. Except as 365
otherwise provided in this division, grand theft when the property 366
stolen is a firearm or dangerous ordnance is a felony of the third 367
degree, and there is a presumption in favor of the court imposing 368
a prison term for the offense. If the firearm or dangerous 369
ordnance was stolen from a federally licensed firearms dealer, 370
grand theft when the property stolen is a firearm or dangerous 371
ordnance is a felony of the first degree. The offender shall serve 372
a prison term imposed for grand theft when the property stolen is 373
a firearm or dangerous ordnance consecutively to any other prison 374
term or mandatory prison term previously or subsequently imposed 375
upon the offender. 376

(5) If the property stolen is a motor vehicle, a violation of 377
this section is grand theft of a motor vehicle, a felony of the 378
fourth degree. 379

(6) If the property stolen is any dangerous drug, a violation 380
of this section is theft of drugs, a felony of the fourth degree, 381
or, if the offender previously has been convicted of a felony drug 382
abuse offense, a felony of the third degree. 383

(7) If the property stolen is a police dog or horse or an 384
assistance dog and the offender knows or should know that the 385
property stolen is a police dog or horse or an assistance dog, a 386
violation of this section is theft of a police dog or horse or an 387
assistance dog, a felony of the third degree. 388

(8) If the property stolen is anhydrous ammonia, a violation 389
of this section is theft of anhydrous ammonia, a felony of the 390
third degree. 391

(9) Except as provided in division (B)(2) of this section 392
with respect to property with a value of seven thousand five 393
hundred dollars or more and division (B)(3) of this section with 394
respect to property with a value of one thousand dollars or more, 395
if the property stolen is a special purpose article as defined in 396
section 4737.04 of the Revised Code or is a bulk merchandise 397
container as defined in section 4737.012 of the Revised Code, a 398
violation of this section is theft of a special purpose article or 399
articles or theft of a bulk merchandise container or containers, a 400
felony of the fifth degree. 401

(10) In addition to the penalties described in division 402
(B)(2) of this section, if the offender committed the violation by 403
causing a motor vehicle to leave the premises of an establishment 404
at which gasoline is offered for retail sale without the offender 405
making full payment for gasoline that was dispensed into the fuel 406
tank of the motor vehicle or into another container, the court may 407
do one of the following: 408

(a) Unless division (B)(10)(b) of this section applies, 409
suspend for not more than six months the offender's driver's 410
license, probationary driver's license, commercial driver's 411
license, temporary instruction permit, or nonresident operating 412
privilege; 413

(b) If the offender's driver's license, probationary driver's 414
license, commercial driver's license, temporary instruction 415
permit, or nonresident operating privilege has previously been 416
suspended pursuant to division (B)(10)(a) of this section, impose 417
a class seven suspension of the offender's license, permit, or 418
privilege from the range specified in division (A)(7) of section 419
4510.02 of the Revised Code, provided that the suspension shall be 420

for at least six months. 421

(c) The court, in lieu of suspending the offender's driver's 422
or commercial driver's license, probationary driver's license, 423
temporary instruction permit, or nonresident operating privilege 424
pursuant to division (B)(10)(a) or (b) of this section, instead 425
may require the offender to perform community service for a number 426
of hours determined by the court. 427

(11) In addition to the penalties described in division 428
(B)(2) of this section, if the offender committed the violation by 429
stealing rented property or rental services, the court may order 430
that the offender make restitution pursuant to section 2929.18 or 431
2929.28 of the Revised Code. Restitution may include, but is not 432
limited to, the cost of repairing or replacing the stolen 433
property, or the cost of repairing the stolen property and any 434
loss of revenue resulting from deprivation of the property due to 435
theft of rental services that is less than or equal to the actual 436
value of the property at the time it was rented. Evidence of 437
intent to commit theft of rented property or rental services shall 438
be determined pursuant to the provisions of section 2913.72 of the 439
Revised Code. 440

(C) The sentencing court that suspends an offender's license, 441
permit, or nonresident operating privilege under division (B)(10) 442
of this section may grant the offender limited driving privileges 443
during the period of the suspension in accordance with Chapter 444
4510. of the Revised Code. 445

Sec. 2913.43. (A) No person, by deception, shall cause 446
another to execute any writing that disposes of or encumbers 447
property, or by which a pecuniary obligation is incurred. 448

(B)(1) Whoever violates this section is guilty of securing 449
writings by deception. 450

(2) Except as otherwise provided in this division or division 451
(B)(3) of this section, securing writings by deception is a 452
misdemeanor of the first degree. If the value of the property or 453
the obligation involved is one thousand dollars or more and less 454
than seven thousand five hundred dollars, securing writings by 455
deception is a felony of the fifth degree. If the value of the 456
property or the obligation involved is seven thousand five hundred 457
dollars or more and is less than one hundred fifty thousand 458
dollars, securing writings by deception is a felony of the fourth 459
degree. If the value of the property or the obligation involved is 460
one hundred fifty thousand dollars or more, securing writings by 461
deception is a felony of the third degree. 462

(3) If the victim of the offense is an elderly person ~~or~~ 463
disabled adult, active duty service member, or spouse of an active 464
duty service member, division (B)(3) of this section applies. 465
Except as otherwise provided in division (B)(3) of this section, 466
securing writings by deception is a felony of the fifth degree. If 467
the value of the property or obligation involved is one thousand 468
dollars or more and is less than seven thousand five hundred 469
dollars, securing writings by deception is a felony of the fourth 470
degree. If the value of the property or obligation involved is 471
seven thousand five hundred dollars or more and is less than 472
thirty-seven thousand five hundred dollars, securing writings by 473
deception is a felony of the third degree. If the value of the 474
property or obligation involved is thirty-seven thousand five 475
hundred dollars or more, securing writings by deception is a 476
felony of the second degree. 477

Sec. 2913.49. (A) As used in this section, "personal 478
identifying information" includes, but is not limited to, the 479
following: the name, address, telephone number, driver's license, 480
driver's license number, commercial driver's license, commercial 481
driver's license number, state identification card, state 482

identification card number, social security card, social security 483
number, birth certificate, place of employment, employee 484
identification number, mother's maiden name, demand deposit 485
account number, savings account number, money market account 486
number, mutual fund account number, other financial account 487
number, personal identification number, password, or credit card 488
number of a living or dead individual. 489

(B) No person, without the express or implied consent of the 490
other person, shall use, obtain, or possess any personal 491
identifying information of another person with intent to do either 492
of the following: 493

(1) Hold the person out to be the other person; 494

(2) Represent the other person's personal identifying 495
information as the person's own personal identifying information. 496

(C) No person shall create, obtain, possess, or use the 497
personal identifying information of any person with the intent to 498
aid or abet another person in violating division (B) of this 499
section. 500

(D) No person, with intent to defraud, shall permit another 501
person to use the person's own personal identifying information. 502

(E) No person who is permitted to use another person's 503
personal identifying information as described in division (D) of 504
this section shall use, obtain, or possess the other person's 505
personal identifying information with intent to defraud any person 506
by doing any act identified in division (B)(1) or (2) of this 507
section. 508

(F)(1) It is an affirmative defense to a charge under 509
division (B) of this section that the person using the personal 510
identifying information is acting in accordance with a legally 511
recognized guardianship or conservatorship or as a trustee or 512
fiduciary. 513

(2) It is an affirmative defense to a charge under division 514
(B), (C), (D), or (E) of this section that either of the following 515
applies: 516

(a) The person or entity using, obtaining, possessing, or 517
creating the personal identifying information or permitting it to 518
be used is a law enforcement agency, authorized fraud personnel, 519
or a representative of or attorney for a law enforcement agency or 520
authorized fraud personnel and is using, obtaining, possessing, or 521
creating the personal identifying information or permitting it to 522
be used, with prior consent given as specified in this division, 523
in a bona fide investigation, an information security evaluation, 524
a pretext calling evaluation, or a similar matter. The prior 525
consent required under this division shall be given by the person 526
whose personal identifying information is being used, obtained, 527
possessed, or created or is being permitted to be used or, if the 528
person whose personal identifying information is being used, 529
obtained, possessed, or created or is being permitted to be used 530
is deceased, by that deceased person's executor, or a member of 531
that deceased person's family, or that deceased person's attorney. 532
The prior consent required under this division may be given orally 533
or in writing by the person whose personal identifying information 534
is being used, obtained, possessed, or created or is being 535
permitted to be used or that person's executor, or family member, 536
or attorney. 537

(b) The personal identifying information was obtained, 538
possessed, used, created, or permitted to be used for a lawful 539
purpose, provided that division (F)(2)(b) of this section does not 540
apply if the person or entity using, obtaining, possessing, or 541
creating the personal identifying information or permitting it to 542
be used is a law enforcement agency, authorized fraud personnel, 543
or a representative of or attorney for a law enforcement agency or 544
authorized fraud personnel that is using, obtaining, possessing, 545

or creating the personal identifying information or permitting it 546
to be used in an investigation, an information security 547
evaluation, a pretext calling evaluation, or similar matter. 548

(G) It is not a defense to a charge under this section that 549
the person whose personal identifying information was obtained, 550
possessed, used, created, or permitted to be used was deceased at 551
the time of the offense. 552

(H)(1) If an offender commits a violation of division (B), 553
(D), or (E) of this section and the violation occurs as part of a 554
course of conduct involving other violations of division (B), (D), 555
or (E) of this section or violations of, attempts to violate, 556
conspiracies to violate, or complicity in violations of division 557
(C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 558
2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the 559
court, in determining the degree of the offense pursuant to 560
division (I) of this section, may aggregate all credit, property, 561
or services obtained or sought to be obtained by the offender and 562
all debts or other legal obligations avoided or sought to be 563
avoided by the offender in the violations involved in that course 564
of conduct. The course of conduct may involve one victim or more 565
than one victim. 566

(2) If an offender commits a violation of division (C) of 567
this section and the violation occurs as part of a course of 568
conduct involving other violations of division (C) of this section 569
or violations of, attempts to violate, conspiracies to violate, or 570
complicity in violations of division (B), (D), or (E) of this 571
section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 572
2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in 573
determining the degree of the offense pursuant to division (I) of 574
this section, may aggregate all credit, property, or services 575
obtained or sought to be obtained by the person aided or abetted 576
and all debts or other legal obligations avoided or sought to be 577

avoided by the person aided or abetted in the violations involved 578
in that course of conduct. The course of conduct may involve one 579
victim or more than one victim. 580

(I)(1) Whoever violates this section is guilty of identity 581
fraud. 582

(2) Except as otherwise provided in this division or division 583
(I)(3) of this section, identity fraud is a felony of the fifth 584
degree. If the value of the credit, property, services, debt, or 585
other legal obligation involved in the violation or course of 586
conduct is one thousand dollars or more and is less than seven 587
thousand five hundred dollars, except as otherwise provided in 588
division (I)(3) of this section, identity fraud is a felony of the 589
fourth degree. If the value of the credit, property, services, 590
debt, or other legal obligation involved in the violation or 591
course of conduct is seven thousand five hundred dollars or more 592
and is less than one hundred fifty thousand dollars, except as 593
otherwise provided in division (I)(3) of this section, identity 594
fraud is a felony of the third degree. If the value of the credit, 595
property, services, debt, or other legal obligation involved in 596
the violation or course of conduct is one hundred fifty thousand 597
dollars or more, except as otherwise provided in division (I)(3) 598
of this section, identity fraud is a felony of the second degree. 599

(3) If the victim of the offense is an elderly person ~~or~~, 600
disabled adult, active duty service member, or spouse of an active 601
duty service member, a violation of this section is identity fraud 602
against ~~an elderly a person or disabled adult in a protected~~ 603
class. Except as otherwise provided in this division, identity 604
fraud against ~~an elderly a person or disabled adult in a protected~~ 605
class is a felony of the ~~fifth~~ fourth degree. If the value of the 606
credit, property, services, debt, or other legal obligation 607
involved in the violation or course of conduct is one thousand 608
dollars or more and is less than seven thousand five hundred 609

dollars, identity fraud against ~~an elderly~~ a person ~~or disabled~~ 610
~~adult~~ in a protected class is a felony of the third degree. If the 611
value of the credit, property, services, debt, or other legal 612
obligation involved in the violation or course of conduct is seven 613
thousand five hundred dollars or more and is less than one hundred 614
fifty thousand dollars, identity fraud against ~~an elderly~~ a person 615
~~or disabled~~ ~~adult~~ in a protected class is a felony of the second 616
degree. If the value of the credit, property, services, debt, or 617
other legal obligation involved in the violation or course of 618
conduct is one hundred fifty thousand dollars or more, identity 619
fraud against ~~an elderly~~ a person ~~or disabled~~ ~~adult~~ in a protected 620
class is a felony of the first degree. 621

(J) In addition to the penalties described in division (I) of 622
this section, anyone injured in person or property by a violation 623
of division (B), (D), or (E) of this section who is the owner of 624
the identifying information involved in that violation has a civil 625
action against the offender pursuant to section 2307.60 of the 626
Revised Code. That person may also bring a civil action to enjoin 627
or restrain future acts that would constitute a violation of 628
division (B), (D), or (E) of this section. 629

Sec. 2913.61. (A) When a person is charged with a theft 630
offense, or with a violation of division (A)(1) of section 1716.14 631
of the Revised Code involving a victim who is an elderly person or 632
disabled adult that involves property or services valued at one 633
thousand dollars or more, property or services valued at one 634
thousand dollars or more and less than seven thousand five hundred 635
dollars, property or services valued at one thousand five hundred 636
dollars or more and less than seven thousand five hundred dollars, 637
property or services valued at seven thousand five hundred dollars 638
or more and less than thirty-seven thousand five hundred dollars, 639
property or services valued at seven thousand five hundred dollars 640
or more and less than one hundred fifty thousand dollars, property 641

or services valued at thirty-seven thousand five hundred dollars 642
or more and less than one hundred fifty thousand dollars, property 643
or services valued at thirty-seven thousand five hundred dollars 644
or more, property or services valued at one hundred fifty thousand 645
dollars or more, property or services valued at one hundred fifty 646
thousand dollars or more and less than seven hundred fifty 647
thousand dollars, property or services valued at seven hundred 648
fifty thousand dollars or more and less than one million five 649
hundred thousand dollars, or property or services valued at one 650
million five hundred thousand dollars or more, the jury or court 651
trying the accused shall determine the value of the property or 652
services as of the time of the offense and, if a guilty verdict is 653
returned, shall return the finding of value as part of the 654
verdict. In any case in which the jury or court determines that 655
the value of the property or services at the time of the offense 656
was one thousand dollars or more, it is unnecessary to find and 657
return the exact value, and it is sufficient if the finding and 658
return is to the effect that the value of the property or services 659
involved was one thousand dollars or more, was one thousand 660
dollars or more and less than seven thousand five hundred dollars, 661
was one thousand five hundred dollars or more and less than seven 662
thousand five hundred dollars, was seven thousand five hundred 663
dollars or more and less than thirty-seven thousand five hundred 664
dollars, ~~was seven thousand five hundred dollars or more and less~~ 665
~~than thirty-seven thousand five hundred dollars,~~ was seven 666
thousand five hundred dollars or more and less than one hundred 667
fifty thousand dollars, was thirty-seven thousand five hundred 668
dollars or more and less than one hundred fifty thousand dollars, 669
was thirty-seven thousand five hundred dollars or more ~~and less~~ 670
~~than one hundred fifty thousand dollars,~~ was one hundred fifty 671
thousand dollars or more, was one hundred fifty thousand dollars 672
or more and less than seven hundred fifty thousand dollars, was 673
seven hundred fifty thousand dollars or more and less than one 674

million five hundred thousand dollars, or was one million five 675
hundred thousand dollars or more, whichever is relevant regarding 676
the offense. 677

(B) If more than one item of property or services is involved 678
in a theft offense or in a violation of division (A)(1) of section 679
1716.14 of the Revised Code involving a victim who is an elderly 680
person or disabled adult, the value of the property or services 681
involved for the purpose of determining the value as required by 682
division (A) of this section is the aggregate value of all 683
property or services involved in the offense. 684

(C)(1) When a series of offenses under section 2913.02 of the 685
Revised Code, or a series of violations of, attempts to commit a 686
violation of, conspiracies to violate, or complicity in violations 687
of division (A)(1) of section 1716.14, section 2913.02, 2913.03, 688
or 2913.04, division (B)(1) or (2) of section 2913.21, or section 689
2913.31 or 2913.43 of the Revised Code involving a victim who is 690
an elderly person or disabled adult, is committed by the offender 691
in the offender's same employment, capacity, or relationship to 692
another, all of those offenses shall be tried as a single offense. 693
When a series of offenses under section 2913.02 of the Revised 694
Code, or a series of violations of, attempts to commit a violation 695
of, conspiracies to violate, or complicity in violations of 696
section 2913.02 or 2913.43 of the Revised Code involving a victim 697
who is an active duty service member or spouse of an active duty 698
service member is committed by the offender in the offender's same 699
employment, capacity, or relationship to another, all of those 700
offenses shall be tried as a single offense. The value of the 701
property or services involved in the series of offenses for the 702
purpose of determining the value as required by division (A) of 703
this section is the aggregate value of all property and services 704
involved in all offenses in the series. 705

(2) If an offender commits a series of offenses under section 706

2913.02 of the Revised Code that involves a common course of 707
conduct to defraud multiple victims, all of the offenses may be 708
tried as a single offense. If an offender is being tried for the 709
commission of a series of violations of, attempts to commit a 710
violation of, conspiracies to violate, or complicity in violations 711
of division (A)(1) of section 1716.14, section 2913.02, 2913.03, 712
or 2913.04, division (B)(1) or (2) of section 2913.21, or section 713
2913.31 or 2913.43 of the Revised Code, whether committed against 714
one victim or more than one victim, involving a victim who is an 715
elderly person or disabled adult, pursuant to a scheme or course 716
of conduct, all of those offenses may be tried as a single 717
offense. If an offender is being tried for the commission of a 718
series of violations of, attempts to commit a violation of, 719
conspiracies to violate, or complicity in violations of section 720
2913.02 or 2913.43 of the Revised Code, whether committed against 721
one victim or more than one victim, involving a victim who is an 722
active duty service member or spouse of an active duty service 723
member pursuant to a scheme or course of conduct, all of those 724
offenses may be tried as a single offense. If the offenses are 725
tried as a single offense, the value of the property or services 726
involved for the purpose of determining the value as required by 727
division (A) of this section is the aggregate value of all 728
property and services involved in all of the offenses in the 729
course of conduct. 730

(3) When a series of two or more offenses under section 731
2913.40, 2913.48, or 2921.41 of the Revised Code is committed by 732
the offender in the offender's same employment, capacity, or 733
relationship to another, all of those offenses may be tried as a 734
single offense. If the offenses are tried as a single offense, the 735
value of the property or services involved for the purpose of 736
determining the value as required by division (A) of this section 737
is the aggregate value of all property and services involved in 738
all of the offenses in the series of two or more offenses. 739

(4) In prosecuting a single offense under division (C)(1), 740
(2), or (3) of this section, it is not necessary to separately 741
allege and prove each offense in the series. Rather, it is 742
sufficient to allege and prove that the offender, within a given 743
span of time, committed one or more theft offenses or violations 744
of section 2913.40, 2913.48, or 2921.41 of the Revised Code in the 745
offender's same employment, capacity, or relationship to another 746
as described in division (C)(1) or (3) of this section, or 747
committed one or more theft offenses that involve a common course 748
of conduct to defraud multiple victims or a scheme or course of 749
conduct as described in division (C)(2) of this section. While it 750
is not necessary to separately allege and prove each offense in 751
the series in order to prosecute a single offense under division 752
(C)(1), (2), or (3) of this section, it remains necessary in 753
prosecuting them as a single offense to prove the aggregate value 754
of the property or services in order to meet the requisite 755
statutory offense level sought by the prosecution. 756

(D) The following criteria shall be used in determining the 757
value of property or services involved in a theft offense: 758

(1) The value of an heirloom, memento, collector's item, 759
antique, museum piece, manuscript, document, record, or other 760
thing that has intrinsic worth to its owner and that either is 761
irreplaceable or is replaceable only on the expenditure of 762
substantial time, effort, or money, is the amount that would 763
compensate the owner for its loss. 764

(2) The value of personal effects and household goods, and of 765
materials, supplies, equipment, and fixtures used in the 766
profession, business, trade, occupation, or avocation of its 767
owner, which property is not covered under division (D)(1) of this 768
section and which retains substantial utility for its purpose 769
regardless of its age or condition, is the cost of replacing the 770
property with new property of like kind and quality. 771

(3) The value of any real or personal property that is not covered under division (D)(1) or (2) of this section, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(E) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense is prima-facie evidence of the value of the security or commodity.

(3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry, or products.

(4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the

instrument less any payment necessary to receive the property is 803
prima-facie evidence of the value of the instrument. 804

(6) When the property involved is a ticket of admission, 805
ticket for transportation, coupon, token, or other instrument 806
entitling the holder or bearer to receive property or services, 807
the face value or, if there is no face value, the value of the 808
property or services that may be received by the instrument is 809
prima-facie evidence of the value of the instrument. 810

(7) When the services involved are gas, electricity, water, 811
telephone, transportation, shipping, or other services for which 812
the rate is established by law, the duly established rate is 813
prima-facie evidence of the value of the services. 814

(8) When the services involved are services for which the 815
rate is not established by law, and the offender has been notified 816
prior to the offense of the rate for the services, either in 817
writing, orally, or by posting in a manner reasonably calculated 818
to come to the attention of potential offenders, the rate 819
contained in the notice is prima-facie evidence of the value of 820
the services. 821

Section 2. That existing sections 2913.01, 2913.02, 2913.43, 822
2913.49, and 2913.61 of the Revised Code are hereby repealed. 823