

**As Passed by the House**

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**Sub. H. B. No. 497**

**Representatives Rogers, Manning**

**Cosponsors: Representatives Anielski, Arndt, Ashford, Boyd, Brown, Cupp, Dever, Galonski, Gavarone, Green, Hambley, Holmes, Hoops, Howse, Hughes, Koehler, Landis, Lanese, Lang, Leland, Lepore-Hagan, Miller, O'Brien, Patterson, Patton, Perales, Ramos, Rezabek, Riedel, Scherer, Schuring, Sheehy, West, Speaker Smith**

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**A BILL**

To amend sections 2907.01, 2907.31, 2981.02, and 1  
2981.04 and to enact sections 9.74, 2307.66, 2  
2917.211, and 3345.49 of the Revised Code to 3  
prohibit the nonconsensual dissemination of 4  
private sexual images, to require that certain 5  
property involved in the offense be criminally 6  
forfeited, and to create certain legal rights 7  
and protections of a victim of the offense. 8

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

**Section 1.** That sections 2907.01, 2907.31, 2981.02, and 9  
2981.04 be amended and sections 9.74, 2307.66, 2917.211, and 10  
3345.49 of the Revised Code be enacted to read as follows: 11

**Sec. 9.74.** (A) As used in this section: 12

(1) "License" means a license, certificate, registration, 13  
permit, card, or other authority issued or conferred by a 14  
licensing authority of which the licensee has or claims the 15

privilege to engage in the profession, occupation, or activity, 16  
or to have control of and operate certain specific equipment, 17  
machinery, or premises, over which the licensing authority has 18  
jurisdiction. 19

(2) "Licensing authority" means a public office that 20  
issues a license to a person or entity. 21

(3) "Political subdivision" means a county, township, 22  
municipal corporation, or any other body corporate and politic 23  
that is responsible for government activities in a geographic 24  
area smaller than that of the state. 25

(4) "Public office" means any state agency, public 26  
institution, political subdivision, other organized body, 27  
office, agency, institution, or entity established by the laws 28  
of this state for the exercise of any function of government. 29  
"Public office" does not include the nonprofit corporation 30  
formed under section 187.01 of the Revised Code. 31

(5) "Victim" has the same meaning as in section 2930.01 of 32  
the Revised Code. 33

(B) No licensing authority shall knowingly take any of the 34  
following actions against a person who is applying for or holds 35  
a license solely on the basis that the person is a victim of a 36  
violation of section 2917.211 of the Revised Code: 37

(1) Refuse to issue a license to an applicant; 38

(2) Limit, suspend, or revoke a license; 39

(3) Refuse to renew a license. 40

**Sec. 2307.66.** (A) A victim of a violation of section 41  
2917.211 of the Revised Code has and may commence a civil cause 42  
of action against the offender for any of the following, in 43

addition to reasonable attorney's fees and the costs of bringing 44  
the action: 45

(1) An injunction or a temporary restraining order 46  
prohibiting further dissemination of the image that is the 47  
subject of the violation; 48

(2) Compensatory and punitive damages for harm resulting 49  
from the violation. 50

(B) The victim shall be presumed to have suffered harm as 51  
a result of the nonconsensual dissemination of private sexual 52  
images. 53

(C) The cause of action created by this section is in 54  
addition to any other cause of action available under statutory 55  
or common law. 56

(D) As used in this section, "victim" has the same meaning 57  
as in section 2930.01 of the Revised Code. 58

**Sec. 2907.01.** As used in sections 2907.01 to 2907.38 and 59  
2917.211 of the Revised Code: 60

(A) "Sexual conduct" means vaginal intercourse between a 61  
male and female; anal intercourse, fellatio, and cunnilingus 62  
between persons regardless of sex; and, without privilege to do 63  
so, the insertion, however slight, of any part of the body or 64  
any instrument, apparatus, or other object into the vaginal or 65  
anal opening of another. Penetration, however slight, is 66  
sufficient to complete vaginal or anal intercourse. 67

(B) "Sexual contact" means any touching of an erogenous 68  
zone of another, including without limitation the thigh, 69  
genitals, buttock, pubic region, or, if the person is a female, 70  
a breast, for the purpose of sexually arousing or gratifying 71

either person. 72

(C) "Sexual activity" means sexual conduct or sexual 73  
contact, or both. 74

(D) "Prostitute" means a male or female who promiscuously 75  
engages in sexual activity for hire, regardless of whether the 76  
hire is paid to the prostitute or to another. 77

(E) "Harmful to juveniles" means that quality of any 78  
material or performance describing or representing nudity, 79  
sexual conduct, sexual excitement, or sado-masochistic abuse in 80  
any form to which all of the following apply: 81

(1) The material or performance, when considered as a 82  
whole, appeals to the prurient interest of juveniles in sex. 83

(2) The material or performance is patently offensive to 84  
prevailing standards in the adult community as a whole with 85  
respect to what is suitable for juveniles. 86

(3) The material or performance, when considered as a 87  
whole, lacks serious literary, artistic, political, and 88  
scientific value for juveniles. 89

(F) When considered as a whole, and judged with reference 90  
to ordinary adults or, if it is designed for sexual deviates or 91  
other specially susceptible group, judged with reference to that 92  
group, any material or performance is "obscene" if any of the 93  
following apply: 94

(1) Its dominant appeal is to prurient interest; 95

(2) Its dominant tendency is to arouse lust by displaying 96  
or depicting sexual activity, masturbation, sexual excitement, 97  
or nudity in a way that tends to represent human beings as mere 98  
objects of sexual appetite; 99

(3) Its dominant tendency is to arouse lust by displaying 100  
or depicting bestiality or extreme or bizarre violence, cruelty, 101  
or brutality; 102

(4) Its dominant tendency is to appeal to scatological 103  
interest by displaying or depicting human bodily functions of 104  
elimination in a way that inspires disgust or revulsion in 105  
persons with ordinary sensibilities, without serving any genuine 106  
scientific, educational, sociological, moral, or artistic 107  
purpose; 108

(5) It contains a series of displays or descriptions of 109  
sexual activity, masturbation, sexual excitement, nudity, 110  
bestiality, extreme or bizarre violence, cruelty, or brutality, 111  
or human bodily functions of elimination, the cumulative effect 112  
of which is a dominant tendency to appeal to prurient or 113  
scatological interest, when the appeal to such an interest is 114  
primarily for its own sake or for commercial exploitation, 115  
rather than primarily for a genuine scientific, educational, 116  
sociological, moral, or artistic purpose. 117

(G) "Sexual excitement" means the condition of human male 118  
or female genitals when in a state of sexual stimulation or 119  
arousal. 120

(H) "Nudity" means the showing, representation, or 121  
depiction of human male or female genitals, pubic area, or 122  
buttocks with less than a full, opaque covering, or of a female 123  
breast with less than a full, opaque covering of any portion 124  
thereof below the top of the nipple, or of covered male genitals 125  
in a discernibly turgid state. 126

(I) "Juvenile" means an unmarried person under the age of 127  
eighteen. 128

(J) "Material" means any book, magazine, newspaper,	129
pamphlet, poster, print, picture, figure, image, description,	130
motion picture film, phonographic record, or tape, or other	131
tangible thing capable of arousing interest through sight,	132
sound, or touch and includes an image or text appearing on a	133
computer monitor, television screen, liquid crystal display, or	134
similar display device or an image or text recorded on a	135
computer hard disk, computer floppy disk, compact disk, magnetic	136
tape, or similar data storage device.	137
(K) "Performance" means any motion picture, preview,	138
trailer, play, show, skit, dance, or other exhibition performed	139
before an audience.	140
(L) "Spouse" means a person married to an offender at the	141
time of an alleged offense, except that such person shall not be	142
considered the spouse when any of the following apply:	143
(1) When the parties have entered into a written	144
separation agreement authorized by section 3103.06 of the	145
Revised Code;	146
(2) During the pendency of an action between the parties	147
for annulment, divorce, dissolution of marriage, or legal	148
separation;	149
(3) In the case of an action for legal separation, after	150
the effective date of the judgment for legal separation.	151
(M) "Minor" means a person under the age of eighteen.	152
(N) "Mental health client or patient" has the same meaning	153
as in section 2305.51 of the Revised Code.	154
(O) "Mental health professional" has the same meaning as	155
in section 2305.115 of the Revised Code.	156

(P) "Sado-masochistic abuse" means flagellation or torture 157  
by or upon a person or the condition of being fettered, bound, 158  
or otherwise physically restrained. 159

**Sec. 2907.31.** (A) No person, with knowledge of its 160  
character or content, shall recklessly do any of the following: 161

(1) Directly sell, deliver, furnish, disseminate, provide, 162  
exhibit, rent, or present to a juvenile, a group of juveniles, a 163  
law enforcement officer posing as a juvenile, or a group of law 164  
enforcement officers posing as juveniles any material or 165  
performance that is obscene or harmful to juveniles; 166

(2) Directly offer or agree to sell, deliver, furnish, 167  
disseminate, provide, exhibit, rent, or present to a juvenile, a 168  
group of juveniles, a law enforcement officer posing as a 169  
juvenile, or a group of law enforcement officers posing as 170  
juveniles any material or performance that is obscene or harmful 171  
to juveniles; 172

(3) While in the physical proximity of the juvenile or law 173  
enforcement officer posing as a juvenile, allow any juvenile or 174  
law enforcement officer posing as a juvenile to review or peruse 175  
any material or view any live performance that is harmful to 176  
juveniles. 177

(B) The following are affirmative defenses to a charge 178  
under this section that involves material or a performance that 179  
is harmful to juveniles but not obscene: 180

(1) The defendant is the parent, guardian, or spouse of 181  
the juvenile involved. 182

(2) The juvenile involved, at the time of the conduct in 183  
question, was accompanied by the juvenile's parent or guardian 184  
who, with knowledge of its character, consented to the material 185

or performance being furnished or presented to the juvenile. 186

(3) The juvenile exhibited to the defendant or to the 187  
defendant's agent or employee a draft card, driver's license, 188  
birth record, marriage license, or other official or apparently 189  
official document purporting to show that the juvenile was 190  
eighteen years of age or over or married, and the person to whom 191  
that document was exhibited did not otherwise have reasonable 192  
cause to believe that the juvenile was under the age of eighteen 193  
and unmarried. 194

(C) (1) It is an affirmative defense to a charge under this 195  
section, involving material or a performance that is obscene or 196  
harmful to juveniles, that the material or performance was 197  
furnished or presented for a bona fide medical, scientific, 198  
educational, governmental, judicial, or other proper purpose, by 199  
a physician, psychologist, sociologist, scientist, teacher, 200  
librarian, ~~clergyman~~ member of the clergy, prosecutor, judge, or 201  
other proper person. 202

(2) Except as provided in division (B) (3) of this section, 203  
mistake of age is not a defense to a charge under this section. 204

(D) (1) A person directly sells, delivers, furnishes, 205  
disseminates, provides, exhibits, rents, or presents or directly 206  
offers or agrees to sell, deliver, furnish, disseminate, 207  
provide, exhibit, rent, or present material or a performance to 208  
a juvenile, a group of juveniles, a law enforcement officer 209  
posing as a juvenile, or a group of law enforcement officers 210  
posing as juveniles in violation of this section by means of an 211  
electronic method of remotely transmitting information if the 212  
person knows or has reason to believe that the person receiving 213  
the information is a juvenile or the group of persons receiving 214  
the information are juveniles. 215

(2) A person remotely transmitting information by means of 216  
a method of mass distribution does not directly sell, deliver, 217  
furnish, disseminate, provide, exhibit, rent, or present or 218  
directly offer or agree to sell, deliver, furnish, disseminate, 219  
provide, exhibit, rent, or present the material or performance 220  
in question to a juvenile, a group of juveniles, a law 221  
enforcement officer posing as a juvenile, or a group of law 222  
enforcement officers posing as juveniles in violation of this 223  
section if either of the following applies: 224

(a) The person has inadequate information to know or have 225  
reason to believe that a particular recipient of the information 226  
or offer is a juvenile. 227

(b) The method of mass distribution does not provide the 228  
person the ability to prevent a particular recipient from 229  
receiving the information. 230

(E) If any provision of this section, or the application 231  
of any provision of this section to any person or circumstance, 232  
is held invalid, the invalidity does not affect other provisions 233  
or applications of this section or related sections that can be 234  
given effect without the invalid provision or application. To 235  
this end, the provisions are severable. 236

(F) (1) Whoever violates this section is guilty of 237  
disseminating matter harmful to juveniles. If the material or 238  
performance involved is harmful to juveniles, except as 239  
otherwise provided in this division or division (F) (2) of this 240  
section, a violation of this section is a misdemeanor of the 241  
first degree. If the material or performance involved is 242  
obscene, except as otherwise provided in this division or 243  
division (F) (2) of this section, a violation of this section is 244  
a felony of the fifth degree. If the material or performance 245

involved is obscene and the juvenile to whom it is sold, 246  
delivered, furnished, disseminated, provided, exhibited, rented, 247  
or presented, the juvenile to whom the offer is made or who is 248  
the subject of the agreement, or the juvenile who is allowed to 249  
review, peruse, or view it is under thirteen years of age, 250  
except as otherwise provided in division (F)(2) of this section, 251  
a violation of this section is a felony of the fourth degree. 252

(2) Notwithstanding division (F)(1) of this section, if a 253  
person violates this section by privately transmitting to a 254  
juvenile an image of the person in a state of nudity or engaged 255  
in a sexual act, the person is not more than five years older 256  
than the juvenile, and the person subsequently becomes a victim 257  
of a violation of section 2917.211 of the Revised Code in 258  
connection to the image, a violation of this section is a 259  
 misdemeanor of the third degree. 260

**Sec. 2917.211.** (A) As used in this section: 261

(1) "Disseminate" means to post, distribute, or publish on 262  
a computer device, computer network, web site, or other 263  
electronic device or medium of communication. 264

(2) "Image" means a photograph, film, videotape, digital 265  
recording, or other depiction or portrayal of a person. 266

(3) "Interactive computer service" has the meaning defined 267  
in the "Telecommunications Act of 1996," 47 U.S.C. 230, as 268  
amended. 269

(4) "Internet provider" means a provider of internet 270  
service, including all of the following: 271

(a) Broadband service, however defined or classified by 272  
the federal communications commission; 273

<u>(b) Information service, as defined in the</u>	274
<u>"Telecommunications Act of 1996," 47 U.S.C. 153, as amended;</u>	275
<u>(c) Internet protocol-enabled services, as defined in</u>	276
<u>section 4927.01 of the Revised Code.</u>	277
<u>(5) "Mobile service" and "telecommunications carrier" have</u>	278
<u>the meanings defined in 47 U.S.C. 153, as amended.</u>	279
<u>(6) "Cable service provider" has the same meaning as in</u>	280
<u>section 1332.01 of the Revised Code.</u>	281
<u>(7) "Direct-to-home satellite service" has the meaning</u>	282
<u>defined in 47 U.S.C. 303, as amended.</u>	283
<u>(8) "Video service provider" has the same meaning as in</u>	284
<u>section 1332.21 of the Revised Code.</u>	285
<u>(9) "Sexual act" means any of the following:</u>	286
<u>(a) Sexual activity;</u>	287
<u>(b) Masturbation;</u>	288
<u>(c) An act involving a bodily substance that is performed</u>	289
<u>for the purpose of sexual arousal or gratification;</u>	290
<u>(d) Sado-masochistic abuse.</u>	291
<u>(B) No person shall knowingly disseminate an image of</u>	292
<u>another person if all of the following apply:</u>	293
<u>(1) The person in the image is eighteen years of age or</u>	294
<u>older.</u>	295
<u>(2) The person in the image can be identified from the</u>	296
<u>image itself or from information displayed in connection with</u>	297
<u>the image and the offender supplied the identifying information.</u>	298
<u>(3) The person in the image is in a state of nudity or is</u>	299

<u>engaged in a sexual act.</u>	300
<u>(4) The image is disseminated without consent from the person in the image.</u>	301 302
<u>(5) The image is disseminated with intent to harm the person in the image.</u>	303 304
<u>(C) This section does not prohibit the dissemination of an image if any of the following apply:</u>	305 306
<u>(1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.</u>	307 308
<u>(2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.</u>	309 310
<u>(3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.</u>	311 312 313 314
<u>(4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.</u>	315 316 317 318
<u>(5) The image is disseminated for another lawful public purpose.</u>	319 320
<u>(6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.</u>	321 322 323 324
<u>(7) The image is disseminated for the purpose of medical treatment or examination.</u>	325 326

<u>(D) The following entities are not liable for a violation</u>	327
<u>of this section solely as a result of an image or other</u>	328
<u>information provided by another person:</u>	329
<u>(1) A provider of interactive computer service;</u>	330
<u>(2) A mobile service;</u>	331
<u>(3) A telecommunications carrier;</u>	332
<u>(4) An internet provider;</u>	333
<u>(5) A cable service provider;</u>	334
<u>(6) A direct-to-home satellite service;</u>	335
<u>(7) A video service provider.</u>	336
<u>(E) Any conduct that is a violation of this section and</u>	337
<u>any other section of the Revised Code may be prosecuted under</u>	338
<u>this section, the other section, or both sections.</u>	339
<u>(F) (1) (a) Except as otherwise provided in division (F) (1)</u>	340
<u>(b), (c), or (d) of this section, whoever violates this section</u>	341
<u>is guilty of nonconsensual dissemination of private sexual</u>	342
<u>images, a misdemeanor of the first degree.</u>	343
<u>(b) If the offender previously has been convicted of or</u>	344
<u>pleaded guilty to a violation of this section, nonconsensual</u>	345
<u>dissemination of private sexual images is a felony of the fifth</u>	346
<u>degree.</u>	347
<u>(c) If the offender previously has been convicted of or</u>	348
<u>pleaded guilty to two or more violations of this section,</u>	349
<u>nonconsensual dissemination of private sexual images is a felony</u>	350
<u>of the fourth degree.</u>	351
<u>(d) If the offender is under eighteen years of age and the</u>	352
<u>person in the image is not more than five years older than the</u>	353

offender, the offender shall not be prosecuted under this 354  
section. 355

(2) In addition to any other penalty or disposition 356  
authorized or required by law, the court shall order any person 357  
who is convicted of a violation of this section or who is 358  
adjudicated delinquent by reason of a violation of this section 359  
to criminally forfeit all of the following property to the state 360  
under Chapter 2981. of the Revised Code: 361

(a) Any profits or proceeds and any property the person 362  
has acquired or maintained in violation of this section that the 363  
sentencing court determines to have been acquired or maintained 364  
as a result of the violation; 365

(b) Any interest in, securities of, claim against, or 366  
property or contractual right of any kind affording a source of 367  
influence over any enterprise that the person has established, 368  
operated, controlled, or conducted in violation of this section 369  
that the sentencing court determines to have been acquired or 370  
maintained as a result of the violation. 371

(G) A victim of a violation of this section may commence a 372  
civil cause of action against the offender, as described in 373  
section 2307.66 of the Revised Code. 374

**Sec. 2981.02.** (A) (1) The following property is subject to 375  
forfeiture to the state or a political subdivision under either 376  
the criminal or delinquency process in section 2981.04 of the 377  
Revised Code or the civil process in section 2981.05 of the 378  
Revised Code: 379

~~(1)~~ (a) Contraband involved in an offense; 380

~~(2)~~ (b) Proceeds derived from or acquired through the 381  
commission of an offense; 382

~~(3)~~~~(c)~~ An instrumentality that is used in or intended to 383  
be used in the commission or facilitation of any of the 384  
following offenses when the use or intended use, consistent with 385  
division (B) of this section, is sufficient to warrant 386  
forfeiture under this chapter: 387

~~(a)~~~~(i)~~ A felony; 388

~~(b)~~~~(ii)~~ A misdemeanor, when forfeiture is specifically 389  
authorized by a section of the Revised Code or by a municipal 390  
ordinance that creates the offense or sets forth its penalties; 391

~~(c)~~~~(iii)~~ An attempt to commit, complicity in committing, 392  
or a conspiracy to commit an offense of the type described in 393  
divisions (A) (3) (a) and (b) of this section. 394

~~(B)~~~~(2)~~ In determining whether an alleged instrumentality 395  
was used in or was intended to be used in the commission or 396  
facilitation of an offense or an attempt, complicity, or 397  
conspiracy to commit an offense in a manner sufficient to 398  
warrant its forfeiture, the trier of fact shall consider the 399  
following factors the trier of fact determines are relevant: 400

~~(1)~~~~(a)~~ Whether the offense could not have been committed 401  
or attempted but for the presence of the instrumentality; 402

~~(2)~~~~(b)~~ Whether the primary purpose in using the 403  
instrumentality was to commit or attempt to commit the offense; 404

~~(3)~~~~(c)~~ The extent to which the instrumentality furthered 405  
the commission of, or attempt to commit, the offense. 406

(B) The property described in division (F) (2) of section 407  
2917.211 of the Revised Code is subject to forfeiture under the 408  
criminal or delinquency process in section 2981.04 of the 409  
Revised Code. 410

(C) This chapter does not apply to or limit forfeitures 411  
under Title XLV of the Revised Code, including forfeitures 412  
relating to section 2903.06 or 2903.08 of the Revised Code. 413

**Sec. 2981.04.** (A) (1) Property described in division (A) or 414  
(B) of section 2981.02 of the Revised Code may be forfeited 415  
under this section only if the defendant is convicted of, or 416  
enters intervention in lieu of conviction for, an offense or the 417  
juvenile is adjudicated a delinquent child for committing an act 418  
that would be an offense if committed by an adult and the 419  
complaint, indictment, or information charging the offense or 420  
municipal violation, or the complaint charging the delinquent 421  
act, contains a specification of the type described in section 422  
2941.1417 of the Revised Code that sets forth all of the 423  
following to the extent it is reasonably known at the time of 424  
the filing: 425

(a) The nature and extent of the alleged offender's or 426  
delinquent child's interest in the property; 427

(b) A description of the property; 428

(c) If the property is alleged to be an instrumentality, 429  
the alleged use or intended use of the property in the 430  
commission or facilitation of the offense. 431

(2) If any property is not reasonably foreseen to be 432  
subject to forfeiture at the time of filing the indictment, 433  
information, or complaint, the trier of fact still may return a 434  
verdict of forfeiture concerning that property in the hearing 435  
described in division (B) of this section if the prosecutor, 436  
upon discovering the property to be subject to forfeiture, gave 437  
prompt notice of this fact to the alleged offender or delinquent 438  
child under Criminal Rule 7(E) or Juvenile Rule 10(B). 439

(B) If a person pleads guilty to or is convicted of, or 440  
enters intervention in lieu of conviction for, an offense or is 441  
adjudicated a delinquent child for committing a delinquent act 442  
and the complaint, indictment, or information charging the 443  
offense or act contains a specification covering property 444  
subject to forfeiture under section 2981.02 of the Revised Code, 445  
the trier of fact shall determine whether the person's property 446  
shall be forfeited. If the state or political subdivision proves 447  
by clear and convincing evidence that the property is in whole 448  
or part subject to forfeiture under section 2981.02 of the 449  
Revised Code, after a proportionality review under section 450  
2981.09 of the Revised Code when relevant, the trier of fact 451  
shall return a verdict of forfeiture that specifically describes 452  
the extent of the property subject to forfeiture. If the trier 453  
of fact is a jury, on the offender's or delinquent child's 454  
motion, the court shall make the determination of whether the 455  
property shall be forfeited. 456

(C) If the court enters a verdict of forfeiture under this 457  
section, the court imposing sentence or disposition, in addition 458  
to any other sentence authorized by section 2951.041 or Chapter 459  
2929. of the Revised Code or any disposition authorized by 460  
Chapter 2152. of the Revised Code, shall order that the offender 461  
or delinquent child forfeit to the state or political 462  
subdivision the offender's or delinquent child's interest in the 463  
property. The property vests with the state or political 464  
subdivision subject to the claims of third parties. The court 465  
may issue any additional order to affect the forfeiture, 466  
including, but not limited to, an order under section 2981.06 of 467  
the Revised Code. 468

(D) After the entry of a forfeiture order under this 469  
section, the prosecutor shall attempt to identify any person 470

with an interest in the property subject to forfeiture by 471  
searching appropriate public records and making reasonably 472  
diligent inquiries. The prosecutor shall give notice of the 473  
forfeiture that remains subject to the claims of third parties 474  
and proposed disposal of the forfeited property to any person 475  
known to have an interest in the property. The prosecutor also 476  
shall publish notice of the forfeiture that remains subject to 477  
the claims of third parties and proposed disposal of the 478  
forfeited property once each week for two consecutive weeks in a 479  
newspaper of general circulation in the county in which the 480  
property was seized. 481

(E) (1) Any person, other than the offender or delinquent 482  
child whose conviction or plea of guilty or delinquency 483  
adjudication is the basis of the forfeiture order, who asserts a 484  
legal interest in the property that is the subject of the order 485  
may petition the court that issued the order for a hearing under 486  
division (E) (3) of this section to adjudicate the validity of 487  
the person's alleged interest in the property. All of the 488  
following apply to the petition: 489

(a) It shall be filed within thirty days after the final 490  
publication of notice or the person's receipt of notice under 491  
division (D) of this section. 492

(b) It shall be signed by the petitioner under the 493  
penalties for falsification specified in section 2921.13 of the 494  
Revised Code. 495

(c) It shall describe the nature and extent of the 496  
petitioner's interest in the property, the time and 497  
circumstances of the petitioner's acquisition of that interest, 498  
any additional facts supporting the petitioner's claim, and the 499  
relief sought. 500

(d) It shall state that one of the following conditions 501  
applies to the petitioner: 502

(i) The petitioner has a legal interest in the property 503  
that is subject to the forfeiture order that renders the order 504  
completely or partially invalid because the legal interest in 505  
the property was vested in the petitioner, rather than the 506  
offender or delinquent child whose conviction or plea of guilty 507  
or delinquency adjudication is the basis of the order, or was 508  
superior to any interest of that offender or delinquent child, 509  
at the time of the commission of the offense or delinquent act 510  
that is the basis of the order. 511

(ii) The petitioner is a bona fide purchaser for value of 512  
the interest in the property that is subject to the forfeiture 513  
order and was, at the time of the purchase, reasonably without 514  
cause to believe that it was subject to forfeiture. 515

(2) (a) In lieu of filing a petition as described in 516  
division (E) (1) of this section, a person, other than the 517  
offender or delinquent child whose conviction or plea of guilty 518  
or delinquency adjudication is the basis of the forfeiture 519  
order, may file an affidavit as described in this division to 520  
establish the validity of the alleged right, title, or interest 521  
in the property that is the subject of the forfeiture order if 522  
the person is a secured party or other lienholder of record that 523  
asserts a legal interest in the property, including, but not 524  
limited to, a mortgage, security interest, or other type of 525  
lien. The affidavit shall contain averments that the secured 526  
party or other lienholder acquired its alleged right, title, or 527  
interest in the property in the regular course of its business, 528  
for a specified valuable consideration, without actual knowledge 529  
of any facts pertaining to the offense that was the basis of the 530

forfeiture order, in good faith, and without the intent to 531  
prevent or otherwise impede the state or political subdivision 532  
from seizing or obtaining a forfeiture of the property. The 533  
person shall file the affidavit within thirty days after the 534  
earlier of the final publication of notice or the receipt of 535  
notice under division (D) of this section. 536

(b) Except as otherwise provided in this section, the 537  
affidavit shall constitute prima-facie evidence of the validity 538  
of the affiant's alleged interest in the property. 539

(c) Unless the prosecutor files a motion challenging the 540  
affidavit within ten days after its filing and unless the 541  
prosecutor establishes by clear and convincing evidence at the 542  
hearing held under division (E) (3) of this section that the 543  
affiant does not possess the alleged interest in the property or 544  
that the affiant had actual knowledge of facts pertaining to the 545  
offense or delinquent act that was the basis of the forfeiture 546  
order, the affidavit shall constitute conclusive evidence of the 547  
validity of the affiant's interest in the property. 548

(d) Any subsequent purchaser or other transferee of 549  
property pursuant to forfeiture under this section shall take 550  
the property subject to the continued validity of the interest 551  
of the affiant. 552

(3) Upon receipt of a petition or affidavit filed under 553  
division (E) (1) or (2) of this section, the court shall hold a 554  
hearing to determine the validity of the petitioner's interest 555  
in the property that is the subject of the forfeiture order or, 556  
if the affidavit was challenged, to determine the validity of 557  
the affiant's interest in the property. To the extent 558  
practicable and consistent with the interests of justice, the 559  
court shall hold the hearing within thirty days after the filing 560

of the petition or within thirty days after the prosecutor files 561  
the motion challenging the affidavit. The court may consolidate 562  
the hearing with a hearing on any other petition or affidavit 563  
that is filed by a person other than the offender or delinquent 564  
child whose conviction or plea of guilty or delinquency 565  
adjudication is the basis of the forfeiture order and that 566  
relates to the property that is the subject of the forfeiture 567  
order. 568

At the hearing, the petitioner or affiant may testify, 569  
present evidence and witnesses on the petitioner's or affiant's 570  
behalf, and cross-examine witnesses for the state or political 571  
subdivision. In regards to a petition, the state or political 572  
subdivision may present evidence and witnesses in rebuttal and 573  
in defense of its claim to the property and may cross-examine 574  
witnesses for the petitioner. In regards to an affidavit, the 575  
prosecutor may present evidence and witnesses and cross-examine 576  
witnesses for the affiant. 577

In addition to the evidence and testimony presented at the 578  
hearing, the court also shall consider the relevant portions of 579  
the record in the criminal or delinquent child case that 580  
resulted in the forfeiture order. 581

(F) (1) If the hearing involves a petition, the court shall 582  
amend its forfeiture order if it determines at the hearing held 583  
pursuant to division (E) (3) of this section that the petitioner 584  
has established by a preponderance of the evidence that ~~that~~ the 585  
applicable condition alleged by the petitioner under division 586  
(E) (1) (d) of this section applies to the petitioner. 587

(2) The court also shall amend its forfeiture order to 588  
reflect any interest of a secured party or other lienholder of 589  
record in the property subject to forfeiture who prevails at a 590

hearing on the petition or affidavit filed pursuant to division 591  
(E) (1) or (2) of this section. 592

(G) If the court disposes of all petitions or affidavits 593  
timely filed under this section in favor of the state or 594  
political subdivision, the state or political subdivision shall 595  
have clear title to the property that is the subject of a 596  
forfeiture order issued under this section, but only to the 597  
extent that other parties' lawful interests in the property are 598  
not infringed. To the extent that the state or political 599  
subdivision has clear title to the property, the state or 600  
political subdivision may warrant good title to any subsequent 601  
purchaser or other transferee. 602

Sec. 3345.49. (A) No student who is enrolled in an 603  
institution of higher education in Ohio and is the victim of a 604  
violation of section 2917.211 of the Revised Code shall lose any 605  
form of financial assistance provided by that institution for 606  
educational expenses, including grants, scholarships, and 607  
fellowships, for the sole reason of being the victim of such a 608  
violation. Additionally, no institution of higher education 609  
shall take any disciplinary action, including the imposition of 610  
academic penalties, against that student for the sole reason of 611  
being such a victim. 612

(B) If a person who is the victim of a violation of 613  
section 2917.211 of the Revised Code applies to an institution 614  
of higher education in Ohio, that person's status as such a 615  
victim shall not affect the person's eligibility for any form of 616  
financial assistance provided by the institution for educational 617  
expenses, including grants, scholarships, and fellowships. 618

(C) As used in this section, "victim" has the same meaning 619  
as in section 2930.01 of the Revised Code. 620

**Section 2.** That existing sections 2907.01, 2907.31, 621  
2981.02, and 2981.04 of the Revised Code are hereby repealed. 622