

As Reported by the House Criminal Justice Committee

126th General Assembly

Regular Session

2005-2006

Sub. H. B. No. 241

Representatives Latta, McGregor, C. Evans, D. Evans, Hughes, Perry

—

A B I L L

To amend sections 9.92, 109.85, 309.08, 311.07, 1
1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2
2913.421, 2923.01, 2923.31, 2923.32, 2923.34, 3
2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 4
2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 5
2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 6
3719.21, 3729.13, 3743.68, 3745.13, 4301.29, 7
4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 8
4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 9
4729.65, 5735.121, 5739.15, 5743.082, and 10
5743.112, to enact sections 2941.1417, 2981.01, 11
2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 12
2981.07, 2981.08, 2981.09, 2981.11, 2981.12, 13
2981.13, and 2981.14, and to repeal sections 14
2923.33, 2923.35, 2923.45, 2923.46, 2923.47, 15
2925.41, 2925.43, 2925.44, 2925.45, 2933.41, 16
2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 17
2933.73, and 2933.74 of the Revised Code to adopt 18
the Criminal Sentencing Commission's 19
recommendations regarding revision of the 20
Forfeiture Laws. 21

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

Section 1. That sections 9.92, 109.85, 309.08, 311.07, 22
1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 2923.01, 23
2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 24
2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 25
2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 26
3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 27
4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 28
5739.15, 5743.082, and 5743.112 be amended and sections 2941.1417, 29
2981.01, 2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 30
2981.08, 2981.09, 2981.11, 2981.12, 2981.13, and 2981.14 of the 31
Revised Code be enacted to read as follows: 32

Sec. 9.92. (A) As used in this section: 33

(1) "Citizens' reward program" means any organization that 34
satisfies all of the following criteria: 35

(a) It is a nonprofit organization; 36

(b) It is organized and operated exclusively to offer and pay 37
rewards to citizens for volunteering tips and information to law 38
enforcement agencies concerning felonies, offenses of violence, or 39
misdemeanors that have been committed; 40

(c) It has established a reward fund to be used solely for 41
the payment of rewards to citizens for volunteering tips and 42
information to law enforcement agencies concerning felonies, 43
offenses of violence, or misdemeanors that have been committed. 44

(2) "Detention facility" has the same meaning as in section 45
2921.01 of the Revised Code. 46

(B) A citizens' reward program may apply to the board of 47
county commissioners of any county or counties in which it 48
operates for recognition as the official reward program for that 49
county or counties. Upon receipt of the application, the board of 50

county commissioners shall determine if it is in proper order and
the information it contains is correct. If the application meets
these criteria, the board, by resolution, may officially recognize
the program. Recognition of a program by a county under this
division qualifies the program for funding of its reward fund
under division ~~(E)(2)~~ (F) of section ~~2933.41~~ 2981.12 of the
Revised Code. No more than one such reward program shall be
recognized in any county.

51
52
53
54
55
56
57
58

(C)(1) If a board of county commissioners enters into an
agreement of affiliation with a citizens' reward program pursuant
to division (D) of this section, any municipal court, county
court, or court of common pleas within the county shall impose the
sum of one dollar as costs in any case in which a person is
convicted of or pleads guilty to any offense other than a traffic
offense. This one dollar additional court costs is in addition to
any other court costs that the court is required by law to impose
upon the offender, and, the court shall impose the one dollar
additional court costs as long as the agreement of affiliation
remains in effect, but the court, in the court's discretion, may
remit this one dollar additional court costs to the offender. The
clerk of each court shall transmit all such moneys collected
during a month on or before the twentieth day of the following
month to the affiliated citizens' reward program.

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73

(2) No person shall be placed or held in a detention facility
for failing to pay the additional one dollar court costs that are
required to be paid by division (C)(1) of this section.

74
75
76

(3) A citizens' reward program receiving funds pursuant to
division (C)(1) of this section may use the funds for any purpose
described in division (A)(1)(b) or (c) of this section.

77
78
79

(D)(1) Any citizens' reward program that is recognized under
division (B) of this section may enter into a written agreement of

80
81

affiliation with a board of county commissioners in the county in 82
which the program operates. Agreements of affiliation executed 83
pursuant to this division shall be valid for two years and may be 84
renewed. The agreements shall do all of the following: 85

(a) Specify the relationship between the citizens' reward 86
program, the county, and law enforcement agencies in the county; 87

(b) Specify that the citizens' reward program shall account 88
annually to the board of county commissioners for all funds raised 89
by the organization from all sources and all funds expended by the 90
organization for any purpose; 91

(c) Allow the citizens' reward program to itemize the sources 92
of funds raised without referring to the name of the source; 93

(d) Prohibit the citizens' reward program from divulging the 94
identity of any person to whom a reward was paid. 95

(2) In every county in which the board of county 96
commissioners approves of an agreement of affiliation, the board 97
shall notify the clerk of each municipal court, county court, and 98
court of common pleas within the county of that agreement of 99
affiliation and of the duty to collect the additional court costs 100
imposed pursuant to division (C) of this section. 101

(E) The recognition of a citizens' reward program under this 102
section does not make it a governmental unit for purposes of 103
section 149.43 of the Revised Code and does not subject it to the 104
disclosure provisions of that section. A board of county 105
commissioners that recognizes a citizens' reward program pursuant 106
to this section shall require the program to provide the board 107
with an accounting of all funds the program receives or disburses 108
subsequent to its recognition in order to maintain recognition. 109

(F) A board of county commissioners that recognizes a 110
citizens' reward program under this section may by resolution 111

revoke its recognition of the program. The board shall send a copy 112
of the resolution, upon adoption, to the program and to each 113
appropriate law enforcement agency that has jurisdiction over the 114
territory served by the program. 115

(G) An application for recognition of a citizens' reward 116
program shall contain all of the following information: 117

(1) The name of the program and its mailing address; 118

(2) The name and address of each of its officers or 119
officials; 120

(3) Information sufficient to establish the intention and 121
ability of the program's officers to implement the program 122
throughout the county; 123

(4) The purposes for which the program is organized and 124
operated and the services it offers; 125

(5) A copy of the articles of incorporation and bylaws of the 126
program, if applicable, or a copy of the rules and procedures 127
under which the program is organized and operated; 128

(6) Any other relevant information that the board of county 129
commissioners requires, by resolution. 130

Sec. 109.85. (A) Upon the written request of the governor, 131
the general assembly, the auditor of state, the director of job 132
and family services, the director of health, or the director of 133
budget and management, or upon the attorney general's becoming 134
aware of criminal or improper activity related to Chapter 3721. 135
and the medical assistance program established under section 136
5111.01 of the Revised Code, the attorney general shall 137
investigate any criminal or civil violation of law related to 138
Chapter 3721. of the Revised Code or the medical assistance 139
program. 140

(B) When it appears to the attorney general, as a result of an investigation under division (A) of this section, that there is cause to prosecute for the commission of a crime or to pursue a civil remedy, the attorney general may refer the evidence to the prosecuting attorney having jurisdiction of the matter, or to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any necessary criminal or civil actions in any court or tribunal of competent jurisdiction in this state. When proceeding under this section, the attorney general, and any assistant or special counsel designated by the attorney general for that purpose, have all rights, privileges, and powers of prosecuting attorneys. The attorney general shall have exclusive supervision and control of all investigations and prosecutions initiated by the attorney general under this section. The forfeiture provisions of ~~sections 2933.71 to 2933.75~~ Chapter 2981. of the Revised Code apply in relation to any such criminal action initiated and prosecuted by the attorney general.

(C) Nothing in this section shall prevent a county prosecuting attorney from investigating and prosecuting criminal activity related to Chapter 3721. of the Revised Code and the medical assistance program established under section 5111.01 of the Revised Code. The forfeiture provisions of ~~sections 2933.71 to 2933.75~~ Chapter 2981. of the Revised Code apply in relation to any prosecution of criminal activity related to the medical assistance program undertaken by the prosecuting attorney.

Sec. 309.08. (A) The prosecuting attorney may inquire into the commission of crimes within the county. The prosecuting attorney shall prosecute, on behalf of the state, all complaints,

suits, and controversies in which the state is a party, except for 172
those required to be prosecuted by a special prosecutor pursuant 173
to section 177.03 of the Revised Code or by the attorney general 174
pursuant to section 109.83 of the Revised Code, and other suits, 175
matters, and controversies that the prosecuting attorney is 176
required to prosecute within or outside the county, in the probate 177
court, court of common pleas, and court of appeals. In conjunction 178
with the attorney general, the prosecuting attorney shall 179
prosecute in the supreme court cases arising in the prosecuting 180
attorney's county, except for those cases required to be 181
prosecuted by a special prosecutor pursuant to section 177.03 of 182
the Revised Code or by the attorney general pursuant to section 183
109.83 of the Revised Code. 184

In every case of conviction, the prosecuting attorney 185
forthwith shall cause execution to be issued for the fine and 186
costs, or costs only, as the case may be, and faithfully shall 187
urge the collection until it is effected or found to be 188
impracticable to collect. The prosecuting attorney forthwith shall 189
pay to the county treasurer all moneys belonging to the state or 190
county which come into the prosecuting attorney's possession. 191

The prosecuting attorney or an assistant prosecuting attorney 192
of a county may participate, as a member of the investigatory 193
staff of an organized crime task force established under section 194
177.02 of the Revised Code that has jurisdiction in that county, 195
in an investigation of organized criminal activity under sections 196
177.01 to 177.03 of the Revised Code. 197

(B) The prosecuting attorney may pay a reward to a person who 198
has volunteered any tip or information to a law enforcement agency 199
in the county concerning a drug-related offense that is planned to 200
occur, is occurring, or has occurred, in whole or in part, in the 201
county. The prosecuting attorney may provide for the payment, out 202
of the following sources, of rewards to a person who has 203

volunteered tips and information to a law enforcement agency in 204
the county concerning a drug-related offense that is planned to 205
occur, is occurring, or has occurred, in whole or in part, in the 206
county: 207

(1) The law enforcement trust fund established by the 208
prosecuting attorney pursuant to division ~~(D)~~(C)(1)~~(e)~~ of section 209
~~2933.43~~ 2981.13 of the Revised Code; 210

(2) The portion of any mandatory fines imposed pursuant to 211
divisions (B)(1) and (2) of section 2929.18 or Chapter 2925. of 212
the Revised Code that is paid to the prosecuting attorney pursuant 213
to that division or chapter, the portion of any additional fines 214
imposed under division ~~(B)(5)~~(A) of section 2929.18 of the Revised 215
Code that is paid to the prosecuting attorney pursuant to that 216
division, or the portion of any ~~double~~ fines imposed pursuant to 217
division ~~(B)(5)~~(A) of section 2925.42 of the Revised Code that is 218
paid to the prosecuting attorney pursuant to ~~that~~ division (B) of 219
that section; 220

(3) The furtherance of justice fund allowed to the 221
prosecuting attorney under section 325.12 of the Revised Code or 222
any additional funds allowed to the prosecuting attorney under 223
section 325.13 of the Revised Code; 224

(4) Any other moneys lawfully in the possession or control of 225
the prosecuting attorney. 226

(C) As used in division (B) of this section, "drug-related 227
offense" means any violation of Chapter 2925. or 3719. of the 228
Revised Code or any violation of a municipal ordinance that is 229
substantially equivalent to any section in either of those 230
chapters. 231

Sec. 311.07. (A) Each sheriff shall preserve the public peace 232
and cause all persons guilty of any breach of the peace, within 233

the sheriff's knowledge or view, to enter into recognizance with 234
sureties to keep the peace and to appear at the succeeding term of 235
the court of common pleas, and the sheriff shall commit such 236
persons to jail in case they refuse to do so. The sheriff shall 237
return a transcript of all the sheriff's proceedings with the 238
recognizance so taken to such court. The sheriff shall, except as 239
provided in division (C) of this section, execute all warrants, 240
writs, and other process directed to the sheriff by any proper and 241
lawful authority of this state, and those issued by a proper and 242
lawful authority of any other state. The sheriff shall attend upon 243
the court of common pleas and the court of appeals during their 244
sessions, and, when required, shall attend upon the probate court. 245
In the execution of official duties of the sheriff, the sheriff 246
may call to the sheriff's aid such persons or power of the county 247
as is necessary. Under the direction and control of the board of 248
county commissioners, such sheriff shall have charge of the court 249
house. A sheriff or deputy sheriff of a county may participate, as 250
the director of an organized crime task force established under 251
section 177.02 of the Revised Code or as a member of the 252
investigatory staff of such a task force, in an investigation of 253
organized criminal activity in any county or counties in this 254
state under sections 177.01 to 177.03 of the Revised Code. 255

(B) The sheriff of a county may call upon the sheriff of any 256
other county, the mayor or other chief executive of any municipal 257
corporation, and the chairperson of the board of township trustees 258
of any township within this state, to furnish such law enforcement 259
or fire protection personnel, or both, together with appropriate 260
equipment and apparatus, as may be necessary to preserve the 261
public peace and protect persons and property in the requesting 262
sheriff's county. Such aid shall be furnished to the sheriff 263
requesting it, insofar as possible without withdrawing from the 264
political subdivision furnishing such aid the minimum police and 265
fire protection appearing necessary under the circumstances. Law 266

enforcement and fire protection personnel acting outside the 267
territory of their regular employment shall be considered as 268
performing services within the territory of their regular 269
employment for the purposes of compensation, pension or indemnity 270
fund rights, workers' compensation, and other rights or benefits 271
to which they may be entitled as incidents of their regular 272
employment. The county receiving aid shall reimburse, as provided 273
in this section, the political subdivision furnishing it the cost 274
of furnishing such aid, including compensation of personnel, 275
expenses incurred by reason of the injury or death of any such 276
personnel while rendering such aid, expenses of furnishing 277
equipment and apparatus, compensation for damage to or loss of 278
equipment or apparatus while in service outside the territory of 279
its regular use, and such other reasonable expenses as may be 280
incurred by any such political subdivision in furnishing aid. The 281
cost of furnishing such aid may be paid from the sheriff's 282
furtherance of justice fund created pursuant to section 325.071 of 283
the Revised Code or from the law enforcement trust fund created 284
pursuant to section ~~2933.43~~ 2981.13 of the Revised Code, or from 285
the county general fund to the extent moneys have been 286
appropriated for such purposes pursuant to section 5705.38 of the 287
Revised Code unless the board of county commissioners adopts a 288
resolution restricting or prohibiting the use of general fund 289
moneys without the prior approval of the board of county 290
commissioners. Nothing in this section shall be construed as 291
superseding or modifying in any way any provision of a contract 292
entered into pursuant to section 311.29 of the Revised Code. Law 293
enforcement officers acting pursuant to this section outside the 294
territory of their regular employment have the same authority to 295
enforce the law as when acting within the territory of their 296
regular employment. 297

(C) The sheriff shall not execute process that is issued in a 298

state other than this state, unless the process contains either of 299
the following: 300

(1) A certification by the judge of the court that issued the 301
process stating that the issuing court has jurisdiction to issue 302
the process and that the documents being forwarded conform to the 303
laws of the state in which the court is located; 304

(2) If the process is an initial summons to appear and defend 305
issued after the filing of a complaint commencing an action, a 306
certification by the clerk of the court that issued the process 307
stating that the process was issued in conformance with the laws 308
of the state in which the court is located. 309

(D) As used in this section and section 311.08 of the Revised 310
Code, "proper and lawful authority" means any authority authorized 311
by law to issue any process and "process" means those documents 312
issued in this state in accordance with section 7.01 of the 313
Revised Code and those documents, other than executions of 314
judgments or decrees, issued in a state other than this state that 315
conform to the laws of the state of issuance governing the 316
issuance of process in that state. 317

Sec. 1506.35. (A) The director of natural resources may 318
suspend or revoke, in accordance with Chapter 119. of the Revised 319
Code, a permit issued under section 1506.32 of the Revised Code if 320
the permit holder has done either of the following: 321

(1) Failed to comply with sections 1506.30 to 1506.36 of the 322
Revised Code, any rules adopted under those sections, or any 323
provision or condition of the holder's permit; 324

(2) Damaged abandoned property other than in accordance with 325
the provisions or conditions of the permit. 326

(B) Any motor vehicle, as defined in section 4501.01 of the 327
Revised Code, watercraft, as defined in section 1547.01 of the 328

Revised Code, mechanical or other assistance, scuba gear, sonar 329
equipment, or other equipment used by any person in the course of 330
committing a third or subsequent violation of division (K) of 331
section 1506.32 of the Revised Code shall be considered contraband 332
for the purposes of ~~sections 2933.42 and 2933.43~~ Chapter 2981. of 333
the Revised Code, except that proceeds from the sale of such 334
contraband shall be disposed of in the following order: 335

(1) To the payment of the costs incurred in the forfeiture 336
proceedings under ~~section 2933.43~~ Chapter 2981. of the Revised 337
Code; 338

(2) To the payment of the balance due on any security 339
interest preserved under division ~~(C)~~(F) of section ~~2933.43~~ 340
2981.04 of the Revised Code; 341

(3) To the payment of any costs incurred by the seizing 342
agency under ~~section 2933.43~~ Chapter 2981. of the Revised Code in 343
connection with the storage, maintenance, security, and forfeiture 344
of the contraband; 345

(4) Fifty per cent of the remaining money to the credit of 346
the Lake Erie submerged lands preserves fund created in division 347
(C) of this section, and fifty per cent of the remaining money to 348
the Ohio historical society for deposit into the fund created 349
pursuant to division (C) of section 149.56 of the Revised Code. 350

(C) There is hereby created in the state treasury the Lake 351
Erie submerged lands preserves fund. The fund shall be composed of 352
moneys credited to it under division (B)(4) of this section and 353
division (D)(2) of section 1506.33 of the Revised Code, all 354
appropriations, contributions, and gifts made to it, and any 355
federal grants received by the department of natural resources for 356
the purposes of sections 1506.30 to 1506.36 of the Revised Code. 357
The director shall use the moneys in the Lake Erie submerged lands 358
preserves fund solely to implement and administer sections 1506.30 359

to 1506.36 of the Revised Code. 360

(D) The director may request the attorney general to, and the attorney general shall, bring a civil action in any court of competent jurisdiction for any of the following purposes: 361
362
363

(1) To enforce compliance with or restrain violation of sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, or any permit issued under section 1506.32 of the Revised Code; 364
365
366
367

(2) To enjoin the further removal of abandoned property or archaeological material from Lake Erie; 368
369

(3) To order the restoration of an area affected by a violation of sections 1506.30 to 1506.36 of the Revised Code or of a permit issued under section 1506.32 of the Revised Code to its prior condition. 370
371
372
373

Any action under this division is a civil action governed by the Rules of Civil Procedure. 374
375

(E) A peace officer of a county, township, or municipal corporation, and a preserve officer, wildlife officer, park officer, or watercraft officer designated under section 1517.10, 1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, may enforce compliance with sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, and any permit issued under section 1506.32 of the Revised Code and may make arrests for violation of those laws, rules, and permits. 376
377
378
379
380
381
382
383

Sec. 2152.20. (A) If a child is adjudicated a delinquent child or a juvenile traffic offender, the court may order any of the following dispositions, in addition to any other disposition authorized or required by this chapter: 384
385
386
387

(1) Impose a fine in accordance with the following schedule: 388

(a) For an act that would be a minor misdemeanor or an unclassified misdemeanor if committed by an adult, a fine not to exceed fifty dollars;	389 390 391
(b) For an act that would be a misdemeanor of the fourth degree if committed by an adult, a fine not to exceed one hundred dollars;	392 393 394
(c) For an act that would be a misdemeanor of the third degree if committed by an adult, a fine not to exceed one hundred fifty dollars;	395 396 397
(d) For an act that would be a misdemeanor of the second degree if committed by an adult, a fine not to exceed two hundred dollars;	398 399 400
(e) For an act that would be a misdemeanor of the first degree if committed by an adult, a fine not to exceed two hundred fifty dollars;	401 402 403
(f) For an act that would be a felony of the fifth degree or an unclassified felony if committed by an adult, a fine not to exceed three hundred dollars;	404 405 406
(g) For an act that would be a felony of the fourth degree if committed by an adult, a fine not to exceed four hundred dollars;	407 408
(h) For an act that would be a felony of the third degree if committed by an adult, a fine not to exceed seven hundred fifty dollars;	409 410 411
(i) For an act that would be a felony of the second degree if committed by an adult, a fine not to exceed one thousand dollars;	412 413
(j) For an act that would be a felony of the first degree if committed by an adult, a fine not to exceed one thousand five hundred dollars;	414 415 416
(k) For an act that would be aggravated murder or murder if committed by an adult, a fine not to exceed two thousand dollars.	417 418

(2) Require the child to pay costs; 419

(3) Unless the child's delinquent act or juvenile traffic 420
offense would be a minor misdemeanor if committed by an adult or 421
could be disposed of by the juvenile traffic violations bureau 422
serving the court under Traffic Rule 13.1 if the court has 423
established a juvenile traffic violations bureau, require the 424
child to make restitution to the victim of the child's delinquent 425
act or juvenile traffic offense or, if the victim is deceased, to 426
a survivor of the victim in an amount based upon the victim's 427
economic loss caused by or related to the delinquent act or 428
juvenile traffic offense. The court may not require a child to 429
make restitution pursuant to this division if the child's 430
delinquent act or juvenile traffic offense would be a minor 431
misdemeanor if committed by an adult or could be disposed of by 432
the juvenile traffic violations bureau serving the court under 433
Traffic Rule 13.1 if the court has established a juvenile traffic 434
violations bureau. If the court requires restitution under this 435
division, the restitution shall be made directly to the victim in 436
open court or to the probation department that serves the 437
jurisdiction or the clerk of courts on behalf of the victim. 438

If the court requires restitution under this division, the 439
restitution may be in the form of a cash reimbursement paid in a 440
lump sum or in installments, the performance of repair work to 441
restore any damaged property to its original condition, the 442
performance of a reasonable amount of labor for the victim or 443
survivor of the victim, the performance of community service work, 444
any other form of restitution devised by the court, or any 445
combination of the previously described forms of restitution. 446

If the court requires restitution under this division, the 447
court may base the restitution order on an amount recommended by 448
the victim or survivor of the victim, the delinquent child, the 449
juvenile traffic offender, a presentence investigation report, 450

estimates or receipts indicating the cost of repairing or 451
replacing property, and any other information, provided that the 452
amount the court orders as restitution shall not exceed the amount 453
of the economic loss suffered by the victim as a direct and 454
proximate result of the delinquent act or juvenile traffic 455
offense. If the court decides to order restitution under this 456
division and the amount of the restitution is disputed by the 457
victim or survivor or by the delinquent child or juvenile traffic 458
offender, the court shall hold a hearing on the restitution. If 459
the court requires restitution under this division, the court 460
shall determine, or order the determination of, the amount of 461
restitution to be paid by the delinquent child or juvenile traffic 462
offender. All restitution payments shall be credited against any 463
recovery of economic loss in a civil action brought by or on 464
behalf of the victim against the delinquent child or juvenile 465
traffic offender or the delinquent child's or juvenile traffic 466
offender's parent, guardian, or other custodian. 467

If the court requires restitution under this division, the 468
court may order that the delinquent child or juvenile traffic 469
offender pay a surcharge, in an amount not exceeding five per cent 470
of the amount of restitution otherwise ordered under this 471
division, to the entity responsible for collecting and processing 472
the restitution payments. 473

The victim or the survivor of the victim may request that the 474
prosecuting authority file a motion, or the delinquent child or 475
juvenile traffic offender may file a motion, for modification of 476
the payment terms of any restitution ordered under this division. 477
If the court grants the motion, it may modify the payment terms as 478
it determines appropriate. 479

(4) Require the child to reimburse any or all of the costs 480
incurred for services or sanctions provided or imposed, including, 481
but not limited to, the following: 482

(a) All or part of the costs of implementing any community control imposed as a disposition under section 2152.19 of the Revised Code, including a supervision fee;

(b) All or part of the costs of confinement in a residential facility described in section 2152.19 of the Revised Code or in a department of youth services institution, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged while so confined. The amount of reimbursement ordered for a child under this division shall not exceed the total amount of reimbursement the child is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement. The court may collect any reimbursement ordered under this division. If the court does not order reimbursement under this division, confinement costs may be assessed pursuant to a repayment policy adopted under section 2929.37 of the Revised Code and division (D) of section 307.93, division (A) of section 341.19, division (C) of section 341.23 or 753.16, or division (B) of section 341.14, 753.02, 753.04, 2301.56, or 2947.19 of the Revised Code.

~~(B)(1) If Chapter 2981. of the Revised Code applies to a child who is adjudicated a delinquent child for violating section 2923.32 or 2923.42 of the Revised Code, the court shall enter an order of criminal forfeiture against the child in accordance with divisions (B)(3), (4), (5), and (6) and (C) to (F) of section 2923.32 of the Revised Code.~~

~~(2) Sections 2925.41 to 2925.45 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act that, if committed by an adult, would be a felony drug abuse offense. Subject to division (B) of section 2925.42 and division (E) of section 2925.43 of the Revised Code, a delinquent child of that nature~~

loses any right to the possession of, and forfeits to the state 515
any right, title, and interest that the delinquent child may have 516
in, property as defined in section 2925.41 of the Revised Code and 517
further described in section 2925.42 or 2925.43 of the Revised 518
Code. 519

~~(3) Sections 2923.44 to 2923.47 of the Revised Code apply to 520
children who are adjudicated or could be adjudicated by a juvenile 521
court to be delinquent children for an act in violation of section 522
2923.42 of the Revised Code. Subject to division (B) of section 523
2923.44 and division (E) of section 2923.45 of the Revised Code, a 524
delinquent child of that nature loses any right to the possession 525
of, and forfeits to the state any right, title, and interest that 526
the delinquent child may have in, property as defined in section 527
2923.41 of the Revised Code and further described in section 528
2923.44 or 2923.45 of the Revised Code or for committing an act 529
that, if committed by an adult, would be a felony drug abuse 530
offense. 531~~

(C) The court may hold a hearing if necessary to determine 532
whether a child is able to pay a sanction under this section. 533

(D) If a child who is adjudicated a delinquent child is 534
indigent, the court shall consider imposing a term of community 535
service under division (A) of section 2152.19 of the Revised Code 536
in lieu of imposing a financial sanction under this section. If a 537
child who is adjudicated a delinquent child is not indigent, the 538
court may impose a term of community service under that division 539
in lieu of, or in addition to, imposing a financial sanction under 540
this section. The court may order community service for an act 541
that if committed by an adult would be a minor misdemeanor. 542

If a child fails to pay a financial sanction imposed under 543
this section, the court may impose a term of community service in 544
lieu of the sanction. 545

(E) The clerk of the court, or another person authorized by law or by the court to collect a financial sanction imposed under this section, may do any of the following:

(1) Enter into contracts with one or more public agencies or private vendors for the collection of the amounts due under the financial sanction, which amounts may include interest from the date of imposition of the financial sanction;

(2) Permit payment of all, or any portion of, the financial sanction in installments, by credit or debit card, by another type of electronic transfer, or by any other reasonable method, within any period of time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. The clerk may pay any fee associated with processing an electronic transfer out of public money and may charge the fee to the delinquent child.

(3) To defray administrative costs, charge a reasonable fee to a child who elects a payment plan rather than a lump sum payment of a financial sanction.

Sec. 2901.01. (A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by

normal use.	576
(5) "Serious physical harm to persons" means any of the following:	577
	578
(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;	579
	580
	581
(b) Any physical harm that carries a substantial risk of death;	582
	583
(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;	584
	585
	586
(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;	587
	588
	589
(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.	590
	591
	592
(6) "Serious physical harm to property" means any physical harm to property that does either of the following:	593
	594
(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;	595
	596
	597
(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.	598
	599
	600
(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.	601
	602
	603
(8) "Substantial risk" means a strong possibility, as	604

contrasted with a remote or significant possibility, that a 605
certain result may occur or that certain circumstances may exist. 606

(9) "Offense of violence" means any of the following: 607

(a) A violation of section 2903.01, 2903.02, 2903.03, 608
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 609
2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 610
2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 611
2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 612
2923.161, of division (A)(1), (2), or (3) of section 2911.12, or 613
of division (B)(1), (2), (3), or (4) of section 2919.22 of the 614
Revised Code or felonious sexual penetration in violation of 615
former section 2907.12 of the Revised Code; 616

(b) A violation of an existing or former municipal ordinance 617
or law of this or any other state or the United States, 618
substantially equivalent to any section, division, or offense 619
listed in division (A)(9)(a) of this section; 620

(c) An offense, other than a traffic offense, under an 621
existing or former municipal ordinance or law of this or any other 622
state or the United States, committed purposely or knowingly, and 623
involving physical harm to persons or a risk of serious physical 624
harm to persons; 625

(d) A conspiracy or attempt to commit, or complicity in 626
committing, any offense under division (A)(9)(a), (b), or (c) of 627
this section. 628

(10)(a) "Property" means any property, real or personal, 629
tangible or intangible, and any interest or license in that 630
property. "Property" includes, but is not limited to, cable 631
television service, other telecommunications service, 632
telecommunications devices, information service, computers, data, 633
computer software, financial instruments associated with 634
computers, other documents associated with computers, or copies of 635

the documents, whether in machine or human readable form, trade
secrets, trademarks, copyrights, patents, and property protected
by a trademark, copyright, or patent. "Financial instruments
associated with computers" include, but are not limited to,
checks, drafts, warrants, money orders, notes of indebtedness,
certificates of deposit, letters of credit, bills of credit or
debit cards, financial transaction authorization mechanisms,
marketable securities, or any computer system representations of
any of them.

(b) As used in division (A)(10) of this section, "trade
secret" has the same meaning as in section 1333.61 of the Revised
Code, and "telecommunications service" and "information service"
have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section,
"cable television service," "computer," "computer software,"
"computer system," "computer network," "data," and
"telecommunications device" have the same meanings as in section
2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a
township or joint township police district, marshal, deputy
marshal, municipal police officer, member of a police force
employed by a metropolitan housing authority under division (D) of
section 3735.31 of the Revised Code, or state highway patrol
trooper;

(b) An officer, agent, or employee of the state or any of its
agencies, instrumentalities, or political subdivisions, upon whom,
by statute, a duty to conserve the peace or to enforce all or
certain laws is imposed and the authority to arrest violators is
conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of

the peace within the mayor's municipal corporation; 667

(d) A member of an auxiliary police force organized by 668
county, township, or municipal law enforcement authorities, within 669
the scope of the member's appointment or commission; 670

(e) A person lawfully called pursuant to section 311.07 of 671
the Revised Code to aid a sheriff in keeping the peace, for the 672
purposes and during the time when the person is called; 673

(f) A person appointed by a mayor pursuant to section 737.01 674
of the Revised Code as a special patrolling officer during riot or 675
emergency, for the purposes and during the time when the person is 676
appointed; 677

(g) A member of the organized militia of this state or the 678
armed forces of the United States, lawfully called to duty to aid 679
civil authorities in keeping the peace or protect against domestic 680
violence; 681

(h) A prosecuting attorney, assistant prosecuting attorney, 682
secret service officer, or municipal prosecutor; 683

(i) A veterans' home police officer appointed under section 684
5907.02 of the Revised Code; 685

(j) A member of a police force employed by a regional transit 686
authority under division (Y) of section 306.35 of the Revised 687
Code; 688

(k) A special police officer employed by a port authority 689
under section 4582.04 or 4582.28 of the Revised Code; 690

(l) The house of representatives sergeant at arms if the 691
house of representatives sergeant at arms has arrest authority 692
pursuant to division (E)(1) of section 101.311 of the Revised Code 693
and an assistant house of representatives sergeant at arms; 694

(m) A special police officer employed by a municipal 695
corporation at a municipal airport, or other municipal air 696

navigation facility, that has scheduled operations, as defined in 697
section 119.3 of Title 14 of the Code of Federal Regulations, 14 698
C.F.R. 119.3, as amended, and that is required to be under a 699
security program and is governed by aviation security rules of the 700
transportation security administration of the United States 701
department of transportation as provided in Parts 1542. and 1544. 702
of Title 49 of the Code of Federal Regulations, as amended. 703

(12) "Privilege" means an immunity, license, or right 704
conferred by law, bestowed by express or implied grant, arising 705
out of status, position, office, or relationship, or growing out 706
of necessity. 707

(13) "Contraband" means any property ~~described in the~~ 708
~~following categories:~~ 709

~~(a) Property that in and of itself is unlawful illegal for a~~ 710
~~person to acquire or possess;~~ 711

~~(b) Property that is not in and of itself unlawful for a~~ 712
~~person to acquire or possess, but that has been determined by a~~ 713
~~court of this state, in accordance with law, to be contraband~~ 714
~~because of its use in an unlawful activity or manner, of its~~ 715
~~nature, or of the circumstances of the person who acquires or~~ 716
~~possesses it, including, but not limited to, goods and personal~~ 717
~~property described in division (D) of section 2913.34 of the~~ 718
~~Revised Code;~~ 719

~~(c) Property that is specifically stated to be contraband by~~ 720
~~a section of the Revised Code or by an ordinance, regulation, or~~ 721
~~resolution;~~ 722

~~(d) Property that is forfeitable pursuant to a section of the~~ 723
~~Revised Code, or an ordinance, regulation, or resolution,~~ 724
~~including, but not limited to, forfeitable firearms, dangerous~~ 725
~~ordnance, obscene materials, and goods and personal property~~ 726
~~described in division (D) of section 2913.34 of the Revised Code;~~ 727

under a statute, ordinance, or rule, or that a trier of fact 728
lawfully determines to be illegal to possess by reason of the 729
property's involvement in an offense. "Contraband" includes, but 730
is not limited to, all of the following: 731

~~(e)(a) Any controlled substance, as defined in section~~ 732
~~3719.01 of the Revised Code, or any device, or paraphernalia,~~ 733
~~money as defined in section 1301.01 of the Revised Code, or other~~ 734
~~means of exchange that has been, is being, or is intended to be~~ 735
~~used in an attempt or conspiracy to violate, or in a violation of,~~ 736
~~Chapter 2925. or 3719. of the Revised Code;~~ 737

~~(f)(b) Any unlawful gambling device, or paraphernalia, money~~ 738
~~as defined in section 1301.01 of the Revised Code, or other means~~ 739
~~of exchange that has been, is being, or is intended to be used in~~ 740
~~an attempt or conspiracy to violate, or in the violation of,~~ 741
~~Chapter 2915. of the Revised Code;~~ 742

~~(g) Any equipment, machine, device, apparatus, vehicle,~~ 743
~~vessel, container, liquid, or substance that has been, is being,~~ 744
~~or is intended to be used in an attempt or conspiracy to violate,~~ 745
~~or in the violation of, any law of this state relating to alcohol~~ 746
~~or tobacco;~~ 747

~~(h) Any personal property that has been, is being, or is~~ 748
~~intended to be used in an attempt or conspiracy to commit, or in~~ 749
~~the commission of, any offense or in the transportation of the~~ 750
~~fruits of any offense;~~ 751

~~(i) Any property that is acquired through the sale or other~~ 752
~~transfer of contraband or through the proceeds of contraband,~~ 753
~~other than by a court or a law enforcement agency acting within~~ 754
~~the scope of its duties;~~ 755

~~(j) Any computer, computer system, computer network, computer~~ 756
~~software, or other telecommunications device that is used in a~~ 757
~~conspiracy to commit, an attempt to commit, or the commission of~~ 758

~~any offense, if the owner of the computer, computer system,
computer network, computer software, or other telecommunications
device is convicted of or pleads guilty to the offense in which it
is used;~~

~~(k) Any property that is material support or resources and
that has been, is being, or is intended to be used in an attempt
or conspiracy to violate, or in the violation of, section 2909.22,
2909.23, or 2909.24 of the Revised Code or of section 2921.32 of
the Revised Code when the offense or act committed by the person
aided or to be aided as described in that section is an act of
terrorism. As used in division (A)(13)(k) of this section,
"material support or resources" and "act of terrorism" have the
same meanings as in section 2909.21 of the Revised Code.~~

(c) Any dangerous ordnance or obscene material.

(14) A person is "not guilty by reason of insanity" relative
to a charge of an offense only if the person proves, in the manner
specified in section 2901.05 of the Revised Code, that at the time
of the commission of the offense, the person did not know, as a
result of a severe mental disease or defect, the wrongfulness of
the person's acts.

(B)(1)(a) Subject to division (B)(2) of this section, as used
in any section contained in Title XXIX of the Revised Code that
sets forth a criminal offense, "person" includes all of the
following:

(i) An individual, corporation, business trust, estate,
trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the
Revised Code that does not set forth a criminal offense, "person"
includes an individual, corporation, business trust, estate,

trust, partnership, and association. 789

(c) As used in division (B)(1)(a) of this section: 790

(i) "Unborn human" means an individual organism of the 791
species *Homo sapiens* from fertilization until live birth. 792

(ii) "Viable" means the stage of development of a human fetus 793
at which there is a realistic possibility of maintaining and 794
nourishing of a life outside the womb with or without temporary 795
artificial life-sustaining support. 796

(2) Notwithstanding division (B)(1)(a) of this section, in no 797
case shall the portion of the definition of the term "person" that 798
is set forth in division (B)(1)(a)(ii) of this section be applied 799
or construed in any section contained in Title XXIX of the Revised 800
Code that sets forth a criminal offense in any of the following 801
manners: 802

(a) Except as otherwise provided in division (B)(2)(a) of 803
this section, in a manner so that the offense prohibits or is 804
construed as prohibiting any pregnant woman or her physician from 805
performing an abortion with the consent of the pregnant woman, 806
with the consent of the pregnant woman implied by law in a medical 807
emergency, or with the approval of one otherwise authorized by law 808
to consent to medical treatment on behalf of the pregnant woman. 809
An abortion that violates the conditions described in the 810
immediately preceding sentence may be punished as a violation of 811
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 812
2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 813
of the Revised Code, as applicable. An abortion that does not 814
violate the conditions described in the second immediately 815
preceding sentence, but that does violate section 2919.12, 816
division (B) of section 2919.13, or section 2919.151, 2919.17, or 817
2919.18 of the Revised Code, may be punished as a violation of 818
section 2919.12, division (B) of section 2919.13, or section 819

2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 820
Consent is sufficient under this division if it is of the type 821
otherwise adequate to permit medical treatment to the pregnant 822
woman, even if it does not comply with section 2919.12 of the 823
Revised Code. 824

(b) In a manner so that the offense is applied or is 825
construed as applying to a woman based on an act or omission of 826
the woman that occurs while she is or was pregnant and that 827
results in any of the following: 828

(i) Her delivery of a stillborn baby; 829

(ii) Her causing, in any other manner, the death in utero of 830
a viable, unborn human that she is carrying; 831

(iii) Her causing the death of her child who is born alive 832
but who dies from one or more injuries that are sustained while 833
the child is a viable, unborn human; 834

(iv) Her causing her child who is born alive to sustain one 835
or more injuries while the child is a viable, unborn human; 836

(v) Her causing, threatening to cause, or attempting to 837
cause, in any other manner, an injury, illness, or other 838
physiological impairment, regardless of its duration or gravity, 839
or a mental illness or condition, regardless of its duration or 840
gravity, to a viable, unborn human that she is carrying. 841

(C) As used in Title XXIX of the Revised Code: 842

(1) "School safety zone" consists of a school, school 843
building, school premises, school activity, and school bus. 844

(2) "School," "school building," and "school premises" have 845
the same meanings as in section 2925.01 of the Revised Code. 846

(3) "School activity" means any activity held under the 847
auspices of a board of education of a city, local, exempted 848
village, joint vocational, or cooperative education school 849

district; a governing authority of a community school established 850
under Chapter 3314. of the Revised Code; a governing board of an 851
educational service center, or the governing body of a school for 852
which the state board of education prescribes minimum standards 853
under section 3301.07 of the Revised Code. 854

(4) "School bus" has the same meaning as in section 4511.01 855
of the Revised Code. 856

Sec. 2909.08. (A) As used in this section: 857

(1) "Air gun" means a hand pistol or rifle that propels its 858
projectile by means of releasing compressed air, carbon dioxide, 859
or other gas. 860

(2) "Firearm" has the same meaning as in section 2923.11 of 861
the Revised Code. 862

(3) "Spring-operated gun" means a hand pistol or rifle that 863
propels a projectile not less than four or more than five 864
millimeters in diameter by means of a spring. 865

(4) "Airport operational surface" means any surface of land 866
or water that is developed, posted, or marked so as to give an 867
observer reasonable notice that the surface is designed and 868
developed for the purpose of storing, parking, taxiing, or 869
operating aircraft, or any surface of land or water that is 870
actually being used for any of those purposes. 871

(B) No person shall do either of the following: 872

(1) Knowingly throw an object at, or drop an object upon, any 873
moving aircraft; 874

(2) Knowingly shoot with a bow and arrow, or knowingly 875
discharge a firearm, air gun, or spring-operated gun, at or toward 876
any aircraft. 877

(C) No person shall knowingly or recklessly shoot with a bow 878

and arrow, or shall knowingly or recklessly discharge a firearm, 879
air gun, or spring-operated gun, upon or over any airport 880
operational surface. This division does not apply to the 881
following: 882

(1) An officer, agent, or employee of this or any other state 883
or the United States, or a law enforcement officer, authorized to 884
discharge firearms and acting within the scope of the officer's, 885
agent's, or employee's duties; 886

(2) A person who, with the consent of the owner or operator 887
of the airport operational surface or the authorized agent of 888
either, is lawfully engaged in any hunting or sporting activity or 889
is otherwise lawfully discharging a firearm. 890

(D) Whoever violates division (B) of this section is guilty 891
of endangering aircraft, a misdemeanor of the first degree. If the 892
violation creates a risk of physical harm to any person, 893
endangering aircraft is a felony of the fifth degree. If the 894
violation creates a substantial risk of physical harm to any 895
person or if the aircraft that is the subject of the violation is 896
occupied, endangering aircraft is a felony of the fourth degree. 897

(E) Whoever violates division (C) of this section is guilty 898
of endangering airport operations, a misdemeanor of the second 899
degree. If the violation creates a risk of physical harm to any 900
person, endangering airport operations is a felony of the fifth 901
degree. If the violation creates a substantial risk of physical 902
harm to any person, endangering airport operations is a felony of 903
the fourth degree. In addition to any other penalty or sanction 904
imposed for the violation, the hunting license or permit of a 905
person who violates division (C) of this section while hunting 906
shall be suspended or revoked pursuant to section 1533.68 of the 907
Revised Code. 908

(F) Any bow and arrow, air gun, spring-operated gun, or 909

firearm that has been used in a felony violation of this section 910
shall be seized or forfeited, and shall be disposed of pursuant to 911
~~section 2933.41~~ Chapter 2981. of the Revised Code. 912

Sec. 2913.34. (A) No person shall knowingly do any of the 913
following: 914

(1) Attach, affix, or otherwise use a counterfeit mark in 915
connection with the manufacture of goods or services, whether or 916
not the goods or services are intended for sale or resale; 917

(2) Possess, sell, or offer for sale tools, machines, 918
instruments, materials, articles, or other items of personal 919
property with the knowledge that they are designed for the 920
production or reproduction of counterfeit marks; 921

(3) Purchase or otherwise acquire goods, and keep or 922
otherwise have the goods in the person's possession, with the 923
knowledge that a counterfeit mark is attached to, affixed to, or 924
otherwise used in connection with the goods and with the intent to 925
sell or otherwise dispose of the goods; 926

(4) Sell, offer for sale, or otherwise dispose of goods with 927
the knowledge that a counterfeit mark is attached to, affixed to, 928
or otherwise used in connection with the goods; 929

(5) Sell, offer for sale, or otherwise provide services with 930
the knowledge that a counterfeit mark is used in connection with 931
that sale, offer for sale, or other provision of the services. 932

(B)(1) Whoever violates this section is guilty of trademark 933
counterfeiting. 934

(2) Except as otherwise provided in this division, a 935
violation of division (A)(1) of this section is a felony of the 936
fifth degree. Except as otherwise provided in this division, if 937
the cumulative sales price of the goods or services to which or in 938
connection with which the counterfeit mark is attached, affixed, 939

or otherwise used in the offense is five thousand dollars or more 940
but less than one hundred thousand dollars or if the number of 941
units of goods to which or in connection with which the 942
counterfeit mark is attached, affixed, or otherwise used in the 943
offense is more than one hundred units but less than one thousand 944
units, a violation of division (A)(1) of this section is a felony 945
of the fourth degree. If the cumulative sales price of the goods 946
or services to which or in connection with which the counterfeit 947
mark is attached, affixed, or otherwise used in the offense is one 948
hundred thousand dollars or more or if the number of units of 949
goods to which or in connection with which the counterfeit mark is 950
attached, affixed, or otherwise used in the offense is one 951
thousand units or more, a violation of division (A)(1) of this 952
section is a felony of the third degree. 953

(3) Except as otherwise provided in this division, a 954
violation of division (A)(2) of this section is a misdemeanor of 955
the first degree. If the circumstances of the violation indicate 956
that the tools, machines, instruments, materials, articles, or 957
other items of personal property involved in the violation were 958
intended for use in the commission of a felony, a violation of 959
division (A)(2) of this section is a felony of the fifth degree. 960

(4) Except as otherwise provided in this division, a 961
violation of division (A)(3), (4), or (5) of this section is a 962
misdemeanor of the first degree. Except as otherwise provided in 963
this division, if the cumulative sales price of the goods or 964
services to which or in connection with which the counterfeit mark 965
is attached, affixed, or otherwise used in the offense is five 966
hundred dollars or more but less than five thousand dollars, a 967
violation of division (A)(3), (4), or (5) of this section is a 968
felony of the fifth degree. Except as otherwise provided in this 969
division, if the cumulative sales price of the goods or services 970
to which or in connection with which the counterfeit mark is 971

attached, affixed, or otherwise used in the offense is five 972
thousand dollars or more but less than one hundred thousand 973
dollars or if the number of units of goods to which or in 974
connection with which the counterfeit mark is attached, affixed, 975
or otherwise used in the offense is more than one hundred units 976
but less than one thousand units, a violation of division (A)(3), 977
(4), or (5) of this section is a felony of the fourth degree. If 978
the cumulative sales price of the goods or services to which or in 979
connection with which the counterfeit mark is attached, affixed, 980
or otherwise used in the offense is one hundred thousand dollars 981
or more or if the number of units of goods to which or in 982
connection with which the counterfeit mark is attached, affixed, 983
or otherwise used in the offense is one thousand units or more, a 984
violation of division (A)(3), (4), or (5) of this section is a 985
felony of the third degree. 986

(C) A defendant may assert as an affirmative defense to a 987
charge of a violation of this section defenses, affirmative 988
defenses, and limitations on remedies that would be available in a 989
civil, criminal, or administrative action or proceeding under the 990
"Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as 991
amended, "The Trademark Counterfeiting Act of 1984," 98 Stat. 992
2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section 993
of the Revised Code, or common law. 994

(D)(1) Law enforcement officers may seize pursuant to 995
Criminal Rule 41 or Chapter 2933. or 2981. of the Revised Code 996
either of the following: 997

(a) Goods to which or in connection with which a person 998
attached, affixed, otherwise used, or intended to attach, affix, 999
or otherwise use a counterfeit mark in violation of this section; 1000

(b) Tools, machines, instruments, materials, articles, 1001
vehicles, or other items of personal property that are possessed, 1002

sold, offered for sale, or used in a violation of this section or
in an attempt to commit or complicity in the commission of a
violation of this section.

(2) Notwithstanding any contrary provision of ~~sections~~
~~2923.31 to 2923.35 or 2933.41 to 2933.43~~ Chapter 2981. of the
Revised Code, if a person is convicted of or pleads guilty to a
violation of this section, an attempt to violate this section, or
complicity in a violation of this section, the court involved
shall declare that the goods described in division (D)(1)(a) of
this section and the personal property described in division
(D)(1)(b) of this section are contraband and are forfeited. Prior
to the court's entry of judgment under Criminal Rule 32, the owner
of a registered trademark or service mark that is the subject of
the counterfeit mark may recommend a manner in which the forfeited
goods and forfeited personal property should be disposed of. If
that owner makes a timely recommendation of a manner of
disposition, the court is not bound by the recommendation. If that
owner makes a timely recommendation of a manner of disposition,
the court may include in its entry of judgment an order that
requires appropriate persons to dispose of the forfeited goods and
forfeited personal property in the recommended manner. If that
owner fails to make a timely recommendation of a manner of
disposition or if that owner makes a timely recommendation of the
manner of disposition but the court determines to not follow the
recommendation, the court shall include in its entry of judgment
an order that requires the law enforcement agency that employs the
law enforcement officer who seized the forfeited goods or the
forfeited personal property to destroy them or cause their
destruction.

(E) This section does not affect the rights of an owner of a
trademark or a service mark, or the enforcement in a civil action
or in administrative proceedings of the rights of an owner of a

trademark or a service mark, under the "Lanham Act," 60 Stat. 1035
427-443 (1946), 15 U.S.C. 1051-1127, as amended, "The Trademark 1036
Counterfeiting Act of 1984," 92 Stat. 2178, 18 U.S.C. 2320, as 1037
amended, Chapter 1329. or another section of the Revised Code, or 1038
common law. 1039

(F) As used in this section: 1040

(1)(a) Except as provided in division (F)(1)(b) of this 1041
section, "counterfeit mark" means a spurious trademark or a 1042
spurious service mark that satisfies both of the following: 1043

(i) It is identical with or substantially indistinguishable 1044
from a mark that is registered on the principal register in the 1045
United States patent and trademark office for the same goods or 1046
services as the goods or services to which or in connection with 1047
which the spurious trademark or spurious service mark is attached, 1048
affixed, or otherwise used or from a mark that is registered with 1049
the secretary of state pursuant to sections 1329.54 to 1329.67 of 1050
the Revised Code for the same goods or services as the goods or 1051
services to which or in connection with which the spurious 1052
trademark or spurious service mark is attached, affixed, or 1053
otherwise used, and the owner of the registration uses the 1054
registered mark, whether or not the offender knows that the mark 1055
is registered in a manner described in division (F)(1)(a)(i) of 1056
this section. 1057

(ii) Its use is likely to cause confusion or mistake or to 1058
deceive other persons. 1059

(b) "Counterfeit mark" does not include a mark or other 1060
designation that is attached to, affixed to, or otherwise used in 1061
connection with goods or services if the holder of the right to 1062
use the mark or other designation authorizes the manufacturer, 1063
producer, or vendor of those goods or services to attach, affix, 1064
or otherwise use the mark or other designation in connection with 1065

those goods or services at the time of their manufacture, 1066
production, or sale. 1067

(2) "Cumulative sales price" means the product of the lowest 1068
single unit sales price charged or sought to be charged by an 1069
offender for goods to which or in connection with which a 1070
counterfeit mark is attached, affixed, or otherwise used or of the 1071
lowest single service transaction price charged or sought to be 1072
charged by an offender for services in connection with which a 1073
counterfeit mark is used, multiplied by the total number of those 1074
goods or services, whether or not units of goods are sold or are 1075
in an offender's possession, custody, or control. 1076

(3) "Registered trademark or service mark" means a trademark 1077
or service mark that is registered in a manner described in 1078
division (F)(1) of this section. 1079

(4) "Trademark" and "service mark" have the same meanings as 1080
in section 1329.54 of the Revised Code. 1081

Sec. 2913.421. (A) As used in this section: 1082

(1) "Computer," "computer network," and "computer system" 1083
have the same meanings as in section 2913.01 of the Revised Code. 1084

(2) "Commercial electronic mail message" means any electronic 1085
mail message the primary purpose of which is the commercial 1086
advertisement or promotion of a commercial product or service, 1087
including content on an internet web site operated for a 1088
commercial purpose, but does not include a transactional or 1089
relationship message. The inclusion of a reference to a commercial 1090
entity or a link to the web site of a commercial entity does not, 1091
by itself, cause that message to be treated as a commercial 1092
electronic mail message for the purpose of this section, if the 1093
contents or circumstances of the message indicate a primary 1094
purpose other than commercial advertisement or promotion of a 1095

commercial product or service.	1096
(3) "Domain name" means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the internet.	1097 1098 1099 1100
(4) "Electronic mail," "originating address," and "receiving address" have the same meanings as in section 2307.64 of the Revised Code.	1101 1102 1103
(5) "Electronic mail message" means each electronic mail addressed to a discrete addressee.	1104 1105
(6) "Electronic mail service provider" means any person, including an internet service provider, that is an intermediary in sending and receiving electronic mail and that provides to the public electronic mail accounts or online user accounts from which electronic mail may be sent.	1106 1107 1108 1109 1110
(7) "Header information" means the source, destination, and routing information attached to an electronic mail message, including the originating domain name, the originating address, and technical information that authenticates the sender of an electronic mail message for computer network security or computer network management purposes.	1111 1112 1113 1114 1115 1116
(8) "Initiate the transmission" or "initiated" means to originate or transmit a commercial electronic mail message or to procure the origination or transmission of that message, regardless of whether the message reaches its intended recipients, but does not include actions that constitute routine conveyance of such message.	1117 1118 1119 1120 1121 1122
(9) "Internet" has the same meaning as in section 341.42 of the Revised Code.	1123 1124
(10) "Internet protocol address" means the string of numbers	1125

by which locations on the internet are identified by routers or 1126
other computers connected to the internet. 1127

(11) "Materially falsify" means to alter or conceal in a 1128
manner that would impair the ability of a recipient of an 1129
electronic mail message, an electronic mail service provider 1130
processing an electronic mail message on behalf of a recipient, a 1131
person alleging a violation of this section, or a law enforcement 1132
agency to identify, locate, or respond to the person that 1133
initiated the electronic mail message or to investigate an alleged 1134
violation of this section. 1135

(12) "Multiple" means more than ten commercial electronic 1136
mail messages during a twenty-four-hour period, more than one 1137
hundred commercial electronic mail messages during a thirty-day 1138
period, or more than one thousand commercial electronic mail 1139
messages during a one-year period. 1140

(13) "Recipient" means a person who receives a commercial 1141
electronic mail message at any one of the following receiving 1142
addresses: 1143

(a) A receiving address furnished by an electronic mail 1144
service provider that bills for furnishing and maintaining that 1145
receiving address to a mailing address within this state; 1146

(b) A receiving address ordinarily accessed from a computer 1147
located within this state or by a person domiciled within this 1148
state; 1149

(c) Any other receiving address with respect to which this 1150
section can be imposed consistent with the United States 1151
Constitution. 1152

(14) "Routine conveyance" means the transmission, routing, 1153
relaying, handling, or storing, through an automated technical 1154
process, of an electronic mail message for which another person 1155

has identified the recipients or provided the recipient addresses. 1156

(15) "Transactional or relationship message" means an 1157
electronic mail message the primary purpose of which is to do any 1158
of the following: 1159

(a) Facilitate, complete, or confirm a commercial transaction 1160
that the recipient has previously agreed to enter into with the 1161
sender; 1162

(b) Provide warranty information, product recall information, 1163
or safety or security information with respect to a commercial 1164
product or service used or purchased by the recipient; 1165

(c) Provide notification concerning a change in the terms or 1166
features of; a change in the recipient's standing or status with 1167
respect to; or, at regular periodic intervals, account balance 1168
information or other type of account statement with respect to, a 1169
subscription, membership, account, loan, or comparable ongoing 1170
commercial relationship involving the ongoing purchase or use by 1171
the recipient of products or services offered by the sender; 1172

(d) Provide information directly related to an employment 1173
relationship or related benefit plan in which the recipient is 1174
currently involved, participating, or enrolled; 1175

(e) Deliver goods or services, including product updates or 1176
upgrades, that the recipient is entitled to receive under the 1177
terms of a transaction that the recipient has previously agreed to 1178
enter into with the sender. 1179

(B) No person, with regard to commercial electronic mail 1180
messages sent from or to a computer in this state, shall do any of 1181
the following: 1182

(1) Knowingly use a computer to relay or retransmit multiple 1183
commercial electronic mail messages, with the intent to deceive or 1184
mislead recipients or any electronic mail service provider, as to 1185

the origin of those messages; 1186

(2) Knowingly and materially falsify header information in 1187
multiple commercial electronic mail messages and purposely 1188
initiate the transmission of those messages; 1189

(3) Knowingly register, using information that materially 1190
falsifies the identity of the actual registrant, for five or more 1191
electronic mail accounts or online user accounts or two or more 1192
domain names and purposely initiate the transmission of multiple 1193
commercial electronic mail messages from one, or any combination, 1194
of those accounts or domain names; 1195

(4) Knowingly falsely represent the right to use five or more 1196
internet protocol addresses, and purposely initiate the 1197
transmission of multiple commercial electronic mail messages from 1198
those addresses. 1199

(C)(1) Whoever violates division (B) of this section is 1200
guilty of illegally transmitting multiple commercial electronic 1201
mail messages. Except as otherwise provided in division (C)(2) or 1202
(E) of this section, illegally transmitting multiple commercial 1203
electronic mail messages is a felony of the fifth degree. 1204

(2) Illegally transmitting multiple commercial electronic 1205
mail messages is a felony of the fourth degree if any of the 1206
following apply: 1207

(a) Regarding a violation of division (B)(3) of this section, 1208
the offender, using information that materially falsifies the 1209
identity of the actual registrant, knowingly registers for twenty 1210
or more electronic mail accounts or online user accounts or ten or 1211
more domain names, and purposely initiates, or conspires to 1212
initiate, the transmission of multiple commercial electronic mail 1213
messages from the accounts or domain names. 1214

(b) Regarding any violation of division (B) of this section, 1215

the volume of commercial electronic mail messages the offender
transmitted in committing the violation exceeds two hundred and
fifty during any twenty-four-hour period, two thousand five
hundred during any thirty-day period, or twenty-five thousand
during any one-year period.

(c) Regarding any violation of division (B) of this section,
during any one-year period the aggregate loss to the victim or
victims of the violation is five hundred dollars or more, or
during any one-year period the aggregate value of the property or
services obtained by any offender as a result of the violation is
five hundred dollars or more.

(d) Regarding any violation of division (B) of this section,
the offender committed the violation with three or more other
persons with respect to whom the offender was the organizer or
leader of the activity that resulted in the violation.

(e) Regarding any violation of division (B) of this section,
the offender knowingly assisted in the violation through the
provision or selection of electronic mail addresses to which the
commercial electronic mail message was transmitted, if that
offender knew that the electronic mail addresses of the recipients
were obtained using an automated means from an internet web site
or proprietary online service operated by another person, and that
web site or online service included, at the time the electronic
mail addresses were obtained, a notice stating that the operator
of that web site or online service will not transfer addresses
maintained by that web site or online service to any other party
for the purposes of initiating the transmission of, or enabling
others to initiate the transmission of, electronic mail messages.

(f) Regarding any violation of division (B) of this section,
the offender knowingly assisted in the violation through the
provision or selection of electronic mail addresses of the

recipients obtained using an automated means that generates 1247
possible electronic mail addresses by combining names, letters, or 1248
numbers into numerous permutations. 1249

(D)(1) No person, with regard to commercial electronic mail 1250
messages sent from or to a computer in this state, shall knowingly 1251
access a computer without authorization and purposely initiate the 1252
transmission of multiple commercial electronic mail messages from 1253
or through the computer. 1254

(2) Except as otherwise provided in division (E) of this 1255
section, whoever violates division (D)(1) of this section is 1256
guilty of unauthorized access of a computer, a felony of the 1257
fourth degree. 1258

(E) Illegally transmitting multiple commercial electronic 1259
mail messages and unauthorized access of a computer in violation 1260
of this section are felonies of the third degree if the offender 1261
previously has been convicted of a violation of this section, or a 1262
violation of a law of another state or the United States regarding 1263
the transmission of electronic mail messages or unauthorized 1264
access to a computer, or if the offender committed the violation 1265
of this section in the furtherance of a felony. 1266

(F)(1) The attorney general or an electronic mail service 1267
provider that is injured by a violation of this section may bring 1268
a civil action in an appropriate court of common pleas of this 1269
state seeking relief from any person whose conduct violated this 1270
section. The civil action may be commenced at any time within one 1271
year of the date after the act that is the basis of the civil 1272
action. 1273

(2) In a civil action brought by the attorney general 1274
pursuant to division (F)(1) of this section for a violation of 1275
this section, the court may award temporary, preliminary, or 1276
permanent injunctive relief. The court also may impose a civil 1277

penalty against the offender, as the court considers just, in an amount that is the lesser of: (a) twenty-five thousand dollars for each day a violation occurs, or (b) not less than two dollars but not more than eight dollars for each commercial electronic mail message initiated in violation of this section.

(3) In a civil action brought by an electronic mail service provider pursuant to division (F)(1) of this section for a violation of this section, the court may award temporary, preliminary, or permanent injunctive relief, and also may award damages in an amount equal to the greater of the following:

(a) The sum of the actual damages incurred by the electronic mail service provider as a result of a violation of this section, plus any receipts of the offender that are attributable to a violation of this section and that were not taken into account in computing actual damages;

(b) Statutory damages, as the court considers just, in an amount that is the lesser of: (i) twenty-five thousand dollars for each day a violation occurs, or (ii) not less than two dollars but not more than eight dollars for each commercial electronic mail message initiated in violation of this section.

(4) In assessing damages awarded under division (F)(3) of this section, the court may consider whether the offender has established and implemented, with due care, commercially reasonable practices and procedures designed to effectively prevent the violation, or the violation occurred despite commercially reasonable efforts to maintain the practices and procedures established.

(G) Any equipment, software, or other technology of a person who violates this section that is used or intended to be used in the commission of a violation of this section, and any real or personal property that constitutes or is traceable to the gross

proceeds obtained from the commission of a violation of this 1309
section, is contraband and is subject to seizure and forfeiture 1310
pursuant to ~~sections 2933.42 and 2933.43~~ Chapter 2981. of the 1311
Revised Code. 1312

(H) The attorney general may bring a civil action, pursuant 1313
to the "CAN-SPAM Act of 2003," Pub. L. No. 108-187, 117 Stat. 1314
2699, 15 U.S.C. 7701 et seq., on behalf of the residents of the 1315
state in a district court of the United States that has 1316
jurisdiction for a violation of the CAN-SPAM Act of 2003, but the 1317
attorney general shall not bring a civil action under both this 1318
division and division (F) of this section. If a federal court 1319
dismisses a civil action brought under this division for reasons 1320
other than upon the merits, a civil action may be brought under 1321
division (F) of this section in the appropriate court of common 1322
pleas of this state. 1323

(I) Nothing in this section shall be construed: 1324

(1) To require an electronic mail service provider to block, 1325
transmit, route, relay, handle, or store certain types of 1326
electronic mail messages; 1327

(2) To prevent or limit, in any way, an electronic mail 1328
service provider from adopting a policy regarding electronic mail, 1329
including a policy of declining to transmit certain types of 1330
electronic mail messages, or from enforcing such policy through 1331
technical means, through contract, or pursuant to any remedy 1332
available under any other federal, state, or local criminal or 1333
civil law; 1334

(3) To render lawful any policy adopted under division (I)(2) 1335
of this section that is unlawful under any other law. 1336

Sec. 2923.01. (A) No person, with purpose to commit or to 1337
promote or facilitate the commission of aggravated murder, murder, 1338

kidnapping, compelling prostitution, promoting prostitution, 1339
aggravated arson, arson, aggravated robbery, robbery, aggravated 1340
burglary, burglary, engaging in a pattern of corrupt activity, 1341
corrupting another with drugs, a felony drug trafficking, 1342
manufacturing, processing, or possession offense, theft of drugs, 1343
or illegal processing of drug documents, the commission of a 1344
felony offense of unauthorized use of a vehicle, illegally 1345
transmitting multiple commercial electronic mail messages or 1346
unauthorized access of a computer in violation of section 2923.421 1347
of the Revised Code, or the commission of a violation of any 1348
provision of Chapter 3734. of the Revised Code, other than section 1349
3734.18 of the Revised Code, that relates to hazardous wastes, 1350
shall do either of the following: 1351

(1) With another person or persons, plan or aid in planning 1352
the commission of any of the specified offenses; 1353

(2) Agree with another person or persons that one or more of 1354
them will engage in conduct that facilitates the commission of any 1355
of the specified offenses. 1356

(B) No person shall be convicted of conspiracy unless a 1357
substantial overt act in furtherance of the conspiracy is alleged 1358
and proved to have been done by the accused or a person with whom 1359
the accused conspired, subsequent to the accused's entrance into 1360
the conspiracy. For purposes of this section, an overt act is 1361
substantial when it is of a character that manifests a purpose on 1362
the part of the actor that the object of the conspiracy should be 1363
completed. 1364

(C) When the offender knows or has reasonable cause to 1365
believe that a person with whom the offender conspires also has 1366
conspired or is conspiring with another to commit the same 1367
offense, the offender is guilty of conspiring with that other 1368
person, even though the other person's identity may be unknown to 1369

the offender. 1370

(D) It is no defense to a charge under this section that, in 1371
retrospect, commission of the offense that was the object of the 1372
conspiracy was impossible under the circumstances. 1373

(E) A conspiracy terminates when the offense or offenses that 1374
are its objects are committed or when it is abandoned by all 1375
conspirators. In the absence of abandonment, it is no defense to a 1376
charge under this section that no offense that was the object of 1377
the conspiracy was committed. 1378

(F) A person who conspires to commit more than one offense is 1379
guilty of only one conspiracy, when the offenses are the object of 1380
the same agreement or continuous conspiratorial relationship. 1381

(G) When a person is convicted of committing or attempting to 1382
commit a specific offense or of complicity in the commission of or 1383
attempt to commit the specific offense, the person shall not be 1384
convicted of conspiracy involving the same offense. 1385

(H)(1) No person shall be convicted of conspiracy upon the 1386
testimony of a person with whom the defendant conspired, 1387
unsupported by other evidence. 1388

(2) If a person with whom the defendant allegedly has 1389
conspired testifies against the defendant in a case in which the 1390
defendant is charged with conspiracy and if the testimony is 1391
supported by other evidence, the court, when it charges the jury, 1392
shall state substantially the following: 1393

"The testimony of an accomplice that is supported by other 1394
evidence does not become inadmissible because of the accomplice's 1395
complicity, moral turpitude, or self-interest, but the admitted or 1396
claimed complicity of a witness may affect the witness' 1397
credibility and make the witness' testimony subject to grave 1398
suspicion, and require that it be weighed with great caution. 1399

It is for you, as jurors, in the light of all the facts 1400
presented to you from the witness stand, to evaluate such 1401
testimony and to determine its quality and worth or its lack of 1402
quality and worth." 1403

(3) "Conspiracy," as used in division (H)(1) of this section, 1404
does not include any conspiracy that results in an attempt to 1405
commit an offense or in the commission of an offense. 1406

(I) The following are affirmative defenses to a charge of 1407
conspiracy: 1408

(1) After conspiring to commit an offense, the actor thwarted 1409
the success of the conspiracy under circumstances manifesting a 1410
complete and voluntary renunciation of the actor's criminal 1411
purpose. 1412

(2) After conspiring to commit an offense, the actor 1413
abandoned the conspiracy prior to the commission of or attempt to 1414
commit any offense that was the object of the conspiracy, either 1415
by advising all other conspirators of the actor's abandonment, or 1416
by informing any law enforcement authority of the existence of the 1417
conspiracy and of the actor's participation in the conspiracy. 1418

(J) Whoever violates this section is guilty of conspiracy, 1419
which is one of the following: 1420

(1) A felony of the first degree, when one of the objects of 1421
the conspiracy is aggravated murder, murder, or an offense for 1422
which the maximum penalty is imprisonment for life; 1423

(2) A felony of the next lesser degree than the most serious 1424
offense that is the object of the conspiracy, when the most 1425
serious offense that is the object of the conspiracy is a felony 1426
of the first, second, third, or fourth degree; 1427

(3) A felony punishable by a fine of not more than 1428
twenty-five thousand dollars or imprisonment for not more than 1429

eighteen months, or both, when the offense that is the object of
the conspiracy is a violation of any provision of Chapter 3734. of
the Revised Code, other than section 3734.18 of the Revised Code,
that relates to hazardous wastes;

(4) A misdemeanor of the first degree, when the most serious
offense that is the object of the conspiracy is a felony of the
fifth degree.

(K) This section does not define a separate conspiracy
offense or penalty where conspiracy is defined as an offense by
one or more sections of the Revised Code, other than this section.
In such a case, however:

(1) With respect to the offense specified as the object of
the conspiracy in the other section or sections, division (A) of
this section defines the voluntary act or acts and culpable mental
state necessary to constitute the conspiracy;

(2) Divisions (B) to (I) of this section are incorporated by
reference in the conspiracy offense defined by the other section
or sections of the Revised Code.

(L)(1) In addition to the penalties that otherwise are
imposed for conspiracy, a person who is found guilty of conspiracy
to engage in a pattern of corrupt activity is subject to divisions
(B)(2), and (3), (4), and (5) of section 2923.32, division (A) of
section 2981.04, and division (D) of section 2981.06 of the
Revised Code.

(2) If a person is convicted of or pleads guilty to
conspiracy and if the most serious offense that is the object of
the conspiracy is a felony drug trafficking, manufacturing,
processing, or possession offense, in addition to the penalties or
sanctions that may be imposed for the conspiracy under division
(J)(2) or (4) of this section and Chapter 2929. of the Revised
Code, both of the following apply:

(a) The provisions of divisions (D), (F), and (G) of section 1461
2925.03, division (D) of section 2925.04, division (D) of section 1462
2925.05, division (D) of section 2925.06, and division (E) of 1463
section 2925.11 of the Revised Code that pertain to mandatory and 1464
additional fines, driver's or commercial driver's license or 1465
permit suspensions, and professionally licensed persons and that 1466
would apply under the appropriate provisions of those divisions to 1467
a person who is convicted of or pleads guilty to the felony drug 1468
trafficking, manufacturing, processing, or possession offense that 1469
is the most serious offense that is the basis of the conspiracy 1470
shall apply to the person who is convicted of or pleads guilty to 1471
the conspiracy as if the person had been convicted of or pleaded 1472
guilty to the felony drug trafficking, manufacturing, processing, 1473
or possession offense that is the most serious offense that is the 1474
basis of the conspiracy. 1475

(b) The court that imposes sentence upon the person who is 1476
convicted of or pleads guilty to the conspiracy shall comply with 1477
the provisions identified as being applicable under division 1478
(L)(2) of this section, in addition to any other penalty or 1479
sanction that it imposes for the conspiracy under division (J)(2) 1480
or (4) of this section and Chapter 2929. of the Revised Code. 1481

(M) As used in this section: 1482

(1) "Felony drug trafficking, manufacturing, processing, or 1483
possession offense" means any of the following that is a felony: 1484

(a) A violation of section 2925.03, 2925.04, 2925.05, or 1485
2925.06 of the Revised Code; 1486

(b) A violation of section 2925.11 of the Revised Code that 1487
is not a minor drug possession offense. 1488

(2) "Minor drug possession offense" has the same meaning as 1489
in section 2925.01 of the Revised Code. 1490

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the	1491
Revised Code:	1492
(A) "Beneficial interest" means any of the following:	1493
(1) The interest of a person as a beneficiary under a trust	1494
in which the trustee holds title to personal or real property;	1495
(2) The interest of a person as a beneficiary under any other	1496
trust arrangement under which any other person holds title to	1497
personal or real property for the benefit of such person;	1498
(3) The interest of a person under any other form of express	1499
fiduciary arrangement under which any other person holds title to	1500
personal or real property for the benefit of such person.	1501
"Beneficial interest" does not include the interest of a	1502
stockholder in a corporation or the interest of a partner in	1503
either a general or limited partnership.	1504
(B) "Costs of investigation and prosecution" and "costs of	1505
investigation and litigation" mean all of the costs incurred by	1506
the state or a county or municipal corporation under sections	1507
2923.31 to 2923.36 of the Revised Code in the prosecution and	1508
investigation of any criminal action or in the litigation and	1509
investigation of any civil action, and includes, but is not	1510
limited to, the costs of resources and personnel.	1511
(C) "Enterprise" includes any individual, sole	1512
proprietorship, partnership, limited partnership, corporation,	1513
trust, union, government agency, or other legal entity, or any	1514
organization, association, or group of persons associated in fact	1515
although not a legal entity. "Enterprise" includes illicit as well	1516
as licit enterprises.	1517
(D) "Innocent person" includes any bona fide purchaser of	1518
property that is allegedly involved in a violation of section	1519
2923.32 of the Revised Code, including any person who establishes	1520

a valid claim to or interest in the property in accordance with 1521
division (E) of section ~~2923.32~~ 2981.04 of the Revised Code, and 1522
any victim of an alleged violation of that section or of any 1523
underlying offense involved in an alleged violation of that 1524
section. 1525

(E) "Pattern of corrupt activity" means two or more incidents 1526
of corrupt activity, whether or not there has been a prior 1527
conviction, that are related to the affairs of the same 1528
enterprise, are not isolated, and are not so closely related to 1529
each other and connected in time and place that they constitute a 1530
single event. 1531

At least one of the incidents forming the pattern shall occur 1532
on or after January 1, 1986. Unless any incident was an aggravated 1533
murder or murder, the last of the incidents forming the pattern 1534
shall occur within six years after the commission of any prior 1535
incident forming the pattern, excluding any period of imprisonment 1536
served by any person engaging in the corrupt activity. 1537

For the purposes of the criminal penalties that may be 1538
imposed pursuant to section 2923.32 of the Revised Code, at least 1539
one of the incidents forming the pattern shall constitute a felony 1540
under the laws of this state in existence at the time it was 1541
committed or, if committed in violation of the laws of the United 1542
States or of any other state, shall constitute a felony under the 1543
law of the United States or the other state and would be a 1544
criminal offense under the law of this state if committed in this 1545
state. 1546

(F) "Pecuniary value" means money, a negotiable instrument, a 1547
commercial interest, or anything of value, as defined in section 1548
1.03 of the Revised Code, or any other property or service that 1549
has a value in excess of one hundred dollars. 1550

(G) "Person" means any person, as defined in section 1.59 of 1551

the Revised Code, and any governmental officer, employee, or
entity. 1552
1553

(H) "Personal property" means any personal property, any
interest in personal property, or any right, including, but not
limited to, bank accounts, debts, corporate stocks, patents, or
copyrights. Personal property and any beneficial interest in
personal property are deemed to be located where the trustee of
the property, the personal property, or the instrument evidencing
the right is located. 1554
1555
1556
1557
1558
1559
1560

(I) "Corrupt activity" means engaging in, attempting to
engage in, conspiring to engage in, or soliciting, coercing, or
intimidating another person to engage in any of the following: 1561
1562
1563

(1) Conduct defined as "racketeering activity" under the
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C.
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 1564
1565
1566

(2) Conduct constituting any of the following: 1567

(a) A violation of section 1315.55, 1322.02, 2903.01,
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02,
2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03,
2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12,
2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04,
2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or
2923.17; division (F)(1)(a), (b), or (c) of section 1315.53;
division (A)(1) or (2) of section 1707.042; division (B), (C)(4),
(D), (E), or (F) of section 1707.44; division (A)(1) or (2) of
section 2923.20; division (J)(1) of section 4712.02; section
4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section
4719.07; section 4719.08; or division (A) of section 4719.09 of
the Revised Code. 1568
1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1580

(b) Any violation of section 3769.11, 3769.15, 3769.16, or
3769.19 of the Revised Code as it existed prior to July 1, 1996, 1581
1582

any violation of section 2915.02 of the Revised Code that occurs 1583
on or after July 1, 1996, and that, had it occurred prior to that 1584
date, would have been a violation of section 3769.11 of the 1585
Revised Code as it existed prior to that date, or any violation of 1586
section 2915.05 of the Revised Code that occurs on or after July 1587
1, 1996, and that, had it occurred prior to that date, would have 1588
been a violation of section 3769.15, 3769.16, or 3769.19 of the 1589
Revised Code as it existed prior to that date. 1590

(c) Any violation of section 2907.21, 2907.22, 2907.31, 1591
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 1592
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 1593
of the Revised Code, any violation of section 2925.11 of the 1594
Revised Code that is a felony of the first, second, third, or 1595
fourth degree and that occurs on or after July 1, 1996, any 1596
violation of section 2915.02 of the Revised Code that occurred 1597
prior to July 1, 1996, any violation of section 2915.02 of the 1598
Revised Code that occurs on or after July 1, 1996, and that, had 1599
it occurred prior to that date, would not have been a violation of 1600
section 3769.11 of the Revised Code as it existed prior to that 1601
date, any violation of section 2915.06 of the Revised Code as it 1602
existed prior to July 1, 1996, or any violation of division (B) of 1603
section 2915.05 of the Revised Code as it exists on and after July 1604
1, 1996, when the proceeds of the violation, the payments made in 1605
the violation, the amount of a claim for payment or for any other 1606
benefit that is false or deceptive and that is involved in the 1607
violation, or the value of the contraband or other property 1608
illegally possessed, sold, or purchased in the violation exceeds 1609
five hundred dollars, or any combination of violations described 1610
in division (I)(2)(c) of this section when the total proceeds of 1611
the combination of violations, payments made in the combination of 1612
violations, amount of the claims for payment or for other benefits 1613
that is false or deceptive and that is involved in the combination 1614

of violations, or value of the contraband or other property 1615
illegally possessed, sold, or purchased in the combination of 1616
violations exceeds five hundred dollars; 1617

(d) Any violation of section 5743.112 of the Revised Code 1618
when the amount of unpaid tax exceeds one hundred dollars; 1619

(e) Any violation or combination of violations of section 1620
2907.32 of the Revised Code involving any material or performance 1621
containing a display of bestiality or of sexual conduct, as 1622
defined in section 2907.01 of the Revised Code, that is explicit 1623
and depicted with clearly visible penetration of the genitals or 1624
clearly visible penetration by the penis of any orifice when the 1625
total proceeds of the violation or combination of violations, the 1626
payments made in the violation or combination of violations, or 1627
the value of the contraband or other property illegally possessed, 1628
sold, or purchased in the violation or combination of violations 1629
exceeds five hundred dollars; 1630

(f) Any combination of violations described in division 1631
(I)(2)(c) of this section and violations of section 2907.32 of the 1632
Revised Code involving any material or performance containing a 1633
display of bestiality or of sexual conduct, as defined in section 1634
2907.01 of the Revised Code, that is explicit and depicted with 1635
clearly visible penetration of the genitals or clearly visible 1636
penetration by the penis of any orifice when the total proceeds of 1637
the combination of violations, payments made in the combination of 1638
violations, amount of the claims for payment or for other benefits 1639
that is false or deceptive and that is involved in the combination 1640
of violations, or value of the contraband or other property 1641
illegally possessed, sold, or purchased in the combination of 1642
violations exceeds five hundred dollars. 1643

(3) Conduct constituting a violation of any law of any state 1644
other than this state that is substantially similar to the conduct 1645

described in division (I)(2) of this section, provided the
defendant was convicted of the conduct in a criminal proceeding in
the other state.

(J) "Real property" means any real property or any interest
in real property, including, but not limited to, any lease of, or
mortgage upon, real property. Real property and any beneficial
interest in it is deemed to be located where the real property is
located.

(K) "Trustee" means any of the following:

(1) Any person acting as trustee under a trust in which the
trustee holds title to personal or real property;

(2) Any person who holds title to personal or real property
for which any other person has a beneficial interest;

(3) Any successor trustee.

"Trustee" does not include an assignee or trustee for an
insolvent debtor or an executor, administrator, administrator with
the will annexed, testamentary trustee, guardian, or committee,
appointed by, under the control of, or accountable to a court.

(L) "Unlawful debt" means any money or other thing of value
constituting principal or interest of a debt that is legally
unenforceable in this state in whole or in part because the debt
was incurred or contracted in violation of any federal or state
law relating to the business of gambling activity or relating to
the business of lending money at an usurious rate unless the
creditor proves, by a preponderance of the evidence, that the
usurious rate was not intentionally set and that it resulted from
a good faith error by the creditor, notwithstanding the
maintenance of procedures that were adopted by the creditor to
avoid an error of that nature.

Sec. 2923.32. (A)(1) No person employed by, or associated

with, any enterprise shall conduct or participate in, directly or 1676
indirectly, the affairs of the enterprise through a pattern of 1677
corrupt activity or the collection of an unlawful debt. 1678

(2) No person, through a pattern of corrupt activity or the 1679
collection of an unlawful debt, shall acquire or maintain, 1680
directly or indirectly, any interest in, or control of, any 1681
enterprise or real property. 1682

(3) No person, who knowingly has received any proceeds 1683
derived, directly or indirectly, from a pattern of corrupt 1684
activity or the collection of any unlawful debt, shall use or 1685
invest, directly or indirectly, any part of those proceeds, or any 1686
proceeds derived from the use or investment of any of those 1687
proceeds, in the acquisition of any title to, or any right, 1688
interest, or equity in, real property or in the establishment or 1689
operation of any enterprise. 1690

A purchase of securities on the open market with intent to 1691
make an investment, without intent to control or participate in 1692
the control of the issuer, and without intent to assist another to 1693
do so is not a violation of this division, if the securities of 1694
the issuer held after the purchase by the purchaser, the members 1695
of the purchaser's immediate family, and the purchaser's or the 1696
immediate family members' accomplices in any pattern of corrupt 1697
activity or the collection of an unlawful debt do not aggregate 1698
one per cent of the outstanding securities of any one class of the 1699
issuer and do not confer, in law or in fact, the power to elect 1700
one or more directors of the issuer. 1701

(B)(1) Whoever violates this section is guilty of engaging in 1702
a pattern of corrupt activity. Except as otherwise provided in 1703
this division, engaging in corrupt activity is a felony of the 1704
second degree. If at least one of the incidents of corrupt 1705
activity is a felony of the first, second, or third degree, 1706

aggravated murder, or murder, if at least one of the incidents was
a felony under the law of this state that was committed prior to
~~the effective date of this amendment July 1, 1996,~~ and that would
constitute a felony of the first, second, or third degree,
aggravated murder, or murder if committed on or after ~~the~~
~~effective date of this amendment July 1, 1996,~~ or if at least one
of the incidents of corrupt activity is a felony under the law of
the United States or of another state that, if committed in this
state on or after ~~the effective date of this amendment July 1,~~
1996, would constitute a felony of the first, second, or third
degree, aggravated murder, or murder under the law of this state,
engaging in a pattern of corrupt activity is a felony of the first
degree. Notwithstanding any other provision of law, a person may
be convicted of violating the provisions of this section as well
as of a conspiracy to violate one or more of those provisions
under section 2923.01 of the Revised Code.

(2) Notwithstanding the financial sanctions authorized by
section 2929.18 of the Revised Code, the court may do all of the
following with respect to any person who derives pecuniary value
or causes property damage, personal injury other than pain and
suffering, or other loss through or by the violation of this
section:

(a) In lieu of the fine authorized by that section, impose a
fine not exceeding the greater of three times the gross value
gained or three times the gross loss caused and order the clerk of
the court to pay the fine into the state treasury to the credit of
the corrupt activity investigation and prosecution fund, which is
hereby ~~created in section 2923.35 of the Revised Code;~~

(b) In addition to the fine described in division (B)(2)(a)
of this section and the financial sanctions authorized by section
2929.18 of the Revised Code, order the person to pay court costs;

(c) In addition to the fine described in division (B)(2)(a) 1738
of this section and the financial sanctions authorized by section 1739
2929.18 of the Revised Code, order the person to pay to the state, 1740
municipal, or county law enforcement agencies that handled the 1741
investigation and prosecution the costs of investigation and 1742
prosecution that are reasonably incurred. 1743

The court shall hold a hearing to determine the amount of 1744
fine, court costs, and other costs to be imposed under this 1745
division. 1746

(3) In addition to any other penalty or disposition 1747
authorized or required by law, the court shall order any person 1748
who is convicted of or pleads guilty to a violation of this 1749
section or who is adjudicated delinquent by reason of a violation 1750
of this section to criminally forfeit to the state under Chapter 1751
2981. of the Revised Code any personal or real property in which 1752
the person has an interest and that was used in the course of or 1753
intended for use in the course of a violation of this section, or 1754
that was derived from or realized through conduct in violation of 1755
this section, including any property constituting an interest in, 1756
means of control over, or influence over the enterprise involved 1757
in the violation and any property constituting proceeds derived 1758
from the violation, including all of the following: 1759

(a) Any position, office, appointment, tenure, commission, or 1760
employment contract of any kind acquired or maintained by the 1761
person in violation of this section, through which the person, in 1762
violation of this section, conducted or participated in the 1763
conduct of an enterprise, or that afforded the person a source of 1764
influence or control over an enterprise that the person exercised 1765
in violation of this section; 1766

(b) Any compensation, right, or benefit derived from a 1767
position, office, appointment, tenure, commission, or employment 1768

contract described in division (B)(3)(a) of this section that 1769
accrued to the person in violation of this section during the 1770
period of the pattern of corrupt activity; 1771

(c) Any interest in, security of, claim against, or property 1772
or contractual right affording the person a source of influence or 1773
control over the affairs of an enterprise that the person 1774
exercised in violation of this section; 1775

(d) Any amount payable or paid under any contract for goods 1776
or services that was awarded or performed in violation of this 1777
section. 1778

~~(4)(a) A sentence or disposition of criminal forfeiture 1779
pursuant to division (B)(3) of this section shall not be entered 1780
unless either of the following applies: 1781~~

~~(i) The indictment, count in the indictment, or information 1782
charging the offense, or the complaint, indictment, or information 1783
filed in juvenile court charging the violation as a delinquent act 1784
alleges the extent of the property subject to forfeiture; 1785~~

~~(ii) The criminal sentence or delinquency disposition 1786
requires the forfeiture of property that was not reasonably 1787
foreseen to be subject to forfeiture at the time of the 1788
indictment, count in the indictment, or information charging the 1789
offense, or the complaint, indictment, or information filed in 1790
juvenile court charging the violation as a delinquent act, 1791
provided that the prosecuting attorney gave prompt notice to the 1792
defendant or the alleged or adjudicated delinquent child of such 1793
property not reasonably foreseen to be subject to forfeiture when 1794
it is discovered to be forfeitable. 1795~~

~~(b) A special verdict shall be returned as to the extent of 1796
the property, if any, subject to forfeiture. When the special 1797
verdict is returned, a judgment of forfeiture shall be entered. 1798~~

~~(5) If any property included in a special verdict of forfeiture returned pursuant to division (B)(4) of this section cannot be located, has been sold to a bona fide purchaser for value, placed beyond the jurisdiction of the court, substantially diminished in value by the conduct of the defendant or adjudicated delinquent child, or commingled with other property that cannot be divided without difficulty or undue injury to innocent persons, or otherwise is unreachable without undue injury to innocent persons, the court shall order forfeiture of any other reachable property of the defendant or adjudicated delinquent child up to the value of the property that is unreachable.~~

~~(6) All property ordered forfeited pursuant to this section shall be held by the law enforcement agency that seized it for distribution or disposal pursuant to section 2923.35 of the Revised Code. The agency shall maintain an accurate record of each item of property so seized and held, which record shall include the date on which each item was seized, the manner and date of disposition by the agency, and if applicable, the name of the person who received the item; however, the record shall not identify or enable the identification of the individual officer who seized the property. The record is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that seizes and holds in any calendar year any item of property that is ordered forfeited pursuant to this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the agency pursuant to this division for that calendar year, and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each such report so received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later~~

~~than the fifteenth day of April in the calendar year in which the reports were received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:~~

~~(a) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;~~

~~(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;~~

~~(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.~~

~~(C) Notwithstanding the notice and procedure prescribed by division (E) of this section, an order of criminal forfeiture entered under division (B)(3) of this section shall authorize an appropriate law enforcement agency to seize the property declared forfeited under this section upon the terms and conditions, relating to the time and manner of seizure, that the court determines proper.~~

~~(D) Criminal penalties under this section are not mutually exclusive, unless otherwise provided, and do not preclude the application of any other criminal or civil remedy under this or any other section of the Revised Code. A disposition of criminal forfeiture ordered pursuant to division (B)(3) of this section in relation to a child who was adjudicated delinquent by reason of a violation of this section does not preclude the application of any other order of disposition under Chapter 2152. of the Revised Code or any other civil remedy under this or any other section of the Revised Code.~~

~~(E)(1) Upon the entry of a judgment of forfeiture pursuant to
division (B)(3) of this section, the court shall cause notice of
the judgment to be sent by certified mail, return receipt
requested, to all persons known to have, or appearing to have, an
interest in the property that was acquired prior to the filing of
a corrupt activity lien notice or a lis pendens as authorized by
section 2923.36 of the Revised Code. If the notices cannot be
given to those persons in that manner, the court shall cause
publication of the notice of the judgment of forfeiture pursuant
to the Rules of Civil Procedure.~~

~~(2) Within thirty days after receipt of a notice or after the
date of publication of a notice under division (E)(1) of this
section, any person, other than the defendant or the adjudicated
delinquent child, who claims an interest in the property that is
subject to forfeiture may petition the court for a hearing to
determine the validity of the claim. The petition shall be signed
and sworn to by the petitioner and shall set forth the nature and
extent of the petitioner's interest in the property, the date and
circumstances of the petitioner's acquisition of the interest, any
additional allegations supporting the claim, and the relief
sought. The petitioner shall furnish the prosecuting attorney with
a copy of the petition.~~

~~(3) The court, to the extent practicable and consistent with
the interests of justice, shall hold the hearing described under
division (E)(2) of this section within thirty days from the filing
of the petition. The court may consolidate the hearings on all
petitions filed by third party claimants under this section. At
the hearing, the petitioner may testify and present evidence on
the petitioner's own behalf and cross examine witnesses. The
prosecuting attorney may present evidence and witnesses in
rebuttal and in defense of the claim of the state to the property
and cross examine witnesses. The court, in making its~~

determination, shall consider the testimony and evidence presented 1894
at the hearing and the relevant portions of the record of the 1895
criminal proceeding that resulted in the judgment of forfeiture. 1896

(4) If at a hearing held under division (E)(3) of this 1897
section, the court, by a preponderance of the evidence, determines 1898
either that the petitioner has a legal right, title, or interest 1899
in the property that, at the time of the commission of the acts 1900
giving rise to the forfeiture of the property, was vested in the 1901
petitioner and not in the defendant or the adjudicated delinquent 1902
child or was superior to the right, title, or interest of the 1903
defendant or the adjudicated delinquent child, or that the 1904
petitioner is a bona fide purchaser for value of the right, title, 1905
or interest in the property and was at the time of the purchase 1906
reasonably without cause to believe that the property was subject 1907
to forfeiture under this section, it shall amend, in accordance 1908
with its determination, the judgment of forfeiture to protect the 1909
rights of innocent persons. 1910

(F) Except as provided in division (E) of this section, no 1911
person claiming an interest in property that is subject to 1912
forfeiture under this section shall do either of the following: 1913

(1) Intervene in a trial or appeal of a criminal case or a 1914
delinquency case that involves the forfeiture of the property; 1915

(2) File an action against the state concerning the validity 1916
of the person's alleged interest in the property subsequent to the 1917
filing of the indictment, count in the indictment, or information, 1918
or the filing of the complaint, indictment, or information in 1919
juvenile court, that alleges that the property is subject to 1920
forfeiture under this section. 1921

(G) As used in this section, "law enforcement agency" 1922
includes, but is not limited to, the state board of pharmacy. 1923

~~Sec. 2923.34. (A) The prosecuting attorney of the county in which a violation of section 2923.32 of the Revised Code, or a conspiracy to violate that section, occurs may institute a civil proceeding as authorized by this section in an appropriate court seeking relief from any person whose conduct violated section 2923.32 of the Revised Code or who conspired to violate that section.~~

~~(B)~~ Any person who is injured or threatened with injury by a violation of section 2923.32 of the Revised Code may institute a civil proceeding in an appropriate court seeking relief from any person whose conduct violated or allegedly violated section 2923.32 of the Revised Code or who conspired or allegedly conspired to violate that section, except that the pattern of corrupt activity alleged by an injured person or person threatened with injury shall include at least one incident other than a violation of division (A)(1) or (2) of section 1707.042 or division (B), (C)(4), (D), (E), or (F) of section 1707.44 of the Revised Code, of 18 U.S.C. 1341, 18 U.S.C. 1343, 18 U.S.C. 2314, or any other offense involving fraud in the sale of securities.

~~(C)~~(B) If the plaintiff in a civil action instituted pursuant to this section proves the violation by a preponderance of the evidence, the court, after making due provision for the rights of innocent persons, may grant relief by entering any appropriate orders to ensure that the violation will not continue or be repeated. The orders may include, but are not limited to, orders that:

(1) Require the divestiture of the defendant's interest in any enterprise or in any real property;

(2) Impose reasonable restrictions upon the future activities or investments of any defendant in the action, including, but not limited to, restrictions that prohibit the defendant from engaging

in the same type of endeavor as the enterprise in which the
defendant was engaged in violation of section 2923.32 of the
Revised Code;

(3) Order the dissolution or reorganization of any
enterprise;

(4) Order the suspension or revocation of a license, permit,
or prior approval granted to any enterprise by any department or
agency of the state;

(5) Order the dissolution of a corporation organized under
the laws of this state, or the revocation of the authorization of
a foreign corporation to conduct business within this state, upon
a finding that the board of directors or an agent acting on behalf
of the corporation, in conducting the affairs of the corporation,
has authorized or engaged in conduct in violation of section
2923.32 of the Revised Code, and that, for the prevention of
future criminal conduct, the public interest requires the
corporation to be dissolved or its license revoked.

~~(D)~~(C) Relief pursuant to division ~~(C)~~(B)(3), (4), or (5) of
this section shall not be granted in any civil proceeding
instituted by an injured person unless the attorney general
intervenes in the civil action pursuant to this division.

Upon the filing of a civil proceeding for relief under
division ~~(C)~~(B)(3), (4), or (5) of this section by an allegedly
injured person other than a prosecuting attorney, the allegedly
injured person immediately shall notify the attorney general of
the filing. The attorney general, upon timely application, may
intervene in any civil proceeding for relief under division
~~(C)~~(B)(3), (4), or (5) if the attorney general certifies that, in
the attorney general's opinion, the proceeding is of general
public interest. In any proceeding brought by an injured person
under division ~~(C)~~(B)(3), (4), or (5) of this section, the

attorney general is entitled to the same relief as if the attorney 1986
general instituted the proceeding. 1987

~~(E)~~(D) In a civil proceeding under division ~~(C)~~(B) of this 1988
section, the court may grant injunctive relief without a showing 1989
of special or irreparable injury. 1990

Pending final determination of a civil proceeding initiated 1991
under this section, the court may issue a temporary restraining 1992
order or a preliminary injunction upon a showing of immediate 1993
danger or significant injury to the plaintiff, including the 1994
possibility that any judgment for money damages might be difficult 1995
to execute, and, in a proceeding initiated by an aggrieved person, 1996
upon the execution of proper bond against injury for an 1997
improvidently granted injunction. 1998

~~(F)~~(E) In a civil proceeding under division ~~(B)~~(A) of this 1999
section, any person directly or indirectly injured by conduct in 2000
violation of section 2923.32 of the Revised Code or a conspiracy 2001
to violate that section, other than a violator of that section or 2002
a conspirator to violate that section, in addition to relief under 2003
division ~~(C)~~(B) of this section, shall have a cause of action for 2004
triple the actual damages the person sustained. To recover triple 2005
damages, the plaintiff shall prove the violation or conspiracy to 2006
violate that section and actual damages by clear and convincing 2007
evidence. Damages under this division may include, but are not 2008
limited to, competitive injury and injury distinct from the injury 2009
inflicted by corrupt activity. 2010

~~(G)~~(F) In a civil action in which the plaintiff prevails 2011
under division ~~(C)~~(B) or ~~(F)~~(E) of this section, the plaintiff 2012
shall recover reasonable attorney fees in the trial and appellate 2013
courts, and the court shall order the defendant to pay to the 2014
state, municipal, or county law enforcement agencies that handled 2015
the investigation and litigation the costs of investigation and 2016
litigation that reasonably are incurred and that are not ordered 2017

to be paid pursuant to division (B)(2) of section 2923.32 of the Revised Code or division ~~(I)~~(H) of this section.

~~(H)~~(G) Upon application, based on the evidence presented in the case by the plaintiff, as the interests of justice may require, the trial court may grant a defendant who prevails in a civil action brought pursuant to this section all or part of the defendant's costs, including the costs of investigation and litigation reasonably incurred, and all or part of the defendant's reasonable attorney fees, unless the court finds that special circumstances, including the relative economic position of the parties, make an award unjust.

~~(I)~~(H) If a person, other than an individual, is not convicted of a violation of section 2923.32 of the Revised Code, the prosecuting attorney may institute proceedings against the person to recover a civil penalty for conduct that the prosecuting attorney proves by clear and convincing evidence is in violation of section 2923.32 of the Revised Code. The civil penalty shall not exceed one hundred thousand dollars and shall be paid into the state treasury to the credit of the corrupt activity investigation and prosecution fund created in section ~~2923.35~~ 2923.32 of the Revised Code. If a civil penalty is ordered pursuant to this division, the court shall order the defendant to pay to the state, municipal, or county law enforcement agencies that handled the investigation and litigation the costs of investigation and litigation that are reasonably incurred and that are not ordered to be paid pursuant to this section.

~~(J)~~(I) A final judgment, decree, or delinquency adjudication rendered against the defendant or the adjudicated delinquent child in a civil action under this section or in a criminal or delinquency action or proceeding for a violation of section 2923.32 of the Revised Code shall estop the defendant or the adjudicated delinquent child in any subsequent civil proceeding or

action brought by any person as to all matters as to which the 2050
judgment, decree, or adjudication would be an estoppel as between 2051
the parties to the civil, criminal, or delinquency proceeding or 2052
action. 2053

~~(K)~~(J) Notwithstanding any other provision of law providing a 2054
shorter period of limitations, a civil proceeding or action under 2055
this section may be commenced at any time within five years after 2056
the unlawful conduct terminates or the cause of action accrues or 2057
within any longer statutory period of limitations that may be 2058
applicable. If a criminal proceeding, delinquency proceeding, 2059
civil action, or other proceeding is brought or intervened in by 2060
the state to punish, prevent, or restrain any activity that is 2061
unlawful under section 2923.32 of the Revised Code, the running of 2062
the period of limitations prescribed by this division with respect 2063
to any civil action brought under this section by a person who is 2064
injured by a violation or threatened violation of section 2923.32 2065
of the Revised Code, based in whole or in part upon any matter 2066
complained of in the state prosecution, action, or proceeding, 2067
shall be suspended during the pendency of the state prosecution, 2068
action, or proceeding and for two years following its termination. 2069

~~(L)~~(K) Personal service of any process in a proceeding under 2070
this section may be made upon any person outside this state if the 2071
person was involved in any conduct constituting a violation of 2072
section 2923.32 of the Revised Code in this state. The person is 2073
deemed by the person's conduct in violation of section 2923.32 of 2074
the Revised Code to have submitted to the jurisdiction of the 2075
courts of this state for the purposes of this section. 2076

~~(M)~~(L) The application of any civil remedy under this section 2077
shall not preclude the application of any criminal remedy or 2078
criminal forfeiture under section 2923.32 of the Revised Code or 2079
any other provision of law, or the application of any delinquency 2080
disposition under Chapter 2152. of the Revised Code or any other 2081

provision of law. 2082

(M)(1) Any person who prevails in a civil action pursuant to this section has a right to any property, or the proceeds of any property, criminally forfeited to the state pursuant to section 2981.04 of the Revised Code or against which any fine under section 2923.32 of the Revised Code or civil penalty under division (H) of this section may be imposed. 2083
2084
2085
2086
2087
2088

The right of any person who prevails in a civil action pursuant to this section, other than a prosecuting attorney performing official duties under that section, to forfeited property, property against which fines and civil penalties may be imposed, and the proceeds of that property is superior to any right of the state, a municipal corporation, or a county to the property or the proceeds of the property, if the civil action is brought within one hundred eighty days after the entry of a sentence of forfeiture or a fine pursuant to sections 2923.32 and 2981.04 of the Revised Code or the entry of a civil penalty pursuant to division (H) of this section. 2089
2090
2091
2092
2093
2094
2095
2096
2097
2098
2099

The right is limited to the total value of the treble damages, civil penalties, attorney's fees, and costs awarded to the prevailing party in an action pursuant to this section, less any restitution received by the person. 2100
2101
2102
2103

(2) If the aggregate amount of claims of persons who have prevailed in a civil action pursuant to this section against any one defendant is greater than the total value of the treble fines, civil penalties, and forfeited property paid by the person against whom the actions were brought, all of the persons who brought their actions within one hundred eighty days after the entry of a sentence or disposition of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (H) of this section, first shall receive a pro rata share of the total amount of the fines, civil 2104
2105
2106
2107
2108
2109
2110
2111
2112
2113

penalties, and forfeited property. After the persons who brought 2114
their actions within the specified one-hundred-eighty-day period 2115
have satisfied their claims out of the fines, civil penalties, and 2116
forfeited property, all other persons who prevailed in civil 2117
actions pursuant to this section shall receive a pro rata share of 2118
the total amount of the fines, civil penalties, and forfeited 2119
property that remains in the custody of the law enforcement agency 2120
or in the corrupt activity investigation and prosecution fund. 2121

(N) As used in this section, "law enforcement agency" 2122
includes, but is not limited to, the state board of pharmacy. 2123

Sec. 2923.36. (A) Upon the institution of any criminal 2124
proceeding charging a violation of section 2923.32 of the Revised 2125
Code, the filing of any complaint, indictment, or information in 2126
juvenile court alleging a violation of that section as a 2127
delinquent act, or the institution of any civil proceeding under 2128
section ~~2923.32~~ or 2923.34 or 2981.05 of the Revised Code, the 2129
state, at any time during the pendency of the proceeding, may file 2130
a corrupt activity lien notice with the county recorder of any 2131
county in which property subject to forfeiture may be located. No 2132
fee shall be required for filing the notice. The recorder 2133
immediately shall record the notice pursuant to section 317.08 of 2134
the Revised Code. 2135

(B) A corrupt activity lien notice shall be signed by the 2136
prosecuting attorney who files the lien. The notice shall set 2137
forth all of the following information: 2138

(1) The name of the person against whom the proceeding has 2139
been brought. The prosecuting attorney may specify in the notice 2140
any aliases, names, or fictitious names under which the person may 2141
be known. The prosecuting attorney also may specify any 2142
corporation, partnership, or other entity in which the person has 2143
an interest subject to forfeiture under ~~section 2923.32~~ Chapter 2144

2981. of the Revised Code and shall describe in the notice the 2145
person's interest in the corporation, partnership, or other 2146
entity. 2147

(2) If known to the prosecuting attorney, the present 2148
residence and business addresses of the person or names set forth 2149
in the notice; 2150

(3) A statement that a criminal or delinquency proceeding for 2151
a violation of section 2923.32 of the Revised Code or a civil 2152
proceeding under section ~~2923.32~~ or 2923.34 or 2981.05 of the 2153
Revised Code has been brought against the person named in the 2154
notice, the name of the county in which the proceeding has been 2155
brought, and the case number of the proceeding; 2156

(4) A statement that the notice is being filed pursuant to 2157
this section; 2158

(5) The name and address of the prosecuting attorney filing 2159
the notice; 2160

(6) A description of the real or personal property subject to 2161
the notice and of the interest in that property of the person 2162
named in the notice, to the extent the property and the interest 2163
of the person in it reasonably is known at the time the proceeding 2164
is instituted or at the time the notice is filed. 2165

(C) A corrupt activity lien notice shall apply only to one 2166
person and, to the extent applicable, any aliases, fictitious 2167
names, or other names, including names of corporations, 2168
partnerships, or other entities, to the extent permitted in this 2169
section. A separate corrupt activity lien notice is required to be 2170
filed for any other person. 2171

(D) Within seven days after the filing of each corrupt 2172
activity lien notice, the prosecuting attorney who files the 2173
notice shall furnish to the person named in the notice by 2174
certified mail, return receipt requested, to the last known 2175

business or residential address of the person, a copy of the 2176
recorded notice with a notation on it of any county in which the 2177
notice has been recorded. The failure of the prosecuting attorney 2178
to furnish a copy of the notice under this section shall not 2179
invalidate or otherwise affect the corrupt activity lien notice 2180
when the prosecuting attorney did not know and could not 2181
reasonably ascertain the address of the person entitled to notice. 2182

After receipt of a copy of the notice under this division, 2183
the person named in the notice may petition the court to authorize 2184
the person to post a surety bond in lieu of the lien or to 2185
otherwise modify the lien as the interests of justice may require. 2186
The bond shall be in an amount equal to the value of the property 2187
reasonably known to be subject to the notice and conditioned on 2188
the payment of any judgment and costs ordered in an action 2189
pursuant to ~~section 2923.32 or 2923.34~~ Chapter 2981. of the 2190
Revised Code up to the value of the bond. 2191

(E) From the date of filing of a corrupt activity lien 2192
notice, the notice creates a lien in favor of the state on any 2193
personal or real property or any beneficial interest in the 2194
property located in the county in which the notice is filed that 2195
then or subsequently is owned by the person named in the notice or 2196
under any of the names set forth in the notice. 2197

The lien created in favor of the state is superior and prior 2198
to the interest of any other person in the personal or real 2199
property or beneficial interest in the property, if the interest 2200
is acquired subsequent to the filing of the notice. 2201

(F)(1) Notwithstanding any law or rule to the contrary, in 2202
conjunction with any civil proceeding brought pursuant to section 2203
~~2923.34~~ 2981.05 of the Revised Code, the prosecuting attorney may 2204
file in any county, without prior court order, a lis pendens 2205
pursuant to sections 2703.26 and 2703.27 of the Revised Code. In 2206

such a case, any person acquiring an interest in the subject 2207
property or beneficial interest in the property, if the property 2208
interest is acquired subsequent to the filing of the lis pendens, 2209
shall take the property or interest subject to the civil 2210
proceeding and any subsequent judgment. 2211

(2) If a corrupt activity lien notice has been filed, the 2212
prosecuting attorney may name as a defendant in the lis pendens, 2213
in addition to the person named in the notice, any person 2214
acquiring an interest in the personal or real property or 2215
beneficial interest in the property subsequent to the filing of 2216
the notice. If a judgment of forfeiture is entered in the criminal 2217
or delinquency proceeding pursuant to section ~~2923.32~~ 2981.04 of 2218
the Revised Code in favor of the state, the interest of any person 2219
in the property that was acquired subsequent to the filing of the 2220
notice shall be subject to the notice and judgment of forfeiture. 2221

(G) Upon a final judgment of forfeiture in favor of the state 2222
pursuant to ~~section 2923.32~~ Chapter 2981. of the Revised Code, 2223
title of the state to the forfeited property shall do either of 2224
the following: 2225

(1) In the case of real property, or a beneficial interest in 2226
it, relate back to the date of filing of the corrupt activity lien 2227
notice in the county where the property or interest is located. If 2228
no corrupt activity lien notice was filed, title of the state 2229
relates back to the date of the filing of any lis pendens under 2230
division (F) of this section in the records of the county recorder 2231
of the county in which the real property or beneficial interest is 2232
located. If no corrupt activity lien notice or lis pendens was 2233
filed, title of the state relates back to the date of the 2234
recording of the final judgment of forfeiture in the records of 2235
the county recorder of the county in which the real property or 2236
beneficial interest is located. 2237

(2) In the case of personal property or a beneficial interest 2238

in it, relate back to the date on which the property or interest 2239
was seized by the state, or the date of filing of a corrupt 2240
activity lien notice in the county in which the property or 2241
beneficial interest is located. If the property was not seized and 2242
no corrupt activity lien notice was filed, title of the state 2243
relates back to the date of the recording of the final judgment of 2244
forfeiture in the county in which the personal property or 2245
beneficial interest is located. 2246

(H) If personal or real property, or a beneficial interest in 2247
it, that is subject to forfeiture pursuant to section 2923.32 of 2248
the Revised Code is conveyed, alienated, disposed of, or otherwise 2249
rendered unavailable for forfeiture after the filing of either a 2250
corrupt activity lien notice, or a criminal or delinquency 2251
proceeding for a violation of section 2923.32 or a civil 2252
proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised 2253
Code, whichever is earlier, the state may bring an action in any 2254
court of common pleas against the person named in the corrupt 2255
activity lien notice or the defendant in the criminal, 2256
delinquency, or civil proceeding to recover the value of the 2257
property or interest. The court shall enter final judgment against 2258
the person named in the notice or the defendant for an amount 2259
equal to the value of the property or interest together with 2260
investigative costs and attorney's fees incurred by the state in 2261
the action. If a civil proceeding is pending, an action pursuant 2262
to this section shall be filed in the court in which the 2263
proceeding is pending. 2264

(I) If personal or real property, or a beneficial interest in 2265
it, that is subject to forfeiture pursuant to ~~section 2923.32~~ 2266
Chapter 2981. of the Revised Code is alienated or otherwise 2267
transferred or disposed of after either the filing of a corrupt 2268
activity lien notice, or the filing of a criminal or delinquency 2269
proceeding for a violation of section 2923.32 or a civil 2270

proceeding under section ~~2923.32 or 2923.34~~ 2981.05 of the Revised 2271
Code, whichever is earlier, the transfer or disposal is fraudulent 2272
as to the state and the state shall have all the rights granted a 2273
creditor under Chapter 1336. of the Revised Code. 2274

(J) No trustee, who acquires actual knowledge that a corrupt 2275
activity lien notice, a criminal or delinquency proceeding for a 2276
violation of section 2923.32 or a civil proceeding under section 2277
~~2923.32 or 2923.34~~ 2981.05 of the Revised Code has been filed 2278
against any person for whom the trustee holds legal or record 2279
title to personal or real property, shall recklessly fail to 2280
furnish promptly to the prosecuting attorney all of the following: 2281

(1) The name and address of the person, as known to the 2282
trustee; 2283

(2) The name and address, as known to the trustee, of all 2284
other persons for whose benefit the trustee holds title to the 2285
property; 2286

(3) If requested by the prosecuting attorney, a copy of the 2287
trust agreement or other instrument under which the trustee holds 2288
title to the property. 2289

Any trustee who fails to comply with this division is guilty 2290
of failure to provide corrupt activity lien information, a 2291
misdemeanor of the first degree. 2292

(K) If a trustee transfers title to personal or real property 2293
after a corrupt activity lien notice is filed against the 2294
property, the lien is filed in the county in which the property is 2295
located, and the lien names a person who holds a beneficial 2296
interest in the property, the trustee, if the trustee has actual 2297
notice of the notice, shall be liable to the state for the greater 2298
of the following: 2299

(1) The proceeds received directly by the person named in the 2300
notice as a result of the transfer; 2301

(2) The proceeds received by the trustee as a result of the 2302
transfer and distributed to the person named in the notice; 2303

(3) The fair market value of the interest of the person named 2304
in the notice in the property transferred. 2305

However, if the trustee transfers property for at least its 2306
fair market value and holds the proceeds that otherwise would be 2307
paid or distributed to the beneficiary, or at the direction of the 2308
beneficiary or the beneficiary's designee, the liability of the 2309
trustee shall not exceed the amount of the proceeds held by the 2310
trustee. 2311

(L) The filing of a corrupt activity lien notice does not 2312
constitute a lien on the record title to personal or real property 2313
owned by the trustee, except to the extent the trustee is named in 2314
the notice. 2315

The prosecuting attorney for the county may bring a civil 2316
action in any court of common pleas to recover from the trustee 2317
the amounts set forth in division (H) of this section. The county 2318
may recover investigative costs and attorney's fees incurred by 2319
the prosecuting attorney. 2320

(M)(1) This section does not apply to any transfer by a 2321
trustee under a court order, unless the order is entered in an 2322
action between the trustee and the beneficiary. 2323

(2) Unless the trustee has actual knowledge that a person 2324
owning a beneficial interest in the trust is named in a corrupt 2325
activity lien notice or otherwise is a defendant in a civil 2326
proceeding brought pursuant to section 2923.34 or 2981.05 of the 2327
Revised Code, this section does not apply to either of the 2328
following: 2329

(a) Any transfer by a trustee required under the terms of any 2330
trust agreement, if the agreement is a matter of public record 2331

before the filing of any corrupt activity lien notice; 2332

(b) Any transfer by a trustee to all of the persons who own a 2333
beneficial interest in the trust. 2334

(N) The filing of a corrupt activity lien notice does not 2335
affect the use to which personal or real property, or a beneficial 2336
interest in it, that is owned by the person named in the notice 2337
may be put or the right of the person to receive any proceeds 2338
resulting from the use and ownership, but not the sale, of the 2339
property, until a judgment of forfeiture is entered. 2340

(O) The term of a corrupt activity lien notice is five years 2341
from the date the notice is filed, unless a renewal notice has 2342
been filed by the prosecuting attorney of the county in which the 2343
property or interest is located. The term of any renewal of a 2344
corrupt activity lien notice granted by the court is five years 2345
from the date of its filing. A corrupt activity lien notice may be 2346
renewed any number of times while a criminal or civil proceeding 2347
under section ~~2923.32~~ or 2923.34, 2981.04, or 2981.05 of the 2348
Revised Code, or an appeal from either type of proceeding, is 2349
pending. 2350

(P) The prosecuting attorney who files the corrupt activity 2351
lien notice may terminate, in whole or part, any corrupt activity 2352
lien notice or release any personal or real property or beneficial 2353
interest in the property upon any terms that the prosecuting 2354
attorney determines are appropriate. Any termination or release 2355
shall be filed by the prosecuting attorney with each county 2356
recorder with whom the notice was filed. No fee shall be imposed 2357
for the filing. 2358

(Q)(1) If no civil proceeding has been brought by the 2359
prosecuting attorney pursuant to section 2923.34 of the Revised 2360
Code against the person named in the corrupt activity lien notice, 2361
the acquittal in a criminal or delinquency proceeding for a 2362

violation of section 2923.32 of the Revised Code of the person 2363
named in the notice or the dismissal of a criminal or delinquency 2364
proceeding for such a violation against the person named in the 2365
notice terminates the notice. In such a case, the filing of the 2366
notice has no effect. 2367

(2) If a civil proceeding has been brought pursuant to 2368
section 2923.34 or 2981.05 of the Revised Code with respect to any 2369
property that is the subject of a corrupt activity lien notice and 2370
if the criminal or delinquency proceeding brought against the 2371
person named in the notice for a violation of section 2923.32 of 2372
the Revised Code has been dismissed or the person named in the 2373
notice has been acquitted in the criminal or delinquency 2374
proceeding for such a violation, the notice shall continue for the 2375
duration of the civil proceeding and any appeals from the civil 2376
proceeding, except that it shall not continue any longer than the 2377
term of the notice as determined pursuant to division (O) of this 2378
section. 2379

(3) If no civil proceeding brought pursuant to section 2380
~~2923.34~~ 2981.05 of the Revised Code then is pending against the 2381
person named in a corrupt activity lien notice, any person so 2382
named may bring an action against the prosecuting attorney who 2383
filed the notice, in the county where it was filed, seeking a 2384
release of the property subject to the notice or termination of 2385
the notice. In such a case, the court of common pleas promptly 2386
shall set a date for hearing, which shall be not less than five 2387
nor more than ten days after the action is filed. The order and a 2388
copy of the complaint shall be served on the prosecuting attorney 2389
within three days after the action is filed. At the hearing, the 2390
court shall take evidence as to whether any personal or real 2391
property, or beneficial interest in it, that is owned by the 2392
person bringing the action is covered by the notice or otherwise 2393
is subject to forfeiture. If the person bringing the action shows 2394

by a preponderance of the evidence that the notice does not apply 2395
to the person or that any personal or real property, or beneficial 2396
interest in it, that is owned by the person is not subject to 2397
forfeiture, the court shall enter a judgment terminating the 2398
notice or releasing the personal or real property or beneficial 2399
interest from the notice. 2400

At a hearing, the court may release from the notice any 2401
property or beneficial interest upon the posting of security, by 2402
the person against whom the notice was filed, in an amount equal 2403
to the value of the property or beneficial interest owned by the 2404
person. 2405

(4) The court promptly shall enter an order terminating a 2406
corrupt activity lien notice or releasing any personal or real 2407
property or beneficial interest in the property, if a sale of the 2408
property or beneficial interest is pending and the filing of the 2409
notice prevents the sale. However, the proceeds of the sale shall 2410
be deposited with the clerk of the court, subject to the further 2411
order of the court. 2412

(R) Notwithstanding any provision of this section, any person 2413
who has perfected a security interest in personal or real property 2414
or a beneficial interest in the property for the payment of an 2415
enforceable debt or other similar obligation prior to the filing 2416
of a corrupt activity lien notice or a lis pendens in reference to 2417
the property or interest may foreclose on the property or interest 2418
as otherwise provided by law. The foreclosure, insofar as 2419
practical, shall be made so that it otherwise will not interfere 2420
with a forfeiture under ~~section 2923.32~~ Chapter 2981. of the 2421
Revised Code. 2422

Sec. 2923.41. As used in sections 2923.41 to ~~2923.47~~ 2923.44 2423
of the Revised Code: 2424

(A) "Criminal gang" means an ongoing formal or informal 2425

organization, association, or group of three or more persons to 2426
which all of the following apply: 2427

(1) It has as one of its primary activities the commission of 2428
one or more of the offenses listed in division (B) of this 2429
section. 2430

(2) It has a common name or one or more common, identifying 2431
signs, symbols, or colors. 2432

(3) The persons in the organization, association, or group 2433
individually or collectively engage in or have engaged in a 2434
pattern of criminal gang activity. 2435

(B)(1) "Pattern of criminal gang activity" means, subject to 2436
division (B)(2) of this section, that persons in the criminal gang 2437
have committed, attempted to commit, conspired to commit, been 2438
complicitors in the commission of, or solicited, coerced, or 2439
intimidated another to commit, attempt to commit, conspire to 2440
commit, or be in complicity in the commission of two or more of 2441
any of the following offenses: 2442

(a) A felony or an act committed by a juvenile that would be 2443
a felony if committed by an adult; 2444

(b) An offense of violence or an act committed by a juvenile 2445
that would be an offense of violence if committed by an adult; 2446

(c) A violation of section 2907.04, 2909.06, 2911.211, 2447
2917.04, 2919.23, or 2919.24 of the Revised Code, section 2921.04 2448
or 2923.16 of the Revised Code, section 2925.03 of the Revised 2449
Code if the offense is trafficking in marihuana, or section 2450
2927.12 of the Revised Code. 2451

(2) There is a "pattern of criminal gang activity" if all of 2452
the following apply with respect to the offenses that are listed 2453
in division (B)(1)(a), (b), or (c) of this section and that 2454
persons in the criminal gang committed, attempted to commit, 2455

conspired to commit, were in complicity in committing, or 2456
solicited, coerced, or intimidated another to commit, attempt to 2457
commit, conspire to commit, or be in complicity in committing: 2458

(a) At least one of the two or more offenses is a felony. 2459

(b) At least one of those two or more offenses occurs on or 2460
after ~~the effective date of this section~~ January 1, 1999. 2461

(c) The last of those two or more offenses occurs within five 2462
years after at least one of those offenses. 2463

(d) The two or more offenses are committed on separate 2464
occasions or by two or more persons. 2465

(C) "Criminal conduct" means the commission of, an attempt to 2466
commit, a conspiracy to commit, complicity in the commission of, 2467
or solicitation, coercion, or intimidation of another to commit, 2468
attempt to commit, conspire to commit, or be in complicity in the 2469
commission of an offense listed in division (B)(1)(a), (b), or (c) 2470
of this section or an act that is committed by a juvenile and that 2471
would be an offense, an attempt to commit an offense, a conspiracy 2472
to commit an offense, complicity in the commission of, or 2473
solicitation, coercion, or intimidation of another to commit, 2474
attempt to commit, conspire to commit, or be in complicity in the 2475
commission of an offense listed in division (B)(1)(a), (b), or (c) 2476
of this section if committed by an adult. 2477

(D) "Juvenile" means a person who is under eighteen years of 2478
age. 2479

(E) "Law enforcement agency" includes, but is not limited to, 2480
the state board of pharmacy and the office of a prosecutor. 2481

(F) "Prosecutor" has the same meaning as in section 2935.01 2482
of the Revised Code. 2483

~~(G) "Financial institution" means a bank, credit union,~~ 2484
~~savings and loan association, or a licensee or registrant under~~ 2485

Chapter 1321. of the Revised Code.	2486
(H) "Property" includes both of the following:	2487
(1) Real property, including, but not limited to, things growing on, affixed to, and found in the real property:	2488
(2) Tangible and intangible personal property, including, but not limited to, rights, privileges, interests, claims, and securities.	2489
(I) "Firearms" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.	2490
(J) "Computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.	2491
(K) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.	2492
Sec. 2923.42. (A) No person who actively participates in a criminal gang, with knowledge that the criminal gang engages in or has engaged in a pattern of criminal gang activity, shall purposely promote, further, or assist any criminal conduct, as defined in division (C) of section 2923.41 of the Revised Code, or shall purposely commit or engage in any act that constitutes criminal conduct, as defined in division (C) of section 2923.41 of the Revised Code.	2493
	2494
	2495
	2496
	2497
	2498
	2499
	2500
	2501
	2502
	2503
	2504
	2505
	2506
	2507
(B) Whoever violates this section is guilty of participating in a criminal gang, a felony of the second degree.	2508
	2509
(C)(1) Notwithstanding any contrary provision of any section of the Revised Code, the clerk of the court shall pay any fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to	2510
	2511
	2512
	2513
	2514

section 511.18 or 1545.04 of the Revised Code, or state law 2515
enforcement agencies in this state that primarily were responsible 2516
for or involved in making the arrest of, and in prosecuting, the 2517
offender. However, the clerk shall not pay a fine so imposed to a 2518
law enforcement agency unless the agency has adopted a written 2519
internal control policy under division (C)(2) of this section that 2520
addresses the use of the fine moneys that it receives. Each agency 2521
shall use the fines so paid in accordance with the written 2522
internal control policy adopted by the recipient agency under 2523
division (C)(2) of this section to subsidize the agency's law 2524
enforcement efforts that pertain to criminal gangs. 2525

(2)(a) Prior to receiving any fine moneys under division 2526
(C)(1) of this section or division (B)~~(5)~~ of section 2923.44 of 2527
the Revised Code, a law enforcement agency shall adopt a written 2528
internal control policy that addresses the agency's use and 2529
disposition of all fine moneys so received and that provides for 2530
the keeping of detailed financial records of the receipts of those 2531
fine moneys, the general types of expenditures made out of those 2532
fine moneys, and the specific amount of each general type of 2533
expenditure. The policy shall not provide for or permit the 2534
identification of any specific expenditure that is made in an 2535
ongoing investigation. All financial records of the receipts of 2536
those fine moneys, the general types of expenditures made out of 2537
those fine moneys, and the specific amount of each general type of 2538
expenditure by an agency are public records open for inspection 2539
under section 149.43 of the Revised Code. Additionally, a written 2540
internal control policy adopted under division (C)(2)(a) of this 2541
section is a public record open for inspection under section 2542
149.43 of the Revised Code, and the agency that adopted the policy 2543
shall comply with it. 2544

(b) Each law enforcement agency that receives in any calendar 2545
year any fine moneys under division (C)(1) of this section or 2546

division (B)~~(5)~~ of section 2923.44 of the Revised Code shall 2547
prepare a report covering the calendar year that cumulates all of 2548
the information contained in all of the public financial records 2549
kept by the agency pursuant to division (C)(2)(a) of this section 2550
for that calendar year and shall send a copy of the cumulative 2551
report, no later than the first day of March in the calendar year 2552
following the calendar year covered by the report, to the attorney 2553
general. Each report received by the attorney general is a public 2554
record open for inspection under section 149.43 of the Revised 2555
Code. Not later than the fifteenth day of April in the calendar 2556
year in which the reports are received, the attorney general shall 2557
send the president of the senate and the speaker of the house of 2558
representatives a written notice that does all of the following: 2559

(i) Indicates that the attorney general has received from law 2560
enforcement agencies reports of the type described in division 2561
(C)(2)(b) of this section that cover the previous calendar year 2562
and indicates that the reports were received under division 2563
(C)(2)(b) of this section; 2564

(ii) Indicates that the reports are open for inspection under 2565
section 149.43 of the Revised Code; 2566

(iii) Indicates that the attorney general will provide a copy 2567
of any or all reports to the president of the senate or the 2568
speaker of the house upon request. 2569

(D) A prosecution for a violation of this section does not 2570
preclude a prosecution of a violation of any other section of the 2571
Revised Code. One or more acts, a series of acts, or a course of 2572
behavior that can be prosecuted under this section or any other 2573
section of the Revised Code may be prosecuted under this section, 2574
the other section of the Revised Code, or both sections. 2575

Sec. 2923.44. (A)~~(1)~~ In accordance with division (B) of this 2576

~~section, a person who is convicted of or pleads guilty to a 2577
violation of section 2923.42 of the Revised Code, and a juvenile 2578
who is found by a juvenile court to be a delinquent child for an 2579
act committed in violation of section 2923.42 of the Revised Code, 2580
loses any right to the possession of property and forfeits to the 2581
state any right, title, and interest the person may have in that 2582
property if either of the following applies: 2583~~

~~(a) The property constitutes, or is derived directly or 2584
indirectly from, any proceeds that the person obtained directly or 2585
indirectly from the commission of the violation of section 2923.42 2586
of the Revised Code. 2587~~

~~(b) The property was used or intended to be used in any 2588
manner to commit, or to facilitate the commission of, the 2589
violation of section 2923.42 of the Revised Code. 2590~~

~~(2) All right, title, and interest of a person in property 2591
described in division (A)(1) of this section vests in the state 2592
upon the person's commission of the violation of section 2923.42 2593
of the Revised Code of which the person is convicted or to which 2594
the person pleads guilty and that is the basis of the forfeiture, 2595
or upon the juvenile's commission of the act that is a violation 2596
of section 2923.42 of the Revised Code, that is the basis of the 2597
juvenile being found to be a delinquent child, and that is the 2598
basis of the forfeiture. Subject to divisions (F)(3)(b) and (5)(b) 2599
and (G)(2) of this section, if any right, title, or interest in 2600
property is vested in this state under division (A)(2) of this 2601
section and subsequently is transferred to a person other than the 2602
adult offender or the delinquent child who forfeits the right, 2603
title, or interest in the property under division (A)(1) of this 2604
section, then, in accordance with division (B) of this section, 2605
the right, title, or interest in the property may be the subject 2606
of a special verdict of forfeiture and, after any special verdict 2607~~

~~of forfeiture, shall be ordered forfeited to this state, unless
the transferee establishes in a hearing held pursuant to division
(F) of this section that the transferee is a bona fide purchaser
for value of the right, title, or interest in the property and
that, at the time of its purchase, the transferee was reasonably
without cause to believe that it was subject to forfeiture under
this section.~~

~~(3) The provisions of section 2923.45 of the Revised Code
that relate to the forfeiture of any right, title, or interest in
property associated with a violation of section 2923.42 of the
Revised Code pursuant to a civil action to obtain a civil
forfeiture do not apply to the forfeiture of any right, title, or
interest in property described in division (A)(1) of this section
that occurs pursuant to division (B) of this section upon a
person's conviction of or guilty plea to a violation of section
2923.42 of the Revised Code or upon a juvenile being found by a
juvenile court to be a delinquent child for an act that is a
violation of section 2923.42 of the Revised Code.~~

~~(4) Nothing in this section precludes a financial institution
that has or purports to have a security interest in or lien on
property described in division (A)(1) of this section from
commencing a civil action or taking other appropriate legal action
in connection with the property prior to its disposition in
accordance with section 2923.46 of the Revised Code for the
purpose of obtaining possession of the property in order to
foreclose or otherwise enforce the security interest or lien. A
financial institution may commence a civil action or take other
appropriate legal action for that purpose prior to the disposition
of the property in accordance with section 2923.46 of the Revised
Code, even if a prosecution for a violation of section 2923.42 of
the Revised Code or a delinquent child proceeding for an act that
is a violation of section 2923.42 of the Revised Code has been or~~

could be commenced, even if the property is or could be the
subject of an order of forfeiture issued under division (B)(5) of
this section, and even if the property has been seized or is
subject to seizure pursuant to division (D) or (E) of this
section.

If a financial institution commences a civil action or takes
any other appropriate legal action as described in division (A)(4)
of this section, if the financial institution subsequently causes
the sale of the property prior to its seizure pursuant to division
(D) or (E) of this section and its disposition pursuant to section
2923.46 of the Revised Code, and if the person responsible for the
conduct of the sale has actual knowledge of the commencement of a
prosecution for a violation of section 2923.42 of the Revised Code
or of a delinquent child proceeding for an act that is a violation
of section 2923.42 of the Revised Code, actual knowledge of a
pending forfeiture proceeding under division (B) of this section,
or actual knowledge of an order of forfeiture issued under
division (B)(5) of this section, then the person responsible for
the conduct of the sale shall dispose of the proceeds of the sale
in the following order:

(a) First, to the payment of the costs of the sale and to the
payment of the costs incurred by law enforcement agencies and
financial institutions in connection with the seizure of, storage
of, maintenance of, and provision of security for the property. As
used in this division, "costs" of a financial institution do not
include attorney's fees incurred by that institution in connection
with the property.

(b) Second, the remaining proceeds of the sale after
compliance with division (A)(4)(a) of this section, to the payment
in the order of priority of the security interests and liens of
valid security interests and liens pertaining to the property
that, at the time of the vesting in the state under division

~~(A)(2) of this section of the right, title, or interest of the
adult or juvenile, are held by known secured parties and
lienholders;~~

~~(c) Third, the remaining proceeds of the sale after
compliance with division (A)(4)(b) of this section, to the court
that has or would have jurisdiction in a prosecution for a
violation of section 2923.42 of the Revised Code or a delinquent
child proceeding for an act that is a violation of section 2923.42
of the Revised Code for disposition in accordance with section
2923.46 of the Revised Code.~~

~~(B)(1) A criminal forfeiture of any right, title, or interest
in property described in division (A)(1) of this section is
precluded unless one of the following applies:~~

~~(a) The indictment, count in the indictment, or information
charging the violation of section 2923.42 of the Revised Code
specifies the nature of the right, title, or interest of the
alleged offender in the property described in division (A)(1) of
this section that is potentially subject to forfeiture under this
section, or a description of the property of the alleged offender
that is potentially subject to forfeiture under this section, to
the extent the right, title, or interest in the property or the
property reasonably is known at the time of the filing of the
indictment or information; or the complaint, indictment, or
information charging a juvenile with being a delinquent child for
the commission of an act that is a violation of section 2923.42 of
the Revised Code specifies the nature of the right, title, or
interest of the juvenile in the property described in division
(A)(1) of this section that is potentially subject to forfeiture
under this section, or a description of the property of the
juvenile that is potentially subject to forfeiture under this
section, to the extent the right, title, or interest in the
property or the property reasonably is known at the time of the~~

~~filing of the complaint, indictment, or information.~~

2704

~~(b) The property in question was not reasonably foreseen to be subject to forfeiture under this section at the time of the filing of the indictment, information, or complaint, the prosecuting attorney gave prompt notice to the alleged offender or juvenile of that property when it was discovered to be subject to forfeiture under this section, and a verdict of forfeiture described in division (B)(3) of this section requires the forfeiture of that property.~~

2705

2706

2707

2708

2709

2710

2711

2712

~~(2) The specifications described in division (B)(1) of this section shall be stated at the end of the body of the indictment, count in the indictment, information, or complaint.~~

2713

2714

2715

~~(3)(a) If a person is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or a juvenile is found to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code, then a special proceeding shall be conducted in accordance with division (B)(3) of this section to determine whether any property described in division (B)(1)(a) or (b) of this section will be the subject of an order of forfeiture under this section. Except as otherwise provided in division (B)(3)(b) of this section, the jury in the criminal action, the judge in the delinquent child action, or, if the criminal action was a nonjury action, the judge in that action shall hear and consider testimony and other evidence in the proceeding relative to whether any property described in division (B)(1)(a) or (b) of this section is subject to forfeiture under this section. If the jury or judge determines that the prosecuting attorney has established by a preponderance of the evidence that any property so described is subject to forfeiture under this section, the judge or juvenile judge shall render a verdict of forfeiture that specifically describes the right, title, or interest in property or the property that is subject to forfeiture~~

2716

2717

2718

2719

2720

2721

2722

2723

2724

2725

2726

2727

2728

2729

2730

2731

2732

2733

2734

2735

~~under this section. The Rules of Evidence shall apply in the
proceeding.~~

2736
2737

~~(b) If the trier of fact in a criminal action for a violation
of section 2923.42 of the Revised Code was a jury, then, upon the
filing of a motion by the person who was convicted of or pleaded
guilty to the violation of section 2923.42 of the Revised Code,
the determinations in the proceeding described in division (B)(3)
of this section instead shall be made by the judge in the criminal
action.~~

2738
2739
2740
2741
2742
2743
2744

~~(4) In a criminal action for a violation of section 2923.42
of the Revised Code, if the trier of fact is a jury, the jury
shall not be informed of any specification described in division
(B)(1)(a) of this section or of any property described in that
division or division (B)(1)(b) of this section prior to the
alleged offender being convicted of or pleading guilty to the
violation of section 2923.42 of the Revised Code.~~

2745
2746
2747
2748
2749
2750
2751

~~(5)(a) If a verdict of forfeiture is entered pursuant to
division (B)(3) of this section, then the court that imposes
sentence upon a person who is convicted of or pleads guilty to a
violation of section 2923.42 of the Revised Code, or the juvenile
court that finds a juvenile to be a delinquent child for an act
that is a violation of section 2923.42 of the Revised Code, in
addition to any other sentence imposed upon the offender or order
of disposition imposed upon the delinquent child, shall order that
the offender or delinquent child forfeit to the state all of the
offender's or delinquent child's right, title, and interest in the
property described in division (A)(1) of this section. If a person
is convicted of or pleads guilty to a violation of section 2923.42
of the Revised Code, or a juvenile is found by a juvenile court to
be a delinquent child for an act that is a violation of section
2923.42 of the Revised Code, and derives profits or other proceeds
from the offense or act, the court that imposes sentence or an~~

2752
2753
2754
2755
2756
2757
2758
2759
2760
2761
2762
2763
2764
2765
2766
2767

order of disposition upon the offender or delinquent child, in 2768
lieu of any fine that the court is otherwise authorized or 2769
required to impose, may impose upon the offender or delinquent 2770
child a fine of not more than twice the gross profits or other 2771
proceeds so derived. 2772

~~(b)(B)~~ Notwithstanding any contrary provision of the Revised 2773
Code, the clerk of the court shall pay all fines imposed pursuant 2774
to ~~division (B)(5)~~ of this section to the county, municipal 2775
corporation, township, park district created pursuant to section 2776
511.18 or 1545.01 of the Revised Code, or state law enforcement 2777
agencies in this state that were primarily responsible for or 2778
involved in making the arrest of, and in prosecuting, the 2779
offender. However, the clerk shall not pay a fine so imposed to a 2780
law enforcement agency unless the agency has adopted a written 2781
internal control policy pursuant to division (C)(2) of section 2782
2923.42 of the Revised Code that addresses the use of the fine 2783
moneys that it receives under ~~division (B)(5)~~ of this section and 2784
division (C)(1) of section 2923.42 of the Revised Code. The law 2785
enforcement agencies shall use the fines imposed and paid pursuant 2786
to ~~division (B)(5)~~ of this section to subsidize their efforts 2787
pertaining to criminal gangs, in accordance with the written 2788
internal control policy adopted by the recipient agency pursuant 2789
to division (C)(2) of section 2923.42 of the Revised Code. 2790

~~(6)~~ If any of the property that is described in division 2791
~~(A)(1)~~ of this section and that is the subject of an order of 2792
forfeiture issued under ~~division (B)(5)~~ of this section, because 2793
of an act of the person who is convicted of or pleads guilty to 2794
the violation of section 2923.42 of the Revised Code that is the 2795
basis of the order of forfeiture or an act of the juvenile found 2796
by a juvenile court to be a delinquent child for an act that is a 2797
violation of section 2923.42 of the Revised Code and that is the 2798
basis of the forfeiture, cannot be located upon the exercise of 2799

~~due diligence, has been transferred to, sold to, or deposited with
a third party, has been placed beyond the jurisdiction of the
court, has been substantially diminished in value, or has been
commingled with other property that cannot be divided without
difficulty, the court that issues the order of forfeiture shall
order the forfeiture of any other property of the offender or the
delinquent child up to the value of any forfeited property
described in division (B)(6) of this section.~~

~~(C) There shall be a rebuttable presumption that any right,
title, or interest of a person in property described in division
(A)(1) of this section is subject to forfeiture under division (B)
of this section, if the state proves both of the following by a
preponderance of the evidence:~~

~~(1) The right, title, or interest in the property was
acquired by the offender or delinquent child during the period of
the commission of the violation of section 2923.42 of the Revised
Code, or within a reasonable time after that period.~~

~~(2) There is no likely source for the right, title, or
interest in the property other than proceeds obtained from the
commission of the violation of section 2923.42 of the Revised
Code.~~

~~(D)(1) Upon the application of the prosecuting attorney who
is prosecuting or has jurisdiction to prosecute the violation of
section 2923.42 of the Revised Code, the court of common pleas or
juvenile court of the county in which property subject to
forfeiture under division (B) of this section is located,
whichever is applicable, may issue a restraining order or
injunction, an order requiring the execution of a satisfactory
performance bond, or an order taking any other reasonable action
necessary to preserve the availability of the property, at either
of the following times:~~

~~(a) Upon the filing of an indictment, complaint, or information charging a person who has any right, title, or interest in the property with the commission of a violation of section 2923.42 of the Revised Code and alleging that the property with respect to which the order is sought will be subject to forfeiture under division (B) of this section if the person is convicted of or pleads guilty to the offense, or upon the filing of a complaint, indictment, or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that is a violation of section 2923.42 of the Revised Code and alleging that the property with respect to which the order is sought will be subject to forfeiture under division (B) of this section if the juvenile is found to be a delinquent child because of the commission of that act;~~

~~(b) Except as provided in division (D)(3) of this section, prior to the filing of an indictment, complaint, or information charging a person who has any right, title, or interest in the property with the commission of a violation of section 2923.42 of the Revised Code, or prior to the filing of a complaint, indictment or information alleging that a juvenile who has any right, title, or interest in the property is a delinquent child because of the commission of an act that is a violation of section 2923.42 of the Revised Code, if, after notice is given to all persons known to have any right, title, or interest in the property and an opportunity to have a hearing on the order is given to those persons, the court determines both of the following:~~

~~(i) There is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property subject to forfeiture being destroyed, removed from the jurisdiction of the court, or~~

~~otherwise being made unavailable for forfeiture.~~ 2863

~~(ii) The need to preserve the availability of the property
subject to forfeiture through the entry of the requested order
outweighs the hardship on any party against whom the order is to
be entered.~~ 2864
2865
2866
2867

~~(2) Except as provided in division (D)(3) of this section, an
order issued under division (D)(1) of this section is effective
for not more than ninety days, unless extended by the court for
good cause shown or unless an indictment, complaint, or
information charging the commission of a violation of section
2923.42 of the Revised Code or a complaint, indictment, or
information alleging that a juvenile is a delinquent child because
of the commission of an act that is a violation of section 2923.42
of the Revised Code, is filed against any alleged adult offender
or alleged delinquent child with any right, title, or interest in
the property that is the subject of the order.~~ 2868
2869
2870
2871
2872
2873
2874
2875
2876
2877
2878

~~(3) A court may issue an order under division (D)(1)(b) of
this section without giving notice or an opportunity for a hearing
to persons known to have any right, title, or interest in property
if the prosecuting attorney who is prosecuting or has jurisdiction
to prosecute the violation of section 2923.42 of the Revised Code
demonstrates that there is probable cause to believe that the
property will be subject to forfeiture under division (B) of this
section if a person with any right, title, or interest in the
property is convicted of or pleads guilty to a violation of
section 2923.42 of the Revised Code or a juvenile with any right,
title, or interest in the property is found by a juvenile court to
be a delinquent child for an act that is a violation of section
2923.42 of the Revised Code and that giving notice or an
opportunity for a hearing to persons with any right, title, or
interest in the property will jeopardize its availability for
forfeiture. The order shall be a temporary order and shall expire~~ 2879
2880
2881
2882
2883
2884
2885
2886
2887
2888
2889
2890
2891
2892
2893
2894

~~not more than ten days after the date on which it is entered, 2895
unless it is extended for good cause shown or unless a person with 2896
any right, title, or interest in the property that is the subject 2897
of the order consents to an extension for a longer period. A 2898
hearing concerning an order issued under division (D)(3) of this 2899
section may be requested, and, if it is requested, the court shall 2900
hold the hearing at the earliest possible time prior to the 2901
expiration of the order. 2902~~

~~(4) At any hearing held under division (D) of this section, 2903
the court may receive and consider evidence and information that 2904
is inadmissible under the Rules of Evidence. Each hearing held 2905
under division (D) of this section shall be recorded by shorthand, 2906
by stenotype, or by any other mechanical, electronic, or video 2907
recording device. If, as a result of a hearing under division (D) 2908
of this section, property would be seized, the recording of and 2909
any transcript of the recording of that hearing shall not be a 2910
public record for purposes of section 149.43 of the Revised Code 2911
until that property has been seized pursuant to division (D) of 2912
this section. Division (D)(4) of this section does not require, 2913
authorize, or permit the making available for inspection, or the 2914
copying, under section 149.43 of the Revised Code of any 2915
confidential law enforcement investigatory record or trial 2916
preparation record, as defined in that section. 2917~~

~~(5) A prosecuting attorney or other law enforcement officer 2918
may request the court of common pleas of the county in which 2919
property subject to forfeiture under this section is located to 2920
issue a warrant authorizing the seizure of that property. The 2921
request shall be made in the same manner as provided for a search 2922
warrant. If the court determines that there is probable cause to 2923
believe that the property to be seized will be subject to 2924
forfeiture under this section when a person with any right, title, 2925
or interest in the property is convicted of or pleads guilty to a 2926~~

~~violation of section 2923.42 of the Revised Code or when a
juvenile with any right, title, or interest in the property is
found by a juvenile court to be a delinquent child for an act that
is a violation of section 2923.42 of the Revised Code and if the
court determines that any order issued under division (D)(1), (2),
or (3) of this section may not be sufficient to ensure the
availability of the property for forfeiture, the court shall issue
a warrant authorizing the seizure of the property.~~

~~(E)(1) Upon the entry of an order of forfeiture under this
section, the court shall order an appropriate law enforcement
officer to seize all of the forfeited property upon the terms and
conditions that the court determines are proper. In addition, upon
the request of the prosecuting attorney who prosecuted the offense
or act in violation of section 2923.42 of the Revised Code, the
court shall enter any appropriate restraining orders or
injunctions, require the execution of satisfactory performance
bonds, appoint receivers, conservators, appraisers, accountants,
or trustees, or take any other action to protect the interest of
the state in the forfeited property. Any income accruing to or
derived from property ordered forfeited under this section may be
used to offset ordinary and necessary expenses related to the
property that are required by law or that are necessary to protect
the interest of the state or third parties.~~

~~After forfeited property is seized, the prosecuting attorney
who prosecuted the offense or act in violation of section 2923.42
of the Revised Code shall direct its disposition in accordance
with section 2923.46 of the Revised Code, making due provision for
the rights of any innocent persons. Any right, title, or interest
in property not exercisable by, or transferable for value to, the
state shall expire and shall not revert to the offender whose
conviction or plea of guilty or act as a delinquent child is the
basis of the order of forfeiture. Neither the adult offender or~~

~~delinquent child nor any person acting in concert with or on
behalf of the adult offender or delinquent child is eligible to
purchase forfeited property at any sale held pursuant to section
2923.46 of the Revised Code.~~

~~Upon the application of any person other than the adult
offender or delinquent child whose right, title, or interest in
the property is the subject of the order of forfeiture or any
person acting in concert with or on behalf of the adult offender
or delinquent child, the court may restrain or stay the sale or
other disposition of the property pursuant to section 2923.46 of
the Revised Code pending the conclusion of any appeal of the
conviction or of the delinquent child adjudication that is the
basis of the order of forfeiture, if the applicant demonstrates
that proceeding with the sale or other disposition of the property
will result in irreparable injury or loss to the applicant.~~

~~(2) With respect to property that is the subject of an order
of forfeiture issued under this section, the court that issued the
order, upon the petition of the prosecuting attorney who
prosecuted the offense or act in violation of section 2923.42 of
the Revised Code, may do any of the following:~~

~~(a) Grant petitions for mitigation or remission of
forfeiture, restore forfeited property to victims of a violation
of section 2923.42 of the Revised Code, or take any other action
to protect the rights of innocent persons that is in the interest
of justice and that is not inconsistent with this section;~~

~~(b) Compromise claims that arise under this section;~~

~~(c) Award compensation to persons who provide information
resulting in a forfeiture under this section;~~

~~(d) Direct the disposition by the prosecuting attorney who
prosecuted the offense or act in violation of section 2923.42 of
the Revised Code, in accordance with section 2923.46 of the~~

Revised Code, of all property ordered forfeited under this 2990
section, making due provision for the rights of innocent persons; 2991

~~(c) Pending the disposition of any property that is the 2992
subject of an order of forfeiture under this section, take any 2993
appropriate measures that are necessary to safeguard and maintain 2994
the property. 2995~~

~~(3) To facilitate the identification and location of property 2996
that is the subject of an order of forfeiture under this section 2997
and to facilitate the disposition of petitions for remission or 2998
mitigation issued under division (E)(2) of this section, after the 2999
issuance of an order of forfeiture under this section and upon 3000
application by the prosecuting attorney who prosecuted the offense 3001
or act in violation of section 2923.42 of the Revised Code, the 3002
court may order that the testimony of any witness relating to the 3003
forfeited property be taken by deposition, and that any designated 3004
book, paper, document, record, recording, or other material that 3005
is not privileged be produced at the same time and place as the 3006
testimony, in the same manner as provided for the taking of 3007
depositions under the Rules of Civil Procedure. 3008~~

~~(F)(1) Except as provided in divisions (F)(2) to (5) of this 3009
section, no person claiming any right, title, or interest in 3010
property subject to forfeiture under this section or section 3011
2923.45 of the Revised Code may intervene in a criminal trial or 3012
appeal, or a delinquent child proceeding or appeal, involving the 3013
forfeiture of the property under this section or in a civil action 3014
for a civil forfeiture under section 2923.45 of the Revised Code 3015
or may commence an action at law or equity against the state 3016
concerning the validity of the person's alleged right, title, or 3017
interest in the property subsequent to the filing of an 3018
indictment, complaint, or information alleging that the property 3019
is subject to forfeiture under this section or subsequent to the 3020
filing of a complaint, indictment, or information alleging that a 3021~~

~~juvenile who has any right, title, or interest in the property is 3022
a delinquent child because of the commission of an act that is a 3023
violation of section 2923.42 of the Revised Code and alleging that 3024
the property is subject to forfeiture under this section. 3025~~

~~(2) After the entry of an order of forfeiture under this 3026
section, the prosecuting attorney who prosecuted the offense or 3027
act in violation of section 2923.42 of the Revised Code shall 3028
conduct or cause to be conducted a search of the appropriate 3029
public records that relate to the property and shall make or cause 3030
to be made reasonably diligent inquiries for the purpose of 3031
identifying persons who have any right, title, or interest in the 3032
property. The prosecuting attorney then shall cause a notice of 3033
the order of forfeiture, of the prosecuting attorney's intent to 3034
dispose of the property in accordance with section 2923.46 of the 3035
Revised Code, and of the manner of the proposed disposal to be 3036
given by certified mail, return receipt requested, or by personal 3037
service to each person who is known, because of the conduct of the 3038
search, the making of the inquiries, or otherwise, to have any 3039
right, title, or interest in the property. Additionally, the 3040
prosecuting attorney shall cause a similar notice to be published 3041
once a week for two consecutive weeks in a newspaper of general 3042
circulation in the county in which the property was seized. 3043~~

~~(3)(a) Any person, other than the adult offender whose 3044
conviction or guilty plea or the delinquent child whose 3045
adjudication is the basis of the order of forfeiture, who asserts 3046
a legal right, title, or interest in the property that is the 3047
subject of the order may petition the court that issued the order, 3048
within thirty days after the earlier of the final publication of 3049
notice or the person's receipt of notice under division (F)(2) of 3050
this section, for a hearing to adjudicate the validity of the 3051
person's alleged right, title, or interest in the property. The 3052
petition shall be signed by the petitioner under the penalties for 3053~~

~~falsification as specified in section 2921.13 of the Revised Code 3054
and shall set forth the nature and extent of the petitioner's 3055
right, title, or interest in the property, the time and 3056
circumstances of the petitioner's acquisition of that right, 3057
title, or interest, any additional facts supporting the 3058
petitioner's claim, and the relief sought. 3059~~

~~(b) In lieu of filing a petition as described in division 3060
(F)(3)(a) of this section, a secured party or other lienholder of 3061
record that asserts a legal right, title, or interest in the 3062
property that is the subject of the order, including, but not 3063
limited to, a mortgage, security interest, or other type of lien, 3064
may file an affidavit as described in division (F)(3)(b) of this 3065
section to establish the validity of the alleged right, title, or 3066
interest in the property. The secured party or lienholder shall 3067
file the affidavit within thirty days after the earlier of the 3068
final publication of notice or the receipt of notice under 3069
division (F)(2) of this section and, except as otherwise provided 3070
in this section, the affidavit shall constitute prima facie 3071
evidence of the validity of the secured party's or other 3072
lienholder's alleged right, title, or interest in the property. 3073
Unless the prosecuting attorney files a motion challenging the 3074
affidavit within ten days after its filing and unless the 3075
prosecuting attorney establishes by a preponderance of the 3076
evidence at a subsequent hearing before the court that issued the 3077
forfeiture order, that the secured party or other lienholder does 3078
not possess the alleged right, title, or interest in the property 3079
or that the secured party or other lienholder had actual knowledge 3080
of facts pertaining to the violation that was the basis of the 3081
forfeiture order, the affidavit shall constitute conclusive 3082
evidence of the validity of the secured party's or other 3083
lienholder's right, title, or interest in the property and shall 3084
have the legal effect described in division (G)(2) of this 3085~~

~~section. To the extent practicable and consistent with the interests of justice, the court shall hold any hearing held pursuant to division (F)(3)(b) of this section within thirty days after the prosecuting attorney files the motion. At any such hearing, the prosecuting attorney and the secured party or other lienholder may present evidence and witnesses and may cross-examine witnesses.~~

~~In order to be valid for the purposes of this division and division (G)(2) of this section, the affidavit of a secured party or other lienholder shall contain averments that the secured party or other lienholder acquired its alleged right, title, or interest in the property in the regular course of its business, for a specified valuable consideration, without actual knowledge of any facts pertaining to the violation that was the basis of the forfeiture order, in good faith and without the intent to prevent or otherwise impede the state from seizing or obtaining a forfeiture of the property under sections 2923.44 to 2923.47 of the Revised Code, and prior to the seizure or forfeiture of the property under those sections.~~

~~(4) Upon receipt of a petition filed under division (F)(3) of this section, the court shall hold a hearing to determine the validity of the petitioner's right, title, or interest in the property that is the subject of the order of forfeiture. To the extent practicable and consistent with the interests of justice, the court shall hold the hearing within thirty days after the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the offender whose conviction or guilty plea or adjudication as a delinquent child is the basis of the order of forfeiture. At the hearing, the petitioner may testify, present evidence and witnesses on the petitioner's behalf, and cross-examine witnesses for the state. The state may present~~

~~evidence and witnesses in rebuttal and in defense of its claim to
the property and cross-examine witnesses for the petitioner. In
addition to evidence and testimony presented at the hearing, the
court shall consider the relevant portions of the record in the
case that resulted in the order of forfeiture.~~

~~(5)(a) The court shall amend its order of forfeiture in
accordance with its determination if it determines at the hearing
that the petitioner has established either of the following by a
preponderance of the evidence:~~

~~(i) The petitioner has a legal right, title, or interest in
the property that renders the order of forfeiture completely or
partially invalid because it was vested in the petitioner, rather
than the adult offender whose conviction or guilty plea or the
delinquent child whose adjudication is the basis of the order, or
was superior to any right, title, or interest of that adult
offender or delinquent child, at the time of the commission of the
violation that is the basis of the order.~~

~~(ii) The petitioner is a bona fide purchaser for value of the
right, title, or interest in the property and was at the time of
the purchase reasonably without cause to believe that it was
subject to forfeiture under this section.~~

~~(b) The court also shall amend its order of forfeiture to
reflect any right, title, or interest of a secured party or other
lienholder of record in the property subject to the order that was
established pursuant to division (F)(3)(b) of this section by
means of an affidavit, or that was established pursuant to that
division by the failure of a prosecuting attorney to establish, in
a hearing as described in that division, that the secured party or
other lienholder did not possess the alleged right, title, or
interest in the property or that the secured party or other
lienholder had actual knowledge of facts pertaining to the~~

~~violation that was the basis of the order.~~ 3149

~~(G)(1) Subject to division (G)(2) of this section, if the court has disposed of all petitions filed under division (F) of this section or if no petitions are filed under that division and the time for filing petitions under that division has expired, the state shall have clear title to all property that is the subject of an order of forfeiture issued under this section and may warrant good title to any subsequent purchaser or other transferee.~~ 3150
3151
3152
3153
3154
3155
3156
3157

~~(2) If an affidavit as described in division (F)(3)(b) of this section is filed in accordance with that division, if the affidavit constitutes under the circumstances described in that division conclusive evidence of the validity of the right, title, or interest of a secured party or other lienholder of record in the property subject to a forfeiture order, and if any mortgage, security interest, or other type of lien possessed by the secured party or other lienholder in connection with the property is not satisfied prior to a sale or other disposition of the property pursuant to section 2923.46 of the Revised Code, then the right, title, or interest of the secured party or other lienholder in the property remains valid for purposes of sections 2923.44 to 2923.47 of the Revised Code and any subsequent purchaser or other transferee of the property pursuant to section 2923.46 of the Revised Code shall take the property subject to the continued validity of the right, title, or interest of the secured party or other lienholder in the property.~~ 3158
3159
3160
3161
3162
3163
3164
3165
3166
3167
3168
3169
3170
3171
3172
3173
3174

Sec. 2925.03. (A) No person shall knowingly do any of the following: 3175
3176

(1) Sell or offer to sell a controlled substance; 3177

(2) Prepare for shipment, ship, transport, deliver, prepare 3178

for distribution, or distribute a controlled substance, when the
offender knows or has reasonable cause to believe that the
controlled substance is intended for sale or resale by the
offender or another person.

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized
to prescribe drugs, pharmacists, owners of pharmacies, and other
persons whose conduct is in accordance with Chapters 3719., 4715.,
4723., 4729., 4731., and 4741. of the Revised Code;

(2) If the offense involves an anabolic steroid, any person
who is conducting or participating in a research project involving
the use of an anabolic steroid if the project has been approved by
the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes,
dispenses, or administers for livestock or other nonhuman species
an anabolic steroid that is expressly intended for administration
through implants to livestock or other nonhuman species and
approved for that purpose under the "Federal Food, Drug, and
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended,
and is sold, offered for sale, prescribed, dispensed, or
administered for that purpose in accordance with that act.

(C) Whoever violates division (A) of this section is guilty
of one of the following:

(1) If the drug involved in the violation is any compound,
mixture, preparation, or substance included in schedule I or
schedule II, with the exception of marihuana, cocaine, L.S.D.,
heroin, and hashish, whoever violates division (A) of this section
is guilty of aggravated trafficking in drugs. The penalty for the
offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(1)(b), (c),

(d), (e), or (f) of this section, aggravated trafficking in drugs 3209
is a felony of the fourth degree, and division (C) of section 3210
2929.13 of the Revised Code applies in determining whether to 3211
impose a prison term on the offender. 3212

(b) Except as otherwise provided in division (C)(1)(c), (d), 3213
(e), or (f) of this section, if the offense was committed in the 3214
vicinity of a school or in the vicinity of a juvenile, aggravated 3215
trafficking in drugs is a felony of the third degree, and division 3216
(C) of section 2929.13 of the Revised Code applies in determining 3217
whether to impose a prison term on the offender. 3218

(c) Except as otherwise provided in this division, if the 3219
amount of the drug involved equals or exceeds the bulk amount but 3220
is less than five times the bulk amount, aggravated trafficking in 3221
drugs is a felony of the third degree, and the court shall impose 3222
as a mandatory prison term one of the prison terms prescribed for 3223
a felony of the third degree. If the amount of the drug involved 3224
is within that range and if the offense was committed in the 3225
vicinity of a school or in the vicinity of a juvenile, aggravated 3226
trafficking in drugs is a felony of the second degree, and the 3227
court shall impose as a mandatory prison term one of the prison 3228
terms prescribed for a felony of the second degree. 3229

(d) Except as otherwise provided in this division, if the 3230
amount of the drug involved equals or exceeds five times the bulk 3231
amount but is less than fifty times the bulk amount, aggravated 3232
trafficking in drugs is a felony of the second degree, and the 3233
court shall impose as a mandatory prison term one of the prison 3234
terms prescribed for a felony of the second degree. If the amount 3235
of the drug involved is within that range and if the offense was 3236
committed in the vicinity of a school or in the vicinity of a 3237
juvenile, aggravated trafficking in drugs is a felony of the first 3238
degree, and the court shall impose as a mandatory prison term one 3239
of the prison terms prescribed for a felony of the first degree. 3240

(e) If the amount of the drug involved equals or exceeds 3241
fifty times the bulk amount but is less than one hundred times the 3242
bulk amount and regardless of whether the offense was committed in 3243
the vicinity of a school or in the vicinity of a juvenile, 3244
aggravated trafficking in drugs is a felony of the first degree, 3245
and the court shall impose as a mandatory prison term one of the 3246
prison terms prescribed for a felony of the first degree. 3247

(f) If the amount of the drug involved equals or exceeds one 3248
hundred times the bulk amount and regardless of whether the 3249
offense was committed in the vicinity of a school or in the 3250
vicinity of a juvenile, aggravated trafficking in drugs is a 3251
felony of the first degree, the offender is a major drug offender, 3252
and the court shall impose as a mandatory prison term the maximum 3253
prison term prescribed for a felony of the first degree and may 3254
impose an additional prison term prescribed for a major drug 3255
offender under division (D)(3)(b) of section 2929.14 of the 3256
Revised Code. 3257

(2) If the drug involved in the violation is any compound, 3258
mixture, preparation, or substance included in schedule III, IV, 3259
or V, whoever violates division (A) of this section is guilty of 3260
trafficking in drugs. The penalty for the offense shall be 3261
determined as follows: 3262

(a) Except as otherwise provided in division (C)(2)(b), (c), 3263
(d), or (e) of this section, trafficking in drugs is a felony of 3264
the fifth degree, and division (C) of section 2929.13 of the 3265
Revised Code applies in determining whether to impose a prison 3266
term on the offender. 3267

(b) Except as otherwise provided in division (C)(2)(c), (d), 3268
or (e) of this section, if the offense was committed in the 3269
vicinity of a school or in the vicinity of a juvenile, trafficking 3270
in drugs is a felony of the fourth degree, and division (C) of 3271

section 2929.13 of the Revised Code applies in determining whether 3272
to impose a prison term on the offender. 3273

(c) Except as otherwise provided in this division, if the 3274
amount of the drug involved equals or exceeds the bulk amount but 3275
is less than five times the bulk amount, trafficking in drugs is a 3276
felony of the fourth degree, and there is a presumption for a 3277
prison term for the offense. If the amount of the drug involved is 3278
within that range and if the offense was committed in the vicinity 3279
of a school or in the vicinity of a juvenile, trafficking in drugs 3280
is a felony of the third degree, and there is a presumption for a 3281
prison term for the offense. 3282

(d) Except as otherwise provided in this division, if the 3283
amount of the drug involved equals or exceeds five times the bulk 3284
amount but is less than fifty times the bulk amount, trafficking 3285
in drugs is a felony of the third degree, and there is a 3286
presumption for a prison term for the offense. If the amount of 3287
the drug involved is within that range and if the offense was 3288
committed in the vicinity of a school or in the vicinity of a 3289
juvenile, trafficking in drugs is a felony of the second degree, 3290
and there is a presumption for a prison term for the offense. 3291

(e) Except as otherwise provided in this division, if the 3292
amount of the drug involved equals or exceeds fifty times the bulk 3293
amount, trafficking in drugs is a felony of the second degree, and 3294
the court shall impose as a mandatory prison term one of the 3295
prison terms prescribed for a felony of the second degree. If the 3296
amount of the drug involved equals or exceeds fifty times the bulk 3297
amount and if the offense was committed in the vicinity of a 3298
school or in the vicinity of a juvenile, trafficking in drugs is a 3299
felony of the first degree, and the court shall impose as a 3300
mandatory prison term one of the prison terms prescribed for a 3301
felony of the first degree. 3302

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), or (g) of this section, trafficking in marihuana is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, trafficking in marihuana is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13

of the Revised Code applies in determining whether to impose a
prison term on the offender. If the amount of the drug involved is
within that range and if the offense was committed in the vicinity
of a school or in the vicinity of a juvenile, trafficking in
marihuana is a felony of the second degree, and there is a
presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds five thousand grams
but is less than twenty thousand grams, trafficking in marihuana
is a felony of the third degree, and there is a presumption that a
prison term shall be imposed for the offense. If the amount of the
drug involved is within that range and if the offense was
committed in the vicinity of a school or in the vicinity of a
juvenile, trafficking in marihuana is a felony of the second
degree, and there is a presumption that a prison term shall be
imposed for the offense.

(f) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds twenty thousand
grams, trafficking in marihuana is a felony of the second degree,
and the court shall impose as a mandatory prison term the maximum
prison term prescribed for a felony of the second degree. If the
amount of the drug involved equals or exceeds twenty thousand
grams and if the offense was committed in the vicinity of a school
or in the vicinity of a juvenile, trafficking in marihuana is a
felony of the first degree, and the court shall impose as a
mandatory prison term the maximum prison term prescribed for a
felony of the first degree.

(g) Except as otherwise provided in this division, if the
offense involves a gift of twenty grams or less of marihuana,
trafficking in marihuana is a minor misdemeanor upon a first
offense and a misdemeanor of the third degree upon a subsequent
offense. If the offense involves a gift of twenty grams or less of

marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), (f), or (g) of this section, trafficking in cocaine is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(4)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five grams but is less than ten grams of cocaine that is not crack cocaine or equals or exceeds one gram but is less than five grams of crack cocaine, trafficking in cocaine is a felony of the fourth degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within one of those ranges and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the

amount of the drug involved equals or exceeds ten grams but is 3397
less than one hundred grams of cocaine that is not crack cocaine 3398
or equals or exceeds five grams but is less than ten grams of 3399
crack cocaine, trafficking in cocaine is a felony of the third 3400
degree, and the court shall impose as a mandatory prison term one 3401
of the prison terms prescribed for a felony of the third degree. 3402
If the amount of the drug involved is within one of those ranges 3403
and if the offense was committed in the vicinity of a school or in 3404
the vicinity of a juvenile, trafficking in cocaine is a felony of 3405
the second degree, and the court shall impose as a mandatory 3406
prison term one of the prison terms prescribed for a felony of the 3407
second degree. 3408

(e) Except as otherwise provided in this division, if the 3409
amount of the drug involved equals or exceeds one hundred grams 3410
but is less than five hundred grams of cocaine that is not crack 3411
cocaine or equals or exceeds ten grams but is less than 3412
twenty-five grams of crack cocaine, trafficking in cocaine is a 3413
felony of the second degree, and the court shall impose as a 3414
mandatory prison term one of the prison terms prescribed for a 3415
felony of the second degree. If the amount of the drug involved is 3416
within one of those ranges and if the offense was committed in the 3417
vicinity of a school or in the vicinity of a juvenile, trafficking 3418
in cocaine is a felony of the first degree, and the court shall 3419
impose as a mandatory prison term one of the prison terms 3420
prescribed for a felony of the first degree. 3421

(f) If the amount of the drug involved equals or exceeds five 3422
hundred grams but is less than one thousand grams of cocaine that 3423
is not crack cocaine or equals or exceeds twenty-five grams but is 3424
less than one hundred grams of crack cocaine and regardless of 3425
whether the offense was committed in the vicinity of a school or 3426
in the vicinity of a juvenile, trafficking in cocaine is a felony 3427
of the first degree, and the court shall impose as a mandatory 3428

prison term one of the prison terms prescribed for a felony of the
first degree. 3429
3430

(g) If the amount of the drug involved equals or exceeds one 3431
thousand grams of cocaine that is not crack cocaine or equals or 3432
exceeds one hundred grams of crack cocaine and regardless of 3433
whether the offense was committed in the vicinity of a school or 3434
in the vicinity of a juvenile, trafficking in cocaine is a felony 3435
of the first degree, the offender is a major drug offender, and 3436
the court shall impose as a mandatory prison term the maximum 3437
prison term prescribed for a felony of the first degree and may 3438
impose an additional mandatory prison term prescribed for a major 3439
drug offender under division (D)(3)(b) of section 2929.14 of the 3440
Revised Code. 3441

(5) If the drug involved in the violation is L.S.D. or a 3442
compound, mixture, preparation, or substance containing L.S.D., 3443
whoever violates division (A) of this section is guilty of 3444
trafficking in L.S.D. The penalty for the offense shall be 3445
determined as follows: 3446

(a) Except as otherwise provided in division (C)(5)(b), (c), 3447
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 3448
felony of the fifth degree, and division (C) of section 2929.13 of 3449
the Revised Code applies in determining whether to impose a prison 3450
term on the offender. 3451

(b) Except as otherwise provided in division (C)(5)(c), (d), 3452
(e), (f), or (g) of this section, if the offense was committed in 3453
the vicinity of a school or in the vicinity of a juvenile, 3454
trafficking in L.S.D. is a felony of the fourth degree, and 3455
division (C) of section 2929.13 of the Revised Code applies in 3456
determining whether to impose a prison term on the offender. 3457

(c) Except as otherwise provided in this division, if the 3458
amount of the drug involved equals or exceeds ten unit doses but 3459

is less than fifty unit doses of L.S.D. in a solid form or equals 3460
or exceeds one gram but is less than five grams of L.S.D. in a 3461
liquid concentrate, liquid extract, or liquid distillate form, 3462
trafficking in L.S.D. is a felony of the fourth degree, and there 3463
is a presumption for a prison term for the offense. If the amount 3464
of the drug involved is within that range and if the offense was 3465
committed in the vicinity of a school or in the vicinity of a 3466
juvenile, trafficking in L.S.D. is a felony of the third degree, 3467
and there is a presumption for a prison term for the offense. 3468

(d) Except as otherwise provided in this division, if the 3469
amount of the drug involved equals or exceeds fifty unit doses but 3470
is less than two hundred fifty unit doses of L.S.D. in a solid 3471
form or equals or exceeds five grams but is less than twenty-five 3472
grams of L.S.D. in a liquid concentrate, liquid extract, or liquid 3473
distillate form, trafficking in L.S.D. is a felony of the third 3474
degree, and the court shall impose as a mandatory prison term one 3475
of the prison terms prescribed for a felony of the third degree. 3476
If the amount of the drug involved is within that range and if the 3477
offense was committed in the vicinity of a school or in the 3478
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 3479
second degree, and the court shall impose as a mandatory prison 3480
term one of the prison terms prescribed for a felony of the second 3481
degree. 3482

(e) Except as otherwise provided in this division, if the 3483
amount of the drug involved equals or exceeds two hundred fifty 3484
unit doses but is less than one thousand unit doses of L.S.D. in a 3485
solid form or equals or exceeds twenty-five grams but is less than 3486
one hundred grams of L.S.D. in a liquid concentrate, liquid 3487
extract, or liquid distillate form, trafficking in L.S.D. is a 3488
felony of the second degree, and the court shall impose as a 3489
mandatory prison term one of the prison terms prescribed for a 3490
felony of the second degree. If the amount of the drug involved is 3491

within that range and if the offense was committed in the vicinity 3492
of a school or in the vicinity of a juvenile, trafficking in 3493
L.S.D. is a felony of the first degree, and the court shall impose 3494
as a mandatory prison term one of the prison terms prescribed for 3495
a felony of the first degree. 3496

(f) If the amount of the drug involved equals or exceeds one 3497
thousand unit doses but is less than five thousand unit doses of 3498
L.S.D. in a solid form or equals or exceeds one hundred grams but 3499
is less than five hundred grams of L.S.D. in a liquid concentrate, 3500
liquid extract, or liquid distillate form and regardless of 3501
whether the offense was committed in the vicinity of a school or 3502
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 3503
of the first degree, and the court shall impose as a mandatory 3504
prison term one of the prison terms prescribed for a felony of the 3505
first degree. 3506

(g) If the amount of the drug involved equals or exceeds five 3507
thousand unit doses of L.S.D. in a solid form or equals or exceeds 3508
five hundred grams of L.S.D. in a liquid concentrate, liquid 3509
extract, or liquid distillate form and regardless of whether the 3510
offense was committed in the vicinity of a school or in the 3511
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 3512
first degree, the offender is a major drug offender, and the court 3513
shall impose as a mandatory prison term the maximum prison term 3514
prescribed for a felony of the first degree and may impose an 3515
additional mandatory prison term prescribed for a major drug 3516
offender under division (D)(3)(b) of section 2929.14 of the 3517
Revised Code. 3518

(6) If the drug involved in the violation is heroin or a 3519
compound, mixture, preparation, or substance containing heroin, 3520
whoever violates division (A) of this section is guilty of 3521
trafficking in heroin. The penalty for the offense shall be 3522
determined as follows: 3523

(a) Except as otherwise provided in division (C)(6)(b), (c), 3524
(d), (e), (f), or (g) of this section, trafficking in heroin is a 3525
felony of the fifth degree, and division (C) of section 2929.13 of 3526
the Revised Code applies in determining whether to impose a prison 3527
term on the offender. 3528

(b) Except as otherwise provided in division (C)(6)(c), (d), 3529
(e), (f), or (g) of this section, if the offense was committed in 3530
the vicinity of a school or in the vicinity of a juvenile, 3531
trafficking in heroin is a felony of the fourth degree, and 3532
division (C) of section 2929.13 of the Revised Code applies in 3533
determining whether to impose a prison term on the offender. 3534

(c) Except as otherwise provided in this division, if the 3535
amount of the drug involved equals or exceeds ten unit doses but 3536
is less than fifty unit doses or equals or exceeds one gram but is 3537
less than five grams, trafficking in heroin is a felony of the 3538
fourth degree, and there is a presumption for a prison term for 3539
the offense. If the amount of the drug involved is within that 3540
range and if the offense was committed in the vicinity of a school 3541
or in the vicinity of a juvenile, trafficking in heroin is a 3542
felony of the third degree, and there is a presumption for a 3543
prison term for the offense. 3544

(d) Except as otherwise provided in this division, if the 3545
amount of the drug involved equals or exceeds fifty unit doses but 3546
is less than one hundred unit doses or equals or exceeds five 3547
grams but is less than ten grams, trafficking in heroin is a 3548
felony of the third degree, and there is a presumption for a 3549
prison term for the offense. If the amount of the drug involved is 3550
within that range and if the offense was committed in the vicinity 3551
of a school or in the vicinity of a juvenile, trafficking in 3552
heroin is a felony of the second degree, and there is a 3553
presumption for a prison term for the offense. 3554

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than five hundred unit doses or equals or exceeds ten grams but is less than fifty grams, trafficking in heroin is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than two thousand five hundred unit doses or equals or exceeds fifty grams but is less than two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds two thousand five hundred unit doses or equals or exceeds two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish,

whoever violates division (A) of this section is guilty of 3587
trafficking in hashish. The penalty for the offense shall be 3588
determined as follows: 3589

(a) Except as otherwise provided in division (C)(7)(b), (c), 3590
(d), (e), or (f) of this section, trafficking in hashish is a 3591
felony of the fifth degree, and division (C) of section 2929.13 of 3592
the Revised Code applies in determining whether to impose a prison 3593
term on the offender. 3594

(b) Except as otherwise provided in division (C)(7)(c), (d), 3595
(e), or (f) of this section, if the offense was committed in the 3596
vicinity of a school or in the vicinity of a juvenile, trafficking 3597
in hashish is a felony of the fourth degree, and division (C) of 3598
section 2929.13 of the Revised Code applies in determining whether 3599
to impose a prison term on the offender. 3600

(c) Except as otherwise provided in this division, if the 3601
amount of the drug involved equals or exceeds ten grams but is 3602
less than fifty grams of hashish in a solid form or equals or 3603
exceeds two grams but is less than ten grams of hashish in a 3604
liquid concentrate, liquid extract, or liquid distillate form, 3605
trafficking in hashish is a felony of the fourth degree, and 3606
division (C) of section 2929.13 of the Revised Code applies in 3607
determining whether to impose a prison term on the offender. If 3608
the amount of the drug involved is within that range and if the 3609
offense was committed in the vicinity of a school or in the 3610
vicinity of a juvenile, trafficking in hashish is a felony of the 3611
third degree, and division (C) of section 2929.13 of the Revised 3612
Code applies in determining whether to impose a prison term on the 3613
offender. 3614

(d) Except as otherwise provided in this division, if the 3615
amount of the drug involved equals or exceeds fifty grams but is 3616
less than two hundred fifty grams of hashish in a solid form or 3617

equals or exceeds ten grams but is less than fifty grams of 3618
hashish in a liquid concentrate, liquid extract, or liquid 3619
distillate form, trafficking in hashish is a felony of the third 3620
degree, and division (C) of section 2929.13 of the Revised Code 3621
applies in determining whether to impose a prison term on the 3622
offender. If the amount of the drug involved is within that range 3623
and if the offense was committed in the vicinity of a school or in 3624
the vicinity of a juvenile, trafficking in hashish is a felony of 3625
the second degree, and there is a presumption that a prison term 3626
shall be imposed for the offense. 3627

(e) Except as otherwise provided in this division, if the 3628
amount of the drug involved equals or exceeds two hundred fifty 3629
grams but is less than one thousand grams of hashish in a solid 3630
form or equals or exceeds fifty grams but is less than two hundred 3631
grams of hashish in a liquid concentrate, liquid extract, or 3632
liquid distillate form, trafficking in hashish is a felony of the 3633
third degree, and there is a presumption that a prison term shall 3634
be imposed for the offense. If the amount of the drug involved is 3635
within that range and if the offense was committed in the vicinity 3636
of a school or in the vicinity of a juvenile, trafficking in 3637
hashish is a felony of the second degree, and there is a 3638
presumption that a prison term shall be imposed for the offense. 3639

(f) Except as otherwise provided in this division, if the 3640
amount of the drug involved equals or exceeds one thousand grams 3641
of hashish in a solid form or equals or exceeds two hundred grams 3642
of hashish in a liquid concentrate, liquid extract, or liquid 3643
distillate form, trafficking in hashish is a felony of the second 3644
degree, and the court shall impose as a mandatory prison term the 3645
maximum prison term prescribed for a felony of the second degree. 3646
If the amount of the drug involved is within that range and if the 3647
offense was committed in the vicinity of a school or in the 3648
vicinity of a juvenile, trafficking in hashish is a felony of the 3649

first degree, and the court shall impose as a mandatory prison 3650
term the maximum prison term prescribed for a felony of the first 3651
degree. 3652

(D) In addition to any prison term authorized or required by 3653
division (C) of this section and sections 2929.13 and 2929.14 of 3654
the Revised Code, and in addition to any other sanction imposed 3655
for the offense under this section or sections 2929.11 to 2929.18 3656
of the Revised Code, the court that sentences an offender who is 3657
convicted of or pleads guilty to a violation of division (A) of 3658
this section shall do all of the following that are applicable 3659
regarding the offender: 3660

(1) If the violation of division (A) of this section is a 3661
felony of the first, second, or third degree, the court shall 3662
impose upon the offender the mandatory fine specified for the 3663
offense under division (B)(1) of section 2929.18 of the Revised 3664
Code unless, as specified in that division, the court determines 3665
that the offender is indigent. Except as otherwise provided in 3666
division (H)(1) of this section, a mandatory fine or any other 3667
fine imposed for a violation of this section is subject to 3668
division (F) of this section. If a person is charged with a 3669
violation of this section that is a felony of the first, second, 3670
or third degree, posts bail, and forfeits the bail, the clerk of 3671
the court shall pay the forfeited bail pursuant to divisions 3672
(D)(1) and (F) of this section, as if the forfeited bail was a 3673
fine imposed for a violation of this section. If any amount of the 3674
forfeited bail remains after that payment and if a fine is imposed 3675
under division (H)(1) of this section, the clerk of the court 3676
shall pay the remaining amount of the forfeited bail pursuant to 3677
divisions (H)(2) and (3) of this section, as if that remaining 3678
amount was a fine imposed under division (H)(1) of this section. 3679

(2) The court shall suspend the driver's or commercial 3680
driver's license or permit of the offender in accordance with 3681

division (G) of this section. 3682

(3) If the offender is a professionally licensed person, the 3683
court immediately shall comply with section 2925.38 of the Revised 3684
Code. 3685

(E) When a person is charged with the sale of or offer to 3686
sell a bulk amount or a multiple of a bulk amount of a controlled 3687
substance, the jury, or the court trying the accused, shall 3688
determine the amount of the controlled substance involved at the 3689
time of the offense and, if a guilty verdict is returned, shall 3690
return the findings as part of the verdict. In any such case, it 3691
is unnecessary to find and return the exact amount of the 3692
controlled substance involved, and it is sufficient if the finding 3693
and return is to the effect that the amount of the controlled 3694
substance involved is the requisite amount, or that the amount of 3695
the controlled substance involved is less than the requisite 3696
amount. 3697

(F)(1) Notwithstanding any contrary provision of section 3698
3719.21 of the Revised Code and except as provided in division (H) 3699
of this section, the clerk of the court shall pay any mandatory 3700
fine imposed pursuant to division (D)(1) of this section and any 3701
fine other than a mandatory fine that is imposed for a violation 3702
of this section pursuant to division (A) or (B)(5) of section 3703
2929.18 of the Revised Code to the county, township, municipal 3704
corporation, park district, as created pursuant to section 511.18 3705
or 1545.04 of the Revised Code, or state law enforcement agencies 3706
in this state that primarily were responsible for or involved in 3707
making the arrest of, and in prosecuting, the offender. However, 3708
the clerk shall not pay a mandatory fine so imposed to a law 3709
enforcement agency unless the agency has adopted a written 3710
internal control policy under division (F)(2) of this section that 3711
addresses the use of the fine moneys that it receives. Each agency 3712
shall use the mandatory fines so paid to subsidize the agency's 3713

law enforcement efforts that pertain to drug offenses, in 3714
accordance with the written internal control policy adopted by the 3715
recipient agency under division (F)(2) of this section. 3716

(2)(a) Prior to receiving any fine moneys under division 3717
(F)(1) of this section or division (B)~~(5)~~ of section 2925.42 of 3718
the Revised Code, a law enforcement agency shall adopt a written 3719
internal control policy that addresses the agency's use and 3720
disposition of all fine moneys so received and that provides for 3721
the keeping of detailed financial records of the receipts of those 3722
fine moneys, the general types of expenditures made out of those 3723
fine moneys, and the specific amount of each general type of 3724
expenditure. The policy shall not provide for or permit the 3725
identification of any specific expenditure that is made in an 3726
ongoing investigation. All financial records of the receipts of 3727
those fine moneys, the general types of expenditures made out of 3728
those fine moneys, and the specific amount of each general type of 3729
expenditure by an agency are public records open for inspection 3730
under section 149.43 of the Revised Code. Additionally, a written 3731
internal control policy adopted under this division is such a 3732
public record, and the agency that adopted it shall comply with 3733
it. 3734

(b) Each law enforcement agency that receives in any calendar 3735
year any fine moneys under division (F)(1) of this section or 3736
division (B)~~(5)~~ of section 2925.42 of the Revised Code shall 3737
prepare a report covering the calendar year that cumulates all of 3738
the information contained in all of the public financial records 3739
kept by the agency pursuant to division (F)(2)(a) of this section 3740
for that calendar year, and shall send a copy of the cumulative 3741
report, no later than the first day of March in the calendar year 3742
following the calendar year covered by the report, to the attorney 3743
general. Each report received by the attorney general is a public 3744
record open for inspection under section 149.43 of the Revised 3745

Code. Not later than the fifteenth day of April in the calendar 3746
year in which the reports are received, the attorney general shall 3747
send to the president of the senate and the speaker of the house 3748
of representatives a written notification that does all of the 3749
following: 3750

(i) Indicates that the attorney general has received from law 3751
enforcement agencies reports of the type described in this 3752
division that cover the previous calendar year and indicates that 3753
the reports were received under this division; 3754

(ii) Indicates that the reports are open for inspection under 3755
section 149.43 of the Revised Code; 3756

(iii) Indicates that the attorney general will provide a copy 3757
of any or all of the reports to the president of the senate or the 3758
speaker of the house of representatives upon request. 3759

(3) As used in division (F) of this section: 3760

(a) "Law enforcement agencies" includes, but is not limited 3761
to, the state board of pharmacy and the office of a prosecutor. 3762

(b) "Prosecutor" has the same meaning as in section 2935.01 3763
of the Revised Code. 3764

(G) When required under division (D)(2) of this section or 3765
any other provision of this chapter, the court shall suspend for 3766
not less than six months or more than five years the driver's or 3767
commercial driver's license or permit of any person who is 3768
convicted of or pleads guilty to any violation of this section or 3769
any other specified provision of this chapter. If an offender's 3770
driver's or commercial driver's license or permit is suspended 3771
pursuant to this division, the offender, at any time after the 3772
expiration of two years from the day on which the offender's 3773
sentence was imposed or from the day on which the offender finally 3774
was released from a prison term under the sentence, whichever is 3775
later, may file a motion with the sentencing court requesting 3776

termination of the suspension; upon the filing of such a motion 3777
and the court's finding of good cause for the termination, the 3778
court may terminate the suspension. 3779

(H)(1) In addition to any prison term authorized or required 3780
by division (C) of this section and sections 2929.13 and 2929.14 3781
of the Revised Code, in addition to any other penalty or sanction 3782
imposed for the offense under this section or sections 2929.11 to 3783
2929.18 of the Revised Code, and in addition to the forfeiture of 3784
property in connection with the offense as prescribed in ~~sections~~ 3785
~~2925.42 to 2925.45~~ Chapter 2981. of the Revised Code, the court 3786
that sentences an offender who is convicted of or pleads guilty to 3787
a violation of division (A) of this section may impose upon the 3788
offender an additional fine specified for the offense in division 3789
(B)(4) of section 2929.18 of the Revised Code. A fine imposed 3790
under division (H)(1) of this section is not subject to division 3791
(F) of this section and shall be used solely for the support of 3792
one or more eligible alcohol and drug addiction programs in 3793
accordance with divisions (H)(2) and (3) of this section. 3794

(2) The court that imposes a fine under division (H)(1) of 3795
this section shall specify in the judgment that imposes the fine 3796
one or more eligible alcohol and drug addiction programs for the 3797
support of which the fine money is to be used. No alcohol and drug 3798
addiction program shall receive or use money paid or collected in 3799
satisfaction of a fine imposed under division (H)(1) of this 3800
section unless the program is specified in the judgment that 3801
imposes the fine. No alcohol and drug addiction program shall be 3802
specified in the judgment unless the program is an eligible 3803
alcohol and drug addiction program and, except as otherwise 3804
provided in division (H)(2) of this section, unless the program is 3805
located in the county in which the court that imposes the fine is 3806
located or in a county that is immediately contiguous to the 3807
county in which that court is located. If no eligible alcohol and 3808

drug addiction program is located in any of those counties, the 3809
judgment may specify an eligible alcohol and drug addiction 3810
program that is located anywhere within this state. 3811

(3) Notwithstanding any contrary provision of section 3719.21 3812
of the Revised Code, the clerk of the court shall pay any fine 3813
imposed under division (H)(1) of this section to the eligible 3814
alcohol and drug addiction program specified pursuant to division 3815
(H)(2) of this section in the judgment. The eligible alcohol and 3816
drug addiction program that receives the fine moneys shall use the 3817
moneys only for the alcohol and drug addiction services identified 3818
in the application for certification under section 3793.06 of the 3819
Revised Code or in the application for a license under section 3820
3793.11 of the Revised Code filed with the department of alcohol 3821
and drug addiction services by the alcohol and drug addiction 3822
program specified in the judgment. 3823

(4) Each alcohol and drug addiction program that receives in 3824
a calendar year any fine moneys under division (H)(3) of this 3825
section shall file an annual report covering that calendar year 3826
with the court of common pleas and the board of county 3827
commissioners of the county in which the program is located, with 3828
the court of common pleas and the board of county commissioners of 3829
each county from which the program received the moneys if that 3830
county is different from the county in which the program is 3831
located, and with the attorney general. The alcohol and drug 3832
addiction program shall file the report no later than the first 3833
day of March in the calendar year following the calendar year in 3834
which the program received the fine moneys. The report shall 3835
include statistics on the number of persons served by the alcohol 3836
and drug addiction program, identify the types of alcohol and drug 3837
addiction services provided to those persons, and include a 3838
specific accounting of the purposes for which the fine moneys 3839
received were used. No information contained in the report shall 3840

identify, or enable a person to determine the identity of, any
person served by the alcohol and drug addiction program. Each
report received by a court of common pleas, a board of county
commissioners, or the attorney general is a public record open for
inspection under section 149.43 of the Revised Code.

(5) As used in divisions (H)(1) to (5) of this section:

(a) "Alcohol and drug addiction program" and "alcohol and
drug addiction services" have the same meanings as in section
3793.01 of the Revised Code.

(b) "Eligible alcohol and drug addiction program" means an
alcohol and drug addiction program that is certified under section
3793.06 of the Revised Code or licensed under section 3793.11 of
the Revised Code by the department of alcohol and drug addiction
services.

Sec. 2925.14. (A) As used in this section, "drug
paraphernalia" means any equipment, product, or material of any
kind that is used by the offender, intended by the offender for
use, or designed for use, in propagating, cultivating, growing,
harvesting, manufacturing, compounding, converting, producing,
processing, preparing, testing, analyzing, packaging, repackaging,
storing, containing, concealing, injecting, ingesting, inhaling,
or otherwise introducing into the human body, a controlled
substance in violation of this chapter. "Drug paraphernalia"
includes, but is not limited to, any of the following equipment,
products, or materials that are used by the offender, intended by
the offender for use, or designed by the offender for use, in any
of the following manners:

(1) A kit for propagating, cultivating, growing, or
harvesting any species of a plant that is a controlled substance
or from which a controlled substance can be derived;

(2) A kit for manufacturing, compounding, converting,	3871
producing, processing, or preparing a controlled substance;	3872
(3) Any object, instrument, or device for manufacturing,	3873
compounding, converting, producing, processing, or preparing	3874
methamphetamine or any salt, isomer, or salt of an isomer of	3875
methamphetamine;	3876
(4) An isomerization device for increasing the potency of any	3877
species of a plant that is a controlled substance;	3878
(5) Testing equipment for identifying, or analyzing the	3879
strength, effectiveness, or purity of, a controlled substance;	3880
(6) A scale or balance for weighing or measuring a controlled	3881
substance;	3882
(7) A diluent or adulterant, such as quinine hydrochloride,	3883
mannitol, mannite, dextrose, or lactose, for cutting a controlled	3884
substance;	3885
(8) A separation gin or sifter for removing twigs and seeds	3886
from, or otherwise cleaning or refining, marihuana;	3887
(9) A blender, bowl, container, spoon, or mixing device for	3888
compounding a controlled substance;	3889
(10) A capsule, balloon, envelope, or container for packaging	3890
small quantities of a controlled substance;	3891
(11) A container or device for storing or concealing a	3892
controlled substance;	3893
(12) A hypodermic syringe, needle, or instrument for	3894
parenterally injecting a controlled substance into the human body;	3895
(13) An object, instrument, or device for ingesting,	3896
inhaling, or otherwise introducing into the human body, marihuana,	3897
cocaine, hashish, or hashish oil, such as a metal, wooden,	3898
acrylic, glass, stone, plastic, or ceramic pipe, with or without a	3899

screen, permanent screen, hashish head, or punctured metal bowl; 3900
water pipe; carburetion tube or device; smoking or carburetion 3901
mask; roach clip or similar object used to hold burning material, 3902
such as a marihuana cigarette, that has become too small or too 3903
short to be held in the hand; miniature cocaine spoon, or cocaine 3904
vial; chamber pipe; carburetor pipe; electric pipe; air driver 3905
pipe; chillum; bong; or ice pipe or chiller. 3906

(B) In determining if any equipment, product, or material is 3907
drug paraphernalia, a court or law enforcement officer shall 3908
consider, in addition to other relevant factors, the following: 3909

(1) Any statement by the owner, or by anyone in control, of 3910
the equipment, product, or material, concerning its use; 3911

(2) The proximity in time or space of the equipment, product, 3912
or material, or of the act relating to the equipment, product, or 3913
material, to a violation of any provision of this chapter; 3914

(3) The proximity of the equipment, product, or material to 3915
any controlled substance; 3916

(4) The existence of any residue of a controlled substance on 3917
the equipment, product, or material; 3918

(5) Direct or circumstantial evidence of the intent of the 3919
owner, or of anyone in control, of the equipment, product, or 3920
material, to deliver it to any person whom the owner or person in 3921
control of the equipment, product, or material knows intends to 3922
use the object to facilitate a violation of any provision of this 3923
chapter. A finding that the owner, or anyone in control, of the 3924
equipment, product, or material, is not guilty of a violation of 3925
any other provision of this chapter does not prevent a finding 3926
that the equipment, product, or material was intended or designed 3927
by the offender for use as drug paraphernalia. 3928

(6) Any oral or written instruction provided with the 3929

equipment, product, or material concerning its use;	3930
(7) Any descriptive material accompanying the equipment,	3931
product, or material and explaining or depicting its use;	3932
(8) National or local advertising concerning the use of the	3933
equipment, product, or material;	3934
(9) The manner and circumstances in which the equipment,	3935
product, or material is displayed for sale;	3936
(10) Direct or circumstantial evidence of the ratio of the	3937
sales of the equipment, product, or material to the total sales of	3938
the business enterprise;	3939
(11) The existence and scope of legitimate uses of the	3940
equipment, product, or material in the community;	3941
(12) Expert testimony concerning the use of the equipment,	3942
product, or material.	3943
(C)(1) No person shall knowingly use, or possess with purpose	3944
to use, drug paraphernalia.	3945
(2) No person shall knowingly sell, or possess or manufacture	3946
with purpose to sell, drug paraphernalia, if the person knows or	3947
reasonably should know that the equipment, product, or material	3948
will be used as drug paraphernalia.	3949
(3) No person shall place an advertisement in any newspaper,	3950
magazine, handbill, or other publication that is published and	3951
printed and circulates primarily within this state, if the person	3952
knows that the purpose of the advertisement is to promote the	3953
illegal sale in this state of the equipment, product, or material	3954
that the offender intended or designed for use as drug	3955
paraphernalia.	3956
(D) This section does not apply to manufacturers, licensed	3957
health professionals authorized to prescribe drugs, pharmacists,	3958
owners of pharmacies, and other persons whose conduct is in	3959

accordance with Chapters 3719., 4715., 4723., 4729., 4731., and 3960
4741. of the Revised Code. This section shall not be construed to 3961
prohibit the possession or use of a hypodermic as authorized by 3962
section 3719.172 of the Revised Code. 3963

(E) Notwithstanding ~~sections 2933.42 and 2933.43~~ Chapter 3964
2981. of the Revised Code, any drug paraphernalia that was used, 3965
possessed, sold, or manufactured in a violation of this section 3966
shall be seized, after a conviction for that violation shall be 3967
forfeited, and upon forfeiture shall be disposed of pursuant to 3968
division ~~(D)(8)(B)~~ of section ~~2933.41~~ 2981.12 of the Revised Code. 3969

(F)(1) Whoever violates division (C)(1) of this section is 3970
guilty of illegal use or possession of drug paraphernalia, a 3971
misdemeanor of the fourth degree. 3972

(2) Except as provided in division (F)(3) of this section, 3973
whoever violates division (C)(2) of this section is guilty of 3974
dealing in drug paraphernalia, a misdemeanor of the second degree. 3975

(3) Whoever violates division (C)(2) of this section by 3976
selling drug paraphernalia to a juvenile is guilty of selling drug 3977
paraphernalia to juveniles, a misdemeanor of the first degree. 3978

(4) Whoever violates division (C)(3) of this section is 3979
guilty of illegal advertising of drug paraphernalia, a misdemeanor 3980
of the second degree. 3981

(G) In addition to any other sanction imposed upon an 3982
offender for a violation of this section, the court shall suspend 3983
for not less than six months or more than five years the 3984
offender's driver's or commercial driver's license or permit. If 3985
the offender is a professionally licensed person, in addition to 3986
any other sanction imposed for a violation of this section, the 3987
court immediately shall comply with section 2925.38 of the Revised 3988
Code. 3989

~~Sec. 2925.42. (A)(1) In accordance with division (B) of this section, a person who is convicted of or pleads guilty to a felony drug abuse offense, and any juvenile who is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense, loses any right to the possession of property and forfeits to the state any right, title, and interest the person may have in that property if either of the following applies:~~

~~(a) The property constitutes, or is derived directly or indirectly from, any proceeds that the person obtained directly or indirectly from the commission of the felony drug abuse offense or act.~~

~~(b) The property was used or intended to be used in any manner to commit, or to facilitate the commission of, the felony drug abuse offense or act.~~

~~(2) All right, title, and interest of a person in property described in division (A)(1) of this section vests in the state upon the person's commission of the felony drug abuse offense of which the person is convicted or to which the person pleads guilty and that is the basis of the forfeiture, or upon the juvenile's commission of the act that, if committed by an adult, would be a felony drug abuse offense, that is the basis of the juvenile being found to be a delinquent child, and that is the basis of the forfeiture. Subject to divisions (F)(3)(b) and (5)(b) and (G)(2) of this section, if any right, title, or interest in property is vested in this state under this division and subsequently is transferred to a person other than the offender who forfeits the right, title, or interest under division (A)(1) of this section, then, in accordance with division (B) of this section, the right, title, or interest in the property may be the subject of a special verdict of forfeiture and, after any special verdict of~~

~~forfeiture, shall be ordered forfeited to this state, unless the
transferee establishes in a hearing held pursuant to division (F)
of this section that the transferee is a bona fide purchaser for
value of the right, title, or interest in the property and that,
at the time of its purchase, the transferee was reasonably without
cause to believe that it was subject to forfeiture under this
section.~~

~~(3) The provisions of section 2925.43 of the Revised Code
that relate to the forfeiture of any right, title, or interest in
property associated with a felony drug abuse offense pursuant to a
civil action to obtain a civil forfeiture do not apply to the
forfeiture of any right, title, or interest in property described
in division (A)(1) of this section that occurs pursuant to
division (B) of this section upon a person's conviction of or
guilty plea to a felony drug abuse offense or upon a juvenile
being found by a juvenile court to be a delinquent child for an
act that, if committed by an adult, would be a felony drug abuse
offense.~~

~~(4) Nothing in this section precludes a financial institution
that has or purports to have a security interest in or lien on
property described in division (A)(1) of this section from
commencing a civil action or taking other appropriate legal action
in connection with the property, prior to its disposition in
accordance with section 2925.44 of the Revised Code, for the
purpose of obtaining possession of the property in order to
foreclose or otherwise enforce the security interest or lien. A
financial institution may commence a civil action or take other
appropriate legal action for that purpose prior to the disposition
of the property in accordance with section 2925.44 of the Revised
Code, even if a felony drug abuse offense prosecution or a
delinquent child proceeding for an act that, if committed by an
adult, would be a felony drug abuse offense has been or could be~~

~~commenced, even if the property is or could be the subject of an
order of forfeiture issued under division (B)(5) of this section,
and even if the property has been seized or is subject to seizure
pursuant to division (D) or (E) of this section.~~

4053
4054
4055
4056

~~If a financial institution commences a civil action or takes
any other appropriate legal action as described in this division,
if the financial institution subsequently causes the sale of the
property prior to its seizure pursuant to division (D) or (E) of
this section and its disposition pursuant to section 2925.44 of
the Revised Code, and if the person responsible for the conduct of
the sale has actual knowledge of the commencement of a felony drug
abuse offense prosecution or of a delinquent child proceeding for
an act that, if committed by an adult, would be a felony drug
abuse offense, actual knowledge of a pending forfeiture proceeding
under division (B) of this section, or actual knowledge of an
order of forfeiture issued under division (B)(5) of this section,
then the person responsible for the conduct of the sale shall
dispose of the proceeds of the sale in the following order:~~

4057
4058
4059
4060
4061
4062
4063
4064
4065
4066
4067
4068
4069
4070

~~(a) First, to the payment of the costs of the sale and to the
payment of the costs incurred by law enforcement agencies and
financial institutions in connection with the seizure of, storage
of, maintenance of, and provision of security for the property. As
used in this division, "costs" of a financial institution do not
include attorney's fees incurred by that institution in connection
with the property.~~

4071
4072
4073
4074
4075
4076
4077

~~(b) Second, the remaining proceeds of the sale after
compliance with division (A)(4)(a) of this section, to the payment
of valid security interests and liens pertaining to the property
that, at the time of the vesting of the right, title, or interest
of the adult or juvenile in the state under division (A)(2) of
this section, are held by known secured parties and lienholders,
in the order of priority of those security interests and liens;~~

4078
4079
4080
4081
4082
4083
4084

~~(c) Third, the remaining proceeds of the sale after 4085
compliance with division (A)(4)(b) of this section, to the court 4086
that has or would have jurisdiction in a felony drug abuse offense 4087
prosecution or a delinquent child proceeding for an act that, if 4088
committed by an adult, would be a felony drug abuse offense, for 4089
disposition in accordance with section 2925.44 of the Revised 4090
Code. 4091~~

~~(B)(1) A criminal forfeiture of any right, title, or interest 4092
in property described in division (A)(1) of this section is 4093
precluded unless one of the following applies: 4094~~

~~(a) The indictment, count in the indictment, or information 4095
charging the felony drug abuse offense specifies the nature of the 4096
right, title, or interest of the alleged offender in the property 4097
described in division (A)(1) of this section that is potentially 4098
subject to forfeiture under this section, or a description of the 4099
property of the alleged offender that is potentially subject to 4100
forfeiture under this section, to the extent the right, title, or 4101
interest in the property or the property reasonably is known at 4102
the time of the filing of the indictment or information; or the 4103
complaint, indictment, or information charging a juvenile with 4104
being a delinquent child for the commission of an act that, if 4105
committed by an adult, would be a felony drug abuse offense 4106
specifies the nature of the right, title, or interest of the 4107
juvenile in the property described in division (A)(1) of this 4108
section that is potentially subject to forfeiture under this 4109
section, or a description of the property of the juvenile that is 4110
potentially subject to forfeiture under this section, to the 4111
extent the right, title, or interest in the property or the 4112
property reasonably is known at the time of the filing of the 4113
complaint, indictment, or information. 4114~~

~~(b) The property in question was not reasonably foreseen to 4115
be subject to forfeiture under this section at the time of the 4116~~

~~filing of the indictment, information, or complaint, the
prosecuting attorney gave prompt notice to the alleged offender or
juvenile of that property when it was discovered to be subject to
forfeiture under this section, and a verdict of forfeiture
described in division (B)(3) of this section requires the
forfeiture of that property.~~

~~(2) The specifications described in division (B)(1) of this
section shall be stated at the end of the body of the indictment,
count in the indictment, information, or complaint.~~

~~(3)(a) If a person is convicted of or pleads guilty to a
felony drug abuse offense, or a juvenile is found to be a
delinquent child for an act that, if committed by an adult, would
be a felony drug abuse offense, then a special proceeding shall be
conducted in accordance with this division to determine whether
any property described in division (B)(1)(a) or (b) of this
section will be the subject of an order of forfeiture under this
section. Except as otherwise provided in division (B)(3)(b) of
this section, the jury in the felony drug abuse offense criminal
action or in the delinquent child action or, if that action was a
nonjury action, the judge in that action shall hear and consider
testimony and other evidence in the proceeding relative to whether
any property described in division (B)(1)(a) or (b) of this
section is subject to forfeiture under this section. If the jury
or judge determines that the prosecuting attorney has established,
by a preponderance of the evidence, that any property so described
is subject to forfeiture under this section, the judge or juvenile
judge shall render a verdict of forfeiture that specifically
describes the right, title, or interest in property or the
property that is subject to forfeiture under this section. The
Rules of Evidence shall apply in the proceeding.~~

~~(b) If the trier of fact in a felony drug abuse offense
criminal action or in a delinquent child action was a jury, then,~~

~~upon the filing of a motion by the person who was convicted of or
pleaded guilty to the felony drug abuse offense or upon the filing
of a motion by the juvenile who was found to be a delinquent child
for an act that, if committed by an adult, would be a felony drug
abuse offense, the determinations in the proceeding described in
this division instead shall be made by the judge in the felony
drug abuse offense criminal action or the juvenile judge.~~

~~(4) In a felony drug abuse offense criminal action or in a
delinquent child action, if the trier of fact is a jury, the jury
shall not be informed of any specification described in division
(B)(1)(a) of this section or of any property described in that
division or division (B)(1)(b) of this section prior to the
alleged offender being convicted of or pleading guilty to the
felony drug abuse offense or prior to the juvenile being found to
be a delinquent child for the commission of an act that, if
committed by an adult, would be a felony drug abuse offense.~~

~~(5)(a) If a verdict of forfeiture is entered pursuant to
division (B)(3) of this section, then the court that imposes
sentence upon a person who is convicted of or pleads guilty to a
felony drug abuse offense, or the juvenile court that finds a
juvenile to be a delinquent child for an act that, if committed by
an adult, would be a felony drug abuse offense, in addition to any
other sentence imposed upon the offender or order of disposition
imposed upon the delinquent child, shall order that the offender
or delinquent child forfeit to the state all of the offender's or
delinquent child's right, title, and interest in the property
described in division (A)(1) of this section. If a person is
convicted of or pleads guilty to a felony drug abuse offense, or a
juvenile is found by a juvenile court to be a delinquent child for
an act that, if committed by an adult, would be a felony drug
abuse offense, and derives profits or other proceeds from the
offense or act, the court that imposes sentence or an order of~~

disposition upon the offender or delinquent child, in lieu of any 4181
fine that the court is otherwise authorized or required to impose, 4182
may impose upon the offender or delinquent child a fine of not 4183
more than twice the gross profits or other proceeds so derived. 4184

~~(b)~~(B) Notwithstanding any contrary provision of section 4185
3719.21 of the Revised Code, all fines imposed pursuant to this 4186
~~division~~ section shall be paid by the clerk of the court to the 4187
county, municipal corporation, township, park district, as created 4188
pursuant to section 511.18 or 1545.01 of the Revised Code, or 4189
state law enforcement agencies in this state that were primarily 4190
responsible for or involved in making the arrest of, and in 4191
prosecuting, the offender. However, no fine so imposed shall be 4192
paid to a law enforcement agency unless the agency has adopted a 4193
written internal control policy under division (F)(2) of section 4194
2925.03 of the Revised Code that addresses the use of the fine 4195
moneys that it receives under this division and division (F)(1) of 4196
section 2925.03 of the Revised Code. The fines imposed and paid 4197
pursuant to this division shall be used by the law enforcement 4198
agencies to subsidize their efforts pertaining to drug offenses, 4199
in accordance with the written internal control policy adopted by 4200
the recipient agency under division (F)(2) of section 2925.03 of 4201
the Revised Code. 4202

~~(c)~~(C) As used in ~~division (B)(5)~~ of this section: 4203

~~(i)~~(1) "Law enforcement agencies" includes, but is not 4204
limited to, the state board of pharmacy and the office of a 4205
prosecutor. 4206

~~(ii)~~(2) "Prosecutor" has the same meaning as in section 4207
2935.01 of the Revised Code. 4208

~~(6)~~ If any of the property that is described in division 4209
~~(A)(1)~~ of this section and that is the subject of an order of 4210
forfeiture issued under ~~division (B)(5)~~ of this section, because 4211

~~of an act or omission of the person who is convicted of or pleads
guilty to the felony drug abuse offense that is the basis of the
order of forfeiture, or an act or omission of the juvenile found
by a juvenile court to be a delinquent child for an act that, if
committed by an adult, would be a felony drug abuse offense and
that is the basis of the forfeiture, cannot be located upon the
exercise of due diligence, has been transferred to, sold to, or
deposited with a third party, has been placed beyond the
jurisdiction of the court, has been substantially diminished in
value, or has been commingled with other property that cannot be
divided without difficulty, the court that issues the order of
forfeiture shall order the forfeiture of any other property of the
offender up to the value of any forfeited property described in
this division.~~

~~(C) There shall be a rebuttable presumption that any right,
title, or interest of a person in property described in division
(A)(1) of this section is subject to forfeiture under division (B)
of this section, if the state proves both of the following by a
preponderance of the evidence:~~

~~(1) The right, title, or interest in the property was
acquired by the offender during the period of the commission of
the felony drug abuse offense or act that, if committed by an
adult, would be a felony drug abuse offense, or within a
reasonable time after that period.~~

~~(2) There is no likely source for the right, title, or
interest in the property other than proceeds obtained from the
commission of the felony drug abuse offense or act.~~

~~(D)(1) Upon the application of the prosecuting attorney who
is prosecuting or has jurisdiction to prosecute the felony drug
abuse offense or act, the court of common pleas or juvenile court
of the county in which property subject to forfeiture under~~

~~division (B) of this section is located, whichever is applicable, 4243
may issue a restraining order or injunction, an order requiring 4244
the execution of a satisfactory performance bond, or an order 4245
taking any other reasonable action necessary to preserve the 4246
availability of the property, at either of the following times: 4247~~

~~(a) Upon the filing of an indictment, complaint, or 4248
information charging a person who has any right, title, or 4249
interest in the property with the commission of a felony drug 4250
abuse offense and alleging that the property with respect to which 4251
the order is sought will be subject to forfeiture under division 4252
(B) of this section if the person is convicted of or pleads guilty 4253
to the offense, or upon the filing of a complaint, indictment, or 4254
information alleging that a juvenile who has any right, title, or 4255
interest in the property is a delinquent child because of the 4256
commission of an act that, if committed by an adult, would be a 4257
felony drug abuse offense and alleging that the property with 4258
respect to which the order is sought will be subject to forfeiture 4259
under division (B) of this section if the juvenile is found to be 4260
a delinquent child because of the commission of that act; 4261~~

~~(b) Except as provided in division (D)(3) of this section, 4262
prior to the filing of an indictment, complaint, or information 4263
charging a person who has any right, title, or interest in the 4264
property with the commission of a felony drug abuse offense, or 4265
prior to the filing of a complaint, indictment, or information 4266
alleging that a juvenile who has any right, title, or interest in 4267
the property is a delinquent child because of the commission of an 4268
act that, if committed by an adult, would be a felony drug abuse 4269
offense, if, after notice is given to all persons known to have 4270
any right, title, or interest in the property and an opportunity 4271
to have a hearing on the order is given to those persons, the 4272
court determines both of the following: 4273~~

~~(i) There is a substantial probability that the state will 4274~~

~~prevail on the issue of forfeiture and that failure to enter the
order will result in the property subject to forfeiture being
destroyed, removed from the jurisdiction of the court, or
otherwise being made unavailable for forfeiture.~~

~~(ii) The need to preserve the availability of the property
subject to forfeiture through the entry of the requested order
outweighs the hardship on any party against whom the order is to
be entered.~~

~~(2) Except as provided in division (D)(3) of this section, an
order issued under division (D)(1) of this section is effective
for not more than ninety days, unless extended by the court for
good cause shown or unless an indictment, complaint, or
information charging the commission of a felony drug abuse offense
or a complaint, indictment, or information alleging that a
juvenile is a delinquent child because of the commission of an act
that, if committed by an adult, would be a felony drug abuse
offense, is filed against any alleged adult offender or alleged
delinquent child with any right, title, or interest in the
property that is the subject of the order.~~

~~(3) A court may issue an order under division (D)(1)(b) of
this section without giving notice or an opportunity for a hearing
to persons known to have any right, title, or interest in
property, if the prosecuting attorney who is prosecuting or has
jurisdiction to prosecute the felony drug abuse offense or act
demonstrates that there is probable cause to believe that the
property will be subject to forfeiture under division (B) of this
section if a person with any right, title, or interest in the
property is convicted of or pleads guilty to a felony drug abuse
offense or a juvenile with any right, title, or interest in the
property is found by a juvenile court to be a delinquent child for
an act that, if committed by an adult, would be a felony drug
abuse offense, and that giving notice or an opportunity for a~~

hearing to persons with any right, title, or interest in the 4307
property will jeopardize its availability for forfeiture. The 4308
order shall be a temporary order and expire not more than ten days 4309
after the date on which it is entered, unless it is extended for 4310
good cause shown or unless a person with any right, title, or 4311
interest in the property that is the subject of the order consents 4312
to an extension for a longer period. A hearing concerning an order 4313
issued under this division may be requested, and, if it is 4314
requested, the court shall hold the hearing at the earliest 4315
possible time prior to the expiration of the order. 4316

(4) At any hearing held under division (D) of this section, 4317
the court may receive and consider evidence and information that 4318
is inadmissible under the Rules of Evidence. However, each hearing 4319
held under division (D) of this section shall be recorded by 4320
shorthand, by stenotype, or by any other mechanical, electronic, 4321
or video recording device. If, as a result of a hearing under 4322
division (D) of this section, property would be seized, the 4323
recording of and any transcript of the recording of that hearing 4324
shall not be a public record for purposes of section 149.43 of the 4325
Revised Code until that property has been seized pursuant to 4326
division (D) of this section. Division (D)(4) of this section 4327
shall not be construed as requiring, authorizing, or permitting, 4328
and does not require, authorize, or permit, the making available 4329
for inspection, or the copying, under section 149.43 of the 4330
Revised Code of any confidential law enforcement investigatory 4331
record or trial preparation record, as defined in that section. 4332

(5) A prosecuting attorney or other law enforcement officer 4333
may request the court of common pleas of the county in which 4334
property subject to forfeiture under this section is located to 4335
issue a warrant authorizing the seizure of that property. The 4336
request shall be made in the same manner as provided for a search 4337
warrant. If the court determines that there is probable cause to 4338

~~believe that the property to be seized will be subject to 4339
forfeiture under this section when a person with any right, title, 4340
or interest in the property is convicted of or pleads guilty to a 4341
felony drug abuse offense or when a juvenile with any right, 4342
title, or interest in the property is found by a juvenile court to 4343
be a delinquent child for an act that, if committed by an adult, 4344
would be a felony drug abuse offense, and if the court determines 4345
that any order issued under division (D)(1), (2), or (3) of this 4346
section may not be sufficient to ensure the availability of the 4347
property for forfeiture, the court shall issue a warrant 4348
authorizing the seizure of the property. 4349~~

~~(E)(1) Upon the entry of an order of forfeiture under this 4350
section, the court shall order an appropriate law enforcement 4351
officer to seize all of the forfeited property upon the terms and 4352
conditions that the court determines are proper. In addition, upon 4353
the request of the prosecuting attorney who prosecuted the felony 4354
drug abuse offense or act, the court shall enter any appropriate 4355
restraining orders or injunctions, require the execution of 4356
satisfactory performance bonds, appoint receivers, conservators, 4357
appraisers, accountants, or trustees, or take any other action to 4358
protect the interest of the state in the forfeited property. Any 4359
income accruing to or derived from property ordered forfeited 4360
under this section may be used to offset ordinary and necessary 4361
expenses related to the property that are required by law or that 4362
are necessary to protect the interest of the state or third 4363
parties. 4364~~

~~After forfeited property is seized, the prosecuting attorney 4365
who prosecuted the felony drug abuse offense or act shall direct 4366
its disposition in accordance with section 2925.44 of the Revised 4367
Code, making due provision for the rights of any innocent persons. 4368
Any right, title, or interest in property not exercisable by, or 4369
transferable for value to, the state shall expire and shall not 4370~~

~~revert to the offender whose conviction or plea of guilty or act
as a delinquent child is the basis of the order of forfeiture.
Neither the adult offender or delinquent child nor any person
acting in concert with or on behalf of the adult offender or
delinquent child is eligible to purchase forfeited property at any
sale held pursuant to section 2925.44 of the Revised Code.~~

~~Upon the application of any person other than the adult
offender or delinquent child whose right, title, or interest in
the property is the subject of the order of forfeiture or any
person acting in concert with or on behalf of the adult offender
or delinquent child, the court may restrain or stay the sale or
other disposition of the property pursuant to section 2925.44 of
the Revised Code pending the conclusion of any appeal of the
felony drug abuse offense conviction or of the delinquent child
adjudication that is the basis of the order of forfeiture, if the
applicant demonstrates that proceeding with the sale or other
disposition of the property will result in irreparable injury or
loss to the applicant.~~

~~(2) With respect to property that is the subject of an order
of forfeiture issued under this section, the court that issued the
order, upon the petition of the prosecuting attorney who
prosecuted the felony drug abuse offense or act, may do any of the
following:~~

~~(a) Grant petitions for mitigation or remission of
forfeiture, restore forfeited property to victims of a felony drug
abuse offense, or take any other action to protect the rights of
innocent persons that is in the interest of justice and that is
not inconsistent with this section;~~

~~(b) Compromise claims that arise under this section;~~

~~(c) Award compensation to persons who provide information
resulting in a forfeiture under this section;~~

~~(d) Direct the disposition by the prosecuting attorney who prosecuted the felony drug abuse offense or act, in accordance with section 2925.44 of the Revised Code, of all property ordered forfeited under this section, making due provision for the rights of innocent persons;~~

~~(e) Pending the disposition of any property that is the subject of an order of forfeiture under this section, take any appropriate measures that are necessary to safeguard and maintain the property.~~

~~(3) To facilitate the identification and location of property that is the subject of an order of forfeiture under this section and to facilitate the disposition of petitions for remission or mitigation issued under division (E)(2) of this section, after the issuance of an order of forfeiture under this section and upon application by the prosecuting attorney who prosecuted the felony drug abuse offense or act, the court may order that the testimony of any witness relating to the forfeited property be taken by deposition, and that any designated book, paper, document, record, recording, or other material that is not privileged be produced at the same time and place as the testimony, in the same manner as provided for the taking of depositions under the Rules of Civil Procedure.~~

~~(F)(1) Except as provided in divisions (F)(2) to (5) of this section, no person claiming any right, title, or interest in property subject to forfeiture under this section or section 2925.43 of the Revised Code may intervene in a criminal trial or appeal, or a delinquent child proceeding or appeal, involving the forfeiture of the property under this section or in a civil action for a civil forfeiture under section 2925.43 of the Revised Code, or may commence an action at law or equity against the state concerning the validity of the person's alleged right, title, or interest in the property subsequent to the filing of an~~

~~indictment, complaint, or information alleging that the property
is subject to forfeiture under this section or subsequent to the
filing of a complaint, indictment, or information alleging that a
juvenile who has any right, title, or interest in the property is
a delinquent child because of the commission of an act that, if
committed by an adult, would be a felony drug abuse offense and
alleging that the property is subject to forfeiture under this
section.~~

~~(2) After the entry of an order of forfeiture under this
section, the prosecuting attorney who prosecuted the felony drug
abuse offense or act shall conduct or cause to be conducted a
search of the appropriate public records that relate to the
property, and make or cause to be made reasonably diligent
inquiries, for the purpose of identifying persons who have any
right, title, or interest in the property. The prosecuting
attorney then shall cause a notice of the order of forfeiture, of
the prosecuting attorney's intent to dispose of the property in
accordance with section 2925.44 of the Revised Code, and of the
manner of the proposed disposal, to be given to each person who is
known, because of the conduct of the search, the making of the
inquiries, or otherwise, to have any right, title, or interest in
the property, by certified mail, return receipt requested, or by
personal service. Additionally, the prosecuting attorney shall
cause a similar notice to be published once a week for two
consecutive weeks in a newspaper of general circulation in the
county in which the property was seized.~~

~~(3)(a) Any person, other than the adult offender whose
conviction or guilty plea or the delinquent child whose
adjudication is the basis of the order of forfeiture, who asserts
a legal right, title, or interest in the property that is the
subject of the order may petition the court that issued the order,
within thirty days after the earlier of the final publication of~~

~~notice or the person's receipt of notice under division (F)(2) of 4466
this section, for a hearing to adjudicate the validity of the 4467
person's alleged right, title, or interest in the property. The 4468
petition shall be signed by the petitioner under the penalties for 4469
falsification as specified in section 2921.13 of the Revised Code 4470
and shall set forth the nature and extent of the petitioner's 4471
right, title, or interest in the property, the time and 4472
circumstances of the petitioner's acquisition of that right, 4473
title, or interest, any additional facts supporting the 4474
petitioner's claim, and the relief sought. 4475~~

~~(b) In lieu of filing a petition as described in division 4476
(F)(3)(a) of this section, a secured party or other lienholder of 4477
record that asserts a legal right, title, or interest in the 4478
property that is the subject of the order, including, but not 4479
limited to, a mortgage, security interest, or other type of lien, 4480
may file an affidavit as described in this division to establish 4481
the validity of the alleged right, title, or interest in the 4482
property. The affidavit shall be filed within thirty days after 4483
the earlier of the final publication of notice or the receipt of 4484
notice under division (F)(2) of this section and, except as 4485
otherwise provided in this section, shall constitute prima facie 4486
evidence of the validity of the secured party's or other 4487
lienholder's alleged right, title, or interest in the property. 4488
Unless the prosecuting attorney files a motion challenging the 4489
affidavit within ten days after its filing and unless the 4490
prosecuting attorney establishes, by a preponderance of the 4491
evidence, at a subsequent hearing before the court that issued the 4492
forfeiture order, that the secured party or other lienholder does 4493
not possess the alleged right, title, or interest in the property 4494
or that the secured party or other lienholder had actual knowledge 4495
of facts pertaining to the felony drug abuse offense or act that 4496
was the basis of the forfeiture order, the affidavit shall 4497~~

~~constitute conclusive evidence of the validity of the secured
party's or other lienholder's right, title, or interest in the
property and shall have the legal effect described in division
(C)(2) of this section. To the extent practicable and consistent
with the interests of justice, any such hearing shall be held
within thirty days after the prosecuting attorney files the
motion. At any such hearing, the prosecuting attorney and the
secured party or other lienholder may present evidence and
witnesses and cross-examine witnesses.~~

~~In order to be valid for the purposes of this division and
division (C)(2) of this section, the affidavit of a secured party
or other lienholder shall contain averments that the secured party
or other lienholder acquired its alleged right, title, or interest
in the property in the regular course of its business, for a
specified valuable consideration, without actual knowledge of any
facts pertaining to the felony drug abuse offense or act that was
the basis of the forfeiture order, in good faith and without the
intent to prevent or otherwise impede the state from seizing or
obtaining a forfeiture of the property under sections 2925.41 to
2925.45 of the Revised Code, and prior to the seizure or
forfeiture of the property under those sections.~~

~~(4) Upon receipt of a petition filed under division (F)(3) of
this section, the court shall hold a hearing to determine the
validity of the petitioner's right, title, or interest in the
property that is the subject of the order of forfeiture. To the
extent practicable and consistent with the interests of justice,
the hearing shall be held within thirty days after the filing of
the petition. The court may consolidate the hearing on the
petition with a hearing on any other petition filed by a person
other than the offender whose conviction or guilty plea or
adjudication as a delinquent child is the basis of the order of
forfeiture. At the hearing, the petitioner may testify, present~~

~~evidence and witnesses on the petitioner's behalf, and 4530
cross-examine witnesses for the state. The state may present 4531
evidence and witnesses in rebuttal and in defense of its claim to 4532
the property and cross-examine witnesses for the petitioner. In 4533
addition to evidence and testimony presented at the hearing, the 4534
court shall consider the relevant portions of the record in the 4535
felony drug abuse offense or delinquent child case that resulted 4536
in the order of forfeiture. 4537~~

~~(5)(a) The court shall amend its order of forfeiture in 4538
accordance with its determination if it determines, at the 4539
hearing, that the petitioner has established either of the 4540
following by a preponderance of the evidence: 4541~~

~~(i) The petitioner has a legal right, title, or interest in 4542
the property that renders the order of forfeiture completely or 4543
partially invalid because it was vested in the petitioner, rather 4544
than the adult offender whose conviction or guilty plea or the 4545
delinquent child whose adjudication is the basis of the order, or 4546
was superior to any right, title, or interest of that offender, at 4547
the time of the commission of the felony drug abuse offense or act 4548
that is the basis of the order. 4549~~

~~(ii) The petitioner is a bona fide purchaser for value of the 4550
right, title, or interest in the property and was at the time of 4551
the purchase reasonably without cause to believe that it was 4552
subject to forfeiture under this section. 4553~~

~~(b) The court also shall amend its order of forfeiture to 4554
reflect any right, title, or interest of a secured party or other 4555
lienholder of record in the property subject to the order that was 4556
established pursuant to division (F)(3)(b) of this section by 4557
means of an affidavit, or that was established pursuant to that 4558
division by the failure of a prosecuting attorney to establish, in 4559
a hearing as described in that division, that the secured party or 4560~~

~~other lienholder did not possess the alleged right, title, or
interest in the property or that the secured party or other
lienholder had actual knowledge of facts pertaining to the felony
drug abuse offense or act that was the basis of the order.~~

~~(G)(1) Subject to division (G)(2) of this section, if the
court has disposed of all petitions filed under division (F) of
this section or if no petitions are filed under that division and
the time for filing petitions under that division has expired, the
state shall have clear title to all property that is the subject
of an order of forfeiture issued under this section and may
warrant good title to any subsequent purchaser or other
transferee.~~

~~(2) If an affidavit as described in division (F)(3)(b) of
this section is filed in accordance with that division, if the
affidavit constitutes, under the circumstances described in that
division, conclusive evidence of the validity of the right, title,
or interest of a secured party or other lienholder of record in
the property subject to a forfeiture order, and if any mortgage,
security interest, or other type of lien possessed by the secured
party or other lienholder in connection with the property is not
satisfied prior to a sale or other disposition of the property
pursuant to section 2925.44 of the Revised Code, then the right,
title, or interest of the secured party or other lienholder in the
property remains valid for purposes of sections 2925.41 to 2925.45
of the Revised Code and any subsequent purchaser or other
transferee of the property pursuant to section 2925.44 of the
Revised Code shall take the property subject to the continued
validity of the right, title, or interest of the secured party or
other lienholder in the property.~~

Sec. 2927.02. (A) As used in this section and section
2927.021 of the Revised Code:

- (1) "Child" has the same meaning as in section 2151.011 of the Revised Code. 4592
4593
- (2) "Cigarette" includes clove cigarettes and hand-rolled cigarettes. 4594
4595
- (3) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, or papers used to roll cigarettes. 4596
4597
4598
4599
- (4) "Proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under sections 4507.50 to 4507.52 of the Revised Code that shows that a person is eighteen years of age or older. 4600
4601
4602
4603
4604
- (5) "Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff. 4605
4606
4607
- (6) "Vending machine" has the same meaning as "coin machine" in section 2913.01 of the Revised Code. 4608
4609
- (B) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no other person shall do any of the following: 4610
4611
4612
4613
4614
4615
- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any child; 4616
4617
- (2) Give away, sell, or distribute cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco 4618
4619
4620
4621

products, or papers used to roll cigarettes to a person under 4622
eighteen years of age is prohibited by law; 4623

(3) Knowingly furnish any false information regarding the 4624
name, age, or other identification of any child with purpose to 4625
obtain cigarettes, other tobacco products, or papers used to roll 4626
cigarettes for that child; 4627

(4) Manufacture, sell, or distribute in this state any pack 4628
or other container of cigarettes containing fewer than twenty 4629
cigarettes or any package of roll-your-own tobacco containing less 4630
than six-tenths of one ounce of tobacco; 4631

(5) Sell cigarettes in a smaller quantity than that placed in 4632
the pack or other container by the manufacturer. 4633

(C) No person shall sell or offer to sell cigarettes or other 4634
tobacco products by or from a vending machine, except in the 4635
following locations: 4636

(1) An area within a factory, business, office, or other 4637
place not open to the general public; 4638

(2) An area to which children are not generally permitted 4639
access; 4640

(3) Any other place not identified in division (C)(1) or (2) 4641
of this section, upon all of the following conditions: 4642

(a) The vending machine is located within the immediate 4643
vicinity, plain view, and control of the person who owns or 4644
operates the place, or an employee of that person, so that all 4645
cigarettes and other tobacco product purchases from the vending 4646
machine will be readily observed by the person who owns or 4647
operates the place or an employee of that person. For the purpose 4648
of this section, a vending machine located in any unmonitored 4649
area, including an unmonitored coatroom, restroom, hallway, or 4650
outer waiting area, shall not be considered located within the 4651

immediate vicinity, plain view, and control of the person who owns
or operates the place, or an employee of that person. 4652
4653

(b) The vending machine is inaccessible to the public when
the place is closed. 4654
4655

4656

(D) The following are affirmative defenses to a charge under
division (B)(1) of this section: 4657
4658

(1) The child was accompanied by a parent, spouse who is
eighteen years of age or older, or legal guardian of the child. 4659
4660

(2) The person who gave, sold, or distributed cigarettes,
other tobacco products, or papers used to roll cigarettes to a
child under division (B)(1) of this section is a parent, spouse
who is eighteen years of age or older, or legal guardian of the
child. 4661
4662
4663
4664
4665

(E) It is not a violation of division (B)(1) or (2) of this
section for a person to give or otherwise distribute to a child
cigarettes, other tobacco products, or papers used to roll
cigarettes while the child is participating in a research protocol
if all of the following apply: 4666
4667
4668
4669
4670

(1) The parent, guardian, or legal custodian of the child has
consented in writing to the child participating in the research
protocol. 4671
4672
4673

(2) An institutional human subjects protection review board,
or an equivalent entity, has approved the research protocol. 4674
4675

(3) The child is participating in the research protocol at
the facility or location specified in the research protocol. 4676
4677

(F)(1) Whoever violates division (B)(1), (2), (4), or (5) or
(C) of this section is guilty of illegal distribution of
cigarettes or other tobacco products, a misdemeanor of the fourth
degree. If the offender previously has been convicted of a 4678
4679
4680
4681

violation of division (B)(1), (2), (4), or (5) or (C) of this 4682
section, illegal distribution of cigarettes or other tobacco 4683
products is a misdemeanor of the third degree. 4684

(2) Whoever violates division (B)(3) of this section is 4685
guilty of permitting children to use cigarettes or other tobacco 4686
products, a misdemeanor of the fourth degree. If the offender 4687
previously has been convicted of a violation of division (B)(3) of 4688
this section, permitting children to use cigarettes or other 4689
tobacco products is a misdemeanor of the third degree. 4690

(G) Any cigarettes, other tobacco products, or papers used to 4691
roll cigarettes that are given, sold, or otherwise distributed to 4692
a child in violation of this section and that are used, possessed, 4693
purchased, or received by a child in violation of section 2151.87 4694
of the Revised Code are subject to seizure and forfeiture as 4695
contraband under ~~sections 2933.42 and 2933.43~~ Chapter 2981. of the 4696
Revised Code. 4697

Sec. 2929.18. (A) Except as otherwise provided in this 4698
division and in addition to imposing court costs pursuant to 4699
section 2947.23 of the Revised Code, the court imposing a sentence 4700
upon an offender for a felony may sentence the offender to any 4701
financial sanction or combination of financial sanctions 4702
authorized under this section or, in the circumstances specified 4703
in section 2929.32 of the Revised Code, may impose upon the 4704
offender a fine in accordance with that section. Financial 4705
sanctions that may be imposed pursuant to this section include, 4706
but are not limited to, the following: 4707

(1) Restitution by the offender to the victim of the 4708
offender's crime or any survivor of the victim, in an amount based 4709
on the victim's economic loss. If the court imposes restitution, 4710
the court shall order that the restitution be made to the victim 4711
in open court, to the adult probation department that serves the 4712

county on behalf of the victim, to the clerk of courts, or to 4713
another agency designated by the court. If the court imposes 4714
restitution, at sentencing, the court shall determine the amount 4715
of restitution to be made by the offender. If the court imposes 4716
restitution, the court may base the amount of restitution it 4717
orders on an amount recommended by the victim, the offender, a 4718
presentence investigation report, estimates or receipts indicating 4719
the cost of repairing or replacing property, and other 4720
information, provided that the amount the court orders as 4721
restitution shall not exceed the amount of the economic loss 4722
suffered by the victim as a direct and proximate result of the 4723
commission of the offense. If the court decides to impose 4724
restitution, the court shall hold a hearing on restitution if the 4725
offender, victim, or survivor disputes the amount. All restitution 4726
payments shall be credited against any recovery of economic loss 4727
in a civil action brought by the victim or any survivor of the 4728
victim against the offender. 4729

If the court imposes restitution, the court may order that 4730
the offender pay a surcharge of not more than five per cent of the 4731
amount of the restitution otherwise ordered to the entity 4732
responsible for collecting and processing restitution payments. 4733

The victim or survivor may request that the prosecutor in the 4734
case file a motion, or the offender may file a motion, for 4735
modification of the payment terms of any restitution ordered. If 4736
the court grants the motion, it may modify the payment terms as it 4737
determines appropriate. 4738

(2) Except as provided in division (B)(1), (3), or (4) of 4739
this section, a fine payable by the offender to the state, to a 4740
political subdivision, or as described in division (B)(2) of this 4741
section to one or more law enforcement agencies, with the amount 4742
of the fine based on a standard percentage of the offender's daily 4743
income over a period of time determined by the court and based 4744

upon the seriousness of the offense. A fine ordered under this
division shall not exceed the maximum conventional fine amount
authorized for the level of the offense under division (A)(3) of
this section.

(3) Except as provided in division (B)(1), (3), or (4) of
this section, a fine payable by the offender to the state, to a
political subdivision when appropriate for a felony, or as
described in division (B)(2) of this section to one or more law
enforcement agencies, in the following amount:

(a) For a felony of the first degree, not more than twenty
thousand dollars;

(b) For a felony of the second degree, not more than fifteen
thousand dollars;

(c) For a felony of the third degree, not more than ten
thousand dollars;

(d) For a felony of the fourth degree, not more than five
thousand dollars;

(e) For a felony of the fifth degree, not more than two
thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of
the Revised Code.

(5)(a) Reimbursement by the offender of any or all of the
costs of sanctions incurred by the government, including the
following:

(i) All or part of the costs of implementing any community
control sanction, including a supervision fee under section
2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction
imposed pursuant to section 2929.14 or 2929.16 of the Revised
Code, provided that the amount of reimbursement ordered under this

division shall not exceed the total amount of reimbursement the 4775
offender is able to pay as determined at a hearing and shall not 4776
exceed the actual cost of the confinement. 4777

(b) If the offender is sentenced to a sanction of confinement 4778
pursuant to section 2929.14 or 2929.16 of the Revised Code that is 4779
to be served in a facility operated by a board of county 4780
commissioners, a legislative authority of a municipal corporation, 4781
or another local governmental entity, if, pursuant to section 4782
307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, 4783
or 2947.19 of the Revised Code and section 2929.37 of the Revised 4784
Code, the board, legislative authority, or other local 4785
governmental entity requires prisoners to reimburse the county, 4786
municipal corporation, or other entity for its expenses incurred 4787
by reason of the prisoner's confinement, and if the court does not 4788
impose a financial sanction under division (A)(5)(a)(ii) of this 4789
section, confinement costs may be assessed pursuant to section 4790
2929.37 of the Revised Code. In addition, the offender may be 4791
required to pay the fees specified in section 2929.38 of the 4792
Revised Code in accordance with that section. 4793

(c) Reimbursement by the offender for costs pursuant to 4794
section 2929.71 of the Revised Code. 4795

(B)(1) For a first, second, or third degree felony violation 4796
of any provision of Chapter 2925., 3719., or 4729. of the Revised 4797
Code, the sentencing court shall impose upon the offender a 4798
mandatory fine of at least one-half of, but not more than, the 4799
maximum statutory fine amount authorized for the level of the 4800
offense pursuant to division (A)(3) of this section. If an 4801
offender alleges in an affidavit filed with the court prior to 4802
sentencing that the offender is indigent and unable to pay the 4803
mandatory fine and if the court determines the offender is an 4804
indigent person and is unable to pay the mandatory fine described 4805
in this division, the court shall not impose the mandatory fine 4806

upon the offender. 4807

(2) Any mandatory fine imposed upon an offender under 4808
division (B)(1) of this section and any fine imposed upon an 4809
offender under division (A)(2) or (3) of this section for any 4810
fourth or fifth degree felony violation of any provision of 4811
Chapter 2925., 3719., or 4729. of the Revised Code shall be paid 4812
to law enforcement agencies pursuant to division (F) of section 4813
2925.03 of the Revised Code. 4814

(3) For a fourth degree felony OVI offense and for a third 4815
degree felony OVI offense, the sentencing court shall impose upon 4816
the offender a mandatory fine in the amount specified in division 4817
(G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever 4818
is applicable. The mandatory fine so imposed shall be disbursed as 4819
provided in the division pursuant to which it is imposed. 4820

(4) Notwithstanding any fine otherwise authorized or required 4821
to be imposed under division (A)(2) or (3) or (B)(1) of this 4822
section or section 2929.31 of the Revised Code for a violation of 4823
section 2925.03 of the Revised Code, in addition to any penalty or 4824
sanction imposed for that offense under section 2925.03 or 4825
sections 2929.11 to 2929.18 of the Revised Code and in addition to 4826
the forfeiture of property in connection with the offense as 4827
prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981. of the 4828
Revised Code, the court that sentences an offender for a violation 4829
of section 2925.03 of the Revised Code may impose upon the 4830
offender a fine in addition to any fine imposed under division 4831
(A)(2) or (3) of this section and in addition to any mandatory 4832
fine imposed under division (B)(1) of this section. The fine 4833
imposed under division (B)(4) of this section shall be used as 4834
provided in division (H) of section 2925.03 of the Revised Code. A 4835
fine imposed under division (B)(4) of this section shall not 4836
exceed whichever of the following is applicable: 4837

(a) The total value of any personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 2925.03 of the Revised Code, including any property that constitutes proceeds derived from that offense;

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed under division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in ~~sections 2925.42 to 2925.45~~ Chapter 2981. of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B)(1) of this section plus the amount of any fine imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for

the level of the offense under division (A)(3) of this section or 4870
section 2929.31 of the Revised Code, the court may impose a fine 4871
for the offense in addition to the mandatory fine and the fine 4872
imposed under division (B)(4) of this section. The sum total of 4873
the amounts of the mandatory fine, the fine imposed under division 4874
(B)(4) of this section, and the additional fine imposed under 4875
division (B)(6) of this section shall not exceed the maximum 4876
statutory fine amount authorized for the level of the offense 4877
under division (A)(3) of this section or section 2929.31 of the 4878
Revised Code. The clerk of the court shall pay any fine that is 4879
imposed under division (B)(6) of this section to the county, 4880
township, municipal corporation, park district as created pursuant 4881
to section 511.18 or 1545.04 of the Revised Code, or state law 4882
enforcement agencies in this state that primarily were responsible 4883
for or involved in making the arrest of, and in prosecuting, the 4884
offender pursuant to division (F) of section 2925.03 of the 4885
Revised Code. 4886

(7) If the sum total of the amount of a mandatory fine 4887
imposed for a first, second, or third degree felony violation of 4888
section 2925.03 of the Revised Code plus the amount of any fine 4889
imposed under division (B)(4) of this section exceeds the maximum 4890
statutory fine amount authorized for the level of the offense 4891
under division (A)(3) of this section or section 2929.31 of the 4892
Revised Code, the court shall not impose a fine under division 4893
(B)(6) of this section. 4894

(C)(1) The offender shall pay reimbursements imposed upon the 4895
offender pursuant to division (A)(5)(a) of this section to pay the 4896
costs incurred by the department of rehabilitation and correction 4897
in operating a prison or other facility used to confine offenders 4898
pursuant to sanctions imposed under section 2929.14 or 2929.16 of 4899
the Revised Code to the treasurer of state. The treasurer of state 4900
shall deposit the reimbursements in the confinement cost 4901

reimbursement fund that is hereby created in the state treasury. 4902
The department of rehabilitation and correction shall use the 4903
amounts deposited in the fund to fund the operation of facilities 4904
used to confine offenders pursuant to sections 2929.14 and 2929.16 4905
of the Revised Code. 4906

(2) Except as provided in section 2951.021 of the Revised 4907
Code, the offender shall pay reimbursements imposed upon the 4908
offender pursuant to division (A)(5)(a) of this section to pay the 4909
costs incurred by a county pursuant to any sanction imposed under 4910
this section or section 2929.16 or 2929.17 of the Revised Code or 4911
in operating a facility used to confine offenders pursuant to a 4912
sanction imposed under section 2929.16 of the Revised Code to the 4913
county treasurer. The county treasurer shall deposit the 4914
reimbursements in the sanction cost reimbursement fund that each 4915
board of county commissioners shall create in its county treasury. 4916
The county shall use the amounts deposited in the fund to pay the 4917
costs incurred by the county pursuant to any sanction imposed 4918
under this section or section 2929.16 or 2929.17 of the Revised 4919
Code or in operating a facility used to confine offenders pursuant 4920
to a sanction imposed under section 2929.16 of the Revised Code. 4921

(3) Except as provided in section 2951.021 of the Revised 4922
Code, the offender shall pay reimbursements imposed upon the 4923
offender pursuant to division (A)(5)(a) of this section to pay the 4924
costs incurred by a municipal corporation pursuant to any sanction 4925
imposed under this section or section 2929.16 or 2929.17 of the 4926
Revised Code or in operating a facility used to confine offenders 4927
pursuant to a sanction imposed under section 2929.16 of the 4928
Revised Code to the treasurer of the municipal corporation. The 4929
treasurer shall deposit the reimbursements in a special fund that 4930
shall be established in the treasury of each municipal 4931
corporation. The municipal corporation shall use the amounts 4932
deposited in the fund to pay the costs incurred by the municipal 4933

corporation pursuant to any sanction imposed under this section or 4934
section 2929.16 or 2929.17 of the Revised Code or in operating a 4935
facility used to confine offenders pursuant to a sanction imposed 4936
under section 2929.16 of the Revised Code. 4937

(4) Except as provided in section 2951.021 of the Revised 4938
Code, the offender shall pay reimbursements imposed pursuant to 4939
division (A)(5)(a) of this section for the costs incurred by a 4940
private provider pursuant to a sanction imposed under this section 4941
or section 2929.16 or 2929.17 of the Revised Code to the provider. 4942

(D) Except as otherwise provided in this division, a 4943
financial sanction imposed pursuant to division (A) or (B) of this 4944
section is a judgment in favor of the state or a political 4945
subdivision in which the court that imposed the financial sanction 4946
is located, and the offender subject to the financial sanction is 4947
the judgment debtor. A financial sanction of reimbursement imposed 4948
pursuant to division (A)(5)(a)(ii) of this section upon an 4949
offender who is incarcerated in a state facility or a municipal 4950
jail is a judgment in favor of the state or the municipal 4951
corporation, and the offender subject to the financial sanction is 4952
the judgment debtor. A financial sanction of reimbursement imposed 4953
upon an offender pursuant to this section for costs incurred by a 4954
private provider of sanctions is a judgment in favor of the 4955
private provider, and the offender subject to the financial 4956
sanction is the judgment debtor. A financial sanction of 4957
restitution imposed pursuant to this section is an order in favor 4958
of the victim of the offender's criminal act that can be collected 4959
through execution as described in division (D)(1) of this section 4960
or through an order as described in division (D)(2) of this 4961
section, and the offender shall be considered for purposes of the 4962
collection as the judgment debtor. Imposition of a financial 4963
sanction and execution on the judgment does not preclude any other 4964
power of the court to impose or enforce sanctions on the offender. 4965

Once the financial sanction is imposed as a judgment or order	4966
under this division, the victim, private provider, state, or	4967
political subdivision may bring an action to do any of the	4968
following:	4969
(1) Obtain execution of the judgment or order through any	4970
available procedure, including:	4971
(a) An execution against the property of the judgment debtor	4972
under Chapter 2329. of the Revised Code;	4973
(b) An execution against the person of the judgment debtor	4974
under Chapter 2331. of the Revised Code;	4975
(c) A proceeding in aid of execution under Chapter 2333. of	4976
the Revised Code, including:	4977
(i) A proceeding for the examination of the judgment debtor	4978
under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27	4979
of the Revised Code;	4980
(ii) A proceeding for attachment of the person of the	4981
judgment debtor under section 2333.28 of the Revised Code;	4982
(iii) A creditor's suit under section 2333.01 of the Revised	4983
Code.	4984
(d) The attachment of the property of the judgment debtor	4985
under Chapter 2715. of the Revised Code;	4986
(e) The garnishment of the property of the judgment debtor	4987
under Chapter 2716. of the Revised Code.	4988
(2) Obtain an order for the assignment of wages of the	4989
judgment debtor under section 1321.33 of the Revised Code.	4990
(E) A court that imposes a financial sanction upon an	4991
offender may hold a hearing if necessary to determine whether the	4992
offender is able to pay the sanction or is likely in the future to	4993
be able to pay it.	4994

(F) Each court imposing a financial sanction upon an offender 4995
under this section or under section 2929.32 of the Revised Code 4996
may designate the clerk of the court or another person to collect 4997
the financial sanction. The clerk or other person authorized by 4998
law or the court to collect the financial sanction may enter into 4999
contracts with one or more public agencies or private vendors for 5000
the collection of, amounts due under the financial sanction 5001
imposed pursuant to this section or section 2929.32 of the Revised 5002
Code. Before entering into a contract for the collection of 5003
amounts due from an offender pursuant to any financial sanction 5004
imposed pursuant to this section or section 2929.32 of the Revised 5005
Code, a court shall comply with sections 307.86 to 307.92 of the 5006
Revised Code. 5007

(G) If a court that imposes a financial sanction under 5008
division (A) or (B) of this section finds that an offender 5009
satisfactorily has completed all other sanctions imposed upon the 5010
offender and that all restitution that has been ordered has been 5011
paid as ordered, the court may suspend any financial sanctions 5012
imposed pursuant to this section or section 2929.32 of the Revised 5013
Code that have not been paid. 5014

(H) No financial sanction imposed under this section or 5015
section 2929.32 of the Revised Code shall preclude a victim from 5016
bringing a civil action against the offender. 5017

Sec. 2930.11. (A) Except as otherwise provided in this 5018
section or in ~~sections 2933.41 to 2933.43~~ Chapter 2981. of the 5019
Revised Code, the law enforcement agency responsible for 5020
investigating a crime or specified delinquent act shall promptly 5021
return to the victim of the crime or specified delinquent act any 5022
property of the victim that was taken in the course of the 5023
investigation. In accordance with Criminal Rule 26 or an 5024
applicable Juvenile Rule, the law enforcement agency may take 5025

photographs of the property for use as evidence. If the ownership 5026
of the property is in dispute, the agency shall not return the 5027
property until the dispute is resolved. 5028

(B) The law enforcement agency responsible for investigating 5029
a crime or specified delinquent act shall retain any property of 5030
the victim of the crime or specified delinquent act that is needed 5031
as evidence in the case, including any weapon used in the 5032
commission of the crime or specified delinquent act, if the 5033
prosecutor certifies to the court a need to retain the property in 5034
lieu of a photograph of the property or of another evidentiary 5035
substitute for the property itself. 5036

(C) If the defendant or alleged juvenile offender in a case 5037
files a motion requesting the court to order the law enforcement 5038
agency to retain property of the victim because the property is 5039
needed for the defense in the case, the agency shall retain the 5040
property until the court rules on the motion. The court, in making 5041
a determination on the motion, shall weigh the victim's need for 5042
the property against the defendant's or alleged juvenile 5043
offender's assertion that the property has evidentiary value for 5044
the defense. The court shall rule on the motion in a timely 5045
fashion. 5046

Sec. 2933.75. (A) Upon the institution of any criminal 5047
proceeding charging a medicaid fraud offense, the state, at any 5048
time during the pendency of the proceeding, may file a medicaid 5049
fraud lien notice with the county recorder of any county in which 5050
forfeitable property subject to forfeiture may be located. No fee 5051
shall be required for filing the notice. The recorder immediately 5052
shall record the notice pursuant to section 317.08 of the Revised 5053
Code. 5054

(B) A medicaid fraud lien notice shall be signed by the 5055
prosecuting attorney or attorney general who will prosecute the 5056

case and who files the lien. The notice shall set forth all of the 5057
following information: 5058

(1) The name of the person against whom the proceeding has 5059
been brought. The prosecuting attorney or attorney general who 5060
will prosecute the case may specify in the notice any aliases, 5061
names, or fictitious names under which the person may be known. 5062

(2) If known to the prosecuting attorney or attorney general 5063
who will prosecute the case, the present residence and business 5064
addresses of the person or names set forth in the notice; 5065

(3) A statement that a criminal proceeding for a medicaid 5066
fraud offense has been brought against the person named in the 5067
notice, the name of the county in which the proceeding has been 5068
brought, and the case number of the proceeding; 5069

(4) A statement that the notice is being filed pursuant to 5070
this section; 5071

(5) The name and address of the prosecuting attorney or 5072
attorney general filing the notice; 5073

(6) A description of the real or personal property subject to 5074
the notice and of the interest in that property of the person 5075
named in the notice, to the extent the property and the interest 5076
of the person in it reasonably is known at the time the proceeding 5077
is instituted or at the time the notice is filed. 5078

(C) A medicaid fraud lien notice shall apply only to one 5079
person and, to the extent applicable, any aliases, fictitious 5080
names, or other names, including names of corporations, 5081
partnerships, or other entities, to the extent permitted in this 5082
section. A separate medicaid fraud lien notice is required to be 5083
filed for any other person. 5084

(D) Within seven days after the filing of each medicaid fraud 5085
lien notice, the prosecuting attorney or attorney general who 5086

files the notice shall furnish to the person named in the notice 5087
by certified mail, return receipt requested, to the last known 5088
business or residential address of the person, a copy of the 5089
recorded notice with a notation on it of any county in which the 5090
notice has been recorded. The failure of the prosecuting attorney 5091
or attorney general to furnish a copy of the notice under this 5092
section shall not invalidate or otherwise affect the medicaid 5093
fraud lien notice when the prosecuting attorney or attorney 5094
general did not know and could not reasonably ascertain the 5095
address of the person entitled to notice. 5096

After receipt of a copy of the notice under this division, 5097
the person named in the notice may petition the court to authorize 5098
the person to post a surety bond in lieu of the lien or to 5099
otherwise modify the lien as the interests of justice may require. 5100
The bond shall be in an amount equal to the value of the property 5101
reasonably known to be subject to the notice and conditioned on 5102
the payment of any judgment and costs ordered in an action 5103
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code up 5104
to the value of the bond. 5105

(E) From the date of filing of a medicaid fraud lien notice, 5106
the notice creates a lien in favor of the state on any personal or 5107
real property or any beneficial interest in the property located 5108
in the county in which the notice is filed that then or 5109
subsequently is owned by the person named in the notice or under 5110
any of the names set forth in the notice. 5111

The lien created in favor of the state is superior and prior 5112
to the interest of any other person in the personal or real 5113
property or beneficial interest in the property, if the interest 5114
is acquired subsequent to the filing of the notice. 5115

(F) If a medicaid fraud lien notice has been filed, and if a 5116
forfeiture order is entered subsequent to a conviction or guilty 5117

plea in the criminal proceeding pursuant to ~~section 2933.73~~ 5118
Chapter 2981. of the Revised Code in favor of the state, the 5119
interest of any person in the property that was acquired 5120
subsequent to the filing of the notice shall be subject to the 5121
notice and order of forfeiture. 5122

(G) Upon the issuance of an order of forfeiture in favor of 5123
the state pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised 5124
Code, title of the state to the forfeited property shall do either 5125
of the following: 5126

(1) In the case of real property, or a beneficial interest in 5127
it, relate back to the date of filing of the medicaid fraud lien 5128
notice in the county where the property or interest is located. If 5129
no medicaid fraud lien notice was filed, title of the state 5130
relates back to the date of the recording of the order of 5131
forfeiture in the records of the county recorder of the county in 5132
which the real property or beneficial interest is located. 5133

(2) In the case of personal property or a beneficial interest 5134
in it, relate back to the date on which the property or interest 5135
was seized by the state, or the date of filing of a medicaid fraud 5136
lien notice in the county in which the property or beneficial 5137
interest is located. If the property was not seized and no 5138
medicaid fraud lien notice was filed, title of the state relates 5139
back to the date of the recording of the order of forfeiture in 5140
the county in which the personal property or beneficial interest 5141
is located. 5142

(H) If personal or real property, or a beneficial interest in 5143
it, that is forfeitable property and is subject to forfeiture 5144
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code is 5145
conveyed, alienated, disposed of, or otherwise rendered 5146
unavailable for forfeiture after the filing of either a medicaid 5147
fraud lien notice, or a criminal proceeding for a medicaid fraud 5148

offense, whichever is earlier, the state may bring an action in 5149
any court of common pleas against the person named in the medicaid 5150
fraud lien notice or the defendant in the criminal proceeding to 5151
recover the value of the property or interest. The court shall 5152
enter final judgment against the person named in the notice or the 5153
defendant for an amount equal to the value of the property or 5154
interest together with investigative costs and attorney's fees 5155
incurred by the state in the action. 5156

(I) If personal or real property, or a beneficial interest in 5157
it, that is forfeitable property and is subject to forfeiture 5158
pursuant to ~~section 2933.73~~ Chapter 2981. of the Revised Code is 5159
alienated or otherwise transferred or disposed of after either the 5160
filing of a medicaid fraud lien notice, or the filing of a 5161
criminal proceeding for a medicaid fraud offense, whichever is 5162
earlier, the transfer or disposal is fraudulent as to the state 5163
and the state shall have all the rights granted a creditor under 5164
Chapter 1336. of the Revised Code. 5165

(J) No trustee, who acquires actual knowledge that a medicaid 5166
fraud lien notice or a criminal proceeding for a medicaid fraud 5167
offense has been filed against any person for whom ~~he~~ the trustee 5168
holds legal or record title to personal or real property, shall 5169
recklessly fail to furnish promptly to the prosecuting attorney or 5170
attorney general who is prosecuting the case all of the following: 5171

(1) The name and address of the person, as known to the 5172
trustee; 5173

(2) The name and address, as known to the trustee, of all 5174
other persons for whose benefit the trustee holds title to the 5175
property; 5176

(3) If requested by the prosecuting attorney or attorney 5177
general who is prosecuting the case, a copy of the trust agreement 5178
or other instrument under which the trustee holds title to the 5179

property. 5180

Any trustee who fails to comply with division (J) of this 5181
section is guilty of failure to provide medicaid fraud lien 5182
information, a misdemeanor of the first degree. 5183

(K) If a trustee transfers title to personal or real property 5184
after a medicaid fraud lien notice is filed against the property, 5185
the lien is filed in the county in which the property is located, 5186
and the lien names a person who holds a beneficial interest in the 5187
property, the trustee, if ~~he~~ the trustee has actual notice of the 5188
notice, shall be liable to the state for the greater of the 5189
following: 5190

(1) The proceeds received directly by the person named in the 5191
notice as a result of the transfer; 5192

(2) The proceeds received by the trustee as a result of the 5193
transfer and distributed to the person named in the notice; 5194

(3) The fair market value of the interest of the person named 5195
in the notice in the property transferred. 5196

However, if the trustee transfers property for at least its 5197
fair market value and holds the proceeds that otherwise would be 5198
paid or distributed to the beneficiary, or at the direction of the 5199
beneficiary or ~~his~~ the beneficiary's designee, the liability of 5200
the trustee shall not exceed the amount of the proceeds held by 5201
the trustee. 5202

(L) The filing of a medicaid fraud lien notice does not 5203
constitute a lien on the record title to personal or real property 5204
owned by the trustee, except to the extent the trustee is named in 5205
the notice. 5206

The prosecuting attorney for the county or the attorney 5207
general may bring a civil action in any court of common pleas to 5208
recover from the trustee the amounts set forth in division (H) of 5209

this section. The county or state may recover investigative costs 5210
and attorney's fees incurred by the prosecuting attorney or the 5211
attorney general. 5212

(M)(1) This section does not apply to any transfer by a 5213
trustee under a court order, unless the order is entered in an 5214
action between the trustee and the beneficiary. 5215

(2) Unless the trustee has actual knowledge that a person 5216
owning a beneficial interest in the trust is named in a medicaid 5217
fraud lien notice, this section does not apply to either of the 5218
following: 5219

(a) Any transfer by a trustee required under the terms of any 5220
trust agreement, if the agreement is a matter of public record 5221
before the filing of any medicaid fraud lien notice; 5222

(b) Any transfer by a trustee to all of the persons who own a 5223
beneficial interest in the trust. 5224

(N) The filing of a medicaid fraud lien notice does not 5225
affect the use to which personal or real property, or a beneficial 5226
interest in it, that is owned by the person named in the notice 5227
may be put or the right of the person to receive any proceeds 5228
resulting from the use and ownership, but not the sale, of the 5229
property, until a judgment of forfeiture is entered. 5230

(O) The term of a medicaid fraud lien notice is five years 5231
from the date the notice is filed, unless a renewal notice has 5232
been filed by the prosecuting attorney of the county in which the 5233
property or interest is located or by the attorney general. The 5234
term of any renewal of a medicaid fraud lien notice granted by the 5235
court is five years from the date of its filing. A medicaid fraud 5236
lien notice may be renewed any number of times while a criminal 5237
proceeding for a medicaid fraud offense, or an appeal from such a 5238
proceeding, is pending. 5239

(P) The prosecuting attorney or attorney general who files 5240
the medicaid fraud lien notice may terminate, in whole or part, 5241
the notice or release any personal or real property or beneficial 5242
interest in the property upon any terms that ~~he~~ the prosecuting 5243
attorney or attorney general determines are appropriate. Any 5244
termination or release shall be filed by the prosecuting attorney 5245
or attorney general with each county recorder with whom the notice 5246
was filed. No fee shall be imposed for the filing. 5247

(Q) The acquittal in a criminal proceeding for a medicaid 5248
fraud offense of the person named in the medicaid fraud lien 5249
notice or the dismissal of a criminal proceeding for such an 5250
offense against the person named in the notice terminates the 5251
notice. In such a case, the filing of the notice has no effect. 5252

A person named in a medicaid fraud lien notice may bring an 5253
action against the prosecuting attorney or attorney general who 5254
filed the notice, in the county where it was filed, seeking a 5255
release of the property subject to the notice or termination of 5256
the notice. In such a case, the court of common pleas promptly 5257
shall set a date for hearing, which shall be not less than five 5258
nor more than ten days after the action is filed. The order and a 5259
copy of the complaint shall be served on the prosecuting attorney 5260
or attorney general within three days after the action is filed. 5261
At the hearing, the court shall take evidence as to whether any 5262
personal or real property, or beneficial interest in it, that is 5263
owned by the person bringing the action is covered by the notice 5264
or otherwise is subject to forfeiture. If the person bringing the 5265
action shows by a preponderance of the evidence that the notice 5266
does not apply to ~~him~~ the person or that any personal or real 5267
property, or beneficial interest in it, that is owned by ~~him~~ the 5268
person is not subject to forfeiture, the court shall enter a 5269
judgment terminating the notice or releasing the personal or real 5270
property or beneficial interest from the notice. 5271

At a hearing, the court may release from the notice any 5272
property or beneficial interest upon the posting of security, by 5273
the person against whom the notice was filed, in an amount equal 5274
to the value of the property or beneficial interest owned by the 5275
person. 5276

The court promptly shall enter an order terminating a 5277
medicaid fraud lien notice or releasing any personal or real 5278
property or beneficial interest in the property, if a sale of the 5279
property or beneficial interest is pending and the filing of the 5280
notice prevents the sale. However, the proceeds of the sale shall 5281
be deposited with the clerk of the court, subject to the further 5282
order of the court. 5283

(R) Notwithstanding any provision of this section, any person 5284
who has perfected a security interest in personal or real property 5285
or a beneficial interest in the property for the payment of an 5286
enforceable debt or other similar obligation prior to the filing 5287
of a medicaid fraud lien notice in reference to the property or 5288
interest may foreclose on the property or interest as otherwise 5289
provided by law. The foreclosure, insofar as practical, shall be 5290
made so that it otherwise will not interfere with a forfeiture 5291
under ~~section 2933.73~~ Chapter 2981. of the Revised Code. 5292

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 5293
deputy marshal, municipal police officer, township constable, 5294
police officer of a township or joint township police district, 5295
member of a police force employed by a metropolitan housing 5296
authority under division (D) of section 3735.31 of the Revised 5297
Code, member of a police force employed by a regional transit 5298
authority under division (Y) of section 306.35 of the Revised 5299
Code, state university law enforcement officer appointed under 5300
section 3345.04 of the Revised Code, veterans' home police officer 5301
appointed under section 5907.02 of the Revised Code, special 5302

police officer employed by a port authority under section 4582.04 5303
or 4582.28 of the Revised Code, or a special police officer 5304
employed by a municipal corporation at a municipal airport, or 5305
other municipal air navigation facility, that has scheduled 5306
operations, as defined in section 119.3 of Title 14 of the Code of 5307
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 5308
required to be under a security program and is governed by 5309
aviation security rules of the transportation security 5310
administration of the United States department of transportation 5311
as provided in Parts 1542. and 1544. of Title 49 of the Code of 5312
Federal Regulations, as amended, shall arrest and detain, until a 5313
warrant can be obtained, a person found violating, within the 5314
limits of the political subdivision, metropolitan housing 5315
authority housing project, regional transit authority facilities 5316
or areas of a municipal corporation that have been agreed to by a 5317
regional transit authority and a municipal corporation located 5318
within its territorial jurisdiction, college, university, 5319
veterans' home operated under Chapter 5907. of the Revised Code, 5320
port authority, or municipal airport or other municipal air 5321
navigation facility, in which the peace officer is appointed, 5322
employed, or elected, a law of this state, an ordinance of a 5323
municipal corporation, or a resolution of a township. 5324

(2) A peace officer of the department of natural resources or 5325
an individual designated to perform law enforcement duties under 5326
section 511.232, 1545.13, or 6101.75 of the Revised Code shall 5327
arrest and detain, until a warrant can be obtained, a person found 5328
violating, within the limits of the peace officer's or 5329
individual's territorial jurisdiction, a law of this state. 5330

(3) The house sergeant at arms if the house sergeant at arms 5331
has arrest authority pursuant to division (E)(1) of section 5332
101.311 of the Revised Code and an assistant house sergeant at 5333
arms shall arrest and detain, until a warrant can be obtained, a 5334

person found violating, within the limits of the sergeant at 5335
arms's or assistant sergeant at arms's territorial jurisdiction 5336
specified in division (D)(1)(a) of section 101.311 of the Revised 5337
Code or while providing security pursuant to division (D)(1)(f) of 5338
section 101.311 of the Revised Code, a law of this state, an 5339
ordinance of a municipal corporation, or a resolution of a 5340
township. 5341

(B)(1) When there is reasonable ground to believe that an 5342
offense of violence, the offense of criminal child enticement as 5343
defined in section 2905.05 of the Revised Code, the offense of 5344
public indecency as defined in section 2907.09 of the Revised 5345
Code, the offense of domestic violence as defined in section 5346
2919.25 of the Revised Code, the offense of violating a protection 5347
order as defined in section 2919.27 of the Revised Code, the 5348
offense of menacing by stalking as defined in section 2903.211 of 5349
the Revised Code, the offense of aggravated trespass as defined in 5350
section 2911.211 of the Revised Code, a theft offense as defined 5351
in section 2913.01 of the Revised Code, or a felony drug abuse 5352
offense as defined in section 2925.01 of the Revised Code, has 5353
been committed within the limits of the political subdivision, 5354
metropolitan housing authority housing project, regional transit 5355
authority facilities or those areas of a municipal corporation 5356
that have been agreed to by a regional transit authority and a 5357
municipal corporation located within its territorial jurisdiction, 5358
college, university, veterans' home operated under Chapter 5907. 5359
of the Revised Code, port authority, or municipal airport or other 5360
municipal air navigation facility, in which the peace officer is 5361
appointed, employed, or elected or within the limits of the 5362
territorial jurisdiction of the peace officer, a peace officer 5363
described in division (A) of this section may arrest and detain 5364
until a warrant can be obtained any person who the peace officer 5365
has reasonable cause to believe is guilty of the violation. 5366

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace

officer has reasonable grounds to believe that the offense of 5430
domestic violence or the offense of violating a protection order 5431
has been committed and reasonable cause to believe that a 5432
particular person is guilty of committing the offense, it is the 5433
preferred course of action in this state that the officer arrest 5434
and detain that person pursuant to division (B)(1) of this section 5435
until a warrant can be obtained. 5436

If pursuant to division (B)(3)(a) of this section a peace 5437
officer has reasonable grounds to believe that the offense of 5438
domestic violence or the offense of violating a protection order 5439
has been committed and reasonable cause to believe that family or 5440
household members have committed the offense against each other, 5441
it is the preferred course of action in this state that the 5442
officer, pursuant to division (B)(1) of this section, arrest and 5443
detain until a warrant can be obtained the family or household 5444
member who committed the offense and whom the officer has 5445
reasonable cause to believe is the primary physical aggressor. 5446
There is no preferred course of action in this state regarding any 5447
other family or household member who committed the offense and 5448
whom the officer does not have reasonable cause to believe is the 5449
primary physical aggressor, but, pursuant to division (B)(1) of 5450
this section, the peace officer may arrest and detain until a 5451
warrant can be obtained any other family or household member who 5452
committed the offense and whom the officer does not have 5453
reasonable cause to believe is the primary physical aggressor. 5454

(c) If a peace officer described in division (A) of this 5455
section does not arrest and detain a person whom the officer has 5456
reasonable cause to believe committed the offense of domestic 5457
violence or the offense of violating a protection order when it is 5458
the preferred course of action in this state pursuant to division 5459
(B)(3)(b) of this section that the officer arrest that person, the 5460
officer shall articulate in the written report of the incident 5461

required by section 2935.032 of the Revised Code a clear statement 5462
of the officer's reasons for not arresting and detaining that 5463
person until a warrant can be obtained. 5464

(d) In determining for purposes of division (B)(3)(b) of this 5465
section which family or household member is the primary physical 5466
aggressor in a situation in which family or household members have 5467
committed the offense of domestic violence or the offense of 5468
violating a protection order against each other, a peace officer 5469
described in division (A) of this section, in addition to any 5470
other relevant circumstances, should consider all of the 5471
following: 5472

(i) Any history of domestic violence or of any other violent 5473
acts by either person involved in the alleged offense that the 5474
officer reasonably can ascertain; 5475

(ii) If violence is alleged, whether the alleged violence was 5476
caused by a person acting in self-defense; 5477

(iii) Each person's fear of physical harm, if any, resulting 5478
from the other person's threatened use of force against any person 5479
or resulting from the other person's use or history of the use of 5480
force against any person, and the reasonableness of that fear; 5481

(iv) The comparative severity of any injuries suffered by the 5482
persons involved in the alleged offense. 5483

(e)(i) A peace officer described in division (A) of this 5484
section shall not require, as a prerequisite to arresting or 5485
charging a person who has committed the offense of domestic 5486
violence or the offense of violating a protection order, that the 5487
victim of the offense specifically consent to the filing of 5488
charges against the person who has committed the offense or sign a 5489
complaint against the person who has committed the offense. 5490

(ii) If a person is arrested for or charged with committing 5491

the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to ~~section 2933.43~~ Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, ~~section 2933.43~~ 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent

described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint township police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of

section 101.311 of the Revised Code, or an assistant house 5588
sergeant at arms is authorized by division (A) or (B) of this 5589
section to arrest and detain, within the limits of the political 5590
subdivision, metropolitan housing authority housing project, 5591
regional transit authority facilities or those areas of a 5592
municipal corporation that have been agreed to by a regional 5593
transit authority and a municipal corporation located within its 5594
territorial jurisdiction, port authority, municipal airport or 5595
other municipal air navigation facility, college, or university in 5596
which the officer is appointed, employed, or elected or within the 5597
limits of the territorial jurisdiction of the peace officer, a 5598
person until a warrant can be obtained, the peace officer, outside 5599
the limits of that territory, may pursue, arrest, and detain that 5600
person until a warrant can be obtained if all of the following 5601
apply: 5602

(1) The pursuit takes place without unreasonable delay after 5603
the offense is committed; 5604

(2) The pursuit is initiated within the limits of the 5605
political subdivision, metropolitan housing authority housing 5606
project, regional transit authority facilities or those areas of a 5607
municipal corporation that have been agreed to by a regional 5608
transit authority and a municipal corporation located within its 5609
territorial jurisdiction, port authority, municipal airport or 5610
other municipal air navigation facility, college, or university in 5611
which the peace officer is appointed, employed, or elected or 5612
within the limits of the territorial jurisdiction of the peace 5613
officer; 5614

(3) The offense involved is a felony, a misdemeanor of the 5615
first degree or a substantially equivalent municipal ordinance, a 5616
misdemeanor of the second degree or a substantially equivalent 5617
municipal ordinance, or any offense for which points are 5618
chargeable pursuant to section 4510.036 of the Revised Code. 5619

(E) In addition to the authority granted under division (A) 5620
or (B) of this section: 5621

(1) A sheriff or deputy sheriff may arrest and detain, until 5622
a warrant can be obtained, any person found violating section 5623
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 5624
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 5625
portion of any street or highway that is located immediately 5626
adjacent to the boundaries of the county in which the sheriff or 5627
deputy sheriff is elected or appointed. 5628

(2) A member of the police force of a township police 5629
district created under section 505.48 of the Revised Code, a 5630
member of the police force of a joint township police district 5631
created under section 505.481 of the Revised Code, or a township 5632
constable appointed in accordance with section 509.01 of the 5633
Revised Code, who has received a certificate from the Ohio peace 5634
officer training commission under section 109.75 of the Revised 5635
Code, may arrest and detain, until a warrant can be obtained, any 5636
person found violating any section or chapter of the Revised Code 5637
listed in division (E)(1) of this section, other than sections 5638
4513.33 and 4513.34 of the Revised Code, on the portion of any 5639
street or highway that is located immediately adjacent to the 5640
boundaries of the township police district or joint township 5641
police district, in the case of a member of a township police 5642
district or joint township police district police force, or the 5643
unincorporated territory of the township, in the case of a 5644
township constable. However, if the population of the township 5645
that created the township police district served by the member's 5646
police force, or the townships that created the joint township 5647
police district served by the member's police force, or the 5648
township that is served by the township constable, is sixty 5649
thousand or less, the member of the township police district or 5650
joint police district police force or the township constable may 5651

not make an arrest under division (E)(2) of this section on a 5652
state highway that is included as part of the interstate system. 5653

(3) A police officer or village marshal appointed, elected, 5654
or employed by a municipal corporation may arrest and detain, 5655
until a warrant can be obtained, any person found violating any 5656
section or chapter of the Revised Code listed in division (E)(1) 5657
of this section on the portion of any street or highway that is 5658
located immediately adjacent to the boundaries of the municipal 5659
corporation in which the police officer or village marshal is 5660
appointed, elected, or employed. 5661

(4) A peace officer of the department of natural resources or 5662
an individual designated to perform law enforcement duties under 5663
section 511.232, 1545.13, or 6101.75 of the Revised Code may 5664
arrest and detain, until a warrant can be obtained, any person 5665
found violating any section or chapter of the Revised Code listed 5666
in division (E)(1) of this section, other than sections 4513.33 5667
and 4513.34 of the Revised Code, on the portion of any street or 5668
highway that is located immediately adjacent to the boundaries of 5669
the lands and waters that constitute the territorial jurisdiction 5670
of the peace officer. 5671

(F)(1) A department of mental health special police officer 5672
or a department of mental retardation and developmental 5673
disabilities special police officer may arrest without a warrant 5674
and detain until a warrant can be obtained any person found 5675
committing on the premises of any institution under the 5676
jurisdiction of the particular department a misdemeanor under a 5677
law of the state. 5678

A department of mental health special police officer or a 5679
department of mental retardation and developmental disabilities 5680
special police officer may arrest without a warrant and detain 5681
until a warrant can be obtained any person who has been 5682

hospitalized, institutionalized, or confined in an institution 5683
under the jurisdiction of the particular department pursuant to or 5684
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 5685
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 5686
found committing on the premises of any institution under the 5687
jurisdiction of the particular department a violation of section 5688
2921.34 of the Revised Code that involves an escape from the 5689
premises of the institution. 5690

(2)(a) If a department of mental health special police 5691
officer or a department of mental retardation and developmental 5692
disabilities special police officer finds any person who has been 5693
hospitalized, institutionalized, or confined in an institution 5694
under the jurisdiction of the particular department pursuant to or 5695
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 5696
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 5697
violation of section 2921.34 of the Revised Code that involves an 5698
escape from the premises of the institution, or if there is 5699
reasonable ground to believe that a violation of section 2921.34 5700
of the Revised Code has been committed that involves an escape 5701
from the premises of an institution under the jurisdiction of the 5702
department of mental health or the department of mental 5703
retardation and developmental disabilities and if a department of 5704
mental health special police officer or a department of mental 5705
retardation and developmental disabilities special police officer 5706
has reasonable cause to believe that a particular person who has 5707
been hospitalized, institutionalized, or confined in the 5708
institution pursuant to or under authority of section 2945.37, 5709
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 5710
Revised Code is guilty of the violation, the special police 5711
officer, outside of the premises of the institution, may pursue, 5712
arrest, and detain that person for that violation of section 5713
2921.34 of the Revised Code, until a warrant can be obtained, if 5714

both of the following apply: 5715

(i) The pursuit takes place without unreasonable delay after 5716
the offense is committed; 5717

(ii) The pursuit is initiated within the premises of the 5718
institution from which the violation of section 2921.34 of the 5719
Revised Code occurred. 5720

(b) For purposes of division (F)(2)(a) of this section, the 5721
execution of a written statement by the administrator of the 5722
institution in which a person had been hospitalized, 5723
institutionalized, or confined pursuant to or under authority of 5724
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 5725
2945.402 of the Revised Code alleging that the person has escaped 5726
from the premises of the institution in violation of section 5727
2921.34 of the Revised Code constitutes reasonable ground to 5728
believe that the violation was committed and reasonable cause to 5729
believe that the person alleged in the statement to have committed 5730
the offense is guilty of the violation. 5731

(G) As used in this section: 5732

(1) A "department of mental health special police officer" 5733
means a special police officer of the department of mental health 5734
designated under section 5119.14 of the Revised Code who is 5735
certified by the Ohio peace officer training commission under 5736
section 109.77 of the Revised Code as having successfully 5737
completed an approved peace officer basic training program. 5738

(2) A "department of mental retardation and developmental 5739
disabilities special police officer" means a special police 5740
officer of the department of mental retardation and developmental 5741
disabilities designated under section 5123.13 of the Revised Code 5742
who is certified by the Ohio peace officer training council under 5743
section 109.77 of the Revised Code as having successfully 5744
completed an approved peace officer basic training program. 5745

(3) "Deadly weapon" has the same meaning as in section 5746
2923.11 of the Revised Code. 5747

(4) "Family or household member" has the same meaning as in 5748
section 2919.25 of the Revised Code. 5749

(5) "Street" or "highway" has the same meaning as in section 5750
4511.01 of the Revised Code. 5751

(6) "Interstate system" has the same meaning as in section 5752
5516.01 of the Revised Code. 5753

(7) "Peace officer of the department of natural resources" 5754
means an employee of the department of natural resources who is a 5755
natural resources law enforcement staff officer designated 5756
pursuant to section 1501.013 of the Revised Code, a forest officer 5757
designated pursuant to section 1503.29 of the Revised Code, a 5758
preserve officer designated pursuant to section 1517.10 of the 5759
Revised Code, a wildlife officer designated pursuant to section 5760
1531.13 of the Revised Code, a park officer designated pursuant to 5761
section 1541.10 of the Revised Code, or a state watercraft officer 5762
designated pursuant to section 1547.521 of the Revised Code. 5763

Sec. 2941.1417. (A) Property is not subject to forfeiture in 5764
a criminal case unless the indictment, count in the indictment, or 5765
information charging the offense specifies, to the extent it is 5766
reasonably known at the time of filing, the nature and extent of 5767
the alleged offender's interest in the property, a description of 5768
the property, and, if the property is alleged to be an 5769
instrumentality, the alleged use or intended use of the property 5770
in the commission or facilitation of the offense. The 5771
specification shall be stated at the end of the body of the 5772
indictment, count, or information and shall be in substantially 5773
the following form: 5774

"SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT). The 5775

grand jurors (or insert the person's or prosecuting attorney's name when appropriate) further find and specify that (set forth the alleged offender's interest in the property, a description of the property subject to forfeiture, and any alleged use or intended use of the property in the commission or facilitation of the offense)." 5776
5777
5778
5779
5780
5781

(B) The trier of fact shall determine whether the property is subject to forfeiture. 5782
5783

(C) The specification described in division (A) of this section may be used in a delinquent child proceeding. 5784
5785

Sec. 2945.44. (A) In any criminal proceeding in this state or 5786
in any criminal or civil proceeding brought pursuant to ~~sections~~ 5787
~~2923.31 to 2923.36~~ Chapter 2981. of the Revised Code, if a witness 5788
refuses to answer or produce information on the basis of ~~his~~ the 5789
witness's privilege against self-incrimination, the court of 5790
common pleas of the county in which the proceeding is being held, 5791
unless it finds that to do so would not further the administration 5792
of justice, shall compel the witness to answer or produce the 5793
information, if both of the following apply: 5794

(1) The prosecuting attorney of the county in which the 5795
proceedings are being held makes a written request to the court of 5796
common pleas to order the witness to answer or produce the 5797
information, notwithstanding ~~his~~ the witness's claim of privilege; 5798

(2) The court of common pleas informs the witness that by 5799
answering, or producing the information ~~he~~ the witness will 5800
receive immunity under division (B) of this section. 5801

(B) If, but for this section, the witness would have been 5802
privileged to withhold an answer or any information given in any 5803
criminal proceeding, and ~~he~~ the witness complies with an order 5804
under division (A) of this section compelling ~~him~~ the witness to 5805

give an answer or produce any information, ~~he~~ the witness shall 5806
not be prosecuted or subjected to any criminal penalty in the 5807
courts of this state for or on account of any transaction or 5808
matter concerning which, in compliance with the order, ~~he~~ the 5809
witness gave an answer or produced any information. 5810

(C) A witness granted immunity under this section may be 5811
subjected to a criminal penalty for any violation of section 5812
2921.11, 2921.12, or 2921.13 of the Revised Code, or for contempt 5813
committed in answering, failing to answer, or failing to produce 5814
information in compliance with the order. 5815

Sec. 2981.01. (A) Forfeitures under this chapter shall be 5816
governed by all of the following purposes: 5817

(1) To provide economic disincentives and remedies to deter 5818
and offset the economic effect of offenses by seizing and 5819
forfeiting contraband, proceeds, and certain instrumentalities; 5820

(2) To ensure that seizures and forfeitures of 5821
instrumentalities are proportionate to the offense committed; 5822

(3) To protect third parties from wrongful forfeiture of 5823
their property; 5824

(4) To prioritize restitution for victims of offenses. 5825

(B) As used in this chapter: 5826

(1) "Aircraft" has the same meaning as in section 4561.01 of 5827
the Revised Code. 5828

(2) "Computers," "computer networks," "computer systems," 5829
"computer software," and "telecommunications device" have the same 5830
meanings as in section 2913.01 of the Revised Code. 5831

(3) "Financial institution" means a bank, credit union, 5832
savings and loan association, or a licensee or registrant under 5833
Chapter 1321. of the Revised Code. 5834

(4) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code. 5835
5836

(5) "Innocent person" includes any bona fide purchaser of property that is subject to forfeiture, including any person who establishes a valid claim to or interest in the property in accordance with section 2923.04 of the Revised Code, and any victim of an alleged offense. 5837
5838
5839
5840
5841

(6) "Instrumentality" means property otherwise lawful to possess that is used in or intended to be used in an offense. An "instrumentality" may include, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, and any other means of exchange. 5842
5843
5844
5845
5846
5847

(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy and the office of the prosecutor. 5848
5849

(8) "Mobile instrumentality" means an instrumentality that is inherently mobile and used in the routine transport of persons. "Mobile instrumentality" includes, but is not limited to, any vehicle, any watercraft, and any aircraft. 5850
5851
5852
5853

(9) "Money" has the same meaning as in section 1301.01 of the Revised Code. 5854
5855

(10) "Offense" means any act or omission that could be charged as a criminal offense or a delinquent act, whether or not a formal criminal prosecution or delinquent child proceeding began at the time the forfeiture is initiated. Except as otherwise specified, an offense for which property may be forfeited includes any felony and any misdemeanor. The commission of an "offense" includes the commission of a delinquent act. 5856
5857
5858
5859
5860
5861
5862

(11) "Proceeds" means both of the following: 5863

(a) In cases involving unlawful goods, services, or 5864

activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense. 5865
5866
5867
5868

(b) In cases involving lawful goods or services that are sold or provided in an unlawful manner, "proceeds" means the amount of money or other means of exchange acquired through the illegal transactions resulting in the forfeiture, less the direct costs lawfully incurred in providing the goods or services. The lawful costs deduction does not include any part of the overhead expenses of, or income taxes paid by, the entity providing the goods or services. The alleged offender or delinquent child has the burden to prove that any costs are lawfully incurred. 5869
5870
5871
5872
5873
5874
5875
5876
5877

(12) "Property" means "property" as defined in section 2901.01 of the Revised Code and any benefit, privilege, claim, position, interest in an enterprise, or right derived, directly or indirectly, from the offense. 5878
5879
5880
5881

(13) "Property subject to forfeiture" includes contraband and proceeds and may include instrumentalities as provided in this chapter. 5882
5883
5884

(14) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. When relevant, "prosecutor" also includes the attorney general. 5885
5886
5887

(15) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code. 5888
5889

(16) "Watercraft" has the same meaning as in section 1547.01 of the Revised Code. 5890
5891

(C) The penalties and procedures under Chapters 2923., 2925., and 2933. of the Revised Code remain in effect to the extent that they do not conflict with this chapter. 5892
5893
5894

<u>Sec. 2981.02. (A) The following property is subject to</u>	5895
<u>forfeiture to the state or a political subdivision under either</u>	5896
<u>the criminal or delinquency process in section 2981.04 of the</u>	5897
<u>Revised Code or the civil process in section 2981.05 of the</u>	5898
<u>Revised Code:</u>	5899
<u>(1) Contraband involved in an offense;</u>	5900
<u>(2) Proceeds derived from or acquired through the commission</u>	5901
<u>of an offense;</u>	5902
<u>(3) An instrumentality that is used in or intended to be used</u>	5903
<u>in the commission or facilitation of any of the following offenses</u>	5904
<u>when the use or intended use, consistent with division (B) of this</u>	5905
<u>section, is sufficient to warrant forfeiture under this chapter:</u>	5906
<u>(a) A felony;</u>	5907
<u>(b) A misdemeanor, when forfeiture is specifically authorized</u>	5908
<u>by a section of the Revised Code or by a municipal ordinance that</u>	5909
<u>creates the offense or sets forth its penalties;</u>	5910
<u>(c) An attempt to commit, complicity in committing, or a</u>	5911
<u>conspiracy to commit an offense of the type described in divisions</u>	5912
<u>(A)(3)(a) and (b) of this section.</u>	5913
<u>(B) In determining whether an alleged instrumentality was</u>	5914
<u>used in or was intended to be used in the commission or</u>	5915
<u>facilitation of an offense or an attempt, complicity, or</u>	5916
<u>conspiracy to commit an offense in a manner sufficient to warrant</u>	5917
<u>its forfeiture, the trier of fact shall consider the following</u>	5918
<u>factors the trier of fact determines are relevant:</u>	5919
<u>(1) Whether the offense could not have been committed or</u>	5920
<u>attempted but for the presence of the instrumentality;</u>	5921
<u>(2) Whether the primary purpose in using the instrumentality</u>	5922
<u>was to commit or attempt to commit the offense;</u>	5923

(3) The extent to which the instrumentality furthered the 5924
commission of, or attempt to commit, the offense. 5925

(C) This chapter does not apply to or limit forfeitures under 5926
Title XLV of the Revised Code, including forfeitures relating to 5927
section 2903.06 or 2903.08 of the Revised Code. 5928

Sec. 2981.03. (A)(1) The state or political subdivision 5929
acquires provisional title to property subject to forfeiture under 5930
this chapter upon a person's commission of an offense giving rise 5931
to forfeiture, subject to third party claims and a final 5932
adjudication under section 2981.04 or 2981.05 of the Revised Code. 5933
Provisional title authorizes the state or political subdivision to 5934
seize and hold the property, and to act to protect the property, 5935
under this section before any proceeding under this chapter. Title 5936
to the property vests with the state or political subdivision when 5937
the trier of fact renders a final forfeiture verdict or order 5938
under section 2981.04 or 2981.05 of the Revised Code, but that 5939
title is subject to third party claims adjudicated under those 5940
sections. 5941

(2) A law enforcement officer may seize property that the 5942
officer has reasonable cause to believe is property subject to 5943
forfeiture. If a law enforcement officer seizes property that is 5944
titled or registered under law, the officer or the law enforcement 5945
agency that employs the officer shall notify the property owner of 5946
the seizure. The agency shall give notice to the property owner at 5947
the owner's last known address as soon as practical after the 5948
seizure and may give the notice by certified mail or orally by any 5949
means, including telephone. If the officer or agency is unable to 5950
provide the notice required by this division despite reasonable, 5951
good faith efforts, those efforts constitute fulfillment of the 5952
notice requirement. 5953

(3) In a civil forfeiture case under this chapter in which 5954

the state or political subdivision seeks to seize real property, 5955
the property owner may request a hearing before the seizure, and 5956
in the hearing the state or political subdivision shall show 5957
probable cause that the real property is subject to forfeiture. 5958

(4) A person aggrieved by an alleged unlawful seizure of 5959
property may seek relief from the seizure by filing a motion in 5960
the appropriate court that shows the person's interest in the 5961
property, states why the seizure was unlawful, and requests the 5962
property's return. If the motion is filed before an indictment, 5963
information, or a complaint seeking forfeiture of the property is 5964
filed, the court shall promptly schedule a hearing on the motion, 5965
and at the hearing the person shall demonstrate by a preponderance 5966
of the evidence that the seizure was unlawful and that the person 5967
is entitled to the property. If the motion is filed by a defendant 5968
after an indictment, information, or a complaint seeking 5969
forfeiture of the property has been filed, the court shall treat 5970
the motion as a motion to suppress evidence. If the motion is 5971
filed by a third party after an indictment, information, or a 5972
complaint seeking forfeiture of the property has been filed, the 5973
court shall treat the motion as a petition of a person with an 5974
alleged interest in the subject property, pursuant to divisions 5975
(E) and (F) of section 2981.04 of the Revised Code. 5976

(5) In any action under section 2981.04 or 2981.05 of the 5977
Revised Code, if a property owner or third party claims lawful 5978
interest in the subject property alleged to be proceeds, the state 5979
or political subdivision has provisional title and a right to hold 5980
property if it proves both of the following by a preponderance of 5981
the evidence: 5982

(i) The interest in the property was acquired by the alleged 5983
offender or delinquent child during the commission of the offense 5984
or within a reasonable time after that period. 5985

(ii) There is no likely source for the interest in the property other than as proceeds derived from or acquired through the commission of the offense. 5986
5987
5988

(b) The alleged offender or delinquent child shall have the burden to prove the amount of any direct costs lawfully incurred. 5989
5990

(B)(1) Upon application by the prosecutor who prosecutes or brings an action that allows forfeiture under this chapter, the court in which the action is prosecuted or filed may issue an order taking any reasonable action necessary to preserve the reachability of the property including, but not limited to, a restraining order or injunction, an order requiring execution of a satisfactory bond or insurance policy, an order to inspect, photograph, or inventory the property, an order placing a lien or lis pendens against the property, or an order appointing a receiver or trustee. The court may issue an order of this nature at any of the following times: 5991
5992
5993
5994
5995
5996
5997
5998
5999
6000
6001

(a) Upon the filing of a complaint, indictment, or information alleging the property to be subject to forfeiture under section 2981.02 of the Revised Code; 6002
6003
6004

(b) Prior to the filing of a complaint, an indictment, or information alleging the property to be subject to forfeiture under section 2981.02 of the Revised Code, if, after giving notice to all persons known to have a interest in the property and giving those persons an opportunity to be heard, the court determines that all of the following apply: 6005
6006
6007
6008
6009
6010

(i) There is a substantial probability the state or political subdivision will prevail on the forfeiture issue. 6011
6012

(ii) There is a substantial probability that failure to enter the order will result in the property being destroyed, being removed from the court's jurisdiction, or otherwise being made unavailable for forfeiture. 6013
6014
6015
6016

(iii) The need to preserve the availability of the property outweighs the hardship on the person against whom the order is to be entered. 6017
6018
6019

(c) As a condition of releasing the property based on a determination of substantial hardship under division (D) of this section. 6020
6021
6022

(2) Except as otherwise provided in division (B)(3) of this section, the court shall make an order under division (B)(1)(b) of this section effective for not more than ninety days, but the court may extend the order if the prosecutor demonstrates that the need to preserve the reachability of the property still exists or for other good cause shown and shall extend the order if an indictment, information, or a complaint is filed alleging that the property is subject to forfeiture. 6023
6024
6025
6026
6027
6028
6029
6030

(3) A court may issue an order under division (B)(1) of this section without giving notice or a hearing to a person known to have a interest in the property if the prosecutor demonstrates that the property is subject to forfeiture and that giving notice and a hearing will jeopardize the availability of the property for forfeiture. Notwithstanding the ninety-day limit described in division (B)(2) of this section, the court shall make an order under division (B)(3) of this section effective for not more than ten days, but the court may extend the order if the prosecutor again demonstrates that the property is subject to forfeiture and that a hearing will jeopardize the availability of the property or for other good cause shown or if the person subject to the order consents to a longer period. If a party requests a hearing on the order, the court shall hold the hearing at the earliest possible time before the order expires. 6031
6032
6033
6034
6035
6036
6037
6038
6039
6040
6041
6042
6043
6044
6045

(4) At any hearing under division (B) of this section, the court may receive and consider evidence and information that is 6046
6047

inadmissible under the Rules of Evidence. The court shall cause 6048
the hearing to be recorded and shall cause a transcript to be 6049
made. If property is to be seized as a result of the hearing, the 6050
recording and transcript shall not be a public record for purposes 6051
of section 149.43 of the Revised Code until the property is 6052
seized. This section does not authorize making available for 6053
inspection any confidential law enforcement investigatory record 6054
or trial preparation record, as defined in section 149.43 of the 6055
Revised Code. 6056

(C) Except as otherwise provided in division (E) of this 6057
section, any replevin, conversion, or other civil action brought 6058
concerning property subject to a criminal or civil forfeiture 6059
action under this chapter shall be stayed until the forfeiture 6060
action is resolved. 6061

(D)(1) A person with an interest in property that is subject 6062
to forfeiture and that is seized under this chapter may seek 6063
conditional release of the property by requesting possession from 6064
the person with custody of the property. The request shall 6065
demonstrate how the person meets the requirements specified in 6066
divisions (D)(3)(a), (b), and (c) of this section. 6067

(2) If the person with custody of the property does not 6068
release the property within fifteen days after a person makes a 6069
request under division (D)(1) of this section, or within seven 6070
days after a person makes the request if the property was seized 6071
as a mobile instrumentality or if the request is to copy records, 6072
the person who made the request may file a petition for 6073
conditional release with the court in which the complaint, 6074
indictment, or information is filed or, if no complaint, 6075
indictment, or information is filed, the court that issued the 6076
seizure warrant for the property. The petition shall demonstrate 6077
how the person meets the requirements specified in divisions 6078
(D)(3)(a), (b), and (c) of this section and the steps the person 6079

has taken to secure release of the property from the official. 6080
Unless extended for good cause shown, the petition shall be filed 6081
either within thirty days of the filing of a complaint, an 6082
indictment, or information in the forfeiture action or, if no 6083
complaint, indictment, or information is filed, within thirty days 6084
of the issuance of the seizure warrant of the property. 6085

If the court finds that the person meets the criteria 6086
specified in divisions (D)(3)(a), (b), and (c) of this section, 6087
the court shall order the property's conditional return to the 6088
person pending completion of the forfeiture action. In issuing 6089
this order, the court shall notify the person of the prohibitions 6090
against interfering with or diminishing property in section 6091
2981.07 of the Revised Code and may make any order necessary to 6092
ensure that the value of the property is maintained. 6093

If personal, business, or governmental records are seized, 6094
including those contained in computer files, a person may petition 6095
the court for a prompt opportunity to copy, at the person's 6096
expense, any records that are not contraband. The court may grant 6097
the petition if the person demonstrates how the person meets the 6098
requirements specified in divisions (D)(3)(a) and (c) of this 6099
section. The court shall order a competent person to supervise the 6100
copying. 6101

(3) Except when there is probable cause that the property is 6102
contraband, property that must be held for a reasonable time as 6103
evidence related to an offense, or property that is likely to be 6104
used in additional offenses or except when the state or political 6105
subdivision meets the burden imposed under division (A)(5) of this 6106
section regarding alleged proceeds, a court may conditionally 6107
release property subject to forfeiture to a person who 6108
demonstrates all of the following: 6109

(a) A possessory interest in the property; 6110

(b) Sufficient ties to the community to provide assurance 6111
that the property will be available at the time of trial; 6112

(c) That failure to conditionally release the property will 6113
cause a substantial hardship. 6114

(4) In determining whether a substantial hardship exists, the 6115
court shall weigh the person's likely hardship from the state's or 6116
political subdivision's continued possession of the property 6117
against the risk that the property will be destroyed, damaged, 6118
lost, concealed, or transferred if returned to the claimant. The 6119
court shall consider in favor of release the possibility that 6120
withholding the property would prevent a legitimate business from 6121
functioning, prevent the person or an innocent person from 6122
maintaining employment, or leave the person or an innocent person 6123
homeless. 6124

(5) If the state or political subdivision shows that the 6125
person's petition is frivolous, the court shall deny the petition. 6126
Otherwise, the state or political subdivision may respond to the 6127
petition by submitting evidence ex parte to avoid disclosing any 6128
matter that may adversely affect an ongoing criminal investigation 6129
or pending trial. 6130

(6) The court shall decide on the petition not more than 6131
thirty days after it is filed. If the property seized is alleged 6132
to be a mobile instrumentality, the court shall decide on the 6133
petition as soon as practicable within the thirty-day period. If 6134
personal, business, or governmental records were seized and a 6135
person files a petition to copy the records, the court shall 6136
decide on the petition as soon as practicable. In any case, the 6137
court may extend the time for deciding on the petition by consent 6138
of the parties or for good cause shown. 6139

(E) Nothing in this section precludes a financial institution 6140
that has or purports to have a security interest in or lien on 6141

property described in section 2981.02 of the Revised Code from 6142
filing an action in connection with the property, prior to its 6143
disposition under this chapter, to obtain possession of the 6144
property in order to foreclose or otherwise enforce the security 6145
interest or lien. 6146

If a financial institution commences a civil action or takes 6147
any other appropriate legal action to sell the property prior to 6148
its seizure or prior to its disposition under this chapter, and if 6149
the person who is responsible for conducting the sale has actual 6150
knowledge of the commencement of a forfeiture action under either 6151
section 2981.04 or 2981.05 of the Revised Code, then the person 6152
shall dispose of the proceeds of the sale in the following order: 6153

(1) First, to the payment of the costs of the sale, excluding 6154
any associated attorney's fees, and to the payment of the costs 6155
incurred by law enforcement agencies and financial institutions in 6156
connection with the seizure, storage, and maintenance of, and 6157
provision of security for, the property; 6158

(2) Second, in the order of priority of the security 6159
interests and liens, to the payment of valid security interests 6160
and liens pertaining to the property that, at the time at which 6161
the state or political subdivision gains provisional title, are 6162
held by known secured parties and lienholders; 6163

(3) Third, to the court that has or would have jurisdiction 6164
in a case or proceeding under section 2981.04 or section 2981.05 6165
of the Revised Code for disposition under this chapter. 6166

(F) A prosecutor may file a forfeiture action under section 6167
2981.04 or 2981.05 of the Revised Code, or both. If property is 6168
seized pursuant to this section and a criminal forfeiture has not 6169
begun under section 2981.04 of the Revised Code, the prosecutor of 6170
the county in which the seizure occurred shall commence a civil 6171
action to forfeit that property under section 2981.05 of the 6172

Revised Code. 6173

If the property seized includes property alleged to be a 6174
mobile instrumentality or includes personal, business, or 6175
governmental records, the civil forfeiture action shall be brought 6176
within thirty days of seizure. Otherwise, the action shall be 6177
brought within sixty days of seizure. In either case, the period 6178
within which the action shall be brought may be extended by 6179
agreement of the parties or by the court for good cause shown. 6180

A prosecutor may file an appropriate charging instrument 6181
under section 2981.04 of the Revised Code to seek a criminal 6182
forfeiture after a civil forfeiture action begins. Filing a 6183
charging instrument for an offense that is also the basis of a 6184
civil forfeiture action shall stay the civil action. 6185

A civil action to obtain civil forfeiture may be commenced as 6186
described in section 2981.05 of the Revised Code regardless of 6187
whether the adult or juvenile offender has pleaded guilty to, been 6188
convicted of, or been adjudicated a delinquent child for the act 6189
that is the basis of the order. 6190

(G) The prosecutor shall maintain an accurate record of each 6191
item disposed of under section 2981.04 or 2981.05 of the Revised 6192
Code. The record shall not identify or enable the identification 6193
of the officer who seized the property. The record is a public 6194
record open for inspection under section 149.43 of the Revised 6195
Code. 6196

Sec. 2981.04. (A)(1) Property described in division (A) of 6197
section 2981.02 of the Revised Code may be forfeited under this 6198
section only if the complaint, indictment, or information charging 6199
the offense or municipal violation, or the complaint charging the 6200
delinquent act, contains a specification of the type described in 6201
section 2941.1417 of the Revised Code that sets forth all of the 6202

following to the extent it is reasonably known at the time of the 6203
filing: 6204

(a) The nature and extent of the alleged offender's interest 6205
in the property; 6206

(b) A description of the property; 6207

(c) If the property is alleged to be an instrumentality, the 6208
alleged use or intended use of the property in the commission or 6209
facilitation of the offense. 6210

(2) If any property is not reasonably foreseen to be subject 6211
to forfeiture at the time of filing the indictment, information, 6212
or complaint, the trier of fact still may return a verdict of 6213
forfeiture concerning that property in the hearing described in 6214
division (B) of this section if the prosecutor, upon discovering 6215
the property to be subject to forfeiture, gave prompt notice of 6216
this fact to the alleged offender or delinquent child under 6217
Criminal Rule 7(E) or Juvenile Rule 10(B). 6218

(3) For good cause shown, the court may consider issues of 6219
the guilt of the alleged offender or the delinquency of the 6220
alleged delinquent child separate from whether property specified 6221
as subject to forfeiture should be forfeited. 6222

(B) If a person pleads guilty to or is convicted of an 6223
offense or is adjudicated a delinquent child for committing a 6224
delinquent act and the complaint, indictment, or information 6225
charging the offense or act contains a specification covering 6226
property subject to forfeiture under section 2981.02 of the 6227
Revised Code, the trier of fact shall determine whether the 6228
person's property shall be forfeited. If the state or political 6229
subdivision proves by a preponderance of the evidence that the 6230
property is in whole or part subject to forfeiture under section 6231
2981.02 of the Revised Code, after a proportionality review under 6232
section 2981.09 of the Revised Code when relevant, the trier of 6233

fact shall return a verdict of forfeiture that specifically
describes the extent of the property subject to forfeiture. If the
trier of fact is a jury, on the offender's motion, the court shall
make the determination of whether the property shall be forfeited.

6234
6235
6236
6237

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

6238
6239
6240
6241
6242
6243
6244
6245
6246
6247
6248

(D) After the entry of a forfeiture order under this section,
the prosecutor shall attempt to identify any person with an
interest in the property subject to forfeiture by searching
appropriate public records and making reasonably diligent
inquiries. The prosecutor shall give notice of the forfeiture that
remains subject to the claims of third parties and proposed
disposal of the forfeited property to any person known to have an
interest in the property. The prosecutor also shall publish notice
of the forfeiture that remains subject to the claims of third
parties and proposed disposal of the forfeited property once each
week for two consecutive weeks in a newspaper of general
circulation in the county in which the property was seized.

6249
6250
6251
6252
6253
6254
6255
6256
6257
6258
6259
6260

(E)(1) Any person, other than the offender or delinquent
child whose conviction or plea of guilty or delinquency
adjudication is the basis of the forfeiture order, who asserts a
legal interest in the property that is the subject of the order
may petition the court that issued the order for a hearing under

6261
6262
6263
6264
6265

division (E)(3) of this section to adjudicate the validity of the 6266
person's alleged interest in the property. All of the following 6267
apply to the petition: 6268

(a) It shall be filed within thirty days after the final 6269
publication of notice or the person's receipt of notice under 6270
division (D) of this section. 6271

(b) It shall be signed by the petitioner under the penalties 6272
for falsification specified in section 2921.13 of the Revised 6273
Code. 6274

(c) It shall describe the nature and extent of the 6275
petitioner's interest in the property, the time and circumstances 6276
of the petitioner's acquisition of that interest, any additional 6277
facts supporting the petitioner's claim, and the relief sought. 6278

(2)(a) In lieu of filing a petition as described in division 6279
(E)(1) of this section, a person, other than the offender or 6280
delinquent child whose conviction or plea of guilty or delinquency 6281
adjudication is the basis of the forfeiture order, may file an 6282
affidavit as described in this division to establish the validity 6283
of the alleged right, title, or interest in the property that is 6284
the subject of the forfeiture order if the person is a secured 6285
party or other lienholder of record that asserts a legal interest 6286
in the property, including, but not limited to, a mortgage, 6287
security interest, or other type of lien. The affidavit shall 6288
contain averments that the secured party or other lienholder 6289
acquired its alleged right, title, or interest in the property in 6290
the regular course of its business, for a specified valuable 6291
consideration, without actual knowledge of any facts pertaining to 6292
the offense that was the basis of the forfeiture order, in good 6293
faith, and without the intent to prevent or otherwise impede the 6294
state or political subdivision from seizing or obtaining a 6295
forfeiture of the property. The person shall file the affidavit 6296

within thirty days after the earlier of the final publication of 6297
notice or the receipt of notice under division (D) of this 6298
section. 6299

(b) Except as otherwise provided in this section, the 6300
affidavit shall constitute prima-facie evidence of the validity of 6301
the affiant's alleged interest in the property. 6302

(c) Unless the prosecutor files a motion challenging the 6303
affidavit within ten days after its filing and unless the 6304
prosecutor establishes by a preponderance of the evidence at the 6305
hearing held under division (E)(3) of this section that the 6306
affiant does not possess the alleged interest in the property or 6307
that the affiant had actual knowledge of facts pertaining to the 6308
offense or delinquent act that was the basis of the forfeiture 6309
order, the affidavit shall constitute conclusive evidence of the 6310
validity of the affiant's interest in the property. 6311

(d) Any subsequent purchaser or other transferee of property 6312
pursuant to forfeiture under this section shall take the property 6313
subject to the continued validity of the interest of the affiant. 6314

(3) Upon receipt of a petition or affidavit filed under 6315
division (E)(1) or (2) of this section, the court shall hold a 6316
hearing to determine the validity of the petitioner's interest in 6317
the property that is the subject of the forfeiture order or, if 6318
the affidavit was challenged, to determine the validity of the 6319
affiant's interest in the property. To the extent practicable and 6320
consistent with the interests of justice, the court shall hold the 6321
hearing within thirty days after the filing of the petition or 6322
within thirty days after the prosecutor files the motion 6323
challenging the affidavit. The court may consolidate the hearing 6324
with a hearing on any other petition or affidavit that is filed by 6325
a person other than the offender or delinquent child whose 6326
conviction or plea of guilty or delinquency adjudication is the 6327

basis of the forfeiture order and that relates to the property 6328
that is the subject of the forfeiture order. 6329

At the hearing, the petitioner or affiant may testify, 6330
present evidence and witnesses on the petitioner's or affiant's 6331
behalf, and cross-examine witnesses for the state or political 6332
subdivision. In regards to a petition, the state or political 6333
subdivision may present evidence and witnesses in rebuttal and in 6334
defense of its claim to the property and may cross-examine 6335
witnesses for the petitioner. In regards to an affidavit, the 6336
prosecutor may present evidence and witnesses and cross-examine 6337
witnesses for the affiant. 6338

In addition to the evidence and testimony presented at the 6339
hearing, the court also shall consider the relevant portions of 6340
the record in the criminal or delinquent child case that resulted 6341
in the forfeiture order. 6342

(F)(1) If the hearing involves a petition, the court shall 6343
amend its forfeiture order if it determines at the hearing held 6344
pursuant to division (E)(3) of this section that the petitioner 6345
has established either of the following by a preponderance of the 6346
evidence: 6347

(a) The petitioner has a legal interest in the property that 6348
is subject to the forfeiture order that renders the order 6349
completely or partially invalid because the legal interest in the 6350
property was vested in the petitioner, rather than the offender or 6351
delinquent child whose conviction or plea of guilty or delinquency 6352
adjudication is the basis of the order, or was superior to any 6353
interest of that offender or delinquent child, at the time of the 6354
commission of the offense or delinquent act that is the basis of 6355
the order. 6356

(b) The petitioner is a bona fide purchaser for value of the 6357
interest in the property that is subject to the forfeiture order 6358

and was, at the time of the purchase, reasonably without cause to believe that it was subject to forfeiture. 6359
6360

(2) The court also shall amend its forfeiture order to reflect any interest of a secured party or other lienholder of record in the property subject to forfeiture who prevails at a hearing on the petition or affidavit filed pursuant to division (E)(1) or (2) of this section. 6361
6362
6363
6364
6365

(G) If the court disposes of all petitions or affidavits timely filed under this section in favor of the state or political subdivision, the state or political subdivision shall have clear title to the property that is the subject of a forfeiture order issued under this section, but only to the extent that other parties' lawful interests in the property are not infringed. To the extent that the state or political subdivision has clear title to the property, the state or political subdivision may warrant good title to any subsequent purchaser or other transferee. 6366
6367
6368
6369
6370
6371
6372
6373
6374

Sec. 2981.05. (A) The prosecutor of the political subdivision in which property described in division (A) of section 2981.02 of the Revised Code is located may commence a civil forfeiture action under this section by filing in the court of common pleas of the county in which the property is located a complaint requesting an order that forfeits the property to the state or a political subdivision. The filing shall be consistent with division (F) of section 2981.03 of the Revised Code. 6375
6376
6377
6378
6379
6380
6381
6382

(B) Prior to or upon the commencement of a civil forfeiture action, the prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. The prosecutor shall give notice of the commencement of the civil action, together with a copy of the complaint, to each person who is reasonably known to have any interest in the 6383
6384
6385
6386
6387
6388
6389

property, by certified mail, return receipt requested, or by 6390
personal service. The prosecutor shall cause a similar notice to 6391
be published once each week for two consecutive weeks in a 6392
newspaper of general circulation in the county in which the 6393
property is located. 6394

(C) A person with an interest in the property subject to 6395
forfeiture may petition the court to release the property pursuant 6396
to division (D) of section 2981.03 of the Revised Code. The court 6397
shall consider the petition as provided in that section. If a 6398
timely petition for pretrial hardship release is not filed, or if 6399
a petition is filed but not granted, the person may file a claim 6400
for the release of the property under the Rules of Civil 6401
Procedure. The court shall dispose of any petitions timely filed 6402
under this division. 6403

(D) The court shall issue a civil forfeiture order if it 6404
determines that the prosecutor has proved by a preponderance of 6405
the evidence that the property is subject to forfeiture under 6406
section 2981.02 of the Revised Code, and, after a proportionality 6407
review under section 2981.09 of the Revised Code when relevant, 6408
the trier of fact specifically describes the extent of the 6409
property to be forfeited. A civil forfeiture order shall state 6410
that all interest in the property in question of the adult or 6411
juvenile who committed the act that is the basis of the order is 6412
forfeited to the state or political subdivision and shall make due 6413
provision for the interest in that property of any other person, 6414
when appropriate under this section. The court may issue any 6415
additional order to affect the forfeiture, including, but not 6416
limited to, one or more orders under section 2981.06 of the 6417
Revised Code. 6418

(E) If the court disposes of all petitions timely filed under 6419
this section in favor of the state or political subdivision, the 6420
state or political subdivision shall have clear title to the 6421

property that is the subject of a forfeiture order under this 6422
section, but only to the extent that other parties' lawful 6423
interests in the property are not infringed. To the extent that 6424
the state or political subdivision has clear title to the 6425
property, the state or political subdivision may warrant good 6426
title to any subsequent purchaser or other transferee. 6427

Sec. 2981.06. (A) Upon the entry of a forfeiture order under 6428
section 2981.04 or 2981.05 of the Revised Code, if necessary, the 6429
court shall order an appropriate law enforcement officer to seize 6430
the forfeited property on conditions that the court considers 6431
proper. If necessary, the court shall order the person in 6432
possession of the property to deliver the property by a specific 6433
date to the law enforcement agency involved in the initial seizure 6434
of the property. The court shall deliver the order by personal 6435
service or certified mail. 6436

(B) With respect to property that is the subject of a 6437
forfeiture order issued under section 2981.04 or 2981.05 of the 6438
Revised Code, the court that issued the order, upon petition of 6439
the prosecutor who prosecuted the underlying offense or act or 6440
brought the civil forfeiture action, may do any of the following: 6441

(1) Enter any appropriate restraining orders or injunctions; 6442
require execution of satisfactory performance bonds; appoint 6443
receivers, conservators, appraisers, accountants, or trustees; or 6444
take any other action necessary to safeguard and maintain the 6445
forfeited property; 6446

(2) Authorize the payment of rewards to persons who provide 6447
information resulting in forfeiture of the property under this 6448
chapter from funds provided under division (F) of section 2981.12 6449
of the Revised Code; 6450

(3) Authorize the prosecutor to settle claims; 6451

(4) Restore forfeited property to victims and grant petitions for mitigation or remission of forfeiture; 6452
6453

(5) Authorize a stay of the forfeiture order pending appeal or resolution of any claim to the property if requested by a person other than the defendant or a person acting in concert with, or on behalf of, the defendant. 6454
6455
6456
6457

(C) To facilitate the identification and location of property that is the subject of a forfeiture order and to facilitate the disposition of petitions for remission or mitigation issued under this section, after the issuance of a forfeiture order and upon application by the prosecutor, the court, consistent with the Civil Rules, may order that the testimony of any witness relating to the forfeited property be taken by deposition and that any designated material that is not privileged be produced at the same time and place as the testimony. 6458
6459
6460
6461
6462
6463
6464
6465
6466

(D) The court shall order forfeiture of any other property of the offender up to the value of the unreachable property if any of the following describe any property subject to a forfeiture order under section 2981.04 or 2981.05 of the Revised Code: 6467
6468
6469
6470

(1) It cannot be located through due diligence. 6471

(2) It has been transferred, sold, or deposited with a third party. 6472
6473

(3) It has been placed beyond the jurisdiction of the court. 6474

(4) It has been substantially diminished in value or has been commingled with other property and cannot be divided without difficulty or undue injury to innocent persons. 6475
6476
6477

(E) After the state or political subdivision is granted clear title under section 2981.04 or 2981.05 of the Revised Code, the prosecutor shall direct disposition of the property pursuant to this chapter, making due provisions for the rights of innocent 6478
6479
6480
6481

persons. 6482

(F) Any interest in property not exercisable by, or 6483
transferable for value to, the state or political subdivision 6484
shall expire and shall not revert to the offender who forfeited 6485
the property. The offender is not eligible to purchase the 6486
property at a sale under this chapter. 6487

(G) Any income accruing to or derived from forfeited property 6488
may be used to offset ordinary and necessary expenses related to 6489
the property that are required by law or necessary to protect the 6490
interest of the state, political subdivision, or third parties. 6491

Sec. 2981.07. (A) No person shall destroy, damage, remove, or 6492
transfer property that is subject to forfeiture or otherwise take 6493
any action in regard to property that is subject to forfeiture 6494
with purpose to do any of the following: 6495

(1) Prevent or impair the state's or political subdivision's 6496
lawful authority to take the property into its custody or control 6497
under this chapter or to continue holding the property under its 6498
lawful custody or control; 6499

(2) Impair or defeat the court's continuing jurisdiction over 6500
the person and property; 6501

(3) Devalue property that the person knows, or has reasonable 6502
cause to believe, is subject to forfeiture proceedings under this 6503
chapter. 6504

(B)(1) Whoever violates this section is guilty of 6505
interference with or diminishing forfeitable property. 6506

(2) Except as otherwise provided in divisions (B)(3), (4), 6507
and (5) of this section, interference with or diminishing 6508
forfeitable property is a misdemeanor of the first degree. 6509

(3) If the value of the property is five hundred dollars or 6510

more but less than five thousand dollars, interference with or 6511
diminishing forfeitable property is a felony of the fifth degree. 6512

(4) If the value of the property is five thousand dollars or 6513
more but less than one hundred thousand dollars, interference with 6514
or diminishing forfeitable property is a felony of the fourth 6515
degree. 6516

(5) If the value of the property is one hundred thousand 6517
dollars or more, interference with or diminishing forfeitable 6518
property is a felony of the third degree. 6519

Sec. 2981.08. Parties to a forfeiture action under this 6520
chapter have a right to trial by jury as follows: 6521

(A) In a criminal forfeiture action, the defendant has the 6522
right to trial by jury. 6523

(B) In a civil forfeiture action, the defendant, the state or 6524
political subdivision, and third party claimants have the right to 6525
trial by jury. 6526

Sec. 2981.09. (A) Property may not be forfeited as an 6527
instrumentality under this chapter to the extent that the amount 6528
or value of the property is disproportionate to the severity of 6529
the offense. The owner of the property shall have the burden of 6530
going forward with the evidence and the burden to prove by a 6531
preponderance of the evidence that the amount or value of the 6532
property subject to forfeiture is disproportionate to the severity 6533
of the offense. 6534

(B) Contraband and any proceeds obtained from the offense are 6535
not subject to proportionality review under this section. 6536

(C) In determining the severity of the offense for purposes 6537
of forfeiture, the court shall consider all relevant factors 6538
including, but not limited to, the following: 6539

(1) The seriousness of the offense and its impact on the community, including the duration of the activity and the harm caused or intended by the person whose property is subject to forfeiture; 6540
6541
6542
6543

(2) The extent to which the person whose property is subject to forfeiture participated in the offense; 6544
6545

(3) Whether the offense was completed or attempted. 6546

(D) In determining the value of the property that is subject to forfeiture, the court shall consider relevant factors including, but not limited to, the following: 6547
6548
6549

(1) The fair market value of the property; 6550

(2) The value of the property to the person whose property is subject to forfeiture, including hardship to the person or to innocent persons if the property were forfeited. 6551
6552
6553

Sec. 2981.11. (A)(1) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of a law enforcement agency shall be kept safely by the agency, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to sections 2981.12 and 2981.13 of the Revised Code. 6554
6555
6556
6557
6558
6559
6560

(2) This chapter does not apply to the custody and disposal of any of the following: 6561
6562

(a) Vehicles subject to forfeiture under Title XLV of the Revised Code, except as provided in division (A)(6) of section 2981.12 of the Revised Code; 6563
6564
6565

(b) Abandoned junk motor vehicles or other property of negligible value; 6566
6567

(c) Property held by a department of rehabilitation and 6568

<u>correction institution that is unclaimed, that does not have an</u>	6569
<u>identified owner, that the owner agrees to dispose of, or that is</u>	6570
<u>identified by the department as having little value;</u>	6571
<u>(d) Animals taken, and devices used in unlawfully taking</u>	6572
<u>animals, under section 1531.20 of the Revised Code;</u>	6573
<u>(e) Controlled substances sold by a peace officer in the</u>	6574
<u>performance of the officer's official duties under section</u>	6575
<u>3719.141 of the Revised Code;</u>	6576
<u>(f) Property recovered by a township law enforcement agency</u>	6577
<u>under sections 505.105 to 505.109 of the Revised Code;</u>	6578
<u>(g) Property held and disposed of under an ordinance of the</u>	6579
<u>municipal corporation or under sections 737.29 to 737.33 of the</u>	6580
<u>Revised Code, except that a municipal corporation that has</u>	6581
<u>received notice of a citizens' reward program as provided in</u>	6582
<u>division (F) of section 2981.12 of the Revised Code and disposes</u>	6583
<u>of property under an ordinance shall pay twenty-five per cent of</u>	6584
<u>any moneys acquired from any sale or auction to the citizens'</u>	6585
<u>reward program.</u>	6586
<u>(B)(1) Each law enforcement agency that has custody of any</u>	6587
<u>property that is subject to this section shall adopt and comply</u>	6588
<u>with a written internal control policy that does all of the</u>	6589
<u>following:</u>	6590
<u>(a) Provides for keeping detailed records as to the amount of</u>	6591
<u>property acquired by the agency and the date property was</u>	6592
<u>acquired;</u>	6593
<u>(b) Provides for keeping detailed records of the disposition</u>	6594
<u>of the property, which shall include, but not be limited to, both</u>	6595
<u>of the following:</u>	6596
<u>(i) The manner in which it was disposed, the date of</u>	6597
<u>disposition, detailed financial records concerning any property</u>	6598

sold, and the name of any person who received the property. The 6599
record shall not identify or enable identification of the 6600
individual officer who seized any item of property. 6601

(ii) The general types of expenditures made with amounts that 6602
are gained from the sale of the property and that are retained by 6603
the agency, including the specific amount expended on each general 6604
type of expenditure, except that the policy shall not provide for 6605
or permit the identification of any specific expenditure that is 6606
made in an ongoing investigation. 6607

(c) Complies with section 2981.13 of the Revised Code if the 6608
agency has a law enforcement trust fund or similar fund created 6609
under that section. 6610

(2) Each law enforcement agency that during any calendar year 6611
has any seized or forfeited property covered by this section in 6612
its custody, including amounts distributed under section 2981.13 6613
of the Revised Code to its law enforcement trust fund or a similar 6614
fund created for the state highway patrol, department of public 6615
safety, or state board of pharmacy, shall prepare a report 6616
covering the calendar year that cumulates all of the information 6617
contained in all of the public records kept by the agency pursuant 6618
to this section for that calendar year. The agency shall send a 6619
copy of the cumulative report to the attorney general not later 6620
than the first day of March in the calendar year following the 6621
calendar year covered by the report. 6622

(3) The records kept under the internal control policy shall 6623
be open to public inspection during the agency's regular business 6624
hours. The policy adopted under this section and each report 6625
received by the attorney general is a public record open for 6626
inspection under section 149.43 of the Revised Code. 6627

(4) Not later than the fifteenth day of April in each 6628
calendar year in which reports are sent to the attorney general 6629

under division (B)(2) of this section, the attorney general shall 6630
send to the president of the senate and the speaker of the house 6631
of representatives a written notice that indicates that the 6632
attorney general received reports that cover the previous calendar 6633
year, that the reports are open for inspection under section 6634
149.43 of the Revised Code, and that the attorney general will 6635
provide a copy of any or all of the reports to the president of 6636
the senate or the speaker of the house of representatives upon 6637
request. 6638

(C) A law enforcement agency with custody of property to be 6639
disposed of under section 2981.12 or 2981.13 of the Revised Code 6640
shall make a reasonable effort to locate persons entitled to 6641
possession of the property, to notify them of when and where it 6642
may be claimed, and to return the property to them at the earliest 6643
possible time. In the absence of evidence identifying persons 6644
entitled to possession, it is sufficient notice to advertise in a 6645
newspaper of general circulation in the county and to briefly 6646
describe the nature of the property in custody and inviting 6647
persons to view and establish their right to it. 6648

(D) As used in sections 2981.11 to 2981.13 of the Revised 6649
Code: 6650

(1) "Citizens' reward program" has the same meaning as in 6651
section 9.92 of the Revised Code. 6652

(2) "Law enforcement agency" includes correctional 6653
institutions. 6654

(3) "Township law enforcement agency" means an organized 6655
police department of a township, a township police district, a 6656
joint township police district, or the office of a township 6657
constable. 6658

Sec. 2981.12. (A) Unclaimed or forfeited property in the 6659

custody of a law enforcement agency, other than property described 6660
in division (A)(2) of section 2981.11 of the Revised Code, shall 6661
be disposed of by order of any court of record that has 6662
territorial jurisdiction over the political subdivision that 6663
employs the law enforcement agency, as follows: 6664

(1) Drugs shall be disposed of pursuant to section 3719.11 of 6665
the Revised Code or placed in the custody of the secretary of the 6666
treasury of the United States for disposal or use for medical or 6667
scientific purposes under applicable federal law. 6668

(2) Firearms and dangerous ordnance suitable for police work 6669
may be given to a law enforcement agency for that purpose. 6670
Firearms suitable for sporting use or as museum pieces or 6671
collectors' items may be sold at public auction pursuant to 6672
division (B) of this section. The agency shall destroy other 6673
firearms and dangerous ordnance or shall send them to the bureau 6674
of criminal identification and investigation for destruction by 6675
the bureau. 6676

(3) Obscene materials shall be destroyed. 6677

(4) Beer, intoxicating liquor, or alcohol seized from a 6678
person who does not hold a permit issued under Chapters 4301. and 6679
4303. of the Revised Code or otherwise forfeited to the state for 6680
an offense under section 4301.45 or 4301.53 of the Revised Code 6681
shall be sold by the division of liquor control if the division 6682
determines that it is fit for sale or shall be placed in the 6683
custody of the investigations unit in the department of public 6684
safety and be used for training relating to law enforcement 6685
activities. The department, with the assistance of the division of 6686
liquor control, shall adopt rules in accordance with Chapter 119. 6687
of the Revised Code to provide for the distribution to state or 6688
local law enforcement agencies upon their request. If any tax 6689
imposed under Title XLIII of the Revised Code has not been paid in 6690

relation to the beer, intoxicating liquor, or alcohol, any moneys 6691
acquired from the sale shall first be used to pay the tax. All 6692
other money collected under this division shall be paid into the 6693
state treasury. Any beer, intoxicating liquor, or alcohol that the 6694
division determines to be unfit for sale shall be destroyed. 6695

(5) Money received by an inmate of a correctional institution 6696
from an unauthorized source or in an unauthorized manner shall be 6697
returned to the sender, if known, or deposited in the inmates' 6698
industrial and entertainment fund of the institution if the sender 6699
is not known. 6700

(6)(a) Any mobile instrumentality forfeited under this 6701
chapter may be given to the law enforcement agency that initially 6702
seized the mobile instrumentality for use in performing its 6703
duties, if the agency wants the mobile instrumentality. The agency 6704
shall take the mobile instrumentality subject to any security 6705
interest or lien on the mobile instrumentality. 6706

(b) Vehicles and vehicle parts forfeited under sections 6707
4549.61 to 4549.63 of the Revised Code may be given to a law 6708
enforcement agency for use in performing its duties. Those parts 6709
may be incorporated into any other official vehicle. Parts that do 6710
not bear vehicle identification numbers or derivatives of them may 6711
be sold or disposed of as provided by rules of the director of 6712
public safety. Parts from which a vehicle identification number or 6713
derivative of it has been removed, defaced, covered, altered, or 6714
destroyed and that are not suitable for police work or 6715
incorporation into an official vehicle shall be destroyed and sold 6716
as junk or scrap. 6717

(7) Computers, computer networks, computer systems, and 6718
computer software suitable for police work may be given to a law 6719
enforcement agency for that purpose or disposed of under division 6720
(B) of this section. 6721

(B) Unclaimed or forfeited property that is not described in 6722
division (A) of this section or division (A)(2) of section 2981.11 6723
of the Revised Code, with court approval, may be used by the law 6724
enforcement agency in possession of it. If it is not used by the 6725
agency, it may be sold without appraisal at a public auction to 6726
the highest bidder for cash or disposed of in another manner that 6727
the court considers proper. 6728

(C) Except as provided in divisions (A) and (F) of this 6729
section and after compliance with division (D) of this section 6730
when applicable, any moneys acquired from the sale of property 6731
disposed of pursuant to this section shall be placed in the 6732
general fund of the state, the county, the township, or the 6733
municipal corporation of which the law enforcement agency involved 6734
is an agency. 6735

(D) If the property was in the possession of the law 6736
enforcement agency in relation to a delinquent child proceeding in 6737
a juvenile court, ten per cent of any moneys acquired from the 6738
sale of property disposed of under this section shall be applied 6739
to one or more alcohol and drug addiction treatment programs that 6740
are certified by the department of alcohol and drug addiction 6741
services under section 3793.06 of the Revised Code. A juvenile 6742
court shall not specify a program, except as provided in this 6743
division, unless the program is in the same county as the court or 6744
in a contiguous county. If no certified program is located in any 6745
of those counties, the juvenile court may specify a certified 6746
program anywhere in Ohio. The remaining ninety per cent of the 6747
proceeds or cash shall be applied as provided in division (C) of 6748
this section. 6749

Each treatment program that receives in any calendar year 6750
forfeited money under this division shall file an annual report 6751
for that year with the attorney general and with the court of 6752
common pleas and board of county commissioners of the county in 6753

which the program is located and of any other county from which 6754
the program received forfeited money. The program shall file the 6755
report on or before the first day of March in the calendar year 6756
following the calendar year in which the program received the 6757
money. The report shall include statistics on the number of 6758
persons the program served, identify the types of treatment 6759
services it provided to them, and include a specific accounting of 6760
the purposes for which it used the money so received. No 6761
information contained in the report shall identify, or enable a 6762
person to determine the identity of, any person served by the 6763
program. 6764

(E) Each certified alcohol and drug addiction treatment 6765
program that receives in any calendar year money under this 6766
section or under section 2981.13 of the Revised Code as the result 6767
of a juvenile forfeiture order shall file an annual report for 6768
that calendar year with the attorney general and with the court of 6769
common pleas and board of county commissioners of the county in 6770
which the program is located and of any other county from which 6771
the program received the money. The program shall file the report 6772
on or before the first day of March in the calendar year following 6773
the year in which the program received the money. The report shall 6774
include statistics on the number of persons served with the money, 6775
identify the types of treatment services provided, and 6776
specifically account for how the money was used. No information in 6777
the report shall identify or enable a person to determine the 6778
identity of anyone served by the program. 6779

As used in this division, "juvenile-related forfeiture order" 6780
means any forfeiture order issued by a juvenile court under 6781
section 2981.04 or 2981.05 of the Revised Code and any disposal of 6782
property ordered by a court under section 2981.11 of the Revised 6783
Code regarding property that was in the possession of a law 6784
enforcement agency in relation to a delinquent child proceeding in 6785

a juvenile court.

6786

(F) Each board of county commissioners that recognizes a citizens' reward program under section 9.92 of the Revised Code shall notify each law enforcement agency of that county and of a township or municipal corporation wholly located in that county of the recognition by filing a copy of its resolution conferring that recognition with each of those agencies. When the board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of a municipal corporation, the board shall so notify the law enforcement agency of that municipal corporation of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipal corporation's population.

6787

6788

6789

6790

6791

6792

6793

6794

6795

6796

6797

6798

Upon being so notified, each law enforcement agency shall pay twenty-five per cent of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

6799

6800

6801

6802

6803

6804

6805

6806

6807

6808

6809

Receiving funds under this section or section 2981.11 of the Revised Code does not make the citizens' reward program a governmental unit or public office for purposes of section 149.43 of the Revised Code.

6810

6811

6812

6813

(G) Any property forfeited under this chapter shall not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different

6814

6815

6816

offense arising out of the same facts and circumstances. 6817

Sec. 2981.13. (A) Except as otherwise provided in this 6818
section, property ordered forfeited as contraband, proceeds, or an 6819
instrumentality pursuant to this chapter shall be disposed of, 6820
used, or sold pursuant to section 2981.12 of the Revised Code. If 6821
the property is to be sold under that section, the prosecutor 6822
shall cause notice of the proposed sale to be given in accordance 6823
with law. 6824

(B) If the contraband or instrumentality forfeited under this 6825
chapter is sold, any moneys acquired from a sale and any proceeds 6826
forfeited under this chapter shall be applied in the following 6827
order: 6828

(1) First, to pay costs incurred in the seizure, storage, 6829
maintenance, security, and sale of the property and in the 6830
forfeiture proceeding; 6831

(2) Second, in a criminal forfeiture case, to satisfy any 6832
restitution ordered to the victim of the offense or, in a civil 6833
forfeiture case, to satisfy any recovery ordered for the person 6834
harmed, unless paid from other assets; 6835

(3) Third, to pay the balance due on any security interest 6836
preserved under this chapter; 6837

(4) Fourth, apply the remaining amounts as follows: 6838

(a) If the forfeiture was ordered by a juvenile court, ten 6839
per cent to one or more certified alcohol and drug addiction 6840
treatment programs as provided in division (D) of section 2981.12 6841
of the Revised Code; 6842

(b) If the forfeiture was ordered in a juvenile court, ninety 6843
per cent, and if the forfeiture was ordered in a court other than 6844
a juvenile court, one hundred per cent to the law enforcement 6845
trust fund of the prosecutor and to the following fund supporting 6846

the law enforcement agency that substantially conducted the 6847
investigation: the law enforcement trust fund of the county 6848
sheriff, municipal corporation, township, or park district created 6849
under section 511.18 or 1545.01 of the Revised Code; the state 6850
highway patrol contraband, forfeiture, and other fund; the 6851
department of public safety investigative unit contraband, 6852
forfeiture, and other fund; the board of pharmacy drug law 6853
enforcement fund created by division (B)(1) of section 4729.65 of 6854
the Revised Code; the medicaid fraud investigation and prosecution 6855
fund; or the treasurer of state for deposit into the peace officer 6856
training commission fund if any other state law enforcement agency 6857
substantially conducted the investigation. In the case of property 6858
forfeited for medicaid fraud, any remaining amount shall be used 6859
by the attorney general to investigate and prosecute medicaid 6860
fraud offenses. 6861

If the prosecutor declines to accept any of the remaining 6862
amounts, the amounts shall be applied to the fund of the agency 6863
that substantially conducted the investigation. 6864

(c) If more than one law enforcement agency is substantially 6865
involved in the seizure of property forfeited under this chapter, 6866
the court ordering the forfeiture shall equitably divide the 6867
amounts, after calculating any distribution to the law enforcement 6868
trust fund of the prosecutor pursuant to division (B)(4) of this 6869
section, among the entities that the court determines were 6870
substantially involved in the seizure. 6871

(C)(1) A law enforcement trust fund shall be established by 6872
the prosecutor of each county who intends to receive any remaining 6873
amounts pursuant to this section, by the sheriff of each county, 6874
by the legislative authority of each municipal corporation, by the 6875
board of township trustees of each township that has a township 6876
police department, township police district police force, or 6877
office of the constable, and by the board of park commissioners of 6878

each park district created pursuant to section 511.18 or 1545.01 6879
of the Revised Code that has a park district police force or law 6880
enforcement department, for the purposes of this section. 6881

There is hereby created in the state treasury the state 6882
highway patrol contraband, forfeiture, and other fund, the 6883
department of public safety investigative unit contraband, 6884
forfeiture, and other fund, the medicaid fraud investigation and 6885
prosecution fund, and the peace officer training commission fund, 6886
for the purposes of this section. 6887

Amounts distributed to any municipal corporation, township, 6888
or park district law enforcement trust fund shall be allocated 6889
from the fund by the legislative authority only to the police 6890
department of the municipal corporation, by the board of township 6891
trustees only to the township police department, township police 6892
district police force, or office of the constable, and by the 6893
board of park commissioners only to the park district police force 6894
or law enforcement department. 6895

(2)(a) No amounts shall be allocated to a fund created under 6896
this section or used by an agency unless the agency has adopted a 6897
written internal control policy that addresses the use of moneys 6898
received from the appropriate fund. The appropriate fund shall be 6899
expended only in accordance with that policy and, subject to the 6900
requirements specified in this section, only for the following 6901
purposes: 6902

(i) To pay the costs of protracted or complex investigations 6903
or prosecutions; 6904

(ii) To provide reasonable technical training or expertise; 6905

(iii) To provide matching funds to obtain federal grants to 6906
aid law enforcement, in the support of DARE programs or other 6907
programs designed to educate adults or children with respect to 6908
the dangers associated with the use of drugs of abuse; 6909

(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer

training. 6941

(3) Any of the following offices or agencies that receive 6942
amounts under this section during any calendar year shall file a 6943
report with the specified entity, not later than the thirty-first 6944
day of January of the next calendar year, verifying that the 6945
moneys were expended only for the purposes authorized by this 6946
section or other relevant statute and specifying the amounts 6947
expended for each authorized purpose: 6948

(a) Any sheriff or prosecutor shall file the report with the 6949
county auditor. 6950

(b) Any municipal corporation police department shall file 6951
the report with the legislative authority of the municipal 6952
corporation. 6953

(c) Any township police department, township police district 6954
police force, or office of the constable shall file the report 6955
with the board of township trustees of the township. 6956

(d) Any park district police force or law enforcement 6957
department shall file the report with the board of park 6958
commissioners of the park district. 6959

(e) The superintendent of the state highway patrol shall file 6960
the report with the attorney general. 6961

(f) The executive director of the state board of pharmacy 6962
shall file the report with the attorney general, verifying that 6963
cash and forfeited proceeds paid into the board of pharmacy drug 6964
law enforcement fund were used only in accordance with section 6965
4729.65 of the Revised Code. 6966

(g) The peace officer training commission shall file a report 6967
with the attorney general, verifying that cash and forfeited 6968
proceeds paid into the peace officer training commission fund 6969
pursuant to this section during the prior calendar year were used 6970

by the commission during the prior calendar year only to pay the 6971
costs of peace officer training. 6972

(D) The written internal control policy of a county sheriff, 6973
prosecutor, municipal corporation police department, township 6974
police department, township police district police force, office 6975
of the constable, or park district police force or law enforcement 6976
department shall provide that at least ten per cent of the first 6977
one hundred thousand dollars of amounts deposited during each 6978
calendar year in the agency's law enforcement trust fund under 6979
this section, and at least twenty per cent of the amounts 6980
exceeding one hundred thousand dollars that are so deposited, 6981
shall be used in connection with community preventive education 6982
programs. The manner of use shall be determined by the sheriff, 6983
prosecutor, department, police force, or office of the constable 6984
after receiving and considering advice on appropriate community 6985
preventive education programs from the county's board of alcohol, 6986
drug addiction, and mental health services, from the county's 6987
alcohol and drug addiction services board, or through appropriate 6988
community dialogue. 6989

The financial records kept under the internal control policy 6990
shall specify the amount deposited during each calendar year in 6991
the portion of that amount that was used pursuant to this 6992
division, and the programs in connection with which the portion of 6993
that amount was so used. 6994

As used in this division, "community preventive education 6995
programs" include, but are not limited to, DARE programs and other 6996
programs designed to educate adults or children with respect to 6997
the dangers associated with using drugs of abuse. 6998

(E) Upon the sale, under this section or section 2981.12 of 6999
the Revised Code, of any property that is required by law to be 7000
titled or registered, the state shall issue an appropriate 7001

certificate of title or registration to the purchaser. If the 7002
state is vested with title and elects to retain property that is 7003
required to be titled or registered under law, the state shall 7004
issue an appropriate certificate of title or registration. 7005

(F) Any failure of a law enforcement officer or agency, 7006
prosecutor, court, or the attorney general to comply with this 7007
section in relation to any property seized does not affect the 7008
validity of the seizure and shall not be considered to be the 7009
basis for suppressing any evidence resulting from the seizure, 7010
provided the seizure itself was lawful. 7011

Sec. 2981.14. (A) Nothing in this chapter precludes the head 7012
of a law enforcement agency that seizes property from seeking 7013
forfeiture under federal law. If the property is forfeitable under 7014
this chapter and federal forfeiture is not sought, the property is 7015
subject only to this chapter. 7016

(B) Any law enforcement agency that receives moneys from a 7017
sale of forfeited property under federal law shall deposit, use, 7018
and account for the amounts, including any interest derived, in 7019
accordance with applicable federal law. If the state highway 7020
patrol or the investigative unit of the department of public 7021
safety receives such federal forfeiture moneys, the appropriate 7022
official shall deposit all interest or other earnings derived from 7023
the investment of the moneys into the contraband, forfeiture, and 7024
other fund of the highway patrol or the department, whichever is 7025
appropriate. 7026

Sec. 3719.11. All controlled substances, the lawful 7027
possession of which is not established or the title to which 7028
cannot be ascertained, that have come into the custody of a peace 7029
officer, shall be forfeited pursuant to ~~sections 2923.44 to~~ 7030
~~2923.47, 2925.41 to 2925.45, 2933.41, or 2933.43~~ Chapter 2981. of 7031

the Revised Code, and, unless any such section provides for a 7032
different manner of disposition, shall be disposed of as follows: 7033

(A) The court or magistrate having jurisdiction shall order 7034
the controlled substances forfeited and destroyed. The agency 7035
served by the peace officer who obtained or took custody of the 7036
controlled substances may destroy them or may send them to the 7037
bureau of criminal identification and investigation for 7038
destruction by it. A record of the place where the controlled 7039
substances were seized, of the kinds and quantities of controlled 7040
substances so destroyed, and of the time, place, and manner of 7041
destruction, shall be kept, and a return under oath, reporting the 7042
destruction, shall be made by the officer who destroys them to the 7043
court or magistrate and to the United States director, bureau of 7044
narcotics and dangerous drugs. 7045

(B) Upon written application by the department of health, the 7046
court or magistrate that ordered the forfeiture of the controlled 7047
substances may order the delivery of any of them, except heroin 7048
and its salts and derivatives, to the department for distribution 7049
or destruction as provided in this section. 7050

(C) Upon application by any hospital within this state that 7051
is not operated for private gain, the department of health may 7052
deliver any controlled substances that have come into its custody 7053
pursuant to this section to the applicant for medicinal use. The 7054
department may deliver excess stocks of the controlled substances 7055
to the United States director, bureau of narcotics and dangerous 7056
drugs, or may destroy the excess stocks. 7057

(D) The department of health shall keep a complete record of 7058
all controlled substances received pursuant to this section and of 7059
all controlled substances disposed of pursuant to this section, 7060
showing all of the following: 7061

(1) The exact kinds, quantities, and forms of the controlled 7062

substances; 7063

(2) The persons from whom they were received and to whom they 7064
were delivered; 7065

(3) By whose authority they were received, delivered, or 7066
destroyed; 7067

(4) The dates of their receipt, delivery, or destruction. 7068

(E) The record required by this section shall be open to 7069
inspection by all federal and state officers charged with the 7070
enforcement of federal and state narcotic and drug abuse control 7071
laws. 7072

Sec. 3719.141. (A) A peace officer may sell any controlled 7073
substance in the performance of the officer's official duties only 7074
if either of the following applies: 7075

(1) A peace officer may sell any controlled substance in the 7076
performance of the officer's official duties if all of the 7077
following apply: 7078

(a) Prior approval for the sale has been given by the 7079
prosecuting attorney of the county in which the sale takes place, 7080
in any manner described in division (B) of this section; 7081

(b) The peace officer who makes the sale determines that the 7082
sale is necessary in the performance of the officer's official 7083
duties; 7084

(c) Any of the following applies: 7085

(i) The person to whom the sale is made or any other person 7086
who is involved in the sale does not know that the officer who 7087
makes the sale is a peace officer, and the peace officer who makes 7088
the sale determines that the sale is necessary to prevent the 7089
person from determining or suspecting that the officer who makes 7090
the sale is a peace officer. 7091

(ii) The peace officer who makes the sale determines that the sale is necessary to preserve an identity that the peace officer who makes the sale has assumed in the performance of the officer's official duties.

(iii) The sale involves a controlled substance that, during the course of another sale, was intercepted by the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale; the intended recipient of the controlled substance in the other sale does not know that the controlled substance has been so intercepted; the sale in question is made to the intended recipient of the controlled substance in the other sale and is undertaken with the intent of obtaining evidence of a drug abuse offense against the intended recipient of the controlled substance; and the sale in question does not involve the transfer of any money or other thing of value to the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale in exchange for the controlled substance.

(d) If the sale is made under the circumstances described in division (A)(1)(c)(i) or (ii) of this section, no person is charged with any criminal offense or any delinquent act based upon the sale unless both of the following apply:

(i) The person also is charged with a criminal offense or a delinquent act that is based upon an act or omission that is independent of the sale but that either is connected together with the sale, or constitutes a part of a common scheme or plan with the sale, or is part of a course of criminal conduct involving the sale.

(ii) The criminal offense or delinquent act based upon the sale and the other criminal offense or delinquent act are charged

in the same indictment, information, or complaint. 7123

(e) The sale is not part of a continuing course of conduct 7124
involving the sale of controlled substances by the peace officer 7125
who makes the sale. 7126

(f) The amount of the controlled substance sold and the scope 7127
of the sale of the controlled substance is as limited as possible 7128
under the circumstances. 7129

(g) Prior to the sale, the law enforcement agency served by 7130
the peace officer who makes the sale has adopted a written 7131
internal control policy that does all of the following: 7132

(i) Addresses the keeping of detailed records as to the 7133
amount of money or other things of value obtained in the sale in 7134
exchange for the controlled substance; 7135

(ii) Addresses the delivery of all moneys or things of value 7136
so obtained to the prosecuting attorney pursuant to division (D) 7137
of this section; 7138

(iii) Addresses the agency's use and disposition of all such 7139
moneys or things of value that are deposited in the law 7140
enforcement trust fund of the sheriff, municipal corporation, or 7141
township, pursuant to division (D) of this section, and that are 7142
used by the sheriff, are allocated to the police department of the 7143
municipal corporation by its legislative authority, or are 7144
allocated by the board of township trustees to the township police 7145
department, township police district police force, or office of 7146
the constable; 7147

(iv) Provides for the keeping of detailed financial records 7148
of the receipts of the proceeds, the general types of expenditures 7149
made out of the proceeds received, and the specific amount of each 7150
general type of expenditure. The policy shall not provide for or 7151
permit the identification of any peace officer involved in the 7152

sale, any information that is or may be needed in an ongoing 7153
investigation, or any specific expenditure that is made in an 7154
ongoing investigation. 7155

(2) A peace officer may sell any controlled substance in the 7156
performance of the officer's official duties if all of the 7157
following apply: 7158

(a) Prior approval for the sale has been given by the 7159
prosecuting attorney of the county in which the sale takes place, 7160
in any manner described in division (B) of this section; 7161

(b) Prior to the sale, the law enforcement agency served by 7162
the peace officer has adopted a written internal control policy 7163
that does the things listed in divisions (A)(1)(g)(i) to (iv) of 7164
this section; 7165

(c) The purchaser of the controlled substance acquires 7166
possession of it in the presence of the peace officer who makes 7167
the sale. 7168

(d) Upon the consummation of the sale, either of the 7169
following occurs: 7170

(i) The peace officer arrests the purchaser of the controlled 7171
substance, recovers it and the proceeds of the sale, and secures 7172
it and the proceeds as evidence to be used in a subsequent 7173
prosecution. 7174

(ii) The peace officer makes a reasonable, good faith effort 7175
to arrest the purchaser of the controlled substance and to recover 7176
the controlled substance and the proceeds of the sale, but the 7177
officer is unable to make the arrest and recover all of the 7178
controlled substance and proceeds for reasons beyond the officer's 7179
control, and the peace officer secures all of the controlled 7180
substance recovered and all of the proceeds recovered as evidence 7181
to be used in a subsequent prosecution. 7182

(B) The approval of a prosecuting attorney required by 7183
division (A)(1)(a) or (2)(a) of this section may be in either of 7184
the following forms: 7185

(1) A general approval that is given by the prosecuting 7186
attorney to the peace officer who makes the sale or to the law 7187
enforcement agency served by that peace officer, that grants 7188
approval only to that peace officer, and that grants approval for 7189
any such sale that may be necessary, after the approval has been 7190
granted, under the standards described in division (A)(1) or (2) 7191
of this section; 7192

(2) A specific approval that is given by the prosecuting 7193
attorney to the peace officer who makes the sale or to the law 7194
enforcement agency served by that peace officer, and that grants 7195
approval only to that peace officer and only for the particular 7196
sale in question, under the standards described in division (A)(1) 7197
or (2) of this section. 7198

(C) If a peace officer sells a controlled substance in the 7199
performance of the officer's official duties under division (A)(1) 7200
or (2) of this section, the peace officer, within a reasonable 7201
time after the sale, shall provide the prosecuting attorney who 7202
granted approval for the sale with a written summary that 7203
identifies the amount and type of controlled substance sold, the 7204
circumstances of the sale, and the amount of any money or other 7205
thing of value obtained in the sale in exchange for the controlled 7206
substance. The summary shall not identify or enable the 7207
identification of any peace officer involved in the sale and shall 7208
not contain any information that is or may be needed in an ongoing 7209
investigation. 7210

(D)(1) Except as provided in division (D)(2) of this section, 7211
if a peace officer sells a controlled substance in the performance 7212
of the officer's official duties under division (A)(1) or (2) of 7213

this section, the peace officer, as soon as possible after the 7214
sale, shall deliver all money or other things of value obtained in 7215
the sale in exchange for the controlled substance to the 7216
prosecuting attorney who granted approval for the sale. The 7217
prosecuting attorney shall safely keep all money and other things 7218
of value the prosecuting attorney receives under this division for 7219
use as evidence in any criminal action or delinquency proceeding 7220
based upon the sale. All money so received by a prosecuting 7221
attorney that no longer is needed as evidence in any criminal 7222
action or delinquency proceeding shall be deposited by the 7223
prosecuting attorney in the law enforcement trust fund of the 7224
sheriff if the peace officer who made the sale is the sheriff or a 7225
deputy sheriff or the law enforcement trust fund of a municipal 7226
corporation or township if it is served by the peace officer who 7227
made the sale, as established pursuant to section ~~2933.43~~ 2981.13 7228
of the Revised Code, and upon deposit shall be expended only as 7229
provided in that section. All other things of value so received by 7230
a prosecuting attorney that no longer are needed as evidence in 7231
any criminal action or delinquency proceeding shall be disposed 7232
of, without appraisal, at a public auction to the highest bidder 7233
for cash; the proceeds of the sale shall be deposited by the 7234
prosecuting attorney in the law enforcement trust fund of the 7235
sheriff if the peace officer who made the sale is the sheriff or a 7236
deputy sheriff or the law enforcement trust fund of a municipal 7237
corporation or township if it is served by the peace officer who 7238
made the sale, as established pursuant to section ~~2933.43~~ 2981.13 7239
of the Revised Code, and upon deposit shall be expended only as 7240
provided in that section. Each law enforcement agency that uses 7241
any money that was deposited in a law enforcement trust fund 7242
pursuant to this division shall comply with the written internal 7243
control policy adopted by the agency, as required by division 7244
(A)(1)(g) or (2)(b) of this section, in its use of the money. 7245

(2) Division (D)(1) of this section does not apply in 7246
relation to a peace officer who sells a controlled substance in 7247
the performance of the officer's official duties under division 7248
(A)(1) of this section in any of the following circumstances: 7249

(a) The person to whom the sale is made or any other person 7250
who is involved in the sale does not know that the officer is a 7251
peace officer, and, if the officer were to retain and deliver the 7252
money or other things of value to the prosecuting attorney, the 7253
person would determine or suspect that the officer is a peace 7254
officer. 7255

(b) If the officer were to retain and deliver the money or 7256
other things of value to the prosecuting attorney, an identity 7257
that has been assumed in the performance of the officer's official 7258
duties would not be preserved. 7259

(c) The sale is made under the circumstances described in 7260
division (A)(1)(c)(iii) of this section. 7261

(3) If division (D)(1) of this section does not apply in 7262
relation to a peace officer who sells a controlled substance in 7263
the performance of the officer's official duties under division 7264
(A)(1) of this section due to the operation of division (D)(2) of 7265
this section, the peace officer, as soon as possible after the 7266
sale, shall deliver to the prosecuting attorney who granted 7267
approval for the sale a written summary that describes the 7268
circumstances of the sale and the reason for which division (D)(1) 7269
of this section does not apply. The summary shall not identify or 7270
enable the identification of any peace officer involved in the 7271
sale and shall not contain any information that is or may be 7272
needed in an ongoing investigation. 7273

(E)(1) A written internal control policy adopted by a law 7274
enforcement agency that is served by a peace officer who sells a 7275
controlled substance under division (A)(1) or (2) of this section, 7276

as required by division (A)(1)(g) or (2)(b) of this section, is a
public record open for inspection under section 149.43 of the
Revised Code. Each law enforcement agency that adopts a written
internal control policy of that nature shall comply with it in
relation to any sale of a controlled substance under division
(A)(1) or (2) of this section. All records as to the amount of
money or things of value obtained in the sale of a controlled
substance, in exchange for the controlled substance, and all
financial records of the receipts of the proceeds, the general
types of expenditures made out of the proceeds received, and the
specific amounts of each general type of expenditure by a law
enforcement agency in relation to any sale of a controlled
substance under division (A)(1) or (2) of this section are public
records open for inspection under section 149.43 of the Revised
Code.

(2) A summary required by division (C) or (D)(3) of this
section is a public record open for inspection under section
149.43 of the Revised Code.

(F)(1) Each prosecuting attorney who grants approval for a
sale of controlled substances by a peace officer and who receives
in any calendar year one or more summaries under division (C) of
this section relative to the sale of a controlled substance by a
peace officer shall prepare a report covering the calendar year
that cumulates all of the information contained in each of the
summaries so received in the calendar year and shall send the
cumulative report, no later than the first day of March in the
calendar year following the calendar year covered by the report,
to the attorney general.

(2) Each prosecuting attorney who receives any money or any
other thing of value under division (D)(1) of this section shall
keep detailed financial records of the receipts and dispositions
of all such moneys or things of value so received. No record of

that nature shall identify, or enable the identification of, any
person from whom money or another thing of value was received as a
result of the sale of a controlled substance under division (A)(1)
or (2) of this section or contain any information that is or may
be needed in an ongoing investigation. Each record of that nature
is a public record open for inspection under section 149.43 of the
Revised Code and shall include, but is not limited to, all of the
following information:

(a) The identity of each law enforcement agency that has so
delivered any money or other thing of value to the prosecuting
attorney;

(b) The total amount of money or other things of value so
received from each law enforcement agency;

(c) The disposition made under this section of all money or
other things of value so received.

(G) Divisions (A) to (F) of this section do not apply to any
peace officer, or to any officer, agent, or employee of the United
States, who is operating under the management and direction of the
United States department of justice. Any peace officer, or any
officer, agent, or employee of the United States, who is operating
under the management and direction of the United States department
of justice may sell a controlled substance in the performance of
the officer's, agent's, or employee's official duties if the sale
is made in accordance with federal statutes and regulations.

(H) As used in this section, "peace officer" has the same
meaning as in section 2935.01 of the Revised Code and also
includes a special agent of the bureau of criminal identification
and investigation.

Sec. 3719.21. Except as provided in division (C) of section
2923.42, division (B)~~(5)~~ of section 2923.44, divisions (D)(1),

(F), and (H) of section 2925.03, division (D)(1) of section 7339
2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, 7340
division (F) of section 2925.13, division (F) of section 2925.36, 7341
division (D) of section 2925.22, division (H) of section 2925.23, 7342
division (M) of section 2925.37, division (B)~~(5)~~ of section 7343
2925.42, division (B) of section 2929.18, division (D) of section 7344
3719.99, division (B)(1) of section 4729.65, and division (E)(3) 7345
of section 4729.99 of the Revised Code, the clerk of the court 7346
shall pay all fines or forfeited bail assessed and collected under 7347
prosecutions or prosecutions commenced for violations of this 7348
chapter, section 2923.42 of the Revised Code, or Chapter 2925. of 7349
the Revised Code, within thirty days, to the executive director of 7350
the state board of pharmacy, and the executive director shall 7351
deposit the fines into the state treasury to the credit of the 7352
occupational licensing and regulatory fund. 7353

Sec. 3729.13. (A) A campsite user who enters into a campsite 7354
use agreement with a camp operator for the use of a campsite at a 7355
recreational vehicle park, recreation camp, combined park-camp, or 7356
temporary park-camp, at the expiration of the campsite use period 7357
under the agreement, shall remove from the campsite all of the 7358
campsite user's property and all property any other person placed 7359
on the campsite with the permission of the campsite user. If the 7360
campsite user fails to remove all of that property from the 7361
campsite within the five-consecutive-day period after the 7362
expiration of that campsite use period, all of the following 7363
apply: 7364

(1) The camp operator shall perform an inventory of the 7365
property that the campsite user did not remove from the campsite. 7366

(2) The camp operator may send a letter to the campsite user 7367
informing the campsite user that the campsite user has abandoned 7368
the property on the campsite in violation of the campsite use 7369

agreement and that the camp operator will commence an action for
the seizure of the property if the campsite user does not remove
the property from the campsite within ten days after the date on
which the letter is mailed.

(3) If the campsite user does not remove the property from
the campsite within ten days after the date on which the letter
described in division (A)(2) of this section is mailed, the camp
operator may file an action for the seizure of the property that
remains on the campsite in the municipal court or county court
that has territorial jurisdiction over the park or camp. The
complaint shall contain all of the following:

(a) The name, address, and phone number of the campsite user
that is in the campsite use agreement;

(b) A description of the property that the campsite user has
not removed from the campsite;

(c) A demand that all of the property listed in the complaint
be removed from the campsite within seven days after service of
the complaint upon the campsite user;

(d) A description of the procedure that will be followed if
the campsite user does not remove the listed property within the
seven-day period;

(e) A statement that the campsite user shall pay to the clerk
of the court the amount of the filing fees charged for the filing
of the complaint, that the campsite user shall pay those fees
prior to the campsite user's removal of the listed property from
the campsite, and that if the campsite user fails to pay the
amount of the filing fees the property may be sold to pay the
filing fees.

(4) When the camp operator files an action under division
(A)(3) of this section, the clerk of the court shall issue a

summons and a copy of the complaint pursuant to the Rules of Civil Procedure to the campsite user at the address provided in the campsite use agreement. 7400
7401
7402

(5) If the campsite user does not file an answer to the complaint filed under division (A)(3) of this section and remove all of the property listed in the complaint within seven days after service of the complaint upon the campsite user, the court shall do either of the following: 7403
7404
7405
7406
7407

(a) Issue an order authorizing the sheriff, another peace officer, or a bailiff to remove the property from the campsite and place it in storage; 7408
7409
7410

(b) Authorize the camp operator to seize the property and cause the issuance to the camp operator of a new certificate of title for the property if the property is a titled vehicle. 7411
7412
7413

(6) Upon the removal and storage of the property, the sheriff, peace officer, bailiff, or camp operator shall conduct or cause to be conducted a search of the appropriate public records that relate to the property and shall make or cause to be made reasonably diligent inquiries for the purpose of identifying persons who have any right, title, or interest in any of the property. Then, the sheriff, peace officer, bailiff, or camp operator may commence proceedings for the sale of the property. The sheriff, peace officer, bailiff, or camp operator shall send by certified mail, return receipt requested, a written notice of the date, time, and place of the sale to each person who, because of the conduct of the search, the making of inquiries, or otherwise, the sheriff, peace officer, bailiff, or camp operator believes has any right, title, or interest in the property. The sheriff, peace officer, bailiff, or camp operator shall send the notice to the last known address of each of those persons. 7414
7415
7416
7417
7418
7419
7420
7421
7422
7423
7424
7425
7426
7427
7428
7429

(7) If the sheriff, peace officer, bailiff, or camp operator 7430

sells the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the proceeds of the sale in the following order:

(a) The sheriff, peace officer, bailiff, or camp operator shall first pay the costs for any moving or any storage of the property, the costs of the sale, and any unpaid court costs assessed against the campsite user in the underlying action.

(b) Following the payment required by division (A)(7)(a) of this section, the sheriff, peace officer, bailiff, or camp operator shall pay all other outstanding security interests, liens, or encumbrances on the property by priority of filing or other priority.

(c) After complying with divisions (A)(7)(a) and (b) of this section, the sheriff, peace officer, bailiff, or camp operator shall transfer any remaining money to the owner of the property.

(8) If the sheriff, peace officer, bailiff, or camp operator does not conduct a sale of the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the property in the following manner:

(a) If the property is a motor vehicle or recreational vehicle, in accordance with the procedure in section 4513.61 or 4513.63 of the Revised Code;

(b) If the property is personal property, in accordance with the procedure in ~~section 2933.41~~ sections 2981.11 and 2981.12 of the Revised Code.

(B) Upon collection from the campsite user, the municipal court or county court shall reimburse the filing fees to the camp operator.

Sec. 3743.68. (A) The fire marshal, an assistant fire marshal, or a certified fire safety inspector may arrest, or may

cause the arrest of, any person whom the fire marshal, assistant 7461
fire marshal, or certified fire safety inspector finds in the act 7462
of violating, or who the fire marshal, assistant fire marshal, or 7463
certified fire safety inspector has reasonable cause to believe 7464
has violated, sections 3743.60 to 3743.66 of the Revised Code. Any 7465
arrest shall be made in accordance with statutory and 7466
constitutional provisions governing arrests by law enforcement 7467
officers. 7468

(B) If the fire marshal, an assistant fire marshal, or 7469
certified fire safety inspector has probable cause to believe that 7470
fireworks are being manufactured, sold, possessed, transported, or 7471
used in violation of this chapter, the fire marshal, assistant 7472
fire marshal, or certified fire safety inspector may seize the 7473
fireworks. Any seizure of fireworks shall be made in accordance 7474
with statutory and constitutional provisions governing searches 7475
and seizures by law enforcement officers. The fire marshal's or 7476
certified fire safety inspector's office shall impound at the site 7477
or safely keep seized fireworks pending the time they are no 7478
longer needed as evidence. A sample of the seized fireworks is 7479
sufficient for evidentiary purposes. The remainder of the seized 7480
fireworks may be disposed of pursuant to an order from a court of 7481
competent jurisdiction after notice and a hearing. 7482

Fireworks manufactured, sold, possessed, transported, or used 7483
in violation of this chapter shall be forfeited by the violator. 7484
The fire marshal's or certified fire safety inspector's office 7485
shall dispose of seized fireworks pursuant to the procedures 7486
specified in ~~section 2933.41~~ sections 2981.11 to 2981.13 of the 7487
Revised Code for the disposal of forfeited property by law 7488
enforcement agencies, and the fire marshal or that office is not 7489
liable for claims for the loss of or damages to the seized 7490
fireworks. 7491

(C) This section does not affect the authority of a peace 7492

officer, as defined in section 2935.01 of the Revised Code, to 7493
make arrests for violations of this chapter or to seize fireworks 7494
manufactured, sold, possessed, transported, or used in violation 7495
of this chapter. 7496

(D) Any fines imposed for a violation of this chapter 7497
relating to the sale, purchase, possession, or discharge of 7498
fireworks shall be distributed in the following manner if a 7499
municipal corporation, county, or township either filed or 7500
enforced the complaint regarding the violation. One-half of the 7501
amount of the fine shall be distributed to the municipal 7502
corporation, county, or township which filed the complaint 7503
regarding the violation and one-half of the amount of the fine 7504
shall be distributed to the municipal corporation, county, or 7505
township which enforced the complaint. If the same municipal 7506
corporation, county, or township both filed the complaint 7507
regarding the violation and enforced the complaint, the entire 7508
amount of the fine shall be distributed to that municipal 7509
corporation, county, or township. 7510

Sec. 3745.13. (A) When emergency action is required to 7511
protect the public health or safety or the environment, any person 7512
responsible for causing or allowing an unauthorized spill, 7513
release, or discharge of material into or upon the environment or 7514
responsible for the operation of an illegal methamphetamine 7515
manufacturing laboratory that has caused contamination of the 7516
environment is liable to the municipal corporation, county, 7517
township, countywide emergency management agency established under 7518
section 5502.26 of the Revised Code, regional authority for 7519
emergency management established under section 5507.27 of the 7520
Revised Code, or emergency management program established by a 7521
political subdivision under section 5502.271 of the Revised Code, 7522
having territorial jurisdiction, or responsibility for emergency 7523

management activities in the location of the spill, release, 7524
discharge, or contamination, for the necessary and reasonable, 7525
additional or extraordinary costs it incurs in investigating, 7526
mitigating, minimizing, removing, or abating the spill, release, 7527
discharge, or contamination, in the course of its emergency 7528
action, but, to the extent criteria and methods for response 7529
actions prescribed under 40 C.F.R. 300, as amended, may be applied 7530
to the type of material involved and the conditions of the spill, 7531
release, discharge, or contamination, that person is liable for 7532
those costs only if the political subdivision, countywide agency, 7533
or regional authority employed those criteria and methods in its 7534
emergency action. 7535

The officers of the municipal corporation, county, township, 7536
countywide emergency management agency, or regional authority for 7537
emergency management performing the emergency action shall keep a 7538
detailed record of its costs for investigating, mitigating, 7539
minimizing, removing, or abating the unauthorized spill, release, 7540
discharge, or contamination; promptly after the completion of 7541
those measures, shall certify those costs to the city director of 7542
law or village solicitor, as appropriate, of the municipal 7543
corporation, the prosecuting attorney of the county in the case of 7544
a county, township, or countywide emergency management agency, or 7545
the legal counsel retained thereby in the case of a regional 7546
authority for emergency management; and may request that the legal 7547
officer or counsel bring a civil action for recovery of costs 7548
against the person responsible for the unauthorized spill, 7549
release, or discharge or responsible for the operation of the 7550
illegal methamphetamine manufacturing laboratory that caused 7551
contamination of the environment. If the officers request that the 7552
legal officer or counsel bring such a civil action regarding 7553
emergency action taken in relation to the operation of an illegal 7554
methamphetamine manufacturing laboratory that has caused 7555
contamination of the environment, the legal officer or counsel 7556

also may pursue a forfeiture proceeding against the responsible 7557
person under ~~sections 2923.31 to 2923.36, 2923.44 to 2923.47,~~ 7558
~~sections 2925.41 to 2925.45, or sections 2933.42 to 2933.43~~ 7559
Chapter 2981. of the Revised Code, or in any other manner 7560
authorized by law. 7561

The legal officer or counsel shall submit a written, itemized 7562
claim for the total certified costs incurred by the municipal 7563
corporation, county, township, countywide agency, or regional 7564
authority for the emergency action to the responsible party and a 7565
written demand that those costs be paid to the political 7566
subdivision, countywide agency, or regional authority. Not less 7567
than thirty days before bringing a civil action for recovery of 7568
those costs, the legal officer or counsel shall mail written 7569
notice to the responsible party informing the responsible party 7570
that, unless the total certified costs are paid to the political 7571
subdivision, countywide agency, or regional authority within 7572
thirty days after the date of mailing of the notice, the legal 7573
officer or counsel will bring a civil action for that amount. 7574
Except for emergency action taken in relation to the operation of 7575
an illegal methamphetamine manufacturing laboratory that has 7576
caused contamination of the environment, in making a determination 7577
of an award for reimbursement, the responsible party's status as a 7578
taxpayer to the governmental entity shall be taken into 7579
consideration. Nothing in this section prevents a political 7580
subdivision, countywide emergency management agency, or regional 7581
authority for emergency management from entering into a settlement 7582
of a claim against a responsible party that compromises the amount 7583
of the claim. Moneys recovered as described in this section shall 7584
be credited to the appropriate funds of the political subdivision, 7585
countywide agency, or regional authority from which moneys were 7586
expended in performing the emergency action. 7587

(B) As used in this section: 7588

(1) "Methamphetamine" means methamphetamine, any salt, 7589
isomer, or salt of an isomer of methamphetamine, or any compound, 7590
mixture, preparation, or substance containing methamphetamine or 7591
any salt, isomer, or salt of an isomer of methamphetamine. 7592

(2) "Illegal methamphetamine manufacturing laboratory" means 7593
any laboratory or other premises that is used for the manufacture 7594
or production of methamphetamine in violation of section 2925.04 7595
of the Revised Code, whether or not there has been a prior 7596
conviction of that violation. 7597

Sec. 4301.29. (A) Whenever the department of public safety 7598
seizes beer or intoxicating liquor, the department shall destroy 7599
or distribute the beer or intoxicating liquor, in accordance with 7600
~~division (D)(4) of section 2933.41~~ sections 2981.11 to 2981.13 of 7601
the Revised Code. 7602

(B)(1) In case of any seizure of beer or intoxicating liquor 7603
under execution of any judgment rendered against the holder of a 7604
permit, in relation to the foreclosure of any lien on any beer or 7605
intoxicating liquor belonging to a holder of a permit, in relation 7606
to the insolvency or bankruptcy of a holder of a permit, or in any 7607
other case in which judicial process is employed to subject any 7608
beer or intoxicating liquor belonging to or in the possession of 7609
the holder of a permit to any claim, the person seizing the beer 7610
or intoxicating liquor or the person's designee may sell it, 7611
subject to division (B)(2) of this section, after obtaining the 7612
written consent of the division of liquor control. Proceeds from 7613
the sale of the beer or intoxicating liquor shall be paid in 7614
accordance with the applicable law and the orders of the court 7615
issuing the process. 7616

(2) Beer or intoxicating liquor that is sold under division 7617
(B)(1) of this section shall not be sold to or purchased by the 7618
holder of a liquor permit, an applicant for a liquor permit, or 7619

any other business.

7620

Sec. 4301.45. When any law enforcement officer discovers any person in the act of transporting in violation of law beer or intoxicating liquors in any wagon, buggy, automobile, watercraft, aircraft, or other vehicle, ~~he~~ the officer shall seize all beer or intoxicating liquors found therein being transported contrary to law. Whenever beer or intoxicating liquors transported or possessed illegally are seized by a law enforcement officer, the officer shall take possession of the vehicle and team, or automobile, boat, watercraft, aircraft, or any other conveyance, and shall arrest any person in charge thereof. The law enforcement officer shall at once proceed against the person arrested under Chapters 4301. and 4303. of the Revised Code, in any court having jurisdiction of offenses under those chapters, but the vehicle or conveyance shall be returned to the owner upon execution by ~~him~~ the owner of a valid bond with sufficient sureties, in a sum equal to the value of the property, which bond shall be approved by the law enforcement officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide by the judgment of the court. The court, upon conviction of the person so arrested, shall order the beer or intoxicating liquor that was not illegally manufactured to be forfeited to the state and disposed of under ~~section 2933.41~~ sections 2981.11 to 2981.13 of the Revised Code, and unless good cause to the contrary is shown by the owner, shall order a sale at public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was

7621

7622

7623

7624

7625

7626

7627

7628

7629

7630

7631

7632

7633

7634

7635

7636

7637

7638

7639

7640

7641

7642

7643

7644

7645

7646

7647

7648

7649

7650

7651

to be used for illegal transportation of beer or intoxicating 7652
liquor, and shall distribute the balance as money arising from 7653
fines and forfeited bonds under such chapters is distributed. The 7654
court, upon conviction of the person so arrested, shall order the 7655
beer or intoxicating liquor that was illegally manufactured to be 7656
destroyed. 7657

All liens against property sold under this section shall be 7658
transferred from the property to the proceeds of the sale of the 7659
property. If no claimant is found for the team, vehicle, 7660
watercraft, aircraft, automobile, or other conveyance, the taking 7661
of the same, with its description, shall be advertised in some 7662
newspaper published in the city or county where taken, or if there 7663
is no newspaper published in such city or county, in a newspaper 7664
having circulation in the county, once a week for four weeks and 7665
by handbills posted in three public places near the place of 7666
seizure, and if no claimant appears within ten days after the last 7667
publication of the advertisement, the property shall be sold and 7668
the proceeds after deducting the expense and costs shall be 7669
distributed as if there were a claimant for said vehicle or 7670
conveyance. 7671

Sec. 4301.53. The judge of a court of record may issue 7672
warrants to search a house, building, place, vehicle, watercraft, 7673
aircraft, or conveyance for beer, alcohol, or intoxicating liquor 7674
manufactured, possessed, stored, concealed, sold, furnished, given 7675
away, or transported in violation of Chapters 4301. and 4303. of 7676
the Revised Code, and the containers in which the same is found, 7677
or machinery, tools, implements, equipment, supplies, and 7678
materials used or kept for use in manufacturing beer or 7679
intoxicating liquor in violation of those chapters, and to seize 7680
any of that property and things found in it, together with the 7681
vehicle, watercraft, aircraft, or conveyance in which the same is 7682
found. The issuance of those warrants is subject in all respects 7683

to sections 2933.22 to 2933.27 of the Revised Code; except that 7684
any such vehicle, watercraft, aircraft, or other conveyance shall 7685
be returned to its owner upon execution by the owner of a bond 7686
with surety to the satisfaction of the enforcement agent of the 7687
department of public safety or other law enforcement officer 7688
making the seizure in an equal amount to its value, conditioned 7689
upon its return to the custody of such agent or officer on the day 7690
of trial to abide by the judgment of the court. Upon conviction of 7691
any violation of Chapters 4301. and 4303. of the Revised Code, any 7692
property found in the possession of the person convicted or the 7693
person's agent or employee shall be disposed of as provided in 7694
section 4301.45 of the Revised Code. If the accused is discharged 7695
by the judge or magistrate, such vehicle, watercraft, aircraft, or 7696
other conveyance shall be returned to its owner, and any bond 7697
given pursuant to this section shall be canceled. If the accused 7698
is the holder of a permit issued under Chapters 4301. and 4303. of 7699
the Revised Code, any beer, intoxicating liquor, or alcohol seized 7700
shall be disposed of as provided in section 4301.29 of the Revised 7701
Code, and any other property seized shall be returned to its owner 7702
by the officer having the custody or possession of such property. 7703
If the accused is not the holder of such a permit in force at the 7704
time, any beer, intoxicating liquor, or alcohol that was not 7705
illegally manufactured shall be forfeited to the state and shall 7706
forthwith be disposed of under ~~section 2933.41~~ sections 2981.11 to 7707
2981.13 of the Revised Code. Illegally manufactured beer, 7708
intoxicating liquor, or alcohol, and other property, except as 7709
provided in this section, shall be destroyed, and any such beer, 7710
intoxicating liquor, or alcohol, or other property is hereby 7711
declared to be a public nuisance. 7712

Sec. 4305.13. (A) If the tax commissioner finds that any 7713
permit holder, liable for tax under Chapter 4301., 4305., or 4307. 7714
of the Revised Code, is about to depart from the state, remove the 7715

permit holder's property from the state, conceal the permit 7716
holder's self or property, or do any other act tending to 7717
prejudice, obstruct, or render wholly or partially ineffectual 7718
proceedings to collect the tax, unless the proceedings are 7719
commenced without delay, or if the commissioner believes that the 7720
collection of the amount due from any permit holder will be 7721
jeopardized by delay, the commissioner may issue a jeopardy 7722
assessment against the permit holder for the amount of the tax, 7723
plus a penalty of up to thirty per cent. Upon issuance of a 7724
jeopardy assessment under this division, the total amount assessed 7725
shall immediately be due and payable unless security is provided 7726
pursuant to division (C) of this section. Any assessment issued 7727
under this section shall bear interest as prescribed by section 7728
4305.131 of the Revised Code. 7729

(B) The commissioner immediately shall file an entry with the 7730
clerk of the court of common pleas in the same manner and with the 7731
same effect as provided in section 4305.131 of the Revised Code. 7732
Notice of the jeopardy assessment shall be served on the permit 7733
holder assessed or the permit holder's legal representative, as 7734
provided in section 5703.37 of the Revised Code, within five days 7735
of the filing of the entry. The permit holder assessed may 7736
petition for reassessment within sixty days of receipt of the 7737
notice of jeopardy assessment in the same manner as provided in 7738
section 4305.131 of the Revised Code. Full or partial payment of 7739
the assessment shall not prejudice the commissioner's 7740
consideration of the merits of the assessment as contested by the 7741
petition for reassessment. Upon notification of the existence of 7742
the judgment filed pursuant to this division, any public official 7743
having control or custody of any funds or property of the person 7744
assessed immediately shall pay or deliver the funds or property to 7745
the commissioner as full or partial satisfaction of the jeopardy 7746
assessment. However, funds or property needed as evidence in 7747
criminal proceedings or that is expected to be forfeited pursuant 7748

to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 7749
Revised Code need not be relinquished by the public official. Upon 7750
disposition of criminal and forfeiture proceedings, funds and 7751
property not needed as evidence and not forfeited shall be 7752
delivered to the commissioner. 7753

(C) If the permit holder subject to a jeopardy assessment 7754
files a petition for reassessment and posts security satisfactory 7755
to the commissioner in an amount sufficient to satisfy the unpaid 7756
balance of the assessment, execution on the judgment shall be 7757
stayed pending disposition of the petition for reassessment and 7758
all appeals resulting from the petition. If the security is 7759
sufficient to satisfy the full amount of the assessment, the 7760
commissioner shall return any funds or property of the permit 7761
holder previously seized. Upon satisfaction of the assessment the 7762
commissioner shall order the security released and the judgment 7763
vacated. 7764

(D) The commissioner may adopt rules providing for the 7765
imposition and remission of penalties added to assessments under 7766
this section. 7767

Sec. 4503.233. (A)(1) If a court is required to order the 7768
immobilization of a vehicle for a specified period of time 7769
pursuant to section 4510.11, 4510.14, 4510.16, 4510.41, 4511.19, 7770
4511.193, or 4511.203 of the Revised Code, the court shall issue 7771
an immobilization order in accordance with this division and for 7772
the period of time specified in the particular section, and the 7773
immobilization under the order shall be in accordance with this 7774
section. The court, at the time of sentencing the offender for the 7775
offense relative to which the immobilization order is issued or as 7776
soon thereafter as is practicable, shall give a copy of the order 7777
to the offender or the offender's counsel. The court promptly 7778
shall send a copy of the order to the registrar on a form 7779

prescribed by the registrar and to the person or agency it 7780
designates to execute the order. 7781

The order shall indicate the date on which it is issued, 7782
shall identify the vehicle that is subject to the order, and shall 7783
specify all of the following: 7784

(a) The period of the immobilization; 7785

(b) The place at which the court determines that the 7786
immobilization shall be carried out, provided that the court shall 7787
not determine and shall not specify that the immobilization is to 7788
be carried out at any place other than a commercially operated 7789
private storage lot, a place owned by a law enforcement or other 7790
government agency, or a place to which one of the following 7791
applies: 7792

(i) The place is leased by or otherwise under the control of 7793
a law enforcement or other government agency. 7794

(ii) The place is owned by the offender, the offender's 7795
spouse, or a parent or child of the offender. 7796

(iii) The place is owned by a private person or entity, and, 7797
prior to the issuance of the order, the private entity or person 7798
that owns the place, or the authorized agent of that private 7799
entity or person, has given express written consent for the 7800
immobilization to be carried out at that place. 7801

(iv) The place is a public street or highway on which the 7802
vehicle is parked in accordance with the law. 7803

(c) The person or agency designated by the court to execute 7804
the order, which shall be either the law enforcement agency that 7805
employs the law enforcement officer who seized the vehicle, a 7806
bailiff of the court, another person the court determines to be 7807
appropriate to execute the order, or the law enforcement agency 7808
with jurisdiction over the place of residence of the vehicle 7809

owner; 7810

(d) That neither the registrar nor a deputy registrar will be 7811
permitted to accept an application for the license plate 7812
registration of any motor vehicle in the name of the vehicle owner 7813
until the immobilization fee is paid. 7814

(2) The person or agency the court designates to immobilize 7815
the vehicle shall seize or retain that vehicle's license plates 7816
and forward them to the bureau of motor vehicles. 7817

(3) In all cases, the offender shall be assessed an 7818
immobilization fee of one hundred dollars, and the immobilization 7819
fee shall be paid to the registrar before the vehicle may be 7820
released to the offender. Neither the registrar nor a deputy 7821
registrar shall accept an application for the registration of any 7822
motor vehicle in the name of the offender until the immobilization 7823
fee is paid. 7824

(4) If the vehicle subject to the order is immobilized 7825
pursuant to the order and is found being operated upon any street 7826
or highway in this state during the immobilization period, it 7827
shall be seized, removed from the street or highway, and 7828
criminally forfeited and disposed of pursuant to section 4503.234 7829
of the Revised Code. 7830

(5) The registrar shall deposit the immobilization fee into 7831
the law enforcement reimbursement fund created by section 4501.19 7832
of the Revised Code. Money in the fund shall be expended only as 7833
provided in division (A)(5) of this section. If the court 7834
designated in the order a court bailiff or another appropriate 7835
person other than a law enforcement officer to immobilize the 7836
vehicle, the amount of the fee deposited into the law enforcement 7837
reimbursement fund shall be paid out to the county treasury if the 7838
court that issued the order is a county court, to the treasury of 7839
the municipal corporation served by the court if the court that 7840

issued the order is a mayor's court, or to the city treasury of 7841
the legislative authority of the court, both as defined in section 7842
1901.03 of the Revised Code, if the court that issued the order is 7843
a municipal court. If the court designated a law enforcement 7844
agency to immobilize the vehicle and if the law enforcement agency 7845
immobilizes the vehicle, the amount of the fee deposited into the 7846
law enforcement reimbursement fund shall be paid out to the law 7847
enforcement agency to reimburse the agency for the costs it incurs 7848
in obtaining immobilization equipment and, if required, in sending 7849
an officer or other person to search for and locate the vehicle 7850
specified in the immobilization order and to immobilize the 7851
vehicle. 7852

In addition to the immobilization fee required to be paid 7853
under division (A)(3) of this section, the offender may be charged 7854
expenses or charges incurred in the removal and storage of the 7855
immobilized vehicle. 7856

(B) If a court issues an immobilization order under division 7857
(A)(1) of this section, the person or agency designated by the 7858
court to execute the immobilization order promptly shall 7859
immobilize or continue the immobilization of the vehicle at the 7860
place specified by the court in the order. The registrar shall not 7861
authorize the release of the vehicle or authorize the issuance of 7862
new identification license plates for the vehicle at the end of 7863
the immobilization period until the immobilization fee has been 7864
paid. 7865

(C) Upon receipt of the license plates for a vehicle under 7866
this section, the registrar shall destroy the license plates. At 7867
the end of the immobilization period and upon the payment of the 7868
immobilization fee that must be paid under this section, the 7869
registrar shall authorize the release of the vehicle and authorize 7870
the issuance, upon the payment of the same fee as is required for 7871
the replacement of lost, mutilated, or destroyed license plates 7872

and certificates of registration, of new license plates and, if
necessary, a new certificate of registration to the offender for
the vehicle in question.

(D)(1) If a court issues an immobilization order under
division (A) of this section, the immobilization period commences
on the day on which the vehicle in question is immobilized. If the
vehicle in question had been seized under section 4510.41 or
4511.195 of the Revised Code, the time between the seizure and the
beginning of the immobilization period shall be credited against
the immobilization period specified in the immobilization order
issued under division (A) of this section. No vehicle that is
immobilized under this section is eligible to have restricted
license plates under section 4503.231 of the Revised Code issued
for that vehicle.

(2) If a court issues an immobilization order under division
(A) of this section, if the vehicle subject to the order is
immobilized under the order, and if the vehicle is found being
operated upon any street or highway of this state during the
immobilization period, it shall be seized, removed from the street
or highway, and criminally forfeited, and disposed of pursuant to
section 4503.234 of the Revised Code. No vehicle that is forfeited
under this provision shall be considered contraband for purposes
of ~~section 2933.41, 2933.42, or 2933.43~~ Chapter 2981. of the
Revised Code, but shall be held by the law enforcement agency that
employs the officer who seized it for disposal in accordance with
section 4503.234 of the Revised Code.

(3) If a court issues an immobilization order under division
(A) of this section, and if the vehicle is not claimed within
seven days after the end of the period of immobilization or if the
offender has not paid the immobilization fee, the person or agency
that immobilized the vehicle shall send a written notice to the
offender at the offender's last known address informing the

offender of the date on which the period of immobilization ended, 7905
that the offender has twenty days after the date of the notice to 7906
pay the immobilization fee and obtain the release of the vehicle, 7907
and that if the offender does not pay the fee and obtain the 7908
release of the vehicle within that twenty-day period, the vehicle 7909
will be forfeited under section 4503.234 of the Revised Code to 7910
the entity that is entitled to the immobilization fee. 7911

(4) An offender whose motor vehicle is subject to an 7912
immobilization order issued under division (A) of this section 7913
shall not sell the motor vehicle without approval of the court 7914
that issued the order. If such an offender wishes to sell the 7915
motor vehicle during the immobilization period, the offender shall 7916
apply to the court that issued the immobilization order for 7917
permission to assign the title to the vehicle. If the court is 7918
satisfied that the sale will be in good faith and not for the 7919
purpose of circumventing the provisions of division (A)(1) of this 7920
section, it may certify its consent to the offender and to the 7921
registrar. Upon receipt of the court's consent, the registrar 7922
shall enter the court's notice in the offender's vehicle license 7923
plate registration record. 7924

If, during a period of immobilization under an immobilization 7925
order issued under division (A) of this section, the title to the 7926
immobilized motor vehicle is transferred by the foreclosure of a 7927
chattel mortgage, a sale upon execution, the cancellation of a 7928
conditional sales contract, or an order of a court, the involved 7929
court shall notify the registrar of the action, and the registrar 7930
shall enter the court's notice in the offender's vehicle license 7931
plate registration record. 7932

Nothing in this section shall be construed as requiring the 7933
registrar or the clerk of the court of common pleas to note upon 7934
the certificate of title records any prohibition regarding the 7935
sale of a motor vehicle. 7936

(5) If the title to a motor vehicle that is subject to an immobilization order under division (A) of this section is assigned or transferred without court approval between the time of arrest of the offender who committed the offense for which such an order is to be issued and the time of the actual immobilization of the vehicle, the court shall order that, for a period of two years from the date of the order, neither the registrar nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of the offender whose vehicle was assigned or transferred without court approval. The court shall notify the registrar of the order on a form prescribed by the registrar for that purpose.

(E)(1) The court with jurisdiction over the case, after notice to all interested parties including lienholders, and after an opportunity for them to be heard, if the offender fails to appear in person, without good cause, or if the court finds that the offender does not intend to seek release of the vehicle at the end of the period of immobilization or that the offender is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the entity entitled to the immobilization fee under division (A)(5) of this section, next into the name of a lienholder, or lastly, into the name of the owner of the place of storage.

A lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the entity that receives title to the vehicle is the entity that is entitled to the immobilization fee under division (A)(5) of this section, it shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage

if the person or entity refuses to receive the title. Any person 7969
or entity that receives title may either keep title to the vehicle 7970
or may dispose of the vehicle in any legal manner that it 7971
considers appropriate, including assignment of the certificate of 7972
title to the motor vehicle to a salvage dealer or a scrap metal 7973
processing facility. The person or entity shall not transfer the 7974
vehicle to the person who is the vehicle's immediate previous 7975
owner. 7976

If the person or entity assigns the motor vehicle to a 7977
salvage dealer or scrap metal processing facility, the person or 7978
entity shall send the assigned certificate of title to the motor 7979
vehicle to the clerk of the court of common pleas of the county in 7980
which the salvage dealer or scrap metal processing facility is 7981
located. The person or entity shall mark the face of the 7982
certificate of title with the words "FOR DESTRUCTION" and shall 7983
deliver a photocopy of the certificate of title to the salvage 7984
dealer or scrap metal processing facility for its records. 7985

(2) Whenever a court issues an order under division (E)(1) of 7986
this section, the court also shall order removal of the license 7987
plates from the vehicle and cause them to be sent to the registrar 7988
if they have not already been sent to the registrar. Thereafter, 7989
no further proceedings shall take place under this section, but 7990
the offender remains liable for payment of the immobilization fee 7991
described in division (A)(3) of this section if an immobilization 7992
order previously had been issued by the court. 7993

(3) Prior to initiating a proceeding under division (E)(1) of 7994
this section, and upon payment of the fee under division (B) of 7995
section 4505.14 of the Revised Code, any interested party may 7996
cause a search to be made of the public records of the bureau of 7997
motor vehicles or the clerk of the court of common pleas, to 7998
ascertain the identity of any lienholder of the vehicle. The 7999
initiating party shall furnish this information to the clerk of 8000

the court with jurisdiction over the case, and the clerk shall
provide notice to the vehicle owner, the defendant, any
lienholder, and any other interested parties listed by the
initiating party, at the last known address supplied by the
initiating party, by certified mail or, at the option of the
initiating party, by personal service or ordinary mail.

As used in this section, "interested party" includes the
offender, all lienholders, the owner of the place of storage, the
person or entity that caused the vehicle to be removed, and the
person or entity, if any, entitled to the immobilization fee under
division (A)(5) of this section.

Sec. 4503.234. (A) If a court is required by section
4503.233, 4503.236, 4510.11, 4510.14, 4510.16, 4510.41, 4511.19,
4511.193, or 4511.203 of the Revised Code to order the criminal
forfeiture of a vehicle, the order shall be issued and enforced in
accordance with this division, subject to division (B) of this
section. An order of criminal forfeiture issued under this
division shall authorize an appropriate law enforcement agency to
seize the vehicle ordered criminally forfeited upon the terms and
conditions that the court determines proper. No vehicle ordered
criminally forfeited pursuant to this division shall be considered
contraband for purposes of ~~section 2933.41, 2933.42, or 2933.43~~
Chapter 2981. of the Revised Code, but the law enforcement agency
that employs the officer who seized it shall hold the vehicle for
disposal in accordance with this section. A forfeiture order may
be issued only after the offender has been provided with an
opportunity to be heard. The prosecuting attorney shall give the
offender written notice of the possibility of forfeiture by
sending a copy of the relevant uniform traffic ticket or other
written notice to the offender not less than seven days prior to
the date of issuance of the forfeiture order. A vehicle is subject

to an order of criminal forfeiture pursuant to this division upon 8032
the conviction of the offender of or plea of guilty by the 8033
offender to a violation of division (A) of section 4503.236, 8034
section 4510.11, 4510.14, 4510.16, or 4511.203, or division (A) of 8035
section 4511.19 of the Revised Code, or a municipal ordinance that 8036
is substantially equivalent to any of those sections or divisions. 8037

(B)(1) Prior to the issuance of an order of criminal 8038
forfeiture pursuant to this section, the law enforcement agency 8039
that employs the law enforcement officer who seized the vehicle 8040
shall conduct or cause to be conducted a search of the appropriate 8041
public records that relate to the vehicle and shall make or cause 8042
to be made reasonably diligent inquiries to identify any 8043
lienholder or any person or entity with an ownership interest in 8044
the vehicle. The court that is to issue the forfeiture order also 8045
shall cause a notice of the potential order relative to the 8046
vehicle and of the expected manner of disposition of the vehicle 8047
after its forfeiture to be sent to any lienholder or person who is 8048
known to the court to have any right, title, or interest in the 8049
vehicle. The court shall give the notice by certified mail, return 8050
receipt requested, or by personal service. 8051

(2) No order of criminal forfeiture shall be issued pursuant 8052
to this section if a lienholder or other person with an ownership 8053
interest in the vehicle establishes to the court, by a 8054
preponderance of the evidence after filing a motion with the 8055
court, that the lienholder or other person neither knew nor should 8056
have known after a reasonable inquiry that the vehicle would be 8057
used or involved, or likely would be used or involved, in the 8058
violation resulting in the issuance of the order of criminal 8059
forfeiture or the violation of the order of immobilization issued 8060
under section 4503.233 of the Revised Code, that the lienholder or 8061
other person did not expressly or impliedly consent to the use or 8062
involvement of the vehicle in that violation, and that the lien or 8063

ownership interest was perfected pursuant to law prior to the 8064
seizure of the vehicle under section 4503.236, 4510.41, 4511.195, 8065
or 4511.203 of the Revised Code. If the lienholder or holder of 8066
the ownership interest satisfies the court that these criteria 8067
have been met, the court shall preserve the lienholder's or other 8068
person's lien or interest, and the court either shall return the 8069
vehicle to the holder, or shall order that the proceeds of any 8070
sale held pursuant to division (C)(2) of this section be paid to 8071
the lienholder or holder of the interest less the costs of 8072
seizure, storage, and maintenance of the vehicle. The court shall 8073
not return a vehicle to a lienholder or a holder of an ownership 8074
interest unless the lienholder or holder submits an affidavit to 8075
the court that states that the lienholder or holder will not 8076
return the vehicle to the person from whom the vehicle was seized 8077
pursuant to the order of criminal forfeiture or to any member of 8078
that person's family and will not otherwise knowingly permit that 8079
person or any member of that person's family to obtain possession 8080
of the vehicle. 8081

(3) No order of criminal forfeiture shall be issued pursuant 8082
to this section if a person with an interest in the vehicle 8083
establishes to the court, by a preponderance of the evidence after 8084
filing a motion with the court, that the person neither knew nor 8085
should have known after a reasonable inquiry that the vehicle had 8086
been used or was involved in the violation resulting in the 8087
issuance of the order of criminal forfeiture or the violation of 8088
the order of immobilization issued under section 4503.233 of the 8089
Revised Code, that the person did not expressly or impliedly 8090
consent to the use or involvement of the vehicle in that 8091
violation, that the interest was perfected in good faith and for 8092
value pursuant to law between the time of the arrest of the 8093
offender and the final disposition of the criminal charge in 8094
question, and that the vehicle was in the possession of the 8095

interest holder at the time of the perfection of the interest. If 8096
the court is satisfied that the interest holder has met these 8097
criteria, the court shall preserve the interest holder's interest, 8098
and the court either shall return the vehicle to the interest 8099
holder or order that the proceeds of any sale held pursuant to 8100
division (C) of this section be paid to the holder of the interest 8101
less the costs of seizure, storage, and maintenance of the 8102
vehicle. The court shall not return a vehicle to an interest 8103
holder unless the holder submits an affidavit to the court stating 8104
that the holder will not return the vehicle to the person from 8105
whom the holder acquired the holder's interest, nor to any member 8106
of that person's family, and the holder will not otherwise 8107
knowingly permit that person or any member of that person's family 8108
to obtain possession of the vehicle. 8109

(C) A vehicle ordered criminally forfeited to the state 8110
pursuant to this section shall be disposed of as follows: 8111

(1) It shall be given to the law enforcement agency that 8112
employs the law enforcement officer who seized the vehicle, if 8113
that agency desires to have it; 8114

(2) If a vehicle is not disposed of pursuant to division 8115
(C)(1) of this section, the vehicle shall be sold, without 8116
appraisal, if the value of the vehicle is two thousand dollars or 8117
more as determined by publications of the national auto dealer's 8118
association, at a public auction to the highest bidder for cash. 8119
Prior to the sale, the prosecuting attorney in the case shall 8120
cause a notice of the proposed sale to be given in accordance with 8121
law. The court shall cause notice of the sale of the vehicle to be 8122
published in a newspaper of general circulation in the county in 8123
which the court is located at least seven days prior to the date 8124
of the sale. The proceeds of a sale under this division or 8125
division (F) of this section shall be applied in the following 8126
order: 8127

(a) First, they shall be applied to the payment of the costs 8128
incurred in connection with the seizure, storage, and maintenance 8129
of, and provision of security for, the vehicle, any proceeding 8130
arising out of the forfeiture, and if any, the sale. 8131

(b) Second, the remaining proceeds after compliance with 8132
division (C)(2)(a) of this section, shall be applied to the 8133
payment of the value of any lien or ownership interest in the 8134
vehicle preserved under division (B) of this section. 8135

(c) Third, the remaining proceeds, after compliance with 8136
divisions (C)(2)(a) and (b) of this section, shall be applied to 8137
the appropriate funds in accordance with divisions ~~(D)(1)(e)~~(B) 8138
and ~~(2)(C)~~ of section ~~2933.43~~ 2981.13 of the Revised Code, 8139
provided that the total of the amount so deposited under this 8140
division shall not exceed one thousand dollars. The remaining 8141
proceeds deposited under this division shall be used only for the 8142
purposes authorized by those divisions and division (D)~~(3)(a)(ii)~~ 8143
of that section. 8144

(d) Fourth, the remaining proceeds after compliance with 8145
divisions (C)(2)(a) and (b) of this section and after deposit of a 8146
total amount of one thousand dollars under division (C)(2)(c) of 8147
this section shall be applied so that fifty per cent of those 8148
remaining proceeds is paid into the reparation fund established by 8149
section 2743.191 of the Revised Code, twenty-five per cent is paid 8150
into the drug abuse resistance education programs fund created by 8151
division (F)(2)(e) of section 4511.191 of the Revised Code and 8152
shall be used only for the purposes authorized by division 8153
(F)(2)(e) of that section, and twenty-five per cent is applied to 8154
the appropriate funds in accordance with ~~division (D)(1)(e)~~ 8155
divisions (B) and (C) of section ~~2933.43~~ 2981.13 of the Revised 8156
Code. The proceeds deposited into any fund described in section 8157
~~2933.43~~ 2981.13 of the Revised Code shall be used only for the 8158
purposes authorized by ~~division (D)(1)(c), (2), and (3)(a)(ii)~~ 8159

divisions (B)(4)(c), (C), and (D) of that section. 8160

(D) Except as provided in division (E) of section 4511.203 of 8161
the Revised Code and notwithstanding any other provision of law, 8162
neither the registrar of motor vehicles nor any deputy registrar 8163
shall accept an application for the registration of any motor 8164
vehicle in the name of any person, or register any motor vehicle 8165
in the name of any person, if both of the following apply: 8166

(1) Any vehicle registered in the person's name was 8167
criminally forfeited under this section and section 4503.233, 8168
4503.236, 4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 8169
4511.19, 4511.193, or 4511.203 of the Revised Code; 8170

(2) Less than five years have expired since the issuance of 8171
the most recent order of criminal forfeiture issued in relation to 8172
a vehicle registered in the person's name. 8173

(E) If a court is required by section 4503.233, 4503.236, 8174
4510.10, 4510.11, 4510.14, 4510.16, 4510.161, 4510.41, 4511.19, 8175
4511.193, or 4511.203 of the Revised Code to order the criminal 8176
forfeiture to the state of a vehicle, and the title to the motor 8177
vehicle is assigned or transferred, and division (B)(2) or (3) of 8178
this section applies, in addition to or independent of any other 8179
penalty established by law, the court may fine the offender the 8180
value of the vehicle as determined by publications of the national 8181
auto dealer's association. The proceeds from any fine imposed 8182
under this division shall be distributed in accordance with 8183
division (C)(2) of this section. 8184

(F) As used in this section and divisions ~~(D)(1)(e), (D)(2),~~ 8185
~~and (D)(3)(a)(ii)~~ (B)(4)(c), (C), and (D) of section 2933.43 8186
2981.13 of the Revised Code in relation to proceeds of the sale of 8187
a vehicle under division (C) of this section, "prosecuting 8188
attorney" includes the prosecuting attorney, village solicitor, 8189
city director of law, or similar chief legal officer of a 8190

municipal corporation who prosecutes the case resulting in the conviction or guilty plea in question.

(G) If the vehicle to be forfeited has an average retail value of less than two thousand dollars as determined by publications of the national auto dealer's association, no public auction is required to be held. In such a case, the court may direct that the vehicle be disposed of in any manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The court shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the court assigns the motor vehicle to a salvage dealer or scrap metal processing facility and the court is in possession of the certificate of title to the motor vehicle, it shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The court shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

If the court is not in possession of the certificate of title to the motor vehicle, the court shall issue an order transferring ownership of the motor vehicle to a salvage dealer or scrap metal processing facility, send the order to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located, and send a photocopy of the order to the salvage dealer or scrap metal processing facility for its records. The clerk shall make the proper notations or entries in the clerk's records concerning the disposition of the motor vehicle.

Sec. 4510.41. (A) As used in this section: 8222

(1) "Arrested person" means a person who is arrested for a 8223
violation of section 4510.14, 4510.16, or 4511.203 of the Revised 8224
Code, or a municipal ordinance that is substantially equivalent to 8225
any of those sections, and whose arrest results in a vehicle being 8226
seized under division (B) of this section. 8227

(2) "Vehicle owner" means either of the following: 8228

(a) The person in whose name is registered, at the time of 8229
the seizure, a vehicle that is seized under division (B) of this 8230
section; 8231

(b) A person to whom the certificate of title to a vehicle 8232
that is seized under division (B) of this section has been 8233
assigned and who has not obtained a certificate of title to the 8234
vehicle in that person's name, but who is deemed by the court as 8235
being the owner of the vehicle at the time the vehicle was seized 8236
under division (B) of this section. 8237

(3) "Interested party" includes the owner of a vehicle seized 8238
under this section, all lienholders, the arrested person, the 8239
owner of the place of storage at which a vehicle seized under this 8240
section is stored, and the person or entity that caused the 8241
vehicle to be removed. 8242

(B)(1) If a person is arrested for a violation of section 8243
4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal 8244
ordinance that is substantially equivalent to any of those 8245
sections, the arresting officer or another officer of the law 8246
enforcement agency that employs the arresting officer, in addition 8247
to any action that the arresting officer is required or authorized 8248
to take by any other provision of law, shall seize the vehicle 8249
that the person was operating at the time of, or that was involved 8250
in, the alleged offense if the vehicle is registered in the 8251

arrested person's name and its license plates. A law enforcement 8252
agency that employs a law enforcement officer who makes an arrest 8253
of a type that is described in this division and that involves a 8254
rented or leased vehicle that is being rented or leased for a 8255
period of thirty days or less shall notify, within twenty-four 8256
hours after the officer makes the arrest, the lessor or owner of 8257
the vehicle regarding the circumstances of the arrest and the 8258
location at which the vehicle may be picked up. At the time of the 8259
seizure of the vehicle, the law enforcement officer who made the 8260
arrest shall give the arrested person written notice that the 8261
vehicle and its license plates have been seized; that the vehicle 8262
either will be kept by the officer's law enforcement agency or 8263
will be immobilized at least until the person's initial appearance 8264
on the charge of the offense for which the arrest was made; that, 8265
at the initial appearance, the court in certain circumstances may 8266
order that the vehicle and license plates be released to the 8267
arrested person until the disposition of that charge; that, if the 8268
arrested person is convicted of that charge, the court generally 8269
must order the immobilization of the vehicle and the impoundment 8270
of its license plates or the forfeiture of the vehicle; and that 8271
the arrested person may be charged expenses or charges incurred 8272
under this section and section 4503.233 of the Revised Code for 8273
the removal and storage of the vehicle. 8274

(2) The arresting officer or a law enforcement officer of the 8275
agency that employs the arresting officer shall give written 8276
notice of the seizure to the court that will conduct the initial 8277
appearance of the arrested person on the charges arising out of 8278
the arrest. Upon receipt of the notice, the court promptly shall 8279
determine whether the arrested person is the vehicle owner. If the 8280
court determines that the arrested person is not the vehicle 8281
owner, it promptly shall send by regular mail written notice of 8282
the seizure to the vehicle's registered owner. The written notice 8283

shall contain all of the information required by division (B)(1) 8284
of this section to be in a notice to be given to the arrested 8285
person and also shall specify the date, time, and place of the 8286
arrested person's initial appearance. The notice also shall inform 8287
the vehicle owner that if title to a motor vehicle that is subject 8288
to an order for criminal forfeiture under this section is assigned 8289
or transferred and division (B)(2) or (3) of section 4503.234 of 8290
the Revised Code applies, the court may fine the arrested person 8291
the value of the vehicle. The notice also shall state that if the 8292
vehicle is immobilized under division (A) of section 4503.233 of 8293
the Revised Code, seven days after the end of the period of 8294
immobilization a law enforcement agency will send the vehicle 8295
owner a notice, informing the owner that if the release of the 8296
vehicle is not obtained in accordance with division (D)(3) of 8297
section 4503.233 of the Revised Code, the vehicle shall be 8298
forfeited. The notice also shall inform the vehicle owner that the 8299
owner may be charged expenses or charges incurred under this 8300
section and section 4503.233 of the Revised Code for the removal 8301
and storage of the vehicle. 8302

The written notice that is given to the arrested person also 8303
shall state that if the person is convicted of or pleads guilty to 8304
the offense and the court issues an immobilization and impoundment 8305
order relative to that vehicle, division (D)(4) of section 8306
4503.233 of the Revised Code prohibits the vehicle from being sold 8307
during the period of immobilization without the prior approval of 8308
the court. 8309

(3) At or before the initial appearance, the vehicle owner 8310
may file a motion requesting the court to order that the vehicle 8311
and its license plates be released to the vehicle owner. Except as 8312
provided in this division and subject to the payment of expenses 8313
or charges incurred in the removal and storage of the vehicle, the 8314
court, in its discretion, then may issue an order releasing the 8315

vehicle and its license plates to the vehicle owner. Such an order 8316
may be conditioned upon such terms as the court determines 8317
appropriate, including the posting of a bond in an amount 8318
determined by the court. If the arrested person is not the vehicle 8319
owner and if the vehicle owner is not present at the arrested 8320
person's initial appearance, and if the court believes that the 8321
vehicle owner was not provided with adequate notice of the initial 8322
appearance, the court, in its discretion, may allow the vehicle 8323
owner to file a motion within seven days of the initial 8324
appearance. If the court allows the vehicle owner to file such a 8325
motion after the initial appearance, the extension of time granted 8326
by the court does not extend the time within which the initial 8327
appearance is to be conducted. If the court issues an order for 8328
the release of the vehicle and its license plates, a copy of the 8329
order shall be made available to the vehicle owner. If the vehicle 8330
owner presents a copy of the order to the law enforcement agency 8331
that employs the law enforcement officer who arrested the arrested 8332
person, the law enforcement agency promptly shall release the 8333
vehicle and its license plates to the vehicle owner upon payment 8334
by the vehicle owner of any expenses or charges incurred in the 8335
removal or storage of the vehicle. 8336

(4) A vehicle seized under division (B)(1) of this section 8337
either shall be towed to a place specified by the law enforcement 8338
agency that employs the arresting officer to be safely kept by the 8339
agency at that place for the time and in the manner specified in 8340
this section or shall be otherwise immobilized for the time and in 8341
the manner specified in this section. A law enforcement officer of 8342
that agency shall remove the identification license plates of the 8343
vehicle, and they shall be safely kept by the agency for the time 8344
and in the manner specified in this section. No vehicle that is 8345
seized and either towed or immobilized pursuant to this division 8346
shall be considered contraband for purposes of ~~section 2933.41,~~ 8347

~~2933.42, or 2933.43~~ Chapter 2981. of the Revised Code. The vehicle 8348
shall not be immobilized at any place other than a commercially 8349
operated private storage lot, a place owned by a law enforcement 8350
or other government agency, or a place to which one of the 8351
following applies: 8352

(a) The place is leased by or otherwise under the control of 8353
a law enforcement or other government agency. 8354

(b) The place is owned by the arrested person, the arrested 8355
person's spouse, or a parent or child of the arrested person. 8356

(c) The place is owned by a private person or entity, and, 8357
prior to the immobilization, the private entity or person that 8358
owns the place, or the authorized agent of that private entity or 8359
person, has given express written consent for the immobilization 8360
to be carried out at that place. 8361

(d) The place is a public street or highway on which the 8362
vehicle is parked in accordance with the law. 8363

(C)(1) A vehicle seized under division (B) of this section 8364
shall be safely kept at the place to which it is towed or 8365
otherwise moved by the law enforcement agency that employs the 8366
arresting officer until the initial appearance of the arrested 8367
person relative to the charge in question. The license plates of 8368
the vehicle that are removed pursuant to division (B) of this 8369
section shall be safely kept by the law enforcement agency that 8370
employs the arresting officer until at least the initial 8371
appearance of the arrested person relative to the charge in 8372
question. 8373

(2)(a) At the initial appearance or not less than seven days 8374
prior to the date of final disposition, the court shall notify the 8375
arrested person that, if title to a motor vehicle that is subject 8376
to an order for criminal forfeiture under this section is assigned 8377
or transferred and division (B)(2) or (3) of section 4503.234 of 8378

the Revised Code applies, the court may fine the arrested person 8379
the value of the vehicle. If, at the initial appearance, the 8380
arrested person pleads guilty to the violation of section 4510.14, 8381
4510.16, or 4511.203 of the Revised Code, or a municipal ordinance 8382
that is substantially equivalent to any of those sections or 8383
pleads no contest to and is convicted of the violation, the court 8384
shall impose sentence upon the person as provided by law or 8385
ordinance; the court shall order the immobilization of the vehicle 8386
the arrested person was operating at the time of, or that was 8387
involved in, the offense if registered in the arrested person's 8388
name and the impoundment of its license plates under section 8389
4503.233 and section 4510.14, 4510.16, 4510.161, or 4511.203 of 8390
the Revised Code or the criminal forfeiture to the state of the 8391
vehicle if registered in the arrested person's name under section 8392
4503.234 and section 4510.14, 4510.16, 4510.161, or 4511.203 of 8393
the Revised Code, whichever is applicable; and the vehicle and its 8394
license plates shall not be returned or released to the arrested 8395
person. 8396

(b) If, at any time, the charge that the arrested person 8397
violated section 4510.14, 4510.16, or 4511.203 of the Revised 8398
Code, or a municipal ordinance that is substantially equivalent to 8399
any of those sections is dismissed for any reason, the court shall 8400
order that the vehicle seized at the time of the arrest and its 8401
license plates immediately be released to the person. 8402

(D) If a vehicle and its license plates are seized under 8403
division (B) of this section and are not returned or released to 8404
the arrested person pursuant to division (C) of this section, the 8405
vehicle and its license plates shall be retained until the final 8406
disposition of the charge in question. Upon the final disposition 8407
of that charge, the court shall do whichever of the following is 8408
applicable: 8409

(1) If the arrested person is convicted of or pleads guilty 8410

to the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the court shall impose sentence upon the person as provided by law or ordinance and shall order the immobilization of the vehicle the person was operating at the time of, or that was involved in, the offense if it is registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code or the criminal forfeiture of the vehicle if it is registered in the arrested person's name under section 4503.234 and section 4510.14, 4510.16, 4510.161, or 4511.203 of the Revised Code, whichever is applicable.

(2) If the arrested person is found not guilty of the violation of section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(3) If the charge that the arrested person violated section 4510.14, 4510.16, or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(4) If the impoundment of the vehicle was not authorized under this section, the court shall order that the vehicle and its license plates be returned immediately to the arrested person or, if the arrested person is not the vehicle owner, to the vehicle owner and shall order that the state or political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage.

(E) If a vehicle is seized under division (B) of this section, the time between the seizure of the vehicle and either its release to the arrested person pursuant to division (C) of this section or the issuance of an order of immobilization of the vehicle under section 4503.233 of the Revised Code shall be credited against the period of immobilization ordered by the court.

(F)(1) Except as provided in division (D)(4) of this section, the arrested person may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the court finds that the arrested person does not intend to seek release of the vehicle at the end of the period of immobilization under section 4503.233 of the Revised Code or that the arrested person is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.

Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person or entity that receives title to the vehicle is the person or entity that removed it, the person or entity shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including

assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity that receives title assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (F)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section or under section 4503.233 of the Revised Code.

(3) Prior to initiating a proceeding under division (F)(1) of this section, and upon payment of the fee under division (B) of section 4505.14, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the arrested person, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail, or, at the option of the initiating party, by personal service or ordinary mail.

Sec. 4511.195. (A) As used in this section: 8506

(1) "Arrested person" means a person who is arrested for a 8507
violation of division (A) of section 4511.19 of the Revised Code 8508
or a municipal OVI ordinance and whose arrest results in a vehicle 8509
being seized under division (B) of this section. 8510

(2) "Vehicle owner" means either of the following: 8511

(a) The person in whose name is registered, at the time of 8512
the seizure, a vehicle that is seized under division (B) of this 8513
section; 8514

(b) A person to whom the certificate of title to a vehicle 8515
that is seized under division (B) of this section has been 8516
assigned and who has not obtained a certificate of title to the 8517
vehicle in that person's name, but who is deemed by the court as 8518
being the owner of the vehicle at the time the vehicle was seized 8519
under division (B) of this section. 8520

(3) "Interested party" includes the owner of a vehicle seized 8521
under this section, all lienholders, the arrested person, the 8522
owner of the place of storage at which a vehicle seized under this 8523
section is stored, and the person or entity that caused the 8524
vehicle to be removed. 8525

(B)(1) The arresting officer or another officer of the law 8526
enforcement agency that employs the arresting officer, in addition 8527
to any action that the arresting officer is required or authorized 8528
to take by section 4511.19 or 4511.191 of the Revised Code or by 8529
any other provision of law, shall seize the vehicle that a person 8530
was operating at the time of the alleged offense and its license 8531
plates if the vehicle is registered in the arrested person's name 8532
and if either of the following applies: 8533

(a) The person is arrested for a violation of division (A) of 8534
section 4511.19 of the Revised Code or of a municipal OVI 8535

ordinance and, within six years of the alleged violation, the
person previously has been convicted of or pleaded guilty to one
or more violations of division (A) or (B) of section 4511.19 of
the Revised Code or one or more other equivalent offenses.

(b) The person is arrested for a violation of division (A) of
section 4511.19 of the Revised Code or of a municipal OVI
ordinance and the person previously has been convicted of or
pleaded guilty to a violation of division (A) of section 4511.19
of the Revised Code under circumstances in which the violation was
a felony, regardless of when the prior felony violation of
division (A) of section 4511.19 of the Revised Code and the
conviction or guilty plea occurred.

(2) A law enforcement agency that employs a law enforcement
officer who makes an arrest of a type that is described in
division (B)(1) of this section and that involves a rented or
leased vehicle that is being rented or leased for a period of
thirty days or less shall notify, within twenty-four hours after
the officer makes the arrest, the lessor or owner of the vehicle
regarding the circumstances of the arrest and the location at
which the vehicle may be picked up. At the time of the seizure of
the vehicle, the law enforcement officer who made the arrest shall
give the arrested person written notice that the vehicle and its
license plates have been seized; that the vehicle either will be
kept by the officer's law enforcement agency or will be
immobilized at least until the operator's initial appearance on
the charge of the offense for which the arrest was made; that, at
the initial appearance, the court in certain circumstances may
order that the vehicle and license plates be released to the
arrested person until the disposition of that charge; and that, if
the arrested person is convicted of that charge, the court
generally must order the immobilization of the vehicle and the
impoundment of its license plates, or the forfeiture of the

vehicle. 8568

(3) The arresting officer or a law enforcement officer of the 8569
agency that employs the arresting officer shall give written 8570
notice of the seizure to the court that will conduct the initial 8571
appearance of the arrested person on the charges arising out of 8572
the arrest. Upon receipt of the notice, the court promptly shall 8573
determine whether the arrested person is the vehicle owner. If the 8574
court determines that the arrested person is not the vehicle 8575
owner, it promptly shall send by regular mail written notice of 8576
the seizure to the vehicle's registered owner. The written notice 8577
shall contain all of the information required by division (B)(2) 8578
of this section to be in a notice to be given to the arrested 8579
person and also shall specify the date, time, and place of the 8580
arrested person's initial appearance. The notice also shall inform 8581
the vehicle owner that if title to a motor vehicle that is subject 8582
to an order for criminal forfeiture under this section is assigned 8583
or transferred and division (B)(2) or (3) of section 4503.234 of 8584
the Revised Code applies, the court may fine the arrested person 8585
the value of the vehicle. The notice also shall state that if the 8586
vehicle is immobilized under division (A) of section 4503.233 of 8587
the Revised Code, seven days after the end of the period of 8588
immobilization a law enforcement agency will send the vehicle 8589
owner a notice, informing the owner that if the release of the 8590
vehicle is not obtained in accordance with division (D)(3) of 8591
section 4503.233 of the Revised Code, the vehicle shall be 8592
forfeited. The notice also shall inform the vehicle owner that the 8593
vehicle owner may be charged expenses or charges incurred under 8594
this section and section 4503.233 of the Revised Code for the 8595
removal and storage of the vehicle. 8596

The written notice that is given to the arrested person also 8597
shall state that if the person is convicted of or pleads guilty to 8598
the offense and the court issues an immobilization and impoundment 8599

order relative to that vehicle, division (D)(4) of section 8600
4503.233 of the Revised Code prohibits the vehicle from being sold 8601
during the period of immobilization without the prior approval of 8602
the court. 8603

(4) At or before the initial appearance, the vehicle owner 8604
may file a motion requesting the court to order that the vehicle 8605
and its license plates be released to the vehicle owner. Except as 8606
provided in this division and subject to the payment of expenses 8607
or charges incurred in the removal and storage of the vehicle, the 8608
court, in its discretion, then may issue an order releasing the 8609
vehicle and its license plates to the vehicle owner. Such an order 8610
may be conditioned upon such terms as the court determines 8611
appropriate, including the posting of a bond in an amount 8612
determined by the court. If the arrested person is not the vehicle 8613
owner and if the vehicle owner is not present at the arrested 8614
person's initial appearance, and if the court believes that the 8615
vehicle owner was not provided with adequate notice of the initial 8616
appearance, the court, in its discretion, may allow the vehicle 8617
owner to file a motion within seven days of the initial 8618
appearance. If the court allows the vehicle owner to file such a 8619
motion after the initial appearance, the extension of time granted 8620
by the court does not extend the time within which the initial 8621
appearance is to be conducted. If the court issues an order for 8622
the release of the vehicle and its license plates, a copy of the 8623
order shall be made available to the vehicle owner. If the vehicle 8624
owner presents a copy of the order to the law enforcement agency 8625
that employs the law enforcement officer who arrested the arrested 8626
person, the law enforcement agency promptly shall release the 8627
vehicle and its license plates to the vehicle owner upon payment 8628
by the vehicle owner of any expenses or charges incurred in the 8629
removal and storage of the vehicle. 8630

(5) A vehicle seized under division (B)(1) of this section 8631

either shall be towed to a place specified by the law enforcement 8632
agency that employs the arresting officer to be safely kept by the 8633
agency at that place for the time and in the manner specified in 8634
this section or shall be otherwise immobilized for the time and in 8635
the manner specified in this section. A law enforcement officer of 8636
that agency shall remove the identification license plates of the 8637
vehicle, and they shall be safely kept by the agency for the time 8638
and in the manner specified in this section. No vehicle that is 8639
seized and either towed or immobilized pursuant to this division 8640
shall be considered contraband for purposes of ~~section 2933.41,~~ 8641
~~2933.42, or 2933.43~~ Chapter 2981. of the Revised Code. The vehicle 8642
shall not be immobilized at any place other than a commercially 8643
operated private storage lot, a place owned by a law enforcement 8644
agency or other government agency, or a place to which one of the 8645
following applies: 8646

(a) The place is leased by or otherwise under the control of 8647
a law enforcement agency or other government agency. 8648

(b) The place is owned by the vehicle operator, the vehicle 8649
operator's spouse, or a parent or child of the vehicle operator. 8650

(c) The place is owned by a private person or entity, and, 8651
prior to the immobilization, the private entity or person that 8652
owns the place, or the authorized agent of that private entity or 8653
person, has given express written consent for the immobilization 8654
to be carried out at that place. 8655

(d) The place is a street or highway on which the vehicle is 8656
parked in accordance with the law. 8657

(C)(1) A vehicle seized under division (B) of this section 8658
shall be safely kept at the place to which it is towed or 8659
otherwise moved by the law enforcement agency that employs the 8660
arresting officer until the initial appearance of the arrested 8661
person relative to the charge in question. The license plates of 8662

the vehicle that are removed pursuant to division (B) of this 8663
section shall be safely kept by the law enforcement agency that 8664
employs the arresting officer until the initial appearance of the 8665
arrested person relative to the charge in question. 8666

(2)(a) At the initial appearance or not less than seven days 8667
prior to the date of final disposition, the court shall notify the 8668
arrested person that, if title to a motor vehicle that is subject 8669
to an order for criminal forfeiture under this section is assigned 8670
or transferred and division (B)(2) or (3) of section 4503.234 of 8671
the Revised Code applies, the court may fine the arrested person 8672
the value of the vehicle. If, at the initial appearance, the 8673
arrested person pleads guilty to the violation of division (A) of 8674
section 4511.19 of the Revised Code or of the municipal OVI 8675
ordinance or pleads no contest to and is convicted of the 8676
violation, the court shall impose sentence upon the person as 8677
provided by law or ordinance; the court shall order the 8678
immobilization of the vehicle the arrested person was operating at 8679
the time of the offense if registered in the arrested person's 8680
name and the impoundment of its license plates under section 8681
4503.233 and section 4511.19 or 4511.193 of the Revised Code or 8682
the criminal forfeiture to the state of the vehicle if registered 8683
in the arrested person's name under section 4503.234 and section 8684
4511.19 or 4511.193 of the Revised Code, whichever is applicable; 8685
and the vehicle and its license plates shall not be returned or 8686
released to the arrested person. 8687

(b) If, at any time, the charge that the arrested person 8688
violated division (A) of section 4511.19 of the Revised Code or 8689
the municipal OVI ordinance is dismissed for any reason, the court 8690
shall order that the vehicle seized at the time of the arrest and 8691
its license plates immediately be released to the person. 8692

(D) If a vehicle and its license plates are seized under 8693
division (B) of this section and are not returned or released to 8694

the arrested person pursuant to division (C) of this section, the
vehicle and its license plates shall be retained until the final
disposition of the charge in question. Upon the final disposition
of that charge, the court shall do whichever of the following is
applicable:

(1) If the arrested person is convicted of or pleads guilty
to the violation of division (A) of section 4511.19 of the Revised
Code or of the municipal OVI ordinance, the court shall impose
sentence upon the person as provided by law or ordinance and shall
order the immobilization of the vehicle the person was operating
at the time of the offense if it is registered in the arrested
person's name and the impoundment of its license plates under
section 4503.233 and section 4511.19 or 4511.193 of the Revised
Code, or the criminal forfeiture of the vehicle if it is
registered in the arrested person's name under section 4503.234
and section 4511.19 or 4511.193 of the Revised Code, whichever is
applicable.

(2) If the arrested person is found not guilty of the
violation of division (A) of section 4511.19 of the Revised Code
or of the municipal OVI ordinance, the court shall order that the
vehicle and its license plates immediately be released to the
arrested person.

(3) If the charge that the arrested person violated division
(A) of section 4511.19 of the Revised Code or the municipal OVI
ordinance is dismissed for any reason, the court shall order that
the vehicle and its license plates immediately be released to the
arrested person.

(4) If the impoundment of the vehicle was not authorized
under this section, the court shall order that the vehicle and its
license plates be returned immediately to the arrested person or,
if the arrested person is not the vehicle owner, to the vehicle

owner, and shall order that the state or political subdivision of
the law enforcement agency served by the law enforcement officer
who seized the vehicle pay all expenses and charges incurred in
its removal and storage.

(E) If a vehicle is seized under division (B) of this
section, the time between the seizure of the vehicle and either
its release to the arrested person under division (C) of this
section or the issuance of an order of immobilization of the
vehicle under section 4503.233 of the Revised Code shall be
credited against the period of immobilization ordered by the
court.

(F)(1) Except as provided in division (D)(4) of this section,
the arrested person may be charged expenses or charges incurred in
the removal and storage of the immobilized vehicle. The court with
jurisdiction over the case, after notice to all interested
parties, including lienholders, and after an opportunity for them
to be heard, if the court finds that the arrested person does not
intend to seek release of the vehicle at the end of the period of
immobilization under section 4503.233 of the Revised Code or that
the arrested person is not or will not be able to pay the expenses
and charges incurred in its removal and storage, may order that
title to the vehicle be transferred, in order of priority, first
into the name of the person or entity that removed it, next into
the name of a lienholder, or lastly into the name of the owner of
the place of storage.

Any lienholder that receives title under a court order shall
do so on the condition that it pay any expenses or charges
incurred in the vehicle's removal and storage. If the person or
entity that receives title to the vehicle is the person or entity
that removed it, the person or entity shall receive title on the
condition that it pay any lien on the vehicle. The court shall not
order that title be transferred to any person or entity other than

the owner of the place of storage if the person or entity refuses 8758
to receive the title. Any person or entity that receives title 8759
either may keep title to the vehicle or may dispose of the vehicle 8760
in any legal manner that it considers appropriate, including 8761
assignment of the certificate of title to the motor vehicle to a 8762
salvage dealer or a scrap metal processing facility. The person or 8763
entity shall not transfer the vehicle to the person who is the 8764
vehicle's immediate previous owner. 8765

If the person or entity that receives title assigns the motor 8766
vehicle to a salvage dealer or scrap metal processing facility, 8767
the person or entity shall send the assigned certificate of title 8768
to the motor vehicle to the clerk of the court of common pleas of 8769
the county in which the salvage dealer or scrap metal processing 8770
facility is located. The person or entity shall mark the face of 8771
the certificate of title with the words "FOR DESTRUCTION" and 8772
shall deliver a photocopy of the certificate of title to the 8773
salvage dealer or scrap metal processing facility for its records. 8774

(2) Whenever a court issues an order under division (F)(1) of 8775
this section, the court also shall order removal of the license 8776
plates from the vehicle and cause them to be sent to the registrar 8777
of motor vehicles if they have not already been sent to the 8778
registrar. Thereafter, no further proceedings shall take place 8779
under this section or under section 4503.233 of the Revised Code. 8780

(3) Prior to initiating a proceeding under division (F)(1) of 8781
this section, and upon payment of the fee under division (B) of 8782
section 4505.14 of the Revised Code, any interested party may 8783
cause a search to be made of the public records of the bureau of 8784
motor vehicles or the clerk of the court of common pleas, to 8785
ascertain the identity of any lienholder of the vehicle. The 8786
initiating party shall furnish this information to the clerk of 8787
the court with jurisdiction over the case, and the clerk shall 8788
provide notice to the arrested person, any lienholder, and any 8789

other interested parties listed by the initiating party, at the 8790
last known address supplied by the initiating party, by certified 8791
mail or, at the option of the initiating party, by personal 8792
service or ordinary mail. 8793

Sec. 4549.62. (A) No person, with purpose to conceal or 8794
destroy the identity of a vehicle or vehicle part, shall remove, 8795
deface, cover, alter, or destroy any vehicle identification number 8796
or derivative of a vehicle identification number on a vehicle or 8797
vehicle part. 8798

(B) No person, with purpose to conceal or destroy the 8799
identity of a vehicle or a vehicle part, shall remove, deface, 8800
cover, alter, or destroy any identifying number that has been 8801
lawfully placed upon a vehicle or vehicle part by an owner of the 8802
vehicle or vehicle part, other than the manufacturer, for the 8803
purpose of deterring its theft and facilitating its recovery if 8804
stolen. 8805

(C) No person, with purpose to conceal or destroy the 8806
identity of a vehicle or vehicle part, shall place a counterfeit 8807
vehicle identification number or derivative of a vehicle 8808
identification number upon the vehicle or vehicle part. 8809

(D)(1) No person shall buy, offer to buy, sell, offer to 8810
sell, receive, dispose of, conceal, or, except as provided in 8811
division (D)(4) of this section, possess any vehicle or vehicle 8812
part with knowledge that the vehicle identification number or a 8813
derivative of the vehicle identification number has been removed, 8814
defaced, covered, altered, or destroyed in such a manner that the 8815
identity of the vehicle or part cannot be determined by a visual 8816
examination of the number at the site where the manufacturer 8817
placed the number. 8818

(2)(a) A vehicle or vehicle part from which the vehicle 8819

identification number or a derivative of the vehicle 8820
identification number has been so removed, defaced, covered, 8821
altered, or destroyed shall be seized and forfeited under ~~section~~ 8822
~~2933.41~~ Chapter 2981. of the Revised Code unless division (D)(3) 8823
or (4) of this section applies to the vehicle or part. If a 8824
derivative of the vehicle identification number has been removed, 8825
defaced, covered, altered, or destroyed in such a manner that the 8826
identity of the part cannot be determined, the entire vehicle is 8827
subject to seizure pending a determination of the original 8828
identity and ownership of the vehicle and parts of the vehicle, 8829
and the rights of innocent owners to reclaim the remainder or any 8830
part of the vehicle. 8831

(b) The lawful owners of parts upon a vehicle that has been 8832
seized under this section and that is subject to forfeiture under 8833
~~section 2933.41~~ Chapter 2981. of the Revised Code are entitled to 8834
reclaim their respective parts upon satisfactory proof of all of 8835
the following: 8836

(i) That the part is not needed for evidence in pending 8837
proceedings involving the vehicle or part and is not subject to 8838
forfeiture under ~~section 2933.41~~ Chapter 2981. of the Revised 8839
Code; 8840

(ii) That the original identity and ownership of the part can 8841
be determined and that the claimant is the lawful owner of the 8842
part; 8843

(iii) That no vehicle identification number or derivative of 8844
a vehicle identification number on the part has been destroyed or 8845
concealed in such a manner that the identity of the part cannot be 8846
determined from that number; 8847

(iv) Payment of all costs of removing the part. 8848

(3) Divisions (A), (B), and (D)(1) and (2) of this section do 8849
not apply to the good faith acquisition and disposition of 8850

vehicles and vehicle parts as junk or scrap in the ordinary course
of business by a scrap metal processing facility as defined in
division (D) of section 4737.05 of the Revised Code or by a motor
vehicle salvage dealer licensed under Chapter 4738. of the Revised
Code. This division does not create an element of an offense or an
affirmative defense, or affect the burden of proceeding with the
evidence or burden of proof in a criminal proceeding.

(4)(a) Divisions (D)(1) and (2) of this section do not apply
to the possession of an owner, or the owner's insurer, who
provides satisfactory evidence of all of the following:

(i) That the vehicle identification number or derivative
thereof on the vehicle or part has been removed, defaced, covered,
altered, or destroyed, after the owner acquired such possession,
by another person without the consent of the owner, by accident or
other casualty not due to the owner's purpose to conceal or
destroy the identity of the vehicle or vehicle part, or by
ordinary wear and tear;

(ii) That the person is the owner of the vehicle as shown on
a valid certificate of title issued by this state or certificate
of title or other lawful evidence of title issued in another
state, in a clear chain of title beginning with the manufacturer;

(iii) That the original identity of the vehicle can be
established in a manner that excludes any reasonable probability
that the vehicle has been stolen from another person.

(b) The registrar of motor vehicles shall adopt rules under
Chapter 119. of the Revised Code to permit an owner described in
division (D)(4)(a) of this section, upon application and
submission of satisfactory evidence to the registrar, to obtain
authority to replace the vehicle identification number under the
supervision of a peace officer, trooper of the state highway
patrol, or representative of the registrar. The rules shall be

designed to restore the identification of the vehicle in a manner 8882
that will deter its theft and facilitate its marketability. Until 8883
such rules are adopted, the registrar shall follow the existing 8884
procedure for the replacement of vehicle identification numbers 8885
that have been established by the registrar, with such 8886
modifications as the registrar determines to be necessary or 8887
appropriate for the administration of the laws the registrar is 8888
required to administer. 8889

The registrar may issue a temporary permit to an owner of a 8890
motor vehicle who is described in division (D)(4)(a) of this 8891
section to authorize the owner to retain possession of the motor 8892
vehicle and to transfer title to the motor vehicle with the 8893
consent of the registrar. 8894

(c) No owner described in division (D)(4)(a) of this section 8895
shall fail knowingly to apply to the registrar for authority to 8896
replace the vehicle identification number, within thirty days 8897
after the later of the following dates: 8898

(i) The date of receipt by the applicant of actual knowledge 8899
of the concealment or destruction; 8900

(ii) If the property has been stolen, the date thereafter 8901
upon which the applicant obtains possession of the vehicle or has 8902
been notified by a law enforcement agency that the vehicle has 8903
been recovered. 8904

The requirement of division (D)(4)(c) of this section may be 8905
excused by the registrar for good cause shown. 8906

(E) Whoever violates division (A), (B), (C), or (D)(1) of 8907
this section is guilty of a felony of the fifth degree on a first 8908
offense and a felony of the fourth degree on each subsequent 8909
offense. 8910

(F) Whoever violates division (D)(4)(c) of this section is 8911

guilty of a minor misdemeanor. 8912

Sec. 4549.63. (A) A law enforcement officer may seize and 8913
take possession of a vehicle or vehicle part if the officer has 8914
probable cause to believe that any vehicle identification number 8915
or derivative thereof on the vehicle or part has been removed, 8916
defaced, covered, altered, or destroyed in such a manner that the 8917
identity of the vehicle or part cannot be determined by visual 8918
examination of the number at the site where the manufacturer 8919
placed the number. The seizure shall be pursuant to a warrant, 8920
unless the circumstances are within one of the exceptions to the 8921
warrant requirement that have been established by the supreme 8922
court of the United States or of the supreme court of this state. 8923

(B) A vehicle or vehicle part seized under division (A) of 8924
this section shall be held in custody pursuant to section ~~2933.41~~ 8925
2981.11 of the Revised Code or any applicable municipal ordinance. 8926

(C) A law enforcement officer who acts in good faith in the 8927
belief that the seizure of a vehicle or vehicle part is justified 8928
under division (A) of this section is immune from any civil or 8929
criminal liability for such seizure. 8930

(D) The lawful owner of a vehicle or vehicle part seized 8931
under this section that is not needed as evidence and is not 8932
subject to forfeiture under division (D)(2) of section 4549.62 of 8933
the Revised Code may reclaim the property by submitting 8934
satisfactory proof of ownership to the law enforcement agency or 8935
court holding the property. 8936

Sec. 4728.04. (A) The application for a license under this 8937
chapter shall state fully the name and address of the person, or 8938
corporation, and of every member of the firm, partnership, or 8939
association, authorized to do business thereunder, the name of the 8940
individual responsible for the daily operation of the business, 8941

and the location of the office or place of business in which the 8942
business is conducted. In the case of a corporation, the 8943
application also shall state the date and place of incorporation, 8944
the name and address of the corporation's manager, the names and 8945
addresses of corporate directors, and the name and address of the 8946
agent, as provided in section 4728.03 of the Revised Code. 8947

The holder of a precious metals dealer's license shall keep 8948
the license posted in a conspicuous place in the office where 8949
business is transacted. No licensee shall transact or solicit 8950
business under any other name or location. Not more than one 8951
office or place of business shall be maintained under the same 8952
license, except as provided under division (C) of this section. In 8953
case of removal, the licensee shall provide written notice in 8954
advance to the division of financial institutions in the 8955
department of commerce of a prospective change of address of a 8956
business location. Upon approval by the superintendent of 8957
financial institutions, the division shall issue a new license. If 8958
the new location is outside the municipal corporation or county of 8959
the original licensed location, the licensee shall pay an 8960
additional license fee according to section 4728.03 of the Revised 8961
Code. 8962

(B) A person licensed under this chapter shall post a 8963
conspicuous notice in its place of business visible to all 8964
patrons, in a form and at places designated by rule of the 8965
division, that the licensee has no right to retain goods stolen 8966
from the true owner, and that the owner may recover the goods or 8967
their value from the licensee in an action at law or, if the chief 8968
or head of a local police department or the chief's or head's 8969
representative takes custody of the goods, by release pursuant to 8970
section ~~2933.41~~ 2981.11 of the Revised Code. 8971

(C)(1) The superintendent may issue to a person licensed 8972
under this chapter or Chapter 4727. of the Revised Code a 8973

temporary exhibition permit for a term that coincides with that of 8974
the license of the licensee. A person issued a permit under this 8975
division may engage in the business of purchasing articles made of 8976
or containing gold, silver, platinum, or other precious metals or 8977
jewels from the public at a bona fide auction, convention, 8978
exhibition, fair, or show, the primary purpose of which is to 8979
display, trade, and sell articles made of or containing precious 8980
metals or jewels, for a period not to exceed seven days for any 8981
one auction, convention, exhibition, fair, or show. 8982

(2) The superintendent shall determine the application 8983
procedures for and the form of the temporary exhibition permit 8984
described in this division, provided that a temporary permit shall 8985
state fully the name and permanent business address of the 8986
licensee to whom it is issued. 8987

(3) The holder of a temporary exhibition permit shall, when 8988
participating in any auction, convention, fair, or show, 8989
conspicuously display the holder's permit at the location at which 8990
the holder transacts business. 8991

(4) A permit holder who wishes to participate in an auction, 8992
convention, exhibition, fair, or show shall, at least two weeks 8993
prior to its scheduled opening, submit to the superintendent, or 8994
the chief or the head of the local police department with 8995
jurisdiction at the location of the event, the holder's name, the 8996
location of the auction, convention, exhibition, fair, or show, 8997
and the holder's permanent business address as it appears on the 8998
holder's permit issued under division (C)(2) of this section. 8999

(5) All purchases of articles made of or containing gold, 9000
silver, platinum, or other precious metals or jewels conducted 9001
under a temporary exhibition permit are subject to sections 9002
4728.06 to 4728.09, 4728.13, and 4728.99 of the Revised Code as if 9003
made under a license. 9004

Sec. 4729.65. (A) Except as provided in division (B) of this section, all receipts of the state board of pharmacy, from any source, shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the president or executive director of the board, or both, as authorized by the board. All initial issuance fees and renewal fees required by sections 4729.01 to 4729.54 of the Revised Code shall be payable by the applicant at the time of making application.

(B)(1) There is hereby created in the state treasury the board of pharmacy drug law enforcement fund. All moneys that are derived from any fines, mandatory fines, or forfeited bail to which the board may be entitled under Chapter 2925., division (C)~~(1)~~ of section 2923.42, or division (B)~~(5)~~ of section 2925.42 of the Revised Code and all moneys that are derived from forfeitures of property to which the board may be entitled pursuant to Chapter 2925. or 2981. of the Revised Code, ~~section 2923.32, 2923.35, 2923.44, 2923.45, 2923.46, or 2933.43 of the Revised Code,~~ any other ~~section~~ provision of the Revised Code, or federal law shall be deposited into the fund. Subject to division (B)(2) of this section, ~~division (D)(2)(c) of section 2923.35,~~ division (B)~~(5)~~ of section 2923.44, ~~division (B)(7)(c) of section 2923.46,~~ and divisions ~~(D)(1)(c) and (3)(B), (C), and (D)~~ of section ~~2933.43~~ 2981.13 of the Revised Code, the moneys in the fund shall be used solely to subsidize the drug law enforcement efforts of the board.

(2) Notwithstanding any contrary provision in the Revised Code, moneys that are derived from forfeitures of property pursuant to federal law and that are deposited into the board of pharmacy drug law enforcement fund in accordance with division (B)(1) of this section shall be used and accounted for in

accordance with the applicable federal law, and the board 9036
otherwise shall comply with that law in connection with the 9037
moneys. 9038

(C) All fines and forfeited bonds assessed and collected 9039
under prosecution or prosecution commenced in the enforcement of 9040
this chapter shall be paid to the executive director of the board 9041
within thirty days and by the executive director paid into the 9042
state treasury to the credit of the occupational licensing and 9043
regulatory fund. The board, subject to the approval of the 9044
controlling board and except for fees required to be established 9045
by the board at amounts "adequate" to cover designated expenses, 9046
may establish fees in excess of the amounts provided by this 9047
chapter, provided that such fees do not exceed the amounts 9048
permitted by this chapter by more than fifty per cent. 9049

Sec. 5735.121. (A) If the tax commissioner finds that any 9050
person liable for tax under this chapter is about to depart from 9051
the state, remove property from the state, conceal self, or 9052
conceal the person's property, or do any other act tending to 9053
prejudice, obstruct, or render wholly or partly ineffectual 9054
proceedings to collect the tax, unless proceedings are commenced 9055
without delay, or if the commissioner believes that the collection 9056
of the amount due from any person will be jeopardized by delay, 9057
the commissioner may issue a jeopardy assessment against the 9058
person for the amount of the tax, plus a penalty of up to fifteen 9059
per cent. Upon issuance of a jeopardy assessment under this 9060
division, the total amount assessed shall immediately be due and 9061
payable unless security is provided pursuant to division (C) of 9062
this section. Any assessment issued under this section shall bear 9063
interest in the manner prescribed in section 5735.12 of the 9064
Revised Code. 9065

(B) The commissioner immediately shall file an entry with the 9066

clerk of the court of common pleas in the same manner and with the
same effect as provided in section 5735.12 of the Revised Code.
Notice of the jeopardy assessment shall be served on the person
assessed or the legal representative of the person assessed, as
provided in section 5703.37 of the Revised Code, within five days
of the filing of the entry. The person assessed may petition for
reassessment within sixty days of receipt of the notice of
jeopardy assessment in the same manner as provided in section
5735.12 of the Revised Code. Full or partial payment of the
assessment shall not prejudice the commissioner's consideration of
the merits of the assessment as contested by the petition for
reassessment. Upon notification of the existence of the judgment
filed pursuant to this division, any public official having
control or custody of any funds or property of the person assessed
immediately shall pay or deliver the funds or property to the
commissioner as full or partial satisfaction of the jeopardy
assessment. However, funds or property needed as evidence in
criminal proceedings or that is expected to be forfeited pursuant
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the
Revised Code, need not be relinquished by the public official.
Upon disposition of criminal and forfeiture proceedings, funds and
property not needed as evidence and not forfeited shall be
delivered to the commissioner.

(C) If the person subject to a jeopardy assessment files a
petition for reassessment and posts security satisfactory to the
commissioner in an amount sufficient to satisfy the unpaid balance
of the assessment, execution on the judgment shall be stayed
pending disposition of the petition for reassessment and all
appeals resulting from the petition. If the security is sufficient
to satisfy the full amount of the assessment, the commissioner
shall return any funds or property of the person that previously
were seized. Upon satisfaction of the assessment, the commissioner

shall order the security released and the judgment vacated. 9099

(D) The commissioner may adopt rules providing for the 9100
imposition and remission of penalties added to assessments made 9101
under this section. 9102

Sec. 5739.15. (A) If the tax commissioner finds that a 9103
vendor, consumer, or officer, employee, or trustee of a 9104
corporation or business trust who is liable for any tax or charge 9105
levied by this chapter or Chapter 5741. of the Revised Code is 9106
about to depart from the state, remove the person's property from 9107
the state, conceal the person's self or property, or do any other 9108
act tending to prejudice, obstruct, or render wholly or partly 9109
ineffectual proceedings to collect the tax unless the proceedings 9110
are commenced without delay, or if the commissioner believes that 9111
the collection of the amount due from any vendor, consumer, or 9112
officer, employee, or trustee of a corporation or business trust 9113
will be jeopardized by delay, the commissioner may issue a 9114
jeopardy assessment against the person for the amount of the tax 9115
or charge plus a penalty as provided by section 5739.133 of the 9116
Revised Code. Upon issuance of a jeopardy assessment under this 9117
division, the total amount assessed shall immediately be due and 9118
payable unless security is provided pursuant to division (C) of 9119
this section. Any assessment issued under this section shall bear 9120
interest as prescribed by section 5739.13 of the Revised Code. 9121

(B) The commissioner immediately shall file an entry with the 9122
clerk of the court of common pleas in the same manner and with the 9123
same effect as provided in section 5739.13 of the Revised Code. 9124
Notice of the jeopardy assessment shall be served on the person 9125
assessed or the person's legal representative, as provided in 9126
section 5703.37 of the Revised Code, within five days of the 9127
filing of the entry. The person assessed may petition for 9128
reassessment within sixty days of receipt of the notice of 9129

jeopardy assessment in the same manner as provided in section 9130
5739.13 of the Revised Code. Full or partial payment of the 9131
assessment shall not prejudice the commissioner's consideration of 9132
the merits of the assessment as contested by the petition for 9133
reassessment. Upon notification of the existence of the judgment 9134
filed pursuant to this division, any public official having 9135
control or custody of any funds or property of the person assessed 9136
immediately shall pay or deliver the funds or property to the 9137
commissioner as full or partial satisfaction of the jeopardy 9138
assessment. However, funds or property needed as evidence in 9139
criminal proceedings or that is expected to be forfeited pursuant 9140
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 9141
Revised Code, need not be relinquished by the public official. 9142
Upon disposition of criminal and forfeiture proceedings, funds and 9143
property not needed as evidence and not forfeited shall be 9144
delivered to the commissioner. 9145

(C) If the person subject to a jeopardy assessment files a 9146
petition for reassessment and posts security satisfactory to the 9147
commissioner in an amount sufficient to satisfy the unpaid balance 9148
of the assessment, execution on the judgment shall be stayed 9149
pending disposition of the petition for reassessment and all 9150
appeals resulting from the petition. If the security is sufficient 9151
to satisfy the full amount of the assessment, the commissioner 9152
shall return any funds or property of the person previously 9153
seized. Upon satisfaction of the assessment, the commissioner 9154
shall order the security released and the judgment vacated. 9155

Sec. 5743.082. (A) If the tax commissioner finds that a 9156
wholesale dealer or retail dealer, liable for tax under sections 9157
5743.01 to 5743.20 of the Revised Code, is about to depart from 9158
the state, remove the wholesale or retail dealer's property from 9159
the state, conceal the wholesale or retail dealer's person or 9160

property, or do any other act tending to prejudice, obstruct, or 9161
render wholly or partly ineffectual proceedings to collect the 9162
tax, unless the proceedings are commenced without delay, or if the 9163
commissioner believes that the collection of the amount due from 9164
any wholesale dealer or retail dealer will be jeopardized by 9165
delay, the commissioner may issue a jeopardy assessment against 9166
the wholesale or retail dealer for the amount of the tax, plus a 9167
penalty of up to thirty per cent. Upon issuance of a jeopardy 9168
assessment under this division, the total amount assessed shall 9169
immediately be due and payable unless security is provided 9170
pursuant to division (C) of this section. Any assessment issued 9171
under this section shall bear interest as prescribed by section 9172
5743.081 of the Revised Code. 9173

(B) The commissioner immediately shall file an entry with the 9174
clerk of the court of common pleas in the same manner and with the 9175
same effect as provided in section 5743.081 of the Revised Code. 9176
Notice of the jeopardy assessment shall be served on the dealer 9177
assessed or the dealer's legal representative, as provided in 9178
section 5703.37 of the Revised Code, within five days of the 9179
filing of the entry. The dealer assessed may petition for 9180
reassessment within sixty days of receipt of the notice of 9181
jeopardy assessment in the same manner as provided in section 9182
5743.081 of the Revised Code. Full or partial payment of the 9183
assessment shall not prejudice the commissioner's consideration of 9184
the merits of the assessment as contested by the petition for 9185
reassessment. Upon notification of the existence of the judgment 9186
filed pursuant to this division, any public official having 9187
control or custody of any funds or property of the person assessed 9188
immediately shall pay or deliver the funds or property to the 9189
commissioner as full or partial satisfaction of the jeopardy 9190
assessment. However, funds or property needed as evidence in 9191
criminal proceedings or that is expected to be forfeited pursuant 9192
to ~~section 2923.35, 2933.41, or 2933.43~~ Chapter 2981. of the 9193

Revised Code, need not be relinquished by the public official. 9194
Upon disposition of criminal and forfeiture proceedings, funds and 9195
property not needed as evidence and not forfeited shall be 9196
delivered to the commissioner. 9197

(C) If the dealer subject to a jeopardy assessment files a 9198
petition for reassessment and posts security satisfactory to the 9199
commissioner in an amount sufficient to satisfy the unpaid balance 9200
of the assessment, execution on the judgment shall be stayed 9201
pending disposition of the petition for reassessment and all 9202
appeals resulting from the petition. If the security is sufficient 9203
to satisfy the full amount of the assessment, the commissioner 9204
shall return any funds or property of the dealer that previously 9205
were seized. Upon satisfaction of the assessment the commissioner 9206
shall order the security released and the judgment vacated. 9207

(D) The commissioner may adopt rules providing for the 9208
imposition and remission of penalties imposed under this section. 9209

Sec. 5743.112. (A) No person shall prepare for shipment, 9210
ship, transport, deliver, prepare for distribution, or distribute 9211
cigarettes, or otherwise engage or participate in the wholesale or 9212
retail business of trafficking in cigarettes, with the intent to 9213
avoid payment of the tax imposed by this chapter, when the 9214
wholesale value of such cigarettes exceeds sixty dollars during 9215
any twelve-month period. 9216

(B) Any vending machine containing cigarettes which do not 9217
have affixed the stamps or impressions provided for by sections 9218
5743.03 and 5743.04 of the Revised Code shall be seized and 9219
forfeited to the state in accordance with ~~section 2933.43~~ Chapter 9220
2981. of the Revised Code. Forfeiture shall not affect the rights 9221
of a holder of a valid lien. 9222

(C) A vehicle that is seized as contraband under ~~section~~ 9223
~~2933.43~~ Chapter 2981. of the Revised Code because of its use in 9224

violation of this chapter is subject to the procedures set forth 9225
in ~~section 2933.43 of the Revised Code that chapter.~~ 9226

Section 2. That existing sections 9.92, 109.85, 309.08, 9227
311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 9228
2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 9229
2923.44, 2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 9230
2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 9231
3743.68, 3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 9232
4503.234, 4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 9233
5735.121, 5739.15, 5743.082, and 5743.112 and sections 2923.33, 9234
2923.35, 2923.45, 2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 9235
2925.45, 2933.41, 2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 9236
2933.73, and 2933.74 of the Revised Code are hereby repealed. 9237

Section 3. Section 2901.01 of the Revised Code is presented 9238
in this act as a composite of the section as amended by Sub. H.B. 9239
364, Sub. H.B. 545, and H.B. 675 of the 124th General Assembly. 9240
The General Assembly, applying the principle stated in division 9241
(B) of section 1.52 of the Revised Code that amendments are to be 9242
harmonized if reasonably capable of simultaneous operation, finds 9243
that the composites are the resulting versions of the sections in 9244
effect prior to the effective date of the sections as presented in 9245
this act. 9246

Section 4. This act shall take effect on July 1, 2006. If a 9247
criminal or civil forfeiture action relating to misconduct under 9248
Title XXIX of the Revised Code commenced before July 1, 2006, and 9249
is still pending on that date, the court in which the case is 9250
pending shall, to the extent practical, apply the provisions of 9251
Chapter 2981. of the Revised Code in the case. 9252