

As Introduced

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Representative Perales

**Cosponsors: Representatives Butler, Bocchieri, Dever, Fedor, Miller, Schaffer,
Sheehy, Slaby, Smith, K., Sweeney, Vitale**

A BILL

To amend section 2923.31 and to enact section 1
2913.30 of the Revised Code to create the 2
offense of counterfeiting and to include 3
counterfeiting within the definition of "corrupt 4
activity" under the Corrupt Activities Law. 5

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

Section 1. That section 2923.31 be amended and section 6
2913.30 of the Revised Code be enacted to read as follows: 7

Sec. 2913.30. (A) As used in this section: 8

(1) "Access device" means any debit or credit card 9
representing a monetary security or retail amount by any 10
financial institution, including a bank, savings bank, savings 11
and loan association, credit union, or business entity. 12

(2) "Obligation or other security" means an instrument 13
recognized as currency or legal tender or that is issued by the 14
United States treasury, including bills, coins, bonds, or 15
checks. 16

(B) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following: 17
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(1) Falsely make, forge, counterfeit, or alter any obligation or other security of the United States; 19
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(2) Pass, utter, sell, purchase, conceal, or transfer any counterfeit obligation or other security of the United States; 21
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(3) Possess with the purpose to utter any obligation or other security of the United States, knowing that the obligation or other security has been counterfeited; 23
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(4) Without authorization of the issuer, falsely make, forge, counterfeit, alter, or knowingly possess any access device. 26
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(C) Whoever violates this section is guilty of counterfeiting. Except as otherwise provided in this division, counterfeiting is a felony of the fourth degree, and in addition, the court shall impose on the offender a fine from the range of fines for a felony of the fourth degree that is not less than five hundred dollars. 29
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(1) If the value of the counterfeited obligation or other security or access device is five thousand dollars or more and is less than one hundred thousand dollars, counterfeiting is a felony of the third degree. 35
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(2) If the value of the counterfeited obligation or other security or access device is one hundred thousand dollars or more and is less than one million dollars, counterfeiting is a felony of the second degree. 39
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(3) If the value of the counterfeited obligation or other security or access device is one million dollars or more, 43
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counterfeiting is a felony of the first degree. 45

(D) A prosecution for a violation of this section does not 46
preclude a prosecution for a violation of section 2913.02, 47
2913.31, or 2913.32 of the Revised Code based on the same 48
conduct. However, if an offender is convicted of or pleads 49
guilty to a violation of this section and is also convicted of 50
or pleads guilty to a violation of section 2913.02, 2913.31, or 51
2913.32 of the Revised Code based on the same conduct involving 52
the same victim that was the basis of the violation of this 53
section, the two or more offenses are allied offenses of similar 54
import under section 2941.25 of the Revised Code. 55

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 56
the Revised Code: 57

(A) "Beneficial interest" means any of the following: 58

(1) The interest of a person as a beneficiary under a 59
trust in which the trustee holds title to personal or real 60
property; 61

(2) The interest of a person as a beneficiary under any 62
other trust arrangement under which any other person holds title 63
to personal or real property for the benefit of such person; 64

(3) The interest of a person under any other form of 65
express fiduciary arrangement under which any other person holds 66
title to personal or real property for the benefit of such 67
person. 68

"Beneficial interest" does not include the interest of a 69
stockholder in a corporation or the interest of a partner in 70
either a general or limited partnership. 71

(B) "Costs of investigation and prosecution" and "costs of 72

investigation and litigation" mean all of the costs incurred by 73
the state or a county or municipal corporation under sections 74
2923.31 to 2923.36 of the Revised Code in the prosecution and 75
investigation of any criminal action or in the litigation and 76
investigation of any civil action, and includes, but is not 77
limited to, the costs of resources and personnel. 78

(C) "Enterprise" includes any individual, sole 79
proprietorship, partnership, limited partnership, corporation, 80
trust, union, government agency, or other legal entity, or any 81
organization, association, or group of persons associated in 82
fact although not a legal entity. "Enterprise" includes illicit 83
as well as licit enterprises. 84

(D) "Innocent person" includes any bona fide purchaser of 85
property that is allegedly involved in a violation of section 86
2923.32 of the Revised Code, including any person who 87
establishes a valid claim to or interest in the property in 88
accordance with division (E) of section 2981.04 of the Revised 89
Code, and any victim of an alleged violation of that section or 90
of any underlying offense involved in an alleged violation of 91
that section. 92

(E) "Pattern of corrupt activity" means two or more 93
incidents of corrupt activity, whether or not there has been a 94
prior conviction, that are related to the affairs of the same 95
enterprise, are not isolated, and are not so closely related to 96
each other and connected in time and place that they constitute 97
a single event. 98

At least one of the incidents forming the pattern shall 99
occur on or after January 1, 1986. Unless any incident was an 100
aggravated murder or murder, the last of the incidents forming 101
the pattern shall occur within six years after the commission of 102

any prior incident forming the pattern, excluding any period of 103
imprisonment served by any person engaging in the corrupt 104
activity. 105

For the purposes of the criminal penalties that may be 106
imposed pursuant to section 2923.32 of the Revised Code, at 107
least one of the incidents forming the pattern shall constitute 108
a felony under the laws of this state in existence at the time 109
it was committed or, if committed in violation of the laws of 110
the United States or of any other state, shall constitute a 111
felony under the law of the United States or the other state and 112
would be a criminal offense under the law of this state if 113
committed in this state. 114

(F) "Pecuniary value" means money, a negotiable 115
instrument, a commercial interest, or anything of value, as 116
defined in section 1.03 of the Revised Code, or any other 117
property or service that has a value in excess of one hundred 118
dollars. 119

(G) "Person" means any person, as defined in section 1.59 120
of the Revised Code, and any governmental officer, employee, or 121
entity. 122

(H) "Personal property" means any personal property, any 123
interest in personal property, or any right, including, but not 124
limited to, bank accounts, debts, corporate stocks, patents, or 125
copyrights. Personal property and any beneficial interest in 126
personal property are deemed to be located where the trustee of 127
the property, the personal property, or the instrument 128
evidencing the right is located. 129

(I) "Corrupt activity" means engaging in, attempting to 130
engage in, conspiring to engage in, or soliciting, coercing, or 131

intimidating another person to engage in any of the following:	132
(1) Conduct defined as "racketeering activity" under the	133
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C.	134
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;	135
(2) Conduct constituting any of the following:	136
(a) A violation of section 1315.55, 1322.02, 2903.01,	137
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02,	138
2905.11, 2905.22, 2905.32 as specified in division (I)(2)(g) of	139
this section, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03,	140
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29,	141
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05,	142
2913.06, <u>2913.30</u> , 2921.02, 2921.03, 2921.04, 2921.11, 2921.12,	143
2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17;	144
division (F)(1)(a), (b), or (c) of section 1315.53; division (A)	145
(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E),	146
or (F) of section 1707.44; division (A)(1) or (2) of section	147
2923.20; division (E) or (G) of section 3772.99; division (J)(1)	148
of section 4712.02; section 4719.02, 4719.05, or 4719.06;	149
division (C), (D), or (E) of section 4719.07; section 4719.08;	150
or division (A) of section 4719.09 of the Revised Code.	151
(b) Any violation of section 3769.11, 3769.15, 3769.16, or	152
3769.19 of the Revised Code as it existed prior to July 1, 1996,	153
any violation of section 2915.02 of the Revised Code that occurs	154
on or after July 1, 1996, and that, had it occurred prior to	155
that date, would have been a violation of section 3769.11 of the	156
Revised Code as it existed prior to that date, or any violation	157
of section 2915.05 of the Revised Code that occurs on or after	158
July 1, 1996, and that, had it occurred prior to that date,	159
would have been a violation of section 3769.15, 3769.16, or	160
3769.19 of the Revised Code as it existed prior to that date.	161

(c) Any violation of section 2907.21, 2907.22, 2907.31, 162
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 163
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 164
of the Revised Code, any violation of section 2925.11 of the 165
Revised Code that is a felony of the first, second, third, or 166
fourth degree and that occurs on or after July 1, 1996, any 167
violation of section 2915.02 of the Revised Code that occurred 168
prior to July 1, 1996, any violation of section 2915.02 of the 169
Revised Code that occurs on or after July 1, 1996, and that, had 170
it occurred prior to that date, would not have been a violation 171
of section 3769.11 of the Revised Code as it existed prior to 172
that date, any violation of section 2915.06 of the Revised Code 173
as it existed prior to July 1, 1996, or any violation of 174
division (B) of section 2915.05 of the Revised Code as it exists 175
on and after July 1, 1996, when the proceeds of the violation, 176
the payments made in the violation, the amount of a claim for 177
payment or for any other benefit that is false or deceptive and 178
that is involved in the violation, or the value of the 179
contraband or other property illegally possessed, sold, or 180
purchased in the violation exceeds one thousand dollars, or any 181
combination of violations described in division (I) (2) (c) of 182
this section when the total proceeds of the combination of 183
violations, payments made in the combination of violations, 184
amount of the claims for payment or for other benefits that is 185
false or deceptive and that is involved in the combination of 186
violations, or value of the contraband or other property 187
illegally possessed, sold, or purchased in the combination of 188
violations exceeds one thousand dollars; 189

(d) Any violation of section 5743.112 of the Revised Code 190
when the amount of unpaid tax exceeds one hundred dollars; 191

(e) Any violation or combination of violations of section 192

2907.32 of the Revised Code involving any material or 193
performance containing a display of bestiality or of sexual 194
conduct, as defined in section 2907.01 of the Revised Code, that 195
is explicit and depicted with clearly visible penetration of the 196
genitals or clearly visible penetration by the penis of any 197
orifice when the total proceeds of the violation or combination 198
of violations, the payments made in the violation or combination 199
of violations, or the value of the contraband or other property 200
illegally possessed, sold, or purchased in the violation or 201
combination of violations exceeds one thousand dollars; 202

(f) Any combination of violations described in division 203
(I) (2) (c) of this section and violations of section 2907.32 of 204
the Revised Code involving any material or performance 205
containing a display of bestiality or of sexual conduct, as 206
defined in section 2907.01 of the Revised Code, that is explicit 207
and depicted with clearly visible penetration of the genitals or 208
clearly visible penetration by the penis of any orifice when the 209
total proceeds of the combination of violations, payments made 210
in the combination of violations, amount of the claims for 211
payment or for other benefits that is false or deceptive and 212
that is involved in the combination of violations, or value of 213
the contraband or other property illegally possessed, sold, or 214
purchased in the combination of violations exceeds one thousand 215
dollars; 216

(g) Any violation of section 2905.32 of the Revised Code 217
to the extent the violation is not based solely on the same 218
conduct that constitutes corrupt activity pursuant to division 219
(I) (2) (c) of this section due to the conduct being in violation 220
of section 2907.21 of the Revised Code. 221

(3) Conduct constituting a violation of any law of any 222

state other than this state that is substantially similar to the 223
conduct described in division (I) (2) of this section, provided 224
the defendant was convicted of the conduct in a criminal 225
proceeding in the other state; 226

(4) Animal or ecological terrorism; 227

(5) (a) Conduct constituting any of the following: 228

(i) Organized retail theft; 229

(ii) Conduct that constitutes one or more violations of 230
any law of any state other than this state, that is 231
substantially similar to organized retail theft, and that if 232
committed in this state would be organized retail theft, if the 233
defendant was convicted of or pleaded guilty to the conduct in a 234
criminal proceeding in the other state. 235

(b) By enacting division (I) (5) (a) of this section, it is 236
the intent of the general assembly to add organized retail theft 237
and the conduct described in division (I) (5) (a) (ii) of this 238
section as conduct constituting corrupt activity. The enactment 239
of division (I) (5) (a) of this section and the addition by 240
division (I) (5) (a) of this section of organized retail theft and 241
the conduct described in division (I) (5) (a) (ii) of this section 242
as conduct constituting corrupt activity does not limit or 243
preclude, and shall not be construed as limiting or precluding, 244
any prosecution for a violation of section 2923.32 of the 245
Revised Code that is based on one or more violations of section 246
2913.02 or 2913.51 of the Revised Code, one or more similar 247
offenses under the laws of this state or any other state, or any 248
combination of any of those violations or similar offenses, even 249
though the conduct constituting the basis for those violations 250
or offenses could be construed as also constituting organized 251

retail theft or conduct of the type described in division (I) (5)	252
(a) (ii) of this section.	253
(J) "Real property" means any real property or any	254
interest in real property, including, but not limited to, any	255
lease of, or mortgage upon, real property. Real property and any	256
beneficial interest in it is deemed to be located where the real	257
property is located.	258
(K) "Trustee" means any of the following:	259
(1) Any person acting as trustee under a trust in which	260
the trustee holds title to personal or real property;	261
(2) Any person who holds title to personal or real	262
property for which any other person has a beneficial interest;	263
(3) Any successor trustee.	264
"Trustee" does not include an assignee or trustee for an	265
insolvent debtor or an executor, administrator, administrator	266
with the will annexed, testamentary trustee, guardian, or	267
committee, appointed by, under the control of, or accountable to	268
a court.	269
(L) "Unlawful debt" means any money or other thing of	270
value constituting principal or interest of a debt that is	271
legally unenforceable in this state in whole or in part because	272
the debt was incurred or contracted in violation of any federal	273
or state law relating to the business of gambling activity or	274
relating to the business of lending money at an usurious rate	275
unless the creditor proves, by a preponderance of the evidence,	276
that the usurious rate was not intentionally set and that it	277
resulted from a good faith error by the creditor,	278
notwithstanding the maintenance of procedures that were adopted	279
by the creditor to avoid an error of that nature.	280

(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 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.

(Q) "Organized retail theft" means the theft of retail property with a retail value of one thousand dollars or more from one or more retail establishments 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 one thousand dollars, the value of all retail property stolen from the retail establishment or retail establishments by the same person or persons within any one-hundred-eighty-day period shall be aggregated.

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

Section 3. Section 2923.31 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 386 and Am. Sub. H.B. 262 of the 129th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.