

As Re-Referred by the House Rules and Reference Committee

132nd General Assembly

Regular Session

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Sub. S. B. No. 158

Senator Wilson

Cosponsors: Senators Terhar, Coley, Gardner, Eklund, Hottinger, Manning, O'Brien, Balderson, Beagle, Brown, Burke, Dolan, Hackett, Hoagland, Huffman, Jordan, Kunze, LaRose, Lehner, Oelslager, Peterson, Skindell, Sykes, Tavares, Thomas, Uecker, Williams, Yuko Representative Schaffer

A BILL

To amend sections 2913.02, 2913.21, 2913.31, 1
2913.43, 2913.49, and 5101.621; to enact 2
sections 109.67 and 173.95 of the Revised Code; 3
and to amend the versions of sections 5101.60, 4
5101.63, 5101.652, and 5101.74 of the Revised 5
Code that are scheduled to take effect on 6
September 29, 2018, to develop best practices 7
and educational opportunities to combat elder 8
fraud and exploitation, to modify the membership 9
of the elder abuse commission, and to fine and 10
require full restitution from offenders who are 11
found guilty of certain fraud-related crimes 12
against the elderly. 13

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

Section 1. That sections 2913.02, 2913.21, 2913.31, 14
2913.43, 2913.49, and 5101.621 be amended and sections 109.67 15
and 173.95 of the Revised Code be enacted to read as follows: 16

Sec. 109.67. The attorney general shall distribute at 17
least six public awareness publications each year that provide 18
general information on elder fraud and financial exploitation of 19
the elderly. The awareness publications must include information 20
on all of the following: 21

(A) Warning signs that may signal that fraud or financial 22
exploitation are occurring; 23

(B) Methods for reporting elder fraud or financial 24
exploitation including a list of agencies that handle those 25
reports; 26

(C) Services and resources that may be available to 27
prevent or remedy elder fraud or financial exploitation. 28

Sec. 173.95. (A) The director of aging, the director of 29
commerce, the director of job and family services, and the 30
attorney general or the attorney general's designee, in 31
consultation with county departments of job and family services, 32
adult protective services agencies, the Ohio bankers league, the 33
community bankers association of Ohio, the securities industry 34
and financial markets association, and the Ohio credit union 35
league, shall work together to do all of the following: 36

(1) Develop best practices and standards for preventing 37
elder fraud and financial exploitation; 38

(2) Provide education on elder fraud and financial 39
exploitation; 40

(3) Ensure that victims of elder fraud and exploitation 41
have access to available services and resources. 42

(B) The director of aging, the director of commerce, and 43
the director of job and family services shall create a report of 44

the best practices and standards developed under division (A) (1) 45
of this section and shall provide a copy of that report to the 46
governor, the president and minority leader of the senate, and 47
the speaker and minority leader of the house of representatives 48
not later than December 1, 2018. 49

Sec. 2913.02. (A) No person, with purpose to deprive the 50
owner of property or services, shall knowingly obtain or exert 51
control over either the property or services in any of the 52
following ways: 53

(1) Without the consent of the owner or person authorized 54
to give consent; 55

(2) Beyond the scope of the express or implied consent of 56
the owner or person authorized to give consent; 57

(3) By deception; 58

(4) By threat; 59

(5) By intimidation. 60

(B) (1) Whoever violates this section is guilty of theft. 61

(2) Except as otherwise provided in this division or 62
division (B) (3), (4), (5), (6), (7), (8), or (9) of this 63
section, a violation of this section is petty theft, a 64
misdemeanor of the first degree. If the value of the property or 65
services stolen is one thousand dollars or more and is less than 66
seven thousand five hundred dollars or if the property stolen is 67
any of the property listed in section 2913.71 of the Revised 68
Code, a violation of this section is theft, a felony of the 69
fifth degree. If the value of the property or services stolen is 70
seven thousand five hundred dollars or more and is less than one 71
hundred fifty thousand dollars, a violation of this section is 72

grand theft, a felony of the fourth degree. If the value of the 73
property or services stolen is one hundred fifty thousand 74
dollars or more and is less than seven hundred fifty thousand 75
dollars, a violation of this section is aggravated theft, a 76
felony of the third degree. If the value of the property or 77
services is seven hundred fifty thousand dollars or more and is 78
less than one million five hundred thousand dollars, a violation 79
of this section is aggravated theft, a felony of the second 80
degree. If the value of the property or services stolen is one 81
million five hundred thousand dollars or more, a violation of 82
this section is aggravated theft of one million five hundred 83
thousand dollars or more, a felony of the first degree. 84

(3) Except as otherwise provided in division (B)(4), (5), 85
(6), (7), (8), or (9) of this section, if the victim of the 86
offense is an elderly person, disabled adult, active duty 87
service member, or spouse of an active duty service member, a 88
violation of this section is theft from a person in a protected 89
class, and division (B)(3) of this section applies. Except as 90
otherwise provided in this division, theft from a person in a 91
protected class is a felony of the fifth degree. If the value of 92
the property or services stolen is one thousand dollars or more 93
and is less than seven thousand five hundred dollars, theft from 94
a person in a protected class is a felony of the fourth degree. 95
If the value of the property or services stolen is seven 96
thousand five hundred dollars or more and is less than thirty- 97
seven thousand five hundred dollars, theft from a person in a 98
protected class is a felony of the third degree. If the value of 99
the property or services stolen is thirty-seven thousand five 100
hundred dollars or more and is less than one hundred fifty 101
thousand dollars, theft from a person in a protected class is a 102
felony of the second degree. If the value of the property or 103

services stolen is one hundred fifty thousand dollars or more, 104
theft from a person in a protected class is a felony of the 105
first degree. If the victim of the offense is an elderly person, 106
in addition to any other penalty imposed for the offense, the 107
offender shall be required to pay full restitution to the victim 108
and to pay a fine of up to fifty thousand dollars. The clerk of 109
court shall forward all fines collected under division (B)(3) of 110
this section to the county department of job and family services 111
to be used for the reporting and investigation of elder abuse, 112
neglect, and exploitation or for the provision or arrangement of 113
protective services under sections 5101.61 to 5101.71 of the 114
Revised Code. 115

(4) If the property stolen is a firearm or dangerous 116
ordnance, a violation of this section is grand theft. Except as 117
otherwise provided in this division, grand theft when the 118
property stolen is a firearm or dangerous ordnance is a felony 119
of the third degree, and there is a presumption in favor of the 120
court imposing a prison term for the offense. If the firearm or 121
dangerous ordnance was stolen from a federally licensed firearms 122
dealer, grand theft when the property stolen is a firearm or 123
dangerous ordnance is a felony of the first degree. The offender 124
shall serve a prison term imposed for grand theft when the 125
property stolen is a firearm or dangerous ordnance consecutively 126
to any other prison term or mandatory prison term previously or 127
subsequently imposed upon the offender. 128

(5) If the property stolen is a motor vehicle, a violation 129
of this section is grand theft of a motor vehicle, a felony of 130
the fourth degree. 131

(6) If the property stolen is any dangerous drug, a 132
violation of this section is theft of drugs, a felony of the 133

fourth degree, or, if the offender previously has been convicted 134
of a felony drug abuse offense, a felony of the third degree. 135

(7) If the property stolen is a police dog or horse or an 136
assistance dog and the offender knows or should know that the 137
property stolen is a police dog or horse or an assistance dog, a 138
violation of this section is theft of a police dog or horse or 139
an assistance dog, a felony of the third degree. 140

(8) If the property stolen is anhydrous ammonia, a 141
violation of this section is theft of anhydrous ammonia, a 142
felony of the third degree. 143

(9) Except as provided in division (B) (2) of this section 144
with respect to property with a value of seven thousand five 145
hundred dollars or more and division (B) (3) of this section with 146
respect to property with a value of one thousand dollars or 147
more, if the property stolen is a special purpose article as 148
defined in section 4737.04 of the Revised Code or is a bulk 149
merchandise container as defined in section 4737.012 of the 150
Revised Code, a violation of this section is theft of a special 151
purpose article or articles or theft of a bulk merchandise 152
container or containers, a felony of the fifth degree. 153

(10) In addition to the penalties described in division 154
(B) (2) of this section, if the offender committed the violation 155
by causing a motor vehicle to leave the premises of an 156
establishment at which gasoline is offered for retail sale 157
without the offender making full payment for gasoline that was 158
dispensed into the fuel tank of the motor vehicle or into 159
another container, the court may do one of the following: 160

(a) Unless division (B) (10) (b) of this section applies, 161
suspend for not more than six months the offender's driver's 162

license, probationary driver's license, commercial driver's 163
license, temporary instruction permit, or nonresident operating 164
privilege; 165

(b) If the offender's driver's license, probationary 166
driver's license, commercial driver's license, temporary 167
instruction permit, or nonresident operating privilege has 168
previously been suspended pursuant to division (B)(10)(a) of 169
this section, impose a class seven suspension of the offender's 170
license, permit, or privilege from the range specified in 171
division (A)(7) of section 4510.02 of the Revised Code, provided 172
that the suspension shall be for at least six months. 173

(c) The court, in lieu of suspending the offender's 174
driver's or commercial driver's license, probationary driver's 175
license, temporary instruction permit, or nonresident operating 176
privilege pursuant to division (B)(10)(a) or (b) of this 177
section, instead may require the offender to perform community 178
service for a number of hours determined by the court. 179

(11) In addition to the penalties described in division 180
(B)(2) of this section, if the offender committed the violation 181
by stealing rented property or rental services, the court may 182
order that the offender make restitution pursuant to section 183
2929.18 or 2929.28 of the Revised Code. Restitution may include, 184
but is not limited to, the cost of repairing or replacing the 185
stolen property, or the cost of repairing the stolen property 186
and any loss of revenue resulting from deprivation of the 187
property due to theft of rental services that is less than or 188
equal to the actual value of the property at the time it was 189
rented. Evidence of intent to commit theft of rented property or 190
rental services shall be determined pursuant to the provisions 191
of section 2913.72 of the Revised Code. 192

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

Sec. 2913.21. (A) No person shall do any of the following:

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(B) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.

(D) (1) Whoever violates this section is guilty of misuse of credit cards.	220 221
(2) Except as otherwise provided in division (D) (4) of this section, a violation of division (A), (B) (1), or (C) of this section is a misdemeanor of the first degree.	222 223 224
(3) Except as otherwise provided in this division or division (D) (4) of this section, a violation of division (B) (2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B) (2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars or more and is less than seven thousand five hundred dollars, misuse of credit cards in violation of any of those divisions is a felony of the fifth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B) (2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fourth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B) (2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one hundred fifty thousand dollars or more, misuse of credit cards in violation of any of those divisions is a felony of the third	225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250

degree. 251

(4) If the victim of the offense is an elderly person or 252
disabled adult, and if the offense involves a violation of 253
division (B)(1) or (2) of this section, division (D)(4) of this 254
section applies. Except as otherwise provided in division (D)(4) 255
of this section, a violation of division (B)(1) or (2) of this 256
section is a felony of the fifth degree. If the debt for which 257
the card is held as security or the cumulative retail value of 258
the property or services involved in the violation is one 259
thousand dollars or more and is less than seven thousand five 260
hundred dollars, a violation of either of those divisions is a 261
felony of the fourth degree. If the debt for which the card is 262
held as security or the cumulative retail value of the property 263
or services involved in the violation is seven thousand five 264
hundred dollars or more and is less than thirty-seven thousand 265
five hundred dollars, a violation of either of those divisions 266
is a felony of the third degree. If the debt for which the card 267
is held as security or the cumulative retail value of the 268
property or services involved in the violation is thirty-seven 269
thousand five hundred dollars or more, a violation of either of 270
those divisions is a felony of the second degree. In addition to 271
any other penalty imposed under division (D)(4) of this section, 272
the offender shall be required to pay full restitution to the 273
victim and to pay a fine of up to fifty thousand dollars. The 274
clerk of court shall forward all fines collected under division 275
(D)(4) of this section to the county department of job and 276
family services to be used for the reporting and investigation 277
of elder abuse, neglect, and exploitation or for the provision 278
or arrangement of protective services under sections 5101.61 to 279
5101.71 of the Revised Code. 280

Sec. 2913.31. (A) No person, with purpose to defraud, or 281

knowing that the person is facilitating a fraud, shall do any of	282
the following:	283
(1) Forge any writing of another without the other	284
person's authority;	285
(2) Forge any writing so that it purports to be genuine	286
when it actually is spurious, or to be the act of another who	287
did not authorize that act, or to have been executed at a time	288
or place or with terms different from what in fact was the case,	289
or to be a copy of an original when no such original existed;	290
(3) Utter, or possess with purpose to utter, any writing	291
that the person knows to have been forged.	292
(B) No person shall knowingly do either of the following:	293
(1) Forge an identification card;	294
(2) Sell or otherwise distribute a card that purports to	295
be an identification card, knowing it to have been forged.	296
As used in this division, "identification card" means a	297
card that includes personal information or characteristics of an	298
individual, a purpose of which is to establish the identity of	299
the bearer described on the card, whether the words "identity,"	300
"identification," "identification card," or other similar words	301
appear on the card.	302
(C) (1) (a) Whoever violates division (A) of this section is	303
guilty of forgery.	304
(b) Except as otherwise provided in this division or	305
division (C) (1) (c) <u>of this section and subject to division (C)</u>	306
<u>(1) (d)</u> of this section, forgery is a felony of the fifth degree.	307
If property or services are involved in the offense or the	308
victim suffers a loss, forgery is one of the following:	309

(i) If the value of the property or services or the loss 310
to the victim is seven thousand five hundred dollars or more and 311
is less than one hundred fifty thousand dollars, a felony of the 312
fourth degree; 313

(ii) If the value of the property or services or the loss 314
to the victim is one hundred fifty thousand dollars or more, a 315
felony of the third degree. 316

(c) If the victim of the offense is an elderly person or 317
disabled adult, division (C) (1) (c) of this section applies to 318
the forgery. Except as otherwise provided in division (C) (1) (c) 319
of this section, forgery is a felony of the fifth degree. If 320
property or services are involved in the offense or if the 321
victim suffers a loss, forgery is one of the following: 322

(i) If the value of the property or services or the loss 323
to the victim is one thousand dollars or more and is less than 324
seven thousand five hundred dollars, a felony of the fourth 325
degree; 326

(ii) If the value of the property or services or the loss 327
to the victim is seven thousand five hundred dollars or more and 328
is less than thirty-seven thousand five hundred dollars, a 329
felony of the third degree; 330

(iii) If the value of the property or services or the loss 331
to the victim is thirty-seven thousand five hundred dollars or 332
more, a felony of the second degree. 333

(d) If the victim of the offense is an elderly person, 334
division (C) (1) (d) of this section applies to the forgery. In 335
addition to any other penalty imposed for the offense under 336
division (C) (1) (c) of this section, the offender shall be 337
required to pay full restitution to the victim and to pay a fine 338

of up to fifty thousand dollars. The clerk of court shall 339
forward all fines collected under division (C) (1) (d) of this 340
section to the county department of job and family services to 341
be used for the reporting and investigation of elder abuse, 342
neglect, and exploitation or for the provision or arrangement of 343
protective services under sections 5101.61 to 5101.71 of the 344
Revised Code. 345

(2) (a) Whoever violates division (B) of this section is 346
guilty of forging identification cards or selling or 347
distributing forged identification cards. Except as otherwise 348
provided in this division, forging identification cards or 349
selling or distributing forged identification cards is a 350
misdemeanor of the first degree. If the offender previously has 351
been convicted of a violation of division (B) of this section, 352
forging identification cards or selling or distributing forged 353
identification cards is a misdemeanor of the first degree and, 354
in addition, the court shall impose upon the offender a fine of 355
not less than two hundred fifty dollars. 356

(b) If the victim of a violation of division (B) of this 357
section is an elderly person, division (C) (2) (b) of this section 358
applies to the offense. In addition to any other penalty imposed 359
for the offense under division (C) (2) (a) of this section, 360
whoever violates division (B) of this section shall be required 361
to pay full restitution to the victim and to pay a fine of up to 362
fifty thousand dollars. The clerk of court shall forward all 363
fines collected under division (C) (2) (b) of this section to the 364
county department of job and family services to be used for the 365
reporting and investigation of elder abuse, neglect, and 366
exploitation or for the provision or arrangement of protective 367
services under sections 5101.61 to 5101.71 of the Revised Code. 368

Sec. 2913.43. (A) No person, by deception, shall cause 369
another to execute any writing that disposes of or encumbers 370
property, or by which a pecuniary obligation is incurred. 371

(B) (1) Whoever violates this section is guilty of securing 372
writings by deception. 373

(2) Except as otherwise provided in this division or 374
division (B) (3) of this section, securing writings by deception 375
is a misdemeanor of the first degree. If the value of the 376
property or the obligation involved is one thousand dollars or 377
more and less than seven thousand five hundred dollars, securing 378
writings by deception is a felony of the fifth degree. If the 379
value of the property or the obligation involved is seven 380
thousand five hundred dollars or more and is less than one 381
hundred fifty thousand dollars, securing writings by deception 382
is a felony of the fourth degree. If the value of the property 383
or the obligation involved is one hundred fifty thousand dollars 384
or more, securing writings by deception is a felony of the third 385
degree. 386

(3) If the victim of the offense is an elderly person, 387
disabled adult, active duty service member, or spouse of an 388
active duty service member, division (B) (3) of this section 389
applies. Except as otherwise provided in division (B) (3) of this 390
section, securing writings by deception is a felony of the fifth 391
degree. If the value of the property or obligation involved is 392
one thousand dollars or more and is less than seven thousand 393
five hundred dollars, securing writings by deception is a felony 394
of the fourth degree. If the value of the property or obligation 395
involved is seven thousand five hundred dollars or more and is 396
less than thirty-seven thousand five hundred dollars, securing 397
writings by deception is a felony of the third degree. If the 398

value of the property or obligation involved is thirty-seven 399
thousand five hundred dollars or more, securing writings by 400
deception is a felony of the second degree. If the victim of the 401
offense is an elderly person, in addition to any other penalty 402
imposed for the offense, the offender shall be required to pay 403
full restitution to the victim and to pay a fine of up to fifty 404
thousand dollars. The clerk of court shall forward all fines 405
collected under division (B) (3) of this section to the county 406
department of job and family services to be used for the 407
reporting and investigation of elder abuse, neglect, and 408
exploitation or for the provision or arrangement of protective 409
services under sections 5101.61 to 5101.71 of the Revised Code. 410

Sec. 2913.49. (A) As used in this section, "personal 411
identifying information" includes, but is not limited to, the 412
following: the name, address, telephone number, driver's 413
license, driver's license number, commercial driver's license, 414
commercial driver's license number, state identification card, 415
state identification card number, social security card, social 416
security number, birth certificate, place of employment, 417
employee identification number, mother's maiden name, demand 418
deposit account number, savings account number, money market 419
account number, mutual fund account number, other financial 420
account number, personal identification number, password, or 421
credit card number of a living or dead individual. 422

(B) No person, without the express or implied consent of 423
the other person, shall use, obtain, or possess any personal 424
identifying information of another person with intent to do 425
either of the following: 426

(1) Hold the person out to be the other person; 427

(2) Represent the other person's personal identifying 428

information as the person's own personal identifying 429
information. 430

(C) No person shall create, obtain, possess, or use the 431
personal identifying information of any person with the intent 432
to aid or abet another person in violating division (B) of this 433
section. 434

(D) No person, with intent to defraud, shall permit 435
another person to use the person's own personal identifying 436
information. 437

(E) No person who is permitted to use another person's 438
personal identifying information as described in division (D) of 439
this section shall use, obtain, or possess the other person's 440
personal identifying information with intent to defraud any 441
person by doing any act identified in division (B)(1) or (2) of 442
this section. 443

(F)(1) It is an affirmative defense to a charge under 444
division (B) of this section that the person using the personal 445
identifying information is acting in accordance with a legally 446
recognized guardianship or conservatorship or as a trustee or 447
fiduciary. 448

(2) It is an affirmative defense to a charge under 449
division (B), (C), (D), or (E) of this section that either of 450
the following applies: 451

(a) The person or entity using, obtaining, possessing, or 452
creating the personal identifying information or permitting it 453
to be used is a law enforcement agency, authorized fraud 454
personnel, or a representative of or attorney for a law 455
enforcement agency or authorized fraud personnel and is using, 456
obtaining, possessing, or creating the personal identifying 457

information or permitting it to be used, with prior consent 458
given as specified in this division, in a bona fide 459
investigation, an information security evaluation, a pretext 460
calling evaluation, or a similar matter. The prior consent 461
required under this division shall be given by the person whose 462
personal identifying information is being used, obtained, 463
possessed, or created or is being permitted to be used or, if 464
the person whose personal identifying information is being used, 465
obtained, possessed, or created or is being permitted to be used 466
is deceased, by that deceased person's executor, or a member of 467
that deceased person's family, or that deceased person's 468
attorney. The prior consent required under this division may be 469
given orally or in writing by the person whose personal 470
identifying information is being used, obtained, possessed, or 471
created or is being permitted to be used or that person's 472
executor, or family member, or attorney. 473

(b) The personal identifying information was obtained, 474
possessed, used, created, or permitted to be used for a lawful 475
purpose, provided that division (F) (2) (b) of this section does 476
not apply if the person or entity using, obtaining, possessing, 477
or creating the personal identifying information or permitting 478
it to be used is a law enforcement agency, authorized fraud 479
personnel, or a representative of or attorney for a law 480
enforcement agency or authorized fraud personnel that is using, 481
obtaining, possessing, or creating the personal identifying 482
information or permitting it to be used in an investigation, an 483
information security evaluation, a pretext calling evaluation, 484
or similar matter. 485

(G) It is not a defense to a charge under this section 486
that the person whose personal identifying information was 487
obtained, possessed, used, created, or permitted to be used was 488

deceased at the time of the offense. 489

(H) (1) If an offender commits a violation of division (B), 490
(D), or (E) of this section and the violation occurs as part of 491
a course of conduct involving other violations of division (B), 492
(D), or (E) of this section or violations of, attempts to 493
violate, conspiracies to violate, or complicity in violations of 494
division (C) of this section or section 2913.02, 2913.04, 495
2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the 496
Revised Code, the court, in determining the degree of the 497
offense pursuant to division (I) of this section, may aggregate 498
all credit, property, or services obtained or sought to be 499
obtained by the offender and all debts or other legal 500
obligations avoided or sought to be avoided by the offender in 501
the violations involved in that course of conduct. The course of 502
conduct may involve one victim or more than one victim. 503

(2) If an offender commits a violation of division (C) of 504
this section and the violation occurs as part of a course of 505
conduct involving other violations of division (C) of this 506
section or violations of, attempts to violate, conspiracies to 507
violate, or complicity in violations of division (B), (D), or 508
(E) of this section or section 2913.02, 2913.04, 2913.11, 509
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 510
Code, the court, in determining the degree of the offense 511
pursuant to division (I) of this section, may aggregate all 512
credit, property, or services obtained or sought to be obtained 513
by the person aided or abetted and all debts or other legal 514
obligations avoided or sought to be avoided by the person aided 515
or abetted in the violations involved in that course of conduct. 516
The course of conduct may involve one victim or more than one 517
victim. 518

(I) (1) Whoever violates this section is guilty of identity fraud. 519
520

(2) Except as otherwise provided in this division or 521
division (I) (3) of this section, identity fraud is a felony of 522
the fifth degree. If the value of the credit, property, 523
services, debt, or other legal obligation involved in the 524
violation or course of conduct is one thousand dollars or more 525
and is less than seven thousand five hundred dollars, except as 526
otherwise provided in division (I) (3) of this section, identity 527
fraud is a felony of the fourth degree. If the value of the 528
credit, property, services, debt, or other legal obligation 529
involved in the violation or course of conduct is seven thousand 530
five hundred dollars or more and is less than one hundred fifty 531
thousand dollars, except as otherwise provided in division (I) 532
(3) of this section, identity fraud is a felony of the third 533
degree. If the value of the credit, property, services, debt, or 534
other legal obligation involved in the violation or course of 535
conduct is one hundred fifty thousand dollars or more, except as 536
otherwise provided in division (I) (3) of this section, identity 537
fraud is a felony of the second degree. 538

(3) If the victim of the offense is an elderly person, 539
disabled adult, active duty service member, or spouse of an 540
active duty service member, a violation of this section is 541
identity fraud against a person in a protected class. Except as 542
otherwise provided in this division, identity fraud against a 543
person in a protected class is a felony of the fourth degree. If 544
the value of the credit, property, services, debt, or other 545
legal obligation involved in the violation or course of conduct 546
is one thousand dollars or more and is less than seven thousand 547
five hundred dollars, identity fraud against a person in a 548
protected class is a felony of the third degree. If the value of 549

the credit, property, services, debt, or other legal obligation 550
involved in the violation or course of conduct is seven thousand 551
five hundred dollars or more and is less than one hundred fifty 552
thousand dollars, identity fraud against a person in a protected 553
class is a felony of the second degree. If the value of the 554
credit, property, services, debt, or other legal obligation 555
involved in the violation or course of conduct is one hundred 556
fifty thousand dollars or more, identity fraud against a person 557
in a protected class is a felony of the first degree. If the 558
victim of the offense is an elderly person, in addition to any 559
other penalty imposed for the offense, the offender shall be 560
required to pay full restitution to the victim and to pay a fine 561
of up to fifty thousand dollars. The clerk of court shall 562
forward all fines collected under division (I)(3) of this 563
section to the county department of job and family services to 564
be used for the reporting and investigation of elder abuse, 565
neglect, and exploitation or for the provision or arrangement of 566
protective services under sections 5101.61 to 5101.71 of the 567
Revised Code. 568

(J) In addition to the penalties described in division (I) 569
of this section, anyone injured in person or property by a 570
violation of division (B), (D), or (E) of this section who is 571
the owner of the identifying information involved in that 572
violation has a civil action against the offender pursuant to 573
section 2307.60 of the Revised Code. That person may also bring 574
a civil action to enjoin or restrain future acts that would 575
constitute a violation of division (B), (D), or (E) of this 576
section. 577

Sec. 5101.621. (A) Each county department of job and 578
family services shall prepare a memorandum of understanding that 579
is signed by all of the following: 580

- (1) The director of the county department of job and family services; 581
582
- (2) If the county department has entered into an interagency agreement or contract with a local agency private or government entity pursuant to section 5101.622-5101.652 of the Revised Code, the director of the local agency entity; 583
584
585
586
- (3) The county peace officer; 587
- (4) All The chief municipal peace officers officer of the largest municipality within the county; 588
589
- (5) Other law enforcement officers handling adult abuse, neglect, and exploitation cases in the county; 590
591
- (6) The prosecuting attorney of the county; 592
- (7) The coroner of the county. 593
- (B) The memorandum of understanding shall set forth the procedures to be followed by the persons listed in division (A) of this section in the execution of their respective responsibilities related to cases of adult abuse, neglect, and exploitation. The memorandum of understanding shall establish all of the following: 594
595
596
597
598
599
- (1) An interdisciplinary team to coordinate efforts related to the prevention, reporting, and treatment of abuse, neglect, and exploitation of adults; 600
601
602
- (2) The roles and responsibilities for handling cases that have been referred by the county department to another agency pursuant to section 5101.611-5101.64 of the Revised Code; 603
604
605
- (3) The roles and responsibilities for filing criminal charges against persons alleged to have abused, neglected, or 606
607

exploited adults. 608

Failure to follow the procedure set forth in the 609
memorandum of understanding is not grounds for, and shall not 610
result in, the dismissal of any charge or complaint arising from 611
a report of abuse, neglect, or exploitation or the suppression 612
of any evidence obtained as a result of a report of abuse, 613
neglect, or exploitation and does not give any rights or grounds 614
for appeal or post-conviction relief to any person. 615

(C) The memorandum of understanding may, in addition, be 616
signed by any of the following persons who are also members of 617
the interdisciplinary team described in division (B) (1) of this 618
section: 619

(1) A representative of the area agency on aging, as 620
defined in section 173.14 of the Revised Code; 621

(2) ~~The~~ A representative of the regional long-term care 622
ombudsman program; 623

(3) A representative of the board of alcohol, drug 624
addiction, and mental health services; 625

(4) A representative of the board of health of a city or 626
general health district; 627

(5) A representative of the county board of developmental 628
disabilities; 629

(6) A representative of a victim assistance program; 630

(7) A representative of a local housing authority; 631

(8) Any other person whose participation furthers the 632
goals of the memorandum of understanding. 633

Section 2. That existing sections 2913.02, 2913.21, 634

2913.31, 2913.43, 2913.49, and 5101.621 of the Revised Code are 635
hereby repealed. 636

Section 3. That the versions of sections 5101.60, 5101.63, 637
5101.652, and 5101.74 of the Revised Code that are scheduled to 638
take effect on September 29, 2018, be amended to read as 639
follows: 640

Sec. 5101.60. As used in sections 5101.60 to 5101.73 of 641
the Revised Code: 642

(A) "Abandonment" means desertion of an adult by a 643
caretaker without having made provision for transfer of the 644
adult's care. 645

(B) "Abuse" means the infliction upon an adult by self or 646
others of injury, unreasonable confinement, intimidation, or 647
cruel punishment with resulting physical harm, pain, or mental 648
anguish. 649

(C) "Adult" means any person sixty years of age or older 650
within this state who is handicapped by the infirmities of aging 651
or who has a physical or mental impairment which prevents the 652
person from providing for the person's own care or protection, 653
and who resides in an independent living arrangement. 654

(D) "Area agency on aging" means a public or private 655
nonprofit entity designated under section 173.011 of the Revised 656
Code to administer programs on behalf of the department of 657
aging. 658

(E) "Caretaker" means the person assuming the primary 659
responsibility for the care of an adult by any of the following 660
means: 661

(1) On a voluntary basis; 662

(2) By contract;	663
(3) Through receipt of payment for care;	664
(4) As a result of a family relationship;	665
(5) By order of a court of competent jurisdiction.	666
(F) "Community mental health agency" means any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in section 340.99 of the Revised Code.	667 668 669 670 671
(G) "Court" means the probate court in the county where an adult resides.	672 673
(H) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.	674 675 676
(I) "Emergency services" means protective services furnished to an adult in an emergency.	677 678
(J) "Exploitation" means the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:	679 680 681 682 683
(1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;	684 685
(2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;	686 687 688
(3) By deception;	689

(4) By threat;	690
(5) By intimidation.	691
(K) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.	692 693 694 695 696
(L) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated.	697 698 699 700 701 702 703
(M) "Independent living arrangement" means a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. "Independent living arrangement" includes a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, but does not include any other institution or facility licensed by the state or a facility in which a person resides as a result of voluntary, civil, or criminal commitment.	704 705 706 707 708 709 710 711 712 713
(N) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.	714 715 716 717
(O) "Neglect" means any of the following:	718

(1) Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness;	719 720 721
(2) Failure of a caretaker to provide such goods or services;	722 723
(3) Abandonment.	724
(P) "Outpatient health facility" means a facility where medical care and preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services are provided to outpatients by or under the direction of a physician or dentist.	725 726 727 728
(Q) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.	729 730
(R) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.	731 732
(S) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.	733 734 735 736 737 738 739 740 741 742 743
(T) "Reasonable decisions" means decisions made in daily living that facilitate the provision of food, shelter, clothing, and health care necessary for life support.	744 745 746

(U) "Senior service provider" means a person who provides 747
care or specialized services to an adult, ~~except that it does~~ 748
~~not include the state long term care ombudsman or a regional~~ 749
~~long term care ombudsman.~~ 750

(V) "Working day" means Monday, Tuesday, Wednesday, 751
Thursday, and Friday, except when such day is a holiday as 752
defined in section 1.14 of the Revised Code. 753

Sec. 5101.63. (A) (1) Any individual listed in division (A) 754
(2) of this section having reasonable cause to believe that an 755
adult is being abused, neglected, or exploited, or is in a 756
condition which is the result of abuse, neglect, or exploitation 757
shall immediately report such belief to the county department of 758
job and family services. 759

(2) All of the following are subject to division (A) (1) of 760
this section: 761

(a) An attorney admitted to the practice of law in this 762
state; 763

(b) An individual authorized under Chapter 4731. of the 764
Revised Code to practice medicine and surgery, osteopathic 765
medicine and surgery, or podiatric medicine and surgery; 766

(c) An individual licensed under Chapter 4734. of the 767
Revised Code as a chiropractor; 768

(d) An individual licensed under Chapter 4715. of the 769
Revised Code as a dentist; 770

(e) An individual licensed under Chapter 4723. of the 771
Revised Code as a registered nurse or licensed practical nurse; 772

(f) An individual licensed under Chapter 4732. of the 773
Revised Code as a psychologist; 774

(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;	775 776 777 778 779
(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;	780 781
(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;	782 783 784
(j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;	785 786
(k) An employee of an outpatient health facility;	787
(l) An employee of a hospital, as defined in section 3727.01 of the Revised Code;	788 789
(m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code;	790 791
(n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	792 793
(o) An employee of a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;	794 795 796 797
(p) An employee of a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	798 799 800 801

(q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code;	802 803
(r) An agent of a county humane society organized under section 1717.05 of the Revised Code;	804 805
(s) An individual who is a firefighter for a lawfully constituted fire department;	806 807
(t) An individual who is an ambulance driver for an emergency medical service organization, as defined in section 4765.01 of the Revised Code;	808 809 810
(u) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic, as those terms are defined in section 4765.01 of the Revised Code;	811 812 813
(v) An official employed by a local building department to conduct inspections of houses and other residential buildings;	814 815
(w) A peace officer;	816
(x) A coroner;	817
(y) A member of the clergy;	818
(z) An individual who holds a certificate issued under Chapter 4701. of the Revised Code as a certified public accountant or is registered under that chapter as a public accountant;	819 820 821 822
(aa) An individual licensed under Chapter 4735. of the Revised Code as a real estate broker or real estate salesperson;	823 824
(bb) An individual appointed and commissioned under section 147.01 of the Revised Code as a notary public;	825 826
(cc) An employee of a bank, savings bank, savings and loan association, or credit union organized under the laws of this	827 828

state, another state, or the United States; 829

(dd) ~~An A dealer, investment adviser, as defined in~~ 830
~~section 1707.01 sales person, or investment advisor~~ 831
representative licensed under Chapter 1707. of the Revised Code; 832

(ee) A financial planner accredited by a national 833
accreditation agency; 834

(ff) Any other individual who is a senior service 835
provider, other than a representative of the office of the state 836
long-term care ombudsman program as defined in section 173.14 of 837
the Revised Code. 838

(B) Any person having reasonable cause to believe that an 839
adult has suffered abuse, neglect, or exploitation may report, 840
or cause a report to be made of such belief to the county 841
department of job and family services. 842

This division applies to a representative of the office of 843
the state long-term care ombudsman program only to the extent 844
permitted by federal law. 845

(C) The reports made under this section shall be made 846
orally or in writing except that oral reports shall be followed 847
by a written report if a written report is requested by the 848
department. Written reports shall include: 849

(1) The name, address, and approximate age of the adult 850
who is the subject of the report; 851

(2) The name and address of the individual responsible for 852
the adult's care, if any individual is, and if the individual is 853
known; 854

(3) The nature and extent of the alleged abuse, neglect, 855
or exploitation of the adult; 856

(4) The basis of the reporter's belief that the adult has 857
been abused, neglected, or exploited. 858

(D) Any person with reasonable cause to believe that an 859
adult is suffering abuse, neglect, or exploitation who makes a 860
report pursuant to this section or who testifies in any 861
administrative or judicial proceeding arising from such a 862
report, or any employee of the state or any of its subdivisions 863
who is discharging responsibilities under section 5101.65 of the 864
Revised Code shall be immune from civil or criminal liability on 865
account of such investigation, report, or testimony, except 866
liability for perjury, unless the person has acted in bad faith 867
or with malicious purpose. 868

(E) No employer or any other person with the authority to 869
do so shall do any of the following as a result of an employee's 870
having filed a report under this section: 871

(1) Discharge, demote, transfer, or prepare a negative 872
work performance evaluation; 873

(2) Reduce benefits, pay, or work privileges; 874

(3) Take any other action detrimental to an employee or in 875
any way retaliate against the employee. 876

(F) The written or oral report provided for in this 877
section and the investigatory report provided for in section 878
5101.65 of the Revised Code are confidential and are not public 879
records, as defined in section 149.43 of the Revised Code. In 880
accordance with rules adopted by the department of job and 881
family services, information contained in the report shall upon 882
request be made available to the adult who is the subject of the 883
report and to legal counsel for the adult. If it determines that 884
there is a risk of harm to a person who makes a report under 885

this section or to the adult who is the subject of the report, 886
the county department of job and family services may redact the 887
name and identifying information related to the person who made 888
the report. 889

(G) The county department of job and family services shall 890
be available to receive the written or oral report provided for 891
in this section twenty-four hours a day and seven days a week. 892

Sec. 5101.652. The county department of job and family 893
services may enter into an agreement or contract with ~~another~~ 894
~~person~~any private or government entity to perform the following 895
duties: 896

(A) In accordance with division (G) of section 5101.63 of 897
the Revised Code, receive reports made under that section; 898

(B) Perform the county department's duties under section 899
5101.65 of the Revised Code; 900

(C) Petition the court pursuant to section 5101.68 or 901
5101.70 of the Revised Code for an order authorizing the 902
provision of protective services. 903

Sec. 5101.74. (A) There is hereby created the elder abuse 904
commission. The commission shall consist of the following 905
members: 906

(1) The following members, appointed by the attorney 907
general: 908

(a) One representative of the AARP; 909

(b) One representative of the buckeye state sheriffs' 910
association; 911

(c) One representative of the county commissioners' 912

association of Ohio;	913
(d) One representative of the Ohio association of area agencies on aging;	914 915
(e) One representative of the board of nursing;	916
(f) One representative of the Ohio coalition for adult protective services;	917 918
(g) One person who represents the interests of elder abuse victims;	919 920
(h) One person who represents the interests of elderly persons;	921 922
(i) One representative of the Ohio domestic violence network;	923 924
(j) One representative of the Ohio prosecuting attorneys association;	925 926
(k) One representative of the Ohio victim witness association;	927 928
(l) One representative of the Ohio association of chiefs of police;	929 930
(m) One representative of the Ohio association of probate judges;	931 932
(n) One representative of the Ohio job and family services directors' association;	933 934
(o) One representative of the Ohio bankers league;	935
(p) One representative of the Ohio credit union league;	936
(q) Two representatives of national organizations that focus on elder abuse or sexual violence;	937 938

<u>(r) One representative of the state medical board;</u>	939
<u>(s) One representative of the community bankers association of Ohio;</u>	940 941
<u>(t) One representative of an organization representing the interests of senior centers;</u>	942 943
<u>(u) One representative of an organization representing the policy interests of seniors;</u>	944 945
<u>(v) One representative of a research-based academia representing elder abuse research.</u>	946 947
(2) The following ex officio members:	948
(a) The attorney general or the attorney general's designee;	949 950
(b) The chief justice of the supreme court of Ohio or the chief justice's designee;	951 952
(c) The governor or the governor's designee;	953
(d) The director of aging or the director's designee;	954
(e) The director of job and family services or the director's designee;	955 956
(f) The director of health or the director's designee;	957
(g) The director of mental health and addiction services or the director's designee;	958 959
(h) The director of developmental disabilities or the director's designee;	960 961
(i) The superintendent of insurance or the superintendent's designee;	962 963

(j) The director of public safety or the director's designee;	964 965
(k) The state long-term care ombudsman or the ombudsman's designee;	966 967
(l) One member of the house of representatives, appointed by the speaker of the house of representatives;	968 969
(m) One member of the senate, appointed by the president of the senate;	970 971
<u>(n) The director of commerce, or the director's designee.</u>	972
(B) Members who are appointed shall serve at the pleasure of the appointing authority. Vacancies shall be filled in the same manner as original appointments.	973 974 975
(C) All members of the commission shall serve as voting members. The attorney general shall select from among the appointed members a chairperson. The commission shall meet at the call of the chairperson, but not less than four times per year. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the attorney general. The commission may establish its own quorum requirements and procedures regarding the conduct of meetings and other affairs.	976 977 978 979 980 981 982 983 984
(D) Members shall serve without compensation, but may be reimbursed for mileage and other actual and necessary expenses incurred in the performance of their official duties.	985 986 987
(E) Sections 101.82 to 101.87 of the Revised Code do not apply to the elder abuse commission.	988 989
Section 4. That the existing versions of sections 5101.60, 5101.63, 5101.652, and 5101.74 of the Revised Code that are	990 991

scheduled to take effect on September 29, 2018, are hereby	992
repealed.	993
Section 5. Sections 3 and 4 of this act take effect on	994
September 29, 2018.	995
Section 6. Section 5101.621 of the Revised Code, as	996
amended by this act, takes effect on September 29, 2018.	997