

**As Reported by House Criminal Justice Committee**

**123rd General Assembly**

**Regular Session**

**1999-2000**

**Sub. H. B. No. 412**

**Representatives Salerno, Ford, Goodman, D. Miller, O'Brien, Patton,  
Schuring, Sullivan, Thomas, Tiberi, Womer Benjamin, Willamowski**

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**A B I L L**

To amend sections 2151.141, 2903.13, 2903.21, 1  
2903.211, and 2903.22 and to enact section 2  
2151.142 of the Revised Code to increase the 3  
penalties for assaulting or menacing personnel of 4  
public children services agencies and private 5  
child placing agencies and to declare their 6  
residential addresses to be confidential 7  
information that is not subject to disclosure by 8  
specified persons or obtainable as a part of a 9  
public record, except by journalists in specified 10  
circumstances. 11

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

**Section 1.** That sections 2151.141, 2903.13, 2903.21, 12  
2903.211, and 2903.22 be amended and section 2151.142 of the 13  
Revised Code be enacted to read as follows: 14

**Sec. 2151.141.** (A) If a complaint filed with respect to a 15  
child pursuant to section 2151.27 of the Revised Code alleges that 16  
a child is an abused, neglected, or dependent child, any 17  
individual or entity that is listed in divisions (D)(1)(a) to (k) 18  
of section 2151.14 of the Revised Code and that is investigating 19

whether the child is an abused, neglected, or dependent child, has 20  
custody of the child, is preparing a social history for the child, 21  
or is providing any services for the child may request any board 22  
of education, governing body of a chartered nonpublic school, 23  
public children services agency, private child placing agency, 24  
probation department, law enforcement agency, or prosecuting 25  
attorney that has any records related to the child to provide the 26  
individual or entity with a copy of the records. The request shall 27  
be in writing, describe the type of records requested, explain the 28  
need for the records, be accompanied by a copy of the complaint, 29  
and describe the relationship of the requesting individual or 30  
entity to the child. The individual or entity shall provide a copy 31  
of the request to the child in question, the attorney or guardian 32  
ad litem of the child, and the parent, guardian, or custodian of 33  
the child. 34

(B)(1) Any board of education, governing body of a chartered 35  
nonpublic school, public children services agency, private child 36  
placing agency, probation department, law enforcement agency, or 37  
prosecuting attorney that has any records related to a child who 38  
is the subject of a complaint as described in division (A) of this 39  
section and that receives a request for a copy of the records 40  
pursuant to division (A) of this section shall comply with the 41  
request, unless the individual or entity determines that it is 42  
unable to do so because it is prohibited by law from complying 43  
with the request, the request does not comply with division (A) of 44  
this section, or a complaint as described in division (A) of this 45  
section has not been filed with respect to the child who is the 46  
subject of the requested records. If the individual or entity 47  
determines that it is unable to comply with the request, it shall 48  
file a motion with the court in which the complaint as described 49  
in division (A) of this section was filed or was alleged to have 50  
been filed requesting the court to determine the extent to which 51

it is required to comply with the request for records. Upon the  
filing of the motion, the court immediately shall hold a hearing  
on the motion, determine the extent to which the movant is  
required to comply with the request for records, and issue  
findings of fact and conclusions of law in support of its  
determination. The determination of the court shall be final. If  
the court determines that the movant is required to comply with  
the request for records, it shall identify the specific records  
that must be supplied to the individual or entity that requested  
them.

(2) In addition to or in lieu of the motion described in  
division (B)(1) of this section, a law enforcement agency or  
prosecuting attorney that receives a request for a copy of records  
pursuant to division (A) of this section may file a motion for a  
protective order as described in this division with the court in  
which the complaint as described in division (A) of this section  
was filed or alleged to have been filed. Upon the filing of ~~such~~ a  
motion of that nature, the court shall conduct a hearing on the  
motion. If at the hearing the law enforcement agency or  
prosecuting attorney demonstrates that any of the following  
applies and if, after considering the purposes for which the  
records were requested pursuant to division (A) of this section,  
the best interest of the child, and any demonstrated need to  
prevent specific information in the records from being disclosed,  
the court determines that the issuance of a protective order is  
necessary, then the court shall issue a protective order that  
appropriately limits the disclosure of one or more specified  
records or specified information in one or more specified records:

(a) The records or information in the records relate to a  
case in which the child is alleged to be a delinquent child or a  
case in which a child is bound over for trial as an adult pursuant  
to section 2151.26 of the Revised Code and Juvenile Rule 30, and

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the adjudication hearing in the case, the trial in the case, or  
other disposition of the case has not been concluded.

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(b) The records in question, or the records containing the  
information in question, are confidential law enforcement  
investigatory records, as defined in section 149.43 of the Revised  
Code.

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(c) The records or information in the records relate to a  
case in which the child is or was alleged to be a delinquent child  
or to a case in which a child is or was bound over for trial as an  
adult pursuant to section 2151.26 of the Revised Code and Juvenile  
Rule 30; another case is pending against any child or any adult in  
which the child is alleged to be a delinquent child, the child is  
so bound over for trial as an adult, or the adult is alleged to be  
a criminal offender; the allegations in the case to which the  
records or information relate and the allegations in the other  
case are based on the same act or transaction, are based on two or  
more connected transactions or constitute parts of a common scheme  
or plan, or are part of a course of criminal conduct; and the  
adjudication hearing in, trial in, or other disposition of the  
other case has not been concluded.

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(C) If an individual or entity is required to provide copies  
of records pursuant to this section, the individual or entity may  
charge a fee for the copies that does not exceed the cost of  
supplying them.

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(D) This section ~~shall not be construed to require,~~  
~~authorize, or permit, and~~ does not require, authorize, or permit,  
the dissemination of any records or any information contained in  
any records if the dissemination of the records or information  
generally is prohibited by ~~any provision~~ section 2151.142 or  
another section of the Revised Code and a waiver as described in  
division (B)(1) of section 2151.142 of the Revised Code or a

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specific provision of the Revised Code does not specifically 115  
authorize or permit the dissemination of the records or 116  
information pursuant to this section. 117

**Sec. 2151.142.** (A) As used in this section, "public record" 118  
and "journalist" have the same meanings as in section 149.43 of 119  
the Revised Code. 120

(B) BOTH OF THE FOLLOWING APPLY TO the residential address of 121  
EACH officer OR EMPLOYEE of a public children services agency or A 122  
private child placing agency who performS official 123  
responsibilities or duties described in section 2151.14, 2151.141, 124  
2151.33, 2151.353, 2151.412, 2151.413, 2151.414, 2151.415, 125  
2151.416, 2151.417, or 2151.421 or another section of the Revised 126  
Code AND TO THE RESIDENTIAL ADDRESS OF PERSONS RELATED TO THAT 127  
OFFICER OR EMPLOYEE BY CONSANGUINITY OR AFFINITY: 128

(1) other officerS AND employees of A public children 129  
services agency, private child placing agency, juvenile court, OR 130  
LAW ENFORCEMENT AGENCY SHALL CONSIDER THOSE RESIDENTIAL ADDRESSES 131  
to be confidential information. The OFFICER OR EMPLOYEE OF THE 132  
PUBLIC CHILDREN SERVICES AGENCY OR PRIVATE CHILD PLACING AGENCY 133  
MAY WAIVE THE CONFIDENTIALITY OF THOSE RESIDENTIAL ADDRESSES BY 134  
GIVING EXPRESS PERMISSION FOR THEIR DISCLOSURE TO OTHER officerS 135  
OR employeeS of A public children services agency, private child 136  
placing agency, juvenile court, OR LAW ENFORCEMENT AGENCY. 137

(2) TO THE EXTENT THAT THOSE RESIDENTIAL ADDRESSES ARE 138  
CONTAINED IN PUBLIC RECORDS KEPT BY A PUBLIC CHILDREN SERVICES 139  
AGENCY, PRIVATE CHILD PLACING AGENCY, JUVENILE COURT, OR LAW 140  
ENFORCEMENT AGENCY, THEY SHALL NOT BE CONSIDERED TO BE INFORMATION 141  
THAT IS SUBJECT TO INSPECTION OR COPYING AS PART OF A public 142  
record UNDER SECTION 149.43 of the Revised Code. 143

(C) Except as provided in division (D) of this section, in 144  
THE ABSENCE OF A WAIVER AS DESCRIBED IN DIVISION (B)(1) OF THIS 145

SECTION, NO officer or employee of A public children services 146  
agency, private child placing agency, juvenile court, OR LAW 147  
ENFORCEMENT AGENCY SHALL DISCLOSE THE RESIDENTIAL ADDRESS OF AN 148  
OFFICER OR EMPLOYEE OF A PUBLIC CHILDREN SERVICES AGENCY OR 149  
PRIVATE CHILD PLACING AGENCY, OR THE RESIDENTIAL ADDRESS OF A 150  
PERSON RELATED TO THAT OFFICER OR EMPLOYEE BY CONSANGUINITY OR 151  
AFFINITY, THAT IS CONFIDENTIAL INFORMATION UNDER DIVISION (B)(1) 152  
OF THIS SECTION to any person, when the disclosing officer or 153  
employee knows THAT the PERSON IS OR MAY BE A SUBJECT OF AN 154  
INVESTIGATION, INTERVIEW, EXAMINATION, CRIMINAL CASE, OTHER CASE, 155  
OR OTHER MATTER WITH WHICH THE OFFICER OR EMPLOYEE to whom the 156  
residential address relates CURRENTLY IS OR HAS BEEN ASSOCIATED. 157

(D) If, on or after the effective date of this SECTION, a 158  
journalist requests a public children services agency, private 159  
child placing agency, juvenile court, or law enforcement agency to 160  
disclose a residential address that is confidential information 161  
under division (B)(1) of this section, the agency or juvenile 162  
court shall disclose to the journalist the residential address if 163  
all of the following apply: 164

(1) The request is in writing, is signed by the journalist, 165  
includes the journalist's name and title, and INCLUDES the name 166  
and address of the journalist's employer. 167

(2) The request states that disclosure of the residential 168  
address would be in the public interest. 169

(3) The request adequately identifies the person whose 170  
residential address is requested. 171

(4) The public children services agency, private child 172  
placing agency, juvenile court, or law enforcement agency 173  
receiving the request is ONE OF THE FOLLOWING: 174

(a) the agency or juvenile court with which the official in 175  
question serves or with which the employee in question is 176

employed; 177

(b) the agency or juvenile court that has custody of the 178  
records of the agency with which the official in question serves 179  
or with which the employee in question is employed. 180

**Sec. 2903.13.** (A) No person shall knowingly cause or attempt 181  
to cause physical harm to another or to another's unborn. 182

(B) No person shall recklessly cause serious physical harm to 183  
another or to another's unborn. 184

(C) Whoever violates this section is guilty of assault. 185  
Except as otherwise provided in division (C)(1), (2), ~~or (3)~~, (4), 186  
or (5) of this section, assault is a misdemeanor of the first 187  
degree. 188

(1) Except as otherwise provided in this division, if the 189  
offense is committed by a caretaker against a functionally 190  
impaired person under the caretaker's care, assault is a felony of 191  
the fourth degree. If the offense is committed by a caretaker 192  
against a functionally impaired person under the caretaker's care, 193  
if the offender previously has been convicted of or pleaded guilty 194  
to a violation of this section or section 2903.11 or 2903.16 of 195  
the Revised Code, and if in relation to the previous conviction 196  
the offender was a caretaker and the victim was a functionally 197  
impaired person under the offender's care, assault is a felony of 198  
the third degree. 199

(2) If the offense is committed in any of the following 200  
circumstances, assault is a felony of the fifth degree: 201

(a) The offense occurs in or on the grounds of a state 202  
correctional institution or an institution of the department of 203  
youth services, the victim of the offense is an employee of the 204  
department of rehabilitation and correction, the department of 205  
youth services, or a probation department or is on the premises of 206

the particular institution for business purposes or as a visitor, 207  
and the offense is committed by a person incarcerated in the state 208  
correctional institution, by a person institutionalized in the 209  
department of youth services institution pursuant to a commitment 210  
to the department of youth services, by a probationer or parolee, 211  
by an offender under transitional control, under a community 212  
control sanction, or on an escorted visit, by a person under 213  
post-release control, or by an offender under any other type of 214  
supervision by a government agency. 215

(b) The offense occurs in or on the grounds of a local 216  
correctional facility, the victim of the offense is an employee of 217  
the local correctional facility or a probation department or is on 218  
the premises of the facility for business purposes or as a 219  
visitor, and the offense is committed by a person who is under 220  
custody in the facility subsequent to the person's arrest for any 221  
crime or delinquent act, subsequent to the person's being charged 222  
with or convicted of any crime, or subsequent to the person's 223  
being alleged to be or adjudicated a delinquent child. 224

(c) The offense occurs off the grounds of a state 225  
correctional institution and off the grounds of an institution of 226  
the department of youth services, the victim of the offense is an 227  
employee of the department of rehabilitation and correction, the 228  
department of youth services, or a probation department, the 229  
offense occurs during the employee's official work hours and while 230  
the employee is engaged in official work responsibilities, and the 231  
offense is committed by a person incarcerated in a state 232  
correctional institution or institutionalized in the department of 233  
youth services who temporarily is outside of the institution for 234  
any purpose, by a probationer or parolee, by an offender under 235  
transitional control, under a community control sanction, or on an 236  
escorted visit, by a person under post-release control, or by an 237  
offender under any other type of supervision by a government 238

agency. 239

(d) The offense occurs off the grounds of a local 240  
correctional facility, the victim of the offense is an employee of 241  
the local correctional facility or a probation department, the 242  
offense occurs during the employee's official work hours and while 243  
the employee is engaged in official work responsibilities, and the 244  
offense is committed by a person who is under custody in the 245  
facility subsequent to the person's arrest for any crime or 246  
delinquent act, subsequent to the person being charged with or 247  
convicted of any crime, or subsequent to the person being alleged 248  
to be or adjudicated a delinquent child and who temporarily is 249  
outside of the facility for any purpose or by a probationer or 250  
parolee, by an offender under transitional control, under a 251  
community control sanction, or on an escorted visit, by a person 252  
under post-release control, or by an offender under any other type 253  
of supervision by a government agency. 254

(e) The victim of the offense is a school teacher or 255  
administrator or a school bus operator, and the offense occurs in 256  
a school, on school premises, in a school building, on a school 257  
bus, or while the victim is outside of school premises or a school 258  
bus and is engaged in duties or official responsibilities 259  
associated with the victim's employment or position as a school 260  
teacher or administrator or a school bus operator, including, but 261  
not limited to, driving, accompanying, or chaperoning students at 262  
or on class or field trips, athletic events, or other school 263  
extracurricular activities or functions outside of school 264  
premises. 265

(3) If the victim of the offense is a peace officer, a 266  
firefighter, or a person performing emergency medical service, 267  
while in the performance of their official duties, assault is a 268  
felony of the fourth degree. 269

(4) If the victim of the offense is a peace officer and if the victim suffered serious physical harm as a result of the commission of the offense, assault is a felony of the fourth degree, and the court, pursuant to division (F) of section 2929.13 of the Revised Code, shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the fourth degree that is at least twelve months in duration.

(5) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties described in section 2151.14, 2151.141, 2151.33, 2151.353, 2151.412, 2151.413, 2151.414, 2151.415, 2151.416, 2151.417, or 2151.421 or another section of the Revised Code, assault is either a felony of the fifth degree or, if the offender previously has been convicted of or pleaded guilty to a violation of this section involving an officer or employee of a public children services agency or private child placing agency, a felony of the fourth degree.

(D) As used in this section:

~~(a)~~(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

~~(b)~~(2) "Firefighter" has the same meaning as in section 3937.41 of the Revised Code.

~~(c)~~(3) "Emergency medical service" has the same meaning as in section 4765.01 of the Revised Code.

~~(d)~~(4) "Local correctional facility" means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail established under section 341.23 or 753.21 of the Revised Code, or another county, multicounty, municipal, municipal-county, or multicounty-municipal

facility used for the custody of persons arrested for any crime or 301  
delinquent act, persons charged with or convicted of any crime, or 302  
persons alleged to be or adjudicated a delinquent child. 303

~~(e)~~(5) "Employee of a local correctional facility" means a 304  
person who is an employee of the political subdivision or of one 305  
or more of the affiliated political subdivisions that operates the 306  
local correctional facility and who operates or assists in the 307  
operation of the facility. 308

~~(f)~~(6) "School teacher or administrator" means either of the 309  
following: 310

~~(i)~~(a) A person who is employed in the public schools of the 311  
state under a contract described in section 3319.08 of the Revised 312  
Code in a position in which the person is required to have a 313  
certificate issued pursuant to sections 3319.22 to 3319.311 of the 314  
Revised Code. 315

~~(ii)~~(b) A person who is employed by a nonpublic school for 316  
which the state board of education prescribes minimum standards 317  
under section 3301.07 of the Revised Code and who is certificated 318  
in accordance with section 3301.071 of the Revised Code. 319

~~(g)~~(7) "Community control sanction" has the same meaning as 320  
in section 2929.01 of the Revised Code. 321

~~(h)~~(8) "Escorted visit" means an escorted visit granted under 322  
section 2967.27 of the Revised Code. 323

~~(i)~~(9) "Post-release control" and "transitional control" have 324  
the same meanings as in section 2967.01 of the Revised Code. 325

**Sec. 2903.21.** (A) No person shall knowingly cause another to 326  
believe that the offender will cause serious physical harm to the 327  
person or property of ~~such the~~ other person, ~~such the~~ other 328  
person's unborn, or a member of the other person's immediate 329  
family. 330

(B) Whoever violates this section is guilty of aggravated 331  
menacing<sup>7</sup>. Except as otherwise provided in this division, 332  
aggravated menacing is a misdemeanor of the first degree. If the 333  
victim of the offense is an officer or employee of a public 334  
children services agency or a private child placing agency and the 335  
offense RELATES TO THE OFFICER'S OR EMPLOYEE'S PERFORMANCE OR 336  
ANTICIPATED performance of official responsibilities or duties 337  
described in section 2151.14, 2151.141, 2151.33, 2151.353, 338  
2151.412, 2151.413, 2151.414, 2151.415, 2151.416, 2151.417, or 339  
2151.421 or another section of the Revised Code, aggravated 340  
menacing is a felony of the fifth degree OR, if the offender 341  
previously HAS BEEN CONVICTED OF OR PLEADED GUILTY TO A VIOLATION 342  
OF THIS SECTION INVOLVING AN OFFICER OR EMPLOYEE OF A PUBLIC 343  
CHILDREN SERVICES AGENCY OR PRIVATE CHILD PLACING AGENCY, a felony 344  
of the fourth degree. 345

**Sec. 2903.211.** (A) No person by engaging in a pattern of 346  
conduct shall knowingly cause another to believe that the offender 347  
will cause physical harm to the other person or cause mental 348  
distress to the other person. 349

(B) Whoever violates this section is guilty of menacing by 350  
stalking. 351

(1) Except as otherwise provided in ~~division~~ divisions (B)(2) 352  
and (3) of this section, menacing by stalking is a misdemeanor of 353  
the first degree. 354

(2) Menacing by stalking is a felony of the fourth degree if 355  
any of the following applies: 356

(a) The offender previously has been convicted of or pleaded 357  
guilty to a violation of this section or a violation of section 358  
2911.211 of the Revised Code. 359

(b) In committing the offense, the offender made a threat of 360

physical harm to or against the victim.	361
(c) In committing the offense, the offender trespassed on the land or premises where the victim lives, is employed, or attends school.	362 363 364
(d) The victim of the offense is a minor.	365
(e) The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.	366 367 368
(f) While committing the offense, the offender had a deadly weapon on or about the offender's person or under the offender's control.	369 370 371
(g) At the time of the commission of the offense, the offender was the subject of a protection order issued under section 2903.213 or 2903.214 of the Revised Code, regardless of whether the person to be protected under the order is the victim of the offense or another person.	372 373 374 375 376
(h) In committing the offense, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises.	377 378 379 380
(i) The offender previously has been found to be a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the Revised Code, under the criteria set forth in division (B)(1) or (2) of that section, or the offender previously had been voluntarily admitted under section 5122.02 of the Revised Code and, as the basis for or subsequent to that voluntary admission, the offender was determined to represent a risk to self or others to the extent described in division (B)(1) or (2) of section 5122.01 of the Revised Code.	381 382 383 384 385 386 387 388 389
<u>(3) If the victim of the offense is an officer or employee of</u>	390

a public children services agency or a private child placing 391  
agency and the offense relates to the officer's or employee's 392  
performance or anticipated performance of official 393  
responsibilities or duties described in section 2151.14, 2151.141, 394  
2151.33, 2151.353, 2151.412, 2151.413, 2151.414, 2151.415, 395  
2151.416, 2151.417, or 2151.421 or another section of the Revised 396  
Code, menacing by stalking is either a felony of the fifth degree 397  
or, if the offender previously has been convicted of or pleaded 398  
guilty to a violation of this section involving an officer or 399  
employee of a public children services agency or private child 400  
placing agency, a felony of the fourth degree. 401

(C) As used in this section: 402

(1) "Pattern of conduct" means two or more actions or 403  
incidents closely related in time, whether or not there has been a 404  
prior conviction based on any of those actions or incidents. 405  
Actions or incidents that prevent, obstruct, or delay the 406  
performance by a public official, firefighter, rescuer, or 407  
emergency medical services person of any authorized act within the 408  
public official's, firefighter's, rescuer's, or emergency medical 409  
services person's official capacity may constitute a "pattern of 410  
conduct." 411

(2) "Mental distress" means any mental illness or condition 412  
that involves some temporary substantial incapacity or mental 413  
illness or condition that would normally require psychiatric 414  
treatment. 415

(3) "Emergency medical services person" is the singular of 416  
"emergency medical services personnel" as defined in section 417  
2133.21 of the Revised Code. 418

(4) "Public official" has the same meaning as in section 419  
2921.01 of the Revised Code. 420

Sec. 2903.22. (A) No person shall knowingly cause another to 421  
believe that the offender will cause physical harm to the person 422  
or property of ~~such the~~ other person, ~~such the~~ other person's 423  
unborn, or a member of the other person's immediate family. 424  
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(B) Whoever violates this section is guilty of menacing~~7~~. 426  
Except as otherwise provided in this division, menacing is a 427  
misdemeanor of the fourth degree. If the victim of the offense is 428  
an officer or employee of a public children services agency or a 429  
private child placing agency and the offense RELATES TO THE 430  
OFFICER'S OR EMPLOYEE'S PERFORMANCE OR ANTICIPATED performance of 431  
official responsibilities or duties described in section 2151.14, 432  
2151.141, 2151.33, 2151.353, 2151.412, 2151.413, 2151.414, 433  
2151.415, 2151.416, 2151.417, or 2151.421 or another section of 434  
the Revised Code, menacing is a misdemeanor of the first degree 435  
OR, if the offender previously HAS BEEN CONVICTED OF OR PLEADED 436  
GUILTY TO A VIOLATION OF THIS SECTION INVOLVING AN OFFICER OR 437  
EMPLOYEE OF A PUBLIC CHILDREN SERVICES AGENCY OR PRIVATE CHILD 438  
PLACING AGENCY, a felony of the fourth degree. 439

Section 2. That existing sections 2151.141, 2903.13, 2903.21, 440  
2903.211, and 2903.22 of the Revised Code are hereby repealed. 441  
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