

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 151

Representative Anielski

**Cosponsors: Representatives Grossman, LaTourette, Kraus, Dever, Blessing,
Rogers, Brown**

A BILL

To amend sections 2903.13, 2903.211, 2913.02, and 1
2917.21 of the Revised Code to expand the 2
offenses of menacing by stalking and 3
telecommunications harassment, to prohibit a 4
person from knowingly causing another person to 5
believe that the offender will cause physical 6
harm or mental distress to a family or household 7
member of the other person, to increase the 8
penalty for assault when the victim is a 9
volunteer firefighter, and to correct a cross 10
reference in the theft statute to special 11
purchase articles. 12

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

Section 1. That sections 2903.13, 2903.211, 2913.02, and 13
2917.21 of the Revised Code be amended to read as follows: 14

Sec. 2903.13. (A) No person shall knowingly cause or 15
attempt to cause physical harm to another or to another's 16
unborn. 17

(B) No person shall recklessly cause serious physical harm 18

to another or to another's unborn. 19

(C) (1) Whoever violates this section is guilty of assault, 20
and the court shall sentence the offender as provided in this 21
division and divisions (C) (1), (2), (3), (4), (5), (6), (7), 22
(8), (9), and (10) of this section. Except as otherwise provided 23
in division (C) (2), (3), (4), (5), (6), (7), (8), or (9) of this 24
section, assault is a misdemeanor of the first degree. 25

(2) Except as otherwise provided in this division, if the 26
offense is committed by a caretaker against a functionally 27
impaired person under the caretaker's care, assault is a felony 28
of the fourth degree. If the offense is committed by a caretaker 29
against a functionally impaired person under the caretaker's 30
care, if the offender previously has been convicted of or 31
pleaded guilty to a violation of this section or section 2903.11 32
or 2903.16 of the Revised Code, and if in relation to the 33
previous conviction the offender was a caretaker and the victim 34
was a functionally impaired person under the offender's care, 35
assault is a felony of the third degree. 36

(3) If the offense occurs in or on the grounds of a state 37
correctional institution or an institution of the department of 38
youth services, the victim of the offense is an employee of the 39
department of rehabilitation and correction or the department of 40
youth services, and the offense is committed by a person 41
incarcerated in the state correctional institution or by a 42
person institutionalized in the department of youth services 43
institution pursuant to a commitment to the department of youth 44
services, assault is a felony of the third degree. 45

(4) If the offense is committed in any of the following 46
circumstances, assault is a felony of the fifth degree: 47

(a) The offense occurs in or on the grounds of a local 48
correctional facility, the victim of the offense is an employee 49
of the local correctional facility or a probation department or 50
is on the premises of the facility for business purposes or as a 51
visitor, and the offense is committed by a person who is under 52
custody in the facility subsequent to the person's arrest for 53
any crime or delinquent act, subsequent to the person's being 54
charged with or convicted of any crime, or subsequent to the 55
person's being alleged to be or adjudicated a delinquent child. 56

(b) The offense occurs off the grounds of a state 57
correctional institution and off the grounds of an institution 58
of the department of youth services, the victim of the offense 59
is an employee of the department of rehabilitation and 60
correction, the department of youth services, or a probation 61
department, the offense occurs during the employee's official 62
work hours and while the employee is engaged in official work 63
responsibilities, and the offense is committed by a person 64
incarcerated in a state correctional institution or 65
institutionalized in the department of youth services who 66
temporarily is outside of the institution for any purpose, by a 67
parolee, by an offender under transitional control, under a 68
community control sanction, or on an escorted visit, by a person 69
under post-release control, or by an offender under any other 70
type of supervision by a government agency. 71

(c) The offense occurs off the grounds of a local 72
correctional facility, the victim of the offense is an employee 73
of the local correctional facility or a probation department, 74
the offense occurs during the employee's official work hours and 75
while the employee is engaged in official work responsibilities, 76
and the offense is committed by a person who is under custody in 77
the facility subsequent to the person's arrest for any crime or 78

delinquent act, subsequent to the person being charged with or 79
convicted of any crime, or subsequent to the person being 80
alleged to be or adjudicated a delinquent child and who 81
temporarily is outside of the facility for any purpose or by a 82
parolee, by an offender under transitional control, under a 83
community control sanction, or on an escorted visit, by a person 84
under post-release control, or by an offender under any other 85
type of supervision by a government agency. 86

(d) The victim of the offense is a school teacher or 87
administrator or a school bus operator, and the offense occurs 88
in a school, on school premises, in a school building, on a 89
school bus, or while the victim is outside of school premises or 90
a school bus and is engaged in duties or official 91
responsibilities associated with the victim's employment or 92
position as a school teacher or administrator or a school bus 93
operator, including, but not limited to, driving, accompanying, 94
or chaperoning students at or on class or field trips, athletic 95
events, or other school extracurricular activities or functions 96
outside of school premises. 97

(5) (a) If the victim of the offense is a peace officer or 98
an investigator of the bureau of criminal identification and 99
investigation, a firefighter, or a person performing emergency 100
medical service, while in the performance of their official 101
duties, assault is a felony of the fourth degree. 102

(b) If the victim of the offense is a volunteer 103
firefighter who the offender knew or should have known was 104
either a firefighter or a volunteer firefighter while in the 105
performance of their official duties, assault is a felony of the 106
fourth degree. 107

(6) If the victim of the offense is a peace officer or an 108

investigator of the bureau of criminal identification and 109
investigation and if the victim suffered serious physical harm 110
as a result of the commission of the offense, assault is a 111
felony of the fourth degree, and the court, pursuant to division 112
(F) of section 2929.13 of the Revised Code, shall impose as a 113
mandatory prison term one of the prison terms prescribed for a 114
felony of the fourth degree that is at least twelve months in 115
duration. 116

(7) If the victim of the offense is an officer or employee 117
of a public children services agency or a private child placing 118
agency and the offense relates to the officer's or employee's 119
performance or anticipated performance of official 120
responsibilities or duties, assault is either a felony of the 121
fifth degree or, if the offender previously has been convicted 122
of or pleaded guilty to an offense of violence, the victim of 123
that prior offense was an officer or employee of a public 124
children services agency or private child placing agency, and 125
that prior offense related to the officer's or employee's 126
performance or anticipated performance of official 127
responsibilities or duties, a felony of the fourth degree. 128

(8) If the victim of the offense is a health care 129
professional of a hospital, a health care worker of a hospital, 130
or a security officer of a hospital whom the offender knows or 131
has reasonable cause to know is a health care professional of a 132
hospital, a health care worker of a hospital, or a security 133
officer of a hospital, if the victim is engaged in the 134
performance of the victim's duties, and if the hospital offers 135
de-escalation or crisis intervention training for such 136
professionals, workers, or officers, assault is one of the 137
following: 138

(a) Except as otherwise provided in division (C) (8) (b) of 139
this section, assault committed in the specified circumstances 140
is a misdemeanor of the first degree. Notwithstanding the fine 141
specified in division (A) (2) (b) of section 2929.28 of the 142
Revised Code for a misdemeanor of the first degree, in 143
sentencing the offender under this division and if the court 144
decides to impose a fine, the court may impose upon the offender 145
a fine of not more than five thousand dollars. 146

(b) If the offender previously has been convicted of or 147
pleaded guilty to one or more assault or homicide offenses 148
committed against hospital personnel, assault committed in the 149
specified circumstances is a felony of the fifth degree. 150

(9) If the victim of the offense is a judge, magistrate, 151
prosecutor, or court official or employee whom the offender 152
knows or has reasonable cause to know is a judge, magistrate, 153
prosecutor, or court official or employee, and if the victim is 154
engaged in the performance of the victim's duties, assault is 155
one of the following: 156

(a) Except as otherwise provided in division (C) (8) (b) of 157
this section, assault committed in the specified circumstances 158
is a misdemeanor of the first degree. In sentencing the offender 159
under this division, if the court decides to impose a fine, 160
notwithstanding the fine specified in division (A) (2) (b) of 161
section 2929.28 of the Revised Code for a misdemeanor of the 162
first degree, the court may impose upon the offender a fine of 163
not more than five thousand dollars. 164

(b) If the offender previously has been convicted of or 165
pleaded guilty to one or more assault or homicide offenses 166
committed against justice system personnel, assault committed in 167
the specified circumstances is a felony of the fifth degree. 168

(10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code.

If an offender who is convicted of or pleads guilty to assault when it is a felony also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, except as otherwise provided in division (C)(6) of this section, the court shall sentence the offender to a mandatory prison term as provided in division (B)(8) of section 2929.14 of the Revised Code.

(D) As used in this section:

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

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

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

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

multicounty-municipal facility used for the custody of persons 198
arrested for any crime or delinquent act, persons charged with 199
or convicted of any crime, or persons alleged to be or 200
adjudicated a delinquent child. 201

(5) "Employee of a local correctional facility" means a 202
person who is an employee of the political subdivision or of one 203
or more of the affiliated political subdivisions that operates 204
the local correctional facility and who operates or assists in 205
the operation of the facility. 206

(6) "School teacher or administrator" means either of the 207
following: 208

(a) A person who is employed in the public schools of the 209
state under a contract described in section 3311.77 or 3319.08 210
of the Revised Code in a position in which the person is 211
required to have a certificate issued pursuant to sections 212
3319.22 to 3319.311 of the Revised Code. 213

(b) A person who is employed by a nonpublic school for 214
which the state board of education prescribes minimum standards 215
under section 3301.07 of the Revised Code and who is 216
certificated in accordance with section 3301.071 of the Revised 217
Code. 218

(7) "Community control sanction" has the same meaning as 219
in section 2929.01 of the Revised Code. 220

(8) "Escorted visit" means an escorted visit granted under 221
section 2967.27 of the Revised Code. 222

(9) "Post-release control" and "transitional control" have 223
the same meanings as in section 2967.01 of the Revised Code. 224

(10) "Investigator of the bureau of criminal 225

identification and investigation" has the same meaning as in 226
section 2903.11 of the Revised Code. 227

(11) "Health care professional" and "health care worker" 228
have the same meanings as in section 2305.234 of the Revised 229
Code. 230

(12) "Assault or homicide offense committed against 231
hospital personnel" means a violation of this section or of 232
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 233
2903.12, or 2903.14 of the Revised Code committed in 234
circumstances in which all of the following apply: 235

(a) The victim of the offense was a health care 236
professional of a hospital, a health care worker of a hospital, 237
or a security officer of a hospital. 238

(b) The offender knew or had reasonable cause to know that 239
the victim was a health care professional of a hospital, a 240
health care worker of a hospital, or a security officer of a 241
hospital. 242

(c) The victim was engaged in the performance of the 243
victim's duties. 244

(d) The hospital offered de-escalation or crisis 245
intervention training for such professionals, workers, or 246
officers. 247

(13) "De-escalation or crisis intervention training" means 248
de-escalation or crisis intervention training for health care 249
professionals of a hospital, health care workers of a hospital, 250
and security officers of a hospital to facilitate interaction 251
with patients, members of a patient's family, and visitors, 252
including those with mental impairments. 253

(14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 2903.14 of the Revised Code committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.

(15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this state or of a United States court located in this state.

(16) "Judge" means a judge of a court created under the constitution or statutes of this state or of a United States court located in this state.

(17) "Magistrate" means an individual who is appointed by a court of record of this state and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this state who has similar powers and functions.

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

(19) (a) "Hospital" means, subject to division (D) (19) (b) of this section, an institution classified as a hospital under section 3701.01 of the Revised Code in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.

(b) "Hospital" does not include any of the following:	283
(i) A facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of mental health or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;	284 285 286 287 288 289 290
(ii) An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.	291 292 293 294 295 296 297 298 299 300
(20) "Health maintenance organization" has the same meaning as in section 3727.01 of the Revised Code.	301 302
<u>(21) "Volunteer firefighter" has the same meaning as in section 146.01 of the Revised Code.</u>	303 304
Sec. 2903.211. (A) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person <u>or a family or household member of the other person</u> or cause mental distress to the other person <u>or a family or household member of the other person</u> . In addition to any other basis for the other person's belief that the offender will cause physical harm to	305 306 307 308 309 310 311

the other person or the other person's family or household 312
member or mental distress to the other person or the other 313
person's ~~mental distress~~ family or household member, the other 314
person's belief or mental distress may be based on words or 315
conduct of the offender that are directed at or identify a 316
corporation, association, or other organization that employs the 317
other person or to which the other person belongs. 318

(2) No person, through the use of any form of written 319
communication or any electronic method of remotely transferring 320
information, including, but not limited to, any computer, 321
computer network, computer program, ~~or~~ computer system, or 322
telecommunication device shall post a message or use any 323
intentionally written or verbal graphic gesture with purpose to 324
~~urge~~ do either of the following: 325

(a) Violate division (A)(1) of this section; 326

(b) Urge or incite another to commit a violation of 327
division (A)(1) of this section. 328

(3) No person, with a sexual motivation, shall violate 329
division (A)(1) or (2) of this section. 330

(B) Whoever violates this section is guilty of menacing by 331
stalking. 332

(1) Except as otherwise provided in divisions (B)(2) and 333
(3) of this section, menacing by stalking is a misdemeanor of 334
the first degree. 335

(2) Menacing by stalking is a felony of the fourth degree 336
if any of the following applies: 337

(a) The offender previously has been convicted of or 338
pleaded guilty to a violation of this section or a violation of 339

section 2911.211 of the Revised Code. 340

(b) In committing the offense under division (A) (1), (2), 341
or (3) of this section, the offender made a threat of physical 342
harm to or against the victim, or as a result of an offense 343
committed under division (A) (2) or (3) of this section, a third 344
person induced by the offender's posted message made a threat of 345
physical harm to or against the victim. 346

(c) In committing the offense under division (A) (1), (2), 347
or (3) of this section, the offender trespassed on the land or 348
premises where the victim lives, is employed, or attends school, 349
or as a result of an offense committed under division (A) (2) or 350
(3) of this section, a third person induced by the offender's 351
posted message trespassed on the land or premises where the 352
victim lives, is employed, or attends school. 353

(d) The victim of the offense is a minor. 354

(e) The offender has a history of violence toward the 355
victim or any other person or a history of other violent acts 356
toward the victim or any other person. 357

(f) While committing the offense under division (A) (1) of 358
this section or a violation of division (A) (3) of this section 359
based on conduct in violation of division (A) (1) of this 360
section, the offender had a deadly weapon on or about the 361
offender's person or under the offender's control. Division (B) 362
(2) (f) of this section does not apply in determining the penalty 363
for a violation of division (A) (2) of this section or a 364
violation of division (A) (3) of this section based on conduct in 365
violation of division (A) (2) of this section. 366

(g) At the time of the commission of the offense, the 367
offender was the subject of a protection order issued under 368

section 2903.213 or 2903.214 of the Revised Code, regardless of 369
whether the person to be protected under the order is the victim 370
of the offense or another person. 371

(h) In committing the offense under division (A) (1), (2), 372
or (3) of this section, the offender caused serious physical 373
harm to the premises at which the victim resides, to the real 374
property on which that premises is located, or to any personal 375
property located on that premises, or, as a result of an offense 376
committed under division (A) (2) of this section or an offense 377
committed under division (A) (3) of this section based on a 378
violation of division (A) (2) of this section, a third person 379
induced by the offender's posted message caused serious physical 380
harm to that premises, that real property, or any personal 381
property on that premises. 382

(i) Prior to committing the offense, the offender had been 383
determined to represent a substantial risk of physical harm to 384
others as manifested by evidence of then-recent homicidal or 385
other violent behavior, evidence of then-recent threats that 386
placed another in reasonable fear of violent behavior and 387
serious physical harm, or other evidence of then-present 388
dangerousness. 389

(3) If the victim of the offense is an officer or employee 390
of a public children services agency or a private child placing 391
agency and the offense relates to the officer's or employee's 392
performance or anticipated performance of official 393
responsibilities or duties, menacing by stalking is either a 394
felony of the fifth degree or, if the offender previously has 395
been convicted of or pleaded guilty to an offense of violence, 396
the victim of that prior offense was an officer or employee of a 397
public children services agency or private child placing agency, 398

and that prior offense related to the officer's or employee's 399
performance or anticipated performance of official 400
responsibilities or duties, a felony of the fourth degree. 401

(C) Section 2919.271 of the Revised Code applies in 402
relation to a defendant charged with a violation of this 403
section. 404

(D) As used in this section: 405

(1) "Pattern of conduct" means two or more actions or 406
incidents closely related in time, whether or not there has been 407
a prior conviction based on any of those actions or incidents, 408
or two or more actions or incidents closely related in time, 409
whether or not there has been a prior conviction based on any of 410
those actions or incidents, directed at one or more persons 411
employed by or belonging to the same corporation, association, 412
or other organization. Actions or incidents that prevent, 413
obstruct, or delay the performance by a public official, 414
firefighter, rescuer, emergency medical services person, or 415
emergency facility person of any authorized act within the 416
public official's, firefighter's, rescuer's, emergency medical 417
services person's, or emergency facility person's official 418
capacity, or the posting of messages, use of intentionally 419
written or verbal graphic gestures, or receipt of information or 420
data through the use of any form of written communication or an 421
electronic method of remotely transferring information, 422
including, but not limited to, a computer, computer network, 423
computer program, computer system, or telecommunications device, 424
may constitute a "pattern of conduct." 425

(2) "Mental distress" means any of the following: 426

(a) Any mental illness or condition that involves some 427

temporary substantial incapacity; 428

(b) Any mental illness or condition that would normally 429
require psychiatric treatment, psychological treatment, or other 430
mental health services, whether or not any person requested or 431
received psychiatric treatment, psychological treatment, or 432
other mental health services. 433

(3) "Emergency medical services person" is the singular of 434
"emergency medical services personnel" as defined in section 435
2133.21 of the Revised Code. 436

(4) "Emergency facility person" is the singular of 437
"emergency facility personnel" as defined in section 2909.04 of 438
the Revised Code. 439

(5) "Public official" has the same meaning as in section 440
2921.01 of the Revised Code. 441

(6) "Computer," "computer network," "computer program," 442
"computer system," and "telecommunications device" have the same 443
meanings as in section 2913.01 of the Revised Code. 444

(7) "Post a message" means transferring, sending, posting, 445
publishing, disseminating, or otherwise communicating, or 446
attempting to transfer, send, post, publish, disseminate, or 447
otherwise communicate, any message or information, whether 448
truthful or untruthful, about an individual, and whether done 449
under one's own name, under the name of another, or while 450
impersonating another. 451

(8) "Third person" means, in relation to conduct as 452
described in division (A) (2) of this section, an individual who 453
is neither the offender nor the victim of the conduct. 454

(9) "Sexual motivation" has the same meaning as in section 455

2971.01 of the Revised Code. 456

(10) "Organization" includes an entity that is a 457
governmental employer. 458

(11) "Family or household member" means any of the 459
following: 460

(a) Any of the following who is residing or has resided 461
with the person against whom the act prohibited in division (A) 462
(1) of this section is committed: 463

(i) A spouse, a person living as a spouse, or a former 464
spouse of the person; 465

(ii) A parent, a foster parent, or a child of the person, 466
or another person related by consanguinity or affinity to the 467
person; 468

(iii) A parent or a child of a spouse, person living as a 469
spouse, or former spouse of the person, or another person 470
related by consanguinity or affinity to a spouse, person living 471
as a spouse, or former spouse of the person. 472

(b) The natural parent of any child of whom the person 473
against whom the act prohibited in division (A)(1) of this 474
section is committed is the other natural parent or is the 475
putative other natural parent. 476

(12) "Person living as a spouse" means a person who is 477
living or has lived with the person against whom the act 478
prohibited in division (A)(1) of this section is committed in a 479
common law marital relationship, who otherwise is cohabiting 480
with that person, or who otherwise has cohabited with the person 481
within five years prior to the date of the alleged commission of 482
the act in question. 483

(E) The state does not need to prove in a prosecution 484
under this section that a person requested or received 485
psychiatric treatment, psychological treatment, or other mental 486
health services in order to show that the person was caused 487
mental distress as described in division (D)(2)(b) of this 488
section. 489

(F)(1) This section does not apply to a person solely 490
because the person provided access or connection to or from an 491
electronic method of remotely transferring information not under 492
that person's control, including having provided capabilities 493
that are incidental to providing access or connection to or from 494
the electronic method of remotely transferring the information, 495
and that do not include the creation of the content of the 496
material that is the subject of the access or connection. In 497
addition, any person providing access or connection to or from 498
an electronic method of remotely transferring information not 499
under that person's control shall not be liable for any action 500
voluntarily taken in good faith to block the receipt or 501
transmission through its service of any information that it 502
believes is, or will be sent, in violation of this section. 503

(2) Division (F)(1) of this section does not create an 504
affirmative duty for any person providing access or connection 505
to or from an electronic method of remotely transferring 506
information not under that person's control to block the receipt 507
or transmission through its service of any information that it 508
believes is, or will be sent, in violation of this section 509
except as otherwise provided by law. 510

(3) Division (F)(1) of this section does not apply to a 511
person who conspires with a person actively involved in the 512
creation or knowing distribution of material in violation of 513

this section or who knowingly advertises the availability of 514
material of that nature. 515

Sec. 2913.02. (A) No person, with purpose to deprive the 516
owner of property or services, shall knowingly obtain or exert 517
control over either the property or services in any of the 518
following ways: 519

(1) Without the consent of the owner or person authorized 520
to give consent; 521

(2) Beyond the scope of the express or implied consent of 522
the owner or person authorized to give consent; 523

(3) By deception; 524

(4) By threat; 525

(5) By intimidation. 526

(B)(1) Whoever violates this section is guilty of theft. 527

(2) Except as otherwise provided in this division or 528
division (B)(3), (4), (5), (6), (7), (8), or (9) of this 529
section, a violation of this section is petty theft, a 530
misdemeanor of the first degree. If the value of the property or 531
services stolen is one thousand dollars or more and is less than 532
seven thousand five hundred dollars or if the property stolen is 533
any of the property listed in section 2913.71 of the Revised 534
Code, a violation of this section is theft, a felony of the 535
fifth degree. If the value of the property or services stolen is 536
seven thousand five hundred dollars or more and is less than one 537
hundred fifty thousand dollars, a violation of this section is 538
grand theft, a felony of the fourth degree. If the value of the 539
property or services stolen is one hundred fifty thousand 540
dollars or more and is less than seven hundred fifty thousand 541

dollars, a violation of this section is aggravated theft, a 542
felony of the third degree. If the value of the property or 543
services is seven hundred fifty thousand dollars or more and is 544
less than one million five hundred thousand dollars, a violation 545
of this section is aggravated theft, a felony of the second 546
degree. If the value of the property or services stolen is one 547
million five hundred thousand dollars or more, a violation of 548
this section is aggravated theft of one million five hundred 549
thousand dollars or more, a felony of the first degree. 550

(3) Except as otherwise provided in division (B) (4), (5), 551
(6), (7), (8), or (9) of this section, if the victim of the 552
offense is an elderly person, disabled adult, active duty 553
service member, or spouse of an active duty service member, a 554
violation of this section is theft from a person in a protected 555
class, and division (B) (3) of this section applies. Except as 556
otherwise provided in this division, theft from a person in a 557
protected class is a felony of the fifth degree. If the value of 558
the property or services stolen is one thousand dollars or more 559
and is less than seven thousand five hundred dollars, theft from 560
a person in a protected class is a felony of the fourth degree. 561
If the value of the property or services stolen is seven 562
thousand five hundred dollars or more and is less than thirty- 563
seven thousand five hundred dollars, theft from a person in a 564
protected class is a felony of the third degree. If the value of 565
the property or services stolen is thirty-seven thousand five 566
hundred dollars or more and is less than one hundred fifty 567
thousand dollars, theft from a person in a protected class is a 568
felony of the second degree. If the value of the property or 569
services stolen is one hundred fifty thousand dollars or more, 570
theft from a person in a protected class is a felony of the 571
first degree. 572

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

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

(6) If the property stolen is any dangerous drug, a violation of this section is theft of drugs, a felony of the fourth degree, or, if the offender previously has been convicted of a felony drug abuse offense, a felony of the third degree.

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

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

(9) Except as provided in division (B) (2) of this section

with respect to property with a value of seven thousand five 602
hundred dollars or more and division (B) (3) of this section with 603
respect to property with a value of one thousand dollars or 604
more, if the property stolen is a special ~~purpose~~ purchase 605
article as defined in section 4737.04 of the Revised Code or is 606
a bulk merchandise container as defined in section 4737.012 of 607
the Revised Code, a violation of this section is theft of a 608
special ~~purpose~~ purchase article or articles or theft of a bulk 609
merchandise container or containers, a felony of the fifth 610
degree. 611

(10) In addition to the penalties described in division 612
(B) (2) of this section, if the offender committed the violation 613
by causing a motor vehicle to leave the premises of an 614
establishment at which gasoline is offered for retail sale 615
without the offender making full payment for gasoline that was 616
dispensed into the fuel tank of the motor vehicle or into 617
another container, the court may do one of the following: 618

(a) Unless division (B) (10) (b) of this section applies, 619
suspend for not more than six months the offender's driver's 620
license, probationary driver's license, commercial driver's 621
license, temporary instruction permit, or nonresident operating 622
privilege; 623

(b) If the offender's driver's license, probationary 624
driver's license, commercial driver's license, temporary 625
instruction permit, or nonresident operating privilege has 626
previously been suspended pursuant to division (B) (10) (a) of 627
this section, impose a class seven suspension of the offender's 628
license, permit, or privilege from the range specified in 629
division (A) (7) of section 4510.02 of the Revised Code, provided 630
that the suspension shall be for at least six months. 631

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

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

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

Sec. 2917.21. (A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) ~~Fails to identify the caller to the recipient of the~~

~~telecommunication and makes~~ Makes the telecommunication with 662
purpose to harass, intimidate, or abuse any person at the 663
premises to which the telecommunication is made, whether or not 664
actual communication takes place between the caller and a 665
recipient; 666

(2) Describes, suggests, requests, or proposes that the 667
caller, the recipient of the telecommunication, or any other 668
person engage in sexual activity, and the recipient or another 669
person at the premises to which the telecommunication is made 670
has requested, in a previous telecommunication or in the 671
immediate telecommunication, that the caller not make a 672
telecommunication to the recipient or to the premises to which 673
the telecommunication is made; 674

(3) During the telecommunication, violates section 2903.21 675
of the Revised Code; 676

(4) Knowingly states to the recipient of the 677
telecommunication that the caller intends to cause damage to or 678
destroy public or private property, and the recipient, any 679
member of the recipient's family, or any other person who 680
resides at the premises to which the telecommunication is made 681
owns, leases, resides, or works in, will at the time of the 682
destruction or damaging be near or in, has the responsibility of 683
protecting, or insures the property that will be destroyed or 684
damaged; 685

(5) Knowingly makes the telecommunication to the recipient 686
of the telecommunication, to another person at the premises to 687
which the telecommunication is made, or to those premises, and 688
the recipient or another person at those premises previously has 689
told the caller not to make a telecommunication to those 690
premises or to any persons at those premises; 691

(6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten, or harass the recipient; 692
693
694
695

(7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person; 696
697

(8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document, or other communication that prevents that person from using the person's telephone service or electronic communication device; 698
699
700
701
702

(9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient; 703
704
705
706
707
708

(10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person; 709
710
711

(11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner. 712
713
714
715

(B) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person. 716
717
718
719

(2) No person shall knowingly post a text or audio 720

statement or an image on an internet web site or web page for 721
the purpose of abusing, threatening, or harassing another 722
person. 723

(C) (1) Whoever violates this section is guilty of 724
telecommunications harassment. 725

(2) A violation of division (A) (1), (2), (3), ~~or (5)~~, (6), 726
(7), (8), (9), (10), or (11) or (B) of this section is a 727
misdemeanor of the first degree on a first offense and a felony 728
of the fifth degree on each subsequent offense. 729

(3) Except as otherwise provided in division (C) (3) of 730
this section, a violation of division (A) (4) of this section is 731
a misdemeanor of the first degree on a first offense and a 732
felony of the fifth degree on each subsequent offense. If a 733
violation of division (A) (4) of this section results in economic 734
harm of one thousand dollars or more but less than seven 735
thousand five hundred dollars, telecommunications harassment is 736
a felony of the fifth degree. If a violation of division (A) (4) 737
of this section results in economic harm of seven thousand five 738
hundred dollars or more but less than one hundred fifty thousand 739
dollars, telecommunications harassment is a felony of the fourth 740
degree. If a violation of division (A) (4) of this section 741
results in economic harm of one hundred fifty thousand dollars 742
or more, telecommunications harassment is a felony of the third 743
degree. 744

(D) No cause of action may be asserted in any court of 745
this state against any provider of a telecommunications service, 746
interactive computer service as defined in section 230 of Title 747
47 of the United States Code, or information service, or against 748
any officer, employee, or agent of a telecommunication service, 749
interactive computer service as defined in section 230 of Title 750

47 of the United States Code, or information service, for any 751
injury, death, or loss to person or property that allegedly 752
arises out of the provider's, officer's, employee's, or agent's 753
provision of information, facilities, or assistance in 754
accordance with the terms of a court order that is issued in 755
relation to the investigation or prosecution of an alleged 756
violation of this section. A provider of a telecommunications 757
service, interactive computer service as defined in section 230 758
of Title 47 of the United States Code, or information service, 759
or an officer, employee, or agent of a telecommunications 760
service, interactive computer service as defined in section 230 761
of Title 47 of the United States Code, or information service, 762
is immune from any civil or criminal liability for injury, 763
death, or loss to person or property that allegedly arises out 764
of the provider's, officer's, employee's, or agent's provision 765
of information, facilities, or assistance in accordance with the 766
terms of a court order that is issued in relation to the 767
investigation or prosecution of an alleged violation of this 768
section. 769

(E) (1) This section does not apply to a person solely 770
because the person provided access or connection to or from an 771
electronic method of remotely transferring information not under 772
that person's control, including having provided capabilities 773
that are incidental to providing access or connection to or from 774
the electronic method of remotely transferring the information, 775
and that do not include the creation of the content of the 776
material that is the subject of the access or connection. In 777
addition, any person providing access or connection to or from 778
an electronic method of remotely transferring information not 779
under that person's control shall not be liable for any action 780
voluntarily taken in good faith to block the receipt or 781

transmission through its service of any information that the 782
person believes is, or will be sent, in violation of this 783
section. 784

(2) Division (E)(1) of this section does not create an 785
affirmative duty for any person providing access or connection 786
to or from an electronic method of remotely transferring 787
information not under that person's control to block the receipt 788
or transmission through its service of any information that it 789
believes is, or will be sent, in violation of this section 790
except as otherwise provided by law. 791

(3) Division (E)(1) of this section does not apply to a 792
person who conspires with a person actively involved in the 793
creation or knowing distribution of material in violation of 794
this section or who knowingly advertises the availability of 795
material of that nature. 796

(4) A provider or user of an interactive computer service, 797
as defined in section 230 of Title 47 of the United States Code, 798
shall neither be treated as the publisher or speaker of any 799
information provided by another information content provider, as 800
defined in section 230 of Title 47 of the United States Code, 801
nor held civilly or criminally liable for the creation or 802
development of information provided by another information 803
content provider, as defined in section 230 of Title 47 of the 804
United States Code. Nothing in this division shall be construed 805
to protect a person from liability to the extent that the person 806
developed or created any content in violation of this section. 807

(F) Divisions (A)(5) to (11) and (B)(2) of this section do 808
not apply to a person who, while employed or contracted by a 809
newspaper, magazine, press association, news agency, news wire 810
service, cable channel or cable operator, or radio or television 811

station, is gathering, processing, transmitting, compiling, 812
editing, or disseminating information for the general public 813
within the scope of the person's employment in that capacity or 814
the person's contractual authority in that capacity. 815

(G) As used in this section: 816

(1) "Economic harm" means all direct, incidental, and 817
consequential pecuniary harm suffered by a victim as a result of 818
criminal conduct. "Economic harm" includes, but is not limited 819
to, all of the following: 820

(a) All wages, salaries, or other compensation lost as a 821
result of the criminal conduct; 822

(b) The cost of all wages, salaries, or other compensation 823
paid to employees for time those employees are prevented from 824
working as a result of the criminal conduct; 825

(c) The overhead costs incurred for the time that a 826
business is shut down as a result of the criminal conduct; 827

(d) The loss of value to tangible or intangible property 828
that was damaged as a result of the criminal conduct. 829

(2) "Caller" means the person described in division (A) of 830
this section who makes or causes to be made a telecommunication 831
or who permits a telecommunication to be made from a 832
telecommunications device under that person's control. 833

(3) "Telecommunication" and "telecommunications device" 834
have the same meanings as in section 2913.01 of the Revised 835
Code. 836

(4) "Sexual activity" has the same meaning as in section 837
2907.01 of the Revised Code. 838

~~(F)~~(5) "Family or household member" means any of the 839
following: 840

(a) Any of the following who is residing or has resided 841
with the recipient of the telecommunication against whom the act 842
prohibited in division (A) (9) of this section is committed: 843

(i) A spouse, a person living as a spouse, or a former 844
spouse of the recipient; 845

(ii) A parent, a foster parent, or a child of the 846
recipient, or another person related by consanguinity or 847
affinity to the recipient; 848

(iii) A parent or a child of a spouse, person living as a 849
spouse, or former spouse of the recipient, or another person 850
related by consanguinity or affinity to a spouse, person living 851
as a spouse, or former spouse of the recipient. 852

(b) The natural parent of any child of whom the recipient 853
of the telecommunication against whom the act prohibited in 854
division (A) (9) of this section is committed is the other 855
natural parent or is the putative other natural parent. 856

(6) "Person living as a spouse" means a person who is 857
living or has lived with the recipient of the telecommunication 858
against whom the act prohibited in division (A) (9) of this 859
section is committed in a common law marital relationship, who 860
otherwise is cohabiting with the recipient, or who otherwise has 861
cohabited with the recipient within five years prior to the date 862
of the alleged commission of the act in question. 863

(7) "Cable operator" has the same meaning as in section 864
1332.21 of the Revised Code. 865

(H) Nothing in this section prohibits a person from making 866

a telecommunication to a debtor that is in compliance with the 867
"Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 868
U.S.C. 1692, as amended, or the "Telephone Consumer Protection 869
Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. 870

Section 2. That existing sections 2903.13, 2903.211, 871
2913.02, and 2917.21 of the Revised Code are hereby repealed. 872