

As Re-reported by the House Aging and Long Term Care Committee

132nd General Assembly

Regular Session

2017-2018

Sub. S. B. No. 158

Senator Wilson

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

A BILL

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

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

Section 1. That sections 2913.02, 2913.21, 2913.31, 11
2913.43, 2913.49, 5101.60, 5101.621, 5101.63, 5101.652, and 12
5101.74 be amended and sections 109.67 and 173.95 of the Revised 13
Code be enacted to read as follows: 14

Sec. 109.67. The attorney general shall distribute at 15
least six public awareness publications each year that provide 16

general information on elder fraud and financial exploitation of 17
the elderly. The awareness publications must include information 18
on all of the following: 19

(A) Warning signs that may signal that fraud or financial 20
exploitation are occurring; 21

(B) Methods for reporting elder fraud or financial 22
exploitation including a list of agencies that handle those 23
reports; 24

(C) Services and resources that may be available to 25
prevent or remedy elder fraud or financial exploitation. 26

Sec. 173.95. (A) The director of aging, the director of 27
commerce, the director of job and family services, and the 28
attorney general or the attorney general's designee, in 29
consultation with county departments of job and family services, 30
adult protective services agencies, the Ohio bankers league, the 31
community bankers association of Ohio, the securities industry 32
and financial markets association, and the Ohio credit union 33
league, shall work together to do all of the following: 34

(1) Develop best practices and standards for preventing 35
elder fraud and financial exploitation; 36

(2) Provide education on elder fraud and financial 37
exploitation; 38

(3) Ensure that victims of elder fraud and exploitation 39
have access to available services and resources. 40

(B) The director of aging, the director of commerce, and 41
the director of job and family services shall create a report of 42
the best practices and standards developed under division (A)(1) 43
of this section and shall provide a copy of that report to the 44

governor, the president and minority leader of the senate, and 45
the speaker and minority leader of the house of representatives 46
not later than December 1, 2019. 47

Sec. 2913.02. (A) No person, with purpose to deprive the 48
owner of property or services, shall knowingly obtain or exert 49
control over either the property or services in any of the 50
following ways: 51

(1) Without the consent of the owner or person authorized 52
to give consent; 53

(2) Beyond the scope of the express or implied consent of 54
the owner or person authorized to give consent; 55

(3) By deception; 56

(4) By threat; 57

(5) By intimidation. 58

(B) (1) Whoever violates this section is guilty of theft. 59

(2) Except as otherwise provided in this division or 60
division (B) (3), (4), (5), (6), (7), (8), or (9) of this 61
section, a violation of this section is petty theft, a 62
misdemeanor of the first degree. If the value of the property or 63
services stolen is one thousand dollars or more and is less than 64
seven thousand five hundred dollars or if the property stolen is 65
any of the property listed in section 2913.71 of the Revised 66
Code, a violation of this section is theft, a felony of the 67
fifth degree. If the value of the property or services stolen is 68
seven thousand five hundred dollars or more and is less than one 69
hundred fifty thousand dollars, a violation of this section is 70
grand theft, a felony of the fourth degree. If the value of the 71
property or services stolen is one hundred fifty thousand 72

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

(3) Except as otherwise provided in division (B) (4), (5), 83
(6), (7), (8), or (9) of this section, if the victim of the 84
offense is an elderly person, disabled adult, active duty 85
service member, or spouse of an active duty service member, a 86
violation of this section is theft from a person in a protected 87
class, and division (B) (3) of this section applies. Except as 88
otherwise provided in this division, theft from a person in a 89
protected class is a felony of the fifth degree. If the value of 90
the property or services stolen is one thousand dollars or more 91
and is less than seven thousand five hundred dollars, theft from 92
a person in a protected class is a felony of the fourth degree. 93
If the value of the property or services stolen is seven 94
thousand five hundred dollars or more and is less than thirty- 95
seven thousand five hundred dollars, theft from a person in a 96
protected class is a felony of the third degree. If the value of 97
the property or services stolen is thirty-seven thousand five 98
hundred dollars or more and is less than one hundred fifty 99
thousand dollars, theft from a person in a protected class is a 100
felony of the second degree. If the value of the property or 101
services stolen is one hundred fifty thousand dollars or more, 102
theft from a person in a protected class is a felony of the 103

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

(4) If the property stolen is a firearm or dangerous 114
ordnance, a violation of this section is grand theft. Except as 115
otherwise provided in this division, grand theft when the 116
property stolen is a firearm or dangerous ordnance is a felony 117
of the third degree, and there is a presumption in favor of the 118
court imposing a prison term for the offense. If the firearm or 119
dangerous ordnance was stolen from a federally licensed firearms 120
dealer, grand theft when the property stolen is a firearm or 121
dangerous ordnance is a felony of the first degree. The offender 122
shall serve a prison term imposed for grand theft when the 123
property stolen is a firearm or dangerous ordnance consecutively 124
to any other prison term or mandatory prison term previously or 125
subsequently imposed upon the offender. 126

(5) If the property stolen is a motor vehicle, a violation 127
of this section is grand theft of a motor vehicle, a felony of 128
the fourth degree. 129

(6) If the property stolen is any dangerous drug, a 130
violation of this section is theft of drugs, a felony of the 131
fourth degree, or, if the offender previously has been convicted 132
of a felony drug abuse offense, a felony of the third degree. 133

(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 hundred dollars or more and division (B)(3) of this section with respect to property with a value of one thousand dollars or more, if the property stolen is a special purpose article as defined in section 4737.04 of the Revised Code or is a bulk merchandise container as defined in section 4737.012 of the Revised Code, a violation of this section is theft of a special purpose article or articles or theft of a bulk merchandise container or containers, a felony of the fifth degree.

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

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

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

(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

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| driving privileges during the period of the suspension in | 194 |
| accordance with Chapter 4510. of the Revised Code. | 195 |
| Sec. 2913.21. (A) No person shall do any of the following: | 196 |
| (1) Practice deception for the purpose of procuring the | 197 |
| issuance of a credit card, when a credit card is issued in | 198 |
| actual reliance thereon; | 199 |
| (2) Knowingly buy or sell a credit card from or to a | 200 |
| person other than the issuer. | 201 |
| (B) No person, with purpose to defraud, shall do any of | 202 |
| the following: | 203 |
| (1) Obtain control over a credit card as security for a | 204 |
| debt; | 205 |
| (2) Obtain property or services by the use of a credit | 206 |
| card, in one or more transactions, knowing or having reasonable | 207 |
| cause to believe that the card has expired or been revoked, or | 208 |
| was obtained, is retained, or is being used in violation of law; | 209 |
| (3) Furnish property or services upon presentation of a | 210 |
| credit card, knowing that the card is being used in violation of | 211 |
| law; | 212 |
| (4) Represent or cause to be represented to the issuer of | 213 |
| a credit card that property or services have been furnished, | 214 |
| knowing that the representation is false. | 215 |
| (C) No person, with purpose to violate this section, shall | 216 |
| receive, possess, control, or dispose of a credit card. | 217 |
| (D) (1) Whoever violates this section is guilty of misuse | 218 |
| of credit cards. | 219 |
| (2) Except as otherwise provided in division (D) (4) of | 220 |

this section, a violation of division (A), (B)(1), or (C) of 221
this section is a misdemeanor of the first degree. 222

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

(4) If the victim of the offense is an elderly person or 250
disabled adult, and if the offense involves a violation of 251

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

Sec. 2913.31. (A) No person, with purpose to defraud, or 279
knowing that the person is facilitating a fraud, shall do any of 280
the following: 281

(1) Forge any writing of another without the other 282

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| person's authority; | 283 |
| (2) Forge any writing so that it purports to be genuine | 284 |
| when it actually is spurious, or to be the act of another who | 285 |
| did not authorize that act, or to have been executed at a time | 286 |
| or place or with terms different from what in fact was the case, | 287 |
| or to be a copy of an original when no such original existed; | 288 |
| (3) Utter, or possess with purpose to utter, any writing | 289 |
| that the person knows to have been forged. | 290 |
| (B) No person shall knowingly do either of the following: | 291 |
| (1) Forge an identification card; | 292 |
| (2) Sell or otherwise distribute a card that purports to | 293 |
| be an identification card, knowing it to have been forged. | 294 |
| As used in this division, "identification card" means a | 295 |
| card that includes personal information or characteristics of an | 296 |
| individual, a purpose of which is to establish the identity of | 297 |
| the bearer described on the card, whether the words "identity," | 298 |
| "identification," "identification card," or other similar words | 299 |
| appear on the card. | 300 |
| (C) (1) (a) Whoever violates division (A) of this section is | 301 |
| guilty of forgery. | 302 |
| (b) Except as otherwise provided in this division or | 303 |
| division (C) (1) (c) <u>of this section and subject to division (C)</u> | 304 |
| <u>(1) (d)</u> of this section, forgery is a felony of the fifth degree. | 305 |
| If property or services are involved in the offense or the | 306 |
| victim suffers a loss, forgery is one of the following: | 307 |
| (i) If the value of the property or services or the loss | 308 |
| to the victim is seven thousand five hundred dollars or more and | 309 |
| is less than one hundred fifty thousand dollars, a felony of the | 310 |

fourth degree; 311

(ii) If the value of the property or services or the loss 312
to the victim is one hundred fifty thousand dollars or more, a 313
felony of the third degree. 314

(c) If the victim of the offense is an elderly person or 315
disabled adult, division (C) (1) (c) of this section applies to 316
the forgery. Except as otherwise provided in division (C) (1) (c) 317
of this section, forgery is a felony of the fifth degree. If 318
property or services are involved in the offense or if the 319
victim suffers a loss, forgery is one of the following: 320

(i) If the value of the property or services or the loss 321
to the victim is one thousand dollars or more and is less than 322
seven thousand five hundred dollars, a felony of the fourth 323
degree; 324

(ii) If the value of the property or services or the loss 325
to the victim is seven thousand five hundred dollars or more and 326
is less than thirty-seven thousand five hundred dollars, a 327
felony of the third degree; 328

(iii) If the value of the property or services or the loss 329
to the victim is thirty-seven thousand five hundred dollars or 330
more, a felony of the second degree. 331

(d) If the victim of the offense is an elderly person, 332
division (C) (1) (d) of this section applies to the forgery. In 333
addition to any other penalty imposed for the offense under 334
division (C) (1) (c) of this section, the offender shall be 335
required to pay full restitution to the victim and to pay a fine 336
of up to fifty thousand dollars. The clerk of court shall 337
forward all fines collected under division (C) (1) (d) of this 338
section to the county department of job and family services to 339

be used for the reporting and investigation of elder abuse, 340
neglect, and exploitation or for the provision or arrangement of 341
protective services under sections 5101.61 to 5101.71 of the 342
Revised Code. 343

(2) (a) Whoever violates division (B) of this section is 344
guilty of forging identification cards or selling or 345
distributing forged identification cards. Except as otherwise 346
provided in this division, forging identification cards or 347
selling or distributing forged identification cards is a 348
misdemeanor of the first degree. If the offender previously has 349
been convicted of a violation of division (B) of this section, 350
forging identification cards or selling or distributing forged 351
identification cards is a misdemeanor of the first degree and, 352
in addition, the court shall impose upon the offender a fine of 353
not less than two hundred fifty dollars. 354

(b) If the victim of a violation of division (B) of this 355
section is an elderly person, division (C) (2) (b) of this section 356
applies to the offense. In addition to any other penalty imposed 357
for the offense under division (C) (2) (a) of this section, 358
whoever violates division (B) of this section shall be required 359
to pay full restitution to the victim and to pay a fine of up to 360
fifty thousand dollars. The clerk of court shall forward all 361
finances collected under division (C) (2) (b) of this section to the 362
county department of job and family services to be used for the 363
reporting and investigation of elder abuse, neglect, and 364
exploitation or for the provision or arrangement of protective 365
services under sections 5101.61 to 5101.71 of the Revised Code. 366

Sec. 2913.43. (A) No person, by deception, shall cause 367
another to execute any writing that disposes of or encumbers 368
property, or by which a pecuniary obligation is incurred. 369

(B) (1) Whoever violates this section is guilty of securing 370
writings by deception. 371

(2) Except as otherwise provided in this division or 372
division (B) (3) of this section, securing writings by deception 373
is a misdemeanor of the first degree. If the value of the 374
property or the obligation involved is one thousand dollars or 375
more and less than seven thousand five hundred dollars, securing 376
writings by deception is a felony of the fifth degree. If the 377
value of the property or the obligation involved is seven 378
thousand five hundred dollars or more and is less than one 379
hundred fifty thousand dollars, securing writings by deception 380
is a felony of the fourth degree. If the value of the property 381
or the obligation involved is one hundred fifty thousand dollars 382
or more, securing writings by deception is a felony of the third 383
degree. 384

(3) If the victim of the offense is an elderly person, 385
disabled adult, active duty service member, or spouse of an 386
active duty service member, division (B) (3) of this section 387
applies. Except as otherwise provided in division (B) (3) of this 388
section, securing writings by deception is a felony of the fifth 389
degree. If the value of the property or obligation involved is 390
one thousand dollars or more and is less than seven thousand 391
five hundred dollars, securing writings by deception is a felony 392
of the fourth degree. If the value of the property or obligation 393
involved is seven thousand five hundred dollars or more and is 394
less than thirty-seven thousand five hundred dollars, securing 395
writings by deception is a felony of the third degree. If the 396
value of the property or obligation involved is thirty-seven 397
thousand five hundred dollars or more, securing writings by 398
deception is a felony of the second degree. If the victim of the 399
offense is an elderly person, in addition to any other penalty 400

imposed for the offense, the offender shall be required to pay 401
full restitution to the victim and to pay a fine of up to fifty 402
thousand dollars. The clerk of court shall forward all fines 403
collected under division (B)(3) of this section to the county 404
department of job and family services to be used for the 405
reporting and investigation of elder abuse, neglect, and 406
exploitation or for the provision or arrangement of protective 407
services under sections 5101.61 to 5101.71 of the Revised Code. 408

Sec. 2913.49. (A) As used in this section, "personal 409
identifying information" includes, but is not limited to, the 410
following: the name, address, telephone number, driver's 411
license, driver's license number, commercial driver's license, 412
commercial driver's license number, state identification card, 413
state identification card number, social security card, social 414
security number, birth certificate, place of employment, 415
employee identification number, mother's maiden name, demand 416
deposit account number, savings account number, money market 417
account number, mutual fund account number, other financial 418
account number, personal identification number, password, or 419
credit card number of a living or dead individual. 420

(B) No person, without the express or implied consent of 421
the other person, shall use, obtain, or possess any personal 422
identifying information of another person with intent to do 423
either of the following: 424

(1) Hold the person out to be the other person; 425

(2) Represent the other person's personal identifying 426
information as the person's own personal identifying 427
information. 428

(C) No person shall create, obtain, possess, or use the 429

personal identifying information of any person with the intent 430
to aid or abet another person in violating division (B) of this 431
section. 432

(D) No person, with intent to defraud, shall permit 433
another person to use the person's own personal identifying 434
information. 435

(E) No person who is permitted to use another person's 436
personal identifying information as described in division (D) of 437
this section shall use, obtain, or possess the other person's 438
personal identifying information with intent to defraud any 439
person by doing any act identified in division (B) (1) or (2) of 440
this section. 441

(F) (1) It is an affirmative defense to a charge under 442
division (B) of this section that the person using the personal 443
identifying information is acting in accordance with a legally 444
recognized guardianship or conservatorship or as a trustee or 445
fiduciary. 446

(2) It is an affirmative defense to a charge under 447
division (B), (C), (D), or (E) of this section that either of 448
the following applies: 449

(a) The person or entity using, obtaining, possessing, or 450
creating the personal identifying information or permitting it 451
to be used is a law enforcement agency, authorized fraud 452
personnel, or a representative of or attorney for a law 453
enforcement agency or authorized fraud personnel and is using, 454
obtaining, possessing, or creating the personal identifying 455
information or permitting it to be used, with prior consent 456
given as specified in this division, in a bona fide 457
investigation, an information security evaluation, a pretext 458

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

(b) The personal identifying information was obtained, 472
possessed, used, created, or permitted to be used for a lawful 473
purpose, provided that division (F) (2) (b) of this section does 474
not apply if the person or entity using, obtaining, possessing, 475
or creating the personal identifying information or permitting 476
it to be used is a law enforcement agency, authorized fraud 477
personnel, or a representative of or attorney for a law 478
enforcement agency or authorized fraud personnel that is using, 479
obtaining, possessing, or creating the personal identifying 480
information or permitting it to be used in an investigation, an 481
information security evaluation, a pretext calling evaluation, 482
or similar matter. 483

(G) It is not a defense to a charge under this section 484
that the person whose personal identifying information was 485
obtained, possessed, used, created, or permitted to be used was 486
deceased at the time of the offense. 487

(H) (1) If an offender commits a violation of division (B), 488

(D), or (E) of this section and the violation occurs as part of 489
a course of conduct involving other violations of division (B), 490
(D), or (E) of this section or violations of, attempts to 491
violate, conspiracies to violate, or complicity in violations of 492
division (C) of this section or section 2913.02, 2913.04, 493
2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the 494
Revised Code, the court, in determining the degree of the 495
offense pursuant to division (I) of this section, may aggregate 496
all credit, property, or services obtained or sought to be 497
obtained by the offender and all debts or other legal 498
obligations avoided or sought to be avoided by the offender in 499
the violations involved in that course of conduct. The course of 500
conduct may involve one victim or more than one victim. 501

(2) If an offender commits a violation of division (C) of 502
this section and the violation occurs as part of a course of 503
conduct involving other violations of division (C) of this 504
section or violations of, attempts to violate, conspiracies to 505
violate, or complicity in violations of division (B), (D), or 506
(E) of this section or section 2913.02, 2913.04, 2913.11, 507
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 508
Code, the court, in determining the degree of the offense 509
pursuant to division (I) of this section, may aggregate all 510
credit, property, or services obtained or sought to be obtained 511
by the person aided or abetted and all debts or other legal 512
obligations avoided or sought to be avoided by the person aided 513
or abetted in the violations involved in that course of conduct. 514
The course of conduct may involve one victim or more than one 515
victim. 516

(I) (1) Whoever violates this section is guilty of identity 517
fraud. 518

(2) Except as otherwise provided in this division or 519
division (I)(3) of this section, identity fraud is a felony of 520
the fifth degree. If the value of the credit, property, 521
services, debt, or other legal obligation involved in the 522
violation or course of conduct is one thousand dollars or more 523
and is less than seven thousand five hundred dollars, except as 524
otherwise provided in division (I)(3) of this section, identity 525
fraud is a felony of the fourth degree. If the value of the 526
credit, property, services, debt, or other legal obligation 527
involved in the violation or course of conduct is seven thousand 528
five hundred dollars or more and is less than one hundred fifty 529
thousand dollars, except as otherwise provided in division (I) 530
(3) of this section, identity fraud is a felony of the third 531
degree. If the value of the credit, property, services, debt, or 532
other legal obligation involved in the violation or course of 533
conduct is one hundred fifty thousand dollars or more, except as 534
otherwise provided in division (I)(3) of this section, identity 535
fraud is a felony of the second degree. 536

(3) If the victim of the offense is an elderly person, 537
disabled adult, active duty service member, or spouse of an 538
active duty service member, a violation of this section is 539
identity fraud against a person in a protected class. Except as 540
otherwise provided in this division, identity fraud against a 541
person in a protected class is a felony of the fourth degree. If 542
the value of the credit, property, services, debt, or other 543
legal obligation involved in the violation or course of conduct 544
is one thousand dollars or more and is less than seven thousand 545
five hundred dollars, identity fraud against a person in a 546
protected class is a felony of the third degree. If the value of 547
the credit, property, services, debt, or other legal obligation 548
involved in the violation or course of conduct is seven thousand 549

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

(J) In addition to the penalties described in division (I) 567
of this section, anyone injured in person or property by a 568
violation of division (B), (D), or (E) of this section who is 569
the owner of the identifying information involved in that 570
violation has a civil action against the offender pursuant to 571
section 2307.60 of the Revised Code. That person may also bring 572
a civil action to enjoin or restrain future acts that would 573
constitute a violation of division (B), (D), or (E) of this 574
section. 575

Sec. 5101.60. As used in sections 5101.60 to 5101.73 of 576
the Revised Code: 577

(A) "Abandonment" means desertion of an adult by a 578
caretaker without having made provision for transfer of the 579

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| adult's care. | 580 |
| (B) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish. | 581 582 583 584 |
| (C) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. | 585 586 587 588 589 |
| (D) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging. | 590 591 592 593 |
| (E) "Caretaker" means the person assuming the primary responsibility for the care of an adult by any of the following means: | 594 595 596 |
| (1) On a voluntary basis; | 597 |
| (2) By contract; | 598 |
| (3) Through receipt of payment for care; | 599 |
| (4) As a result of a family relationship; | 600 |
| (5) By order of a court of competent jurisdiction. | 601 |
| (F) "Community mental health agency" means any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in section 340.99 of the Revised Code. | 602 603 604 605 606 |

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| (G) "Court" means the probate court in the county where an adult resides. | 607 608 |
| (H) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person. | 609 610 611 |
| (I) "Emergency services" means protective services furnished to an adult in an emergency. | 612 613 |
| (J) "Exploitation" means the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways: | 614 615 616 617 618 |
| (1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf; | 619 620 |
| (2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf; | 621 622 623 |
| (3) By deception; | 624 |
| (4) By threat; | 625 |
| (5) By intimidation. | 626 |
| (K) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result. | 627 628 629 630 631 |
| (L) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient | 632 633 |

understanding or capacity to make and carry out reasonable 634
decisions concerning the person's self or resources, with or 635
without the assistance of a caretaker. Refusal to consent to the 636
provision of services shall not be the sole determinative that 637
the person is incapacitated. 638

(M) "Independent living arrangement" means a domicile of a 639
person's own choosing, including, but not limited to, a private 640
home, apartment, trailer, or rooming house. "Independent living 641
arrangement" includes a residential facility licensed under 642
section 5119.22 of the Revised Code that provides 643
accommodations, supervision, and personal care services for 644
three to sixteen unrelated adults, but does not include any 645
other institution or facility licensed by the state or a 646
facility in which a person resides as a result of voluntary, 647
civil, or criminal commitment. 648

(N) "Mental illness" means a substantial disorder of 649
thought, mood, perception, orientation, or memory that grossly 650
impairs judgment, behavior, capacity to recognize reality, or 651
ability to meet the ordinary demands of life. 652

(O) "Neglect" means any of the following: 653

(1) Failure of an adult to provide for self the goods or 654
services necessary to avoid physical harm, mental anguish, or 655
mental illness; 656

(2) Failure of a caretaker to provide such goods or 657
services; 658

(3) Abandonment. 659

(P) "Outpatient health facility" means a facility where 660
medical care and preventive, diagnostic, therapeutic, 661
rehabilitative, or palliative items or services are provided to 662

outpatients by or under the direction of a physician or dentist. 663

(Q) "Peace officer" means a peace officer as defined in 664
section 2935.01 of the Revised Code. 665

(R) "Physical harm" means bodily pain, injury, impairment, 666
or disease suffered by an adult. 667

(S) "Protective services" means services provided by the 668
county department of job and family services or its designated 669
agency to an adult who has been determined by evaluation to 670
require such services for the prevention, correction, or 671
discontinuance of an act of as well as conditions resulting from 672
abuse, neglect, or exploitation. Protective services may 673
include, but are not limited to, case work services, medical 674
care, mental health services, legal services, fiscal management, 675
home health care, homemaker services, housing-related services, 676
guardianship services, and placement services as well as the 677
provision of such commodities as food, clothing, and shelter. 678

(T) "Reasonable decisions" means decisions made in daily 679
living that facilitate the provision of food, shelter, clothing, 680
and health care necessary for life support. 681

(U) "Senior service provider" means a person who provides 682
care or specialized services to an adult, ~~except that it does~~ 683
~~not include the state long term care ombudsman or a regional~~ 684
~~long term care ombudsman.~~ 685

(V) "Working day" means Monday, Tuesday, Wednesday, 686
Thursday, and Friday, except when such day is a holiday as 687
defined in section 1.14 of the Revised Code. 688

Sec. 5101.621. (A) Each county department of job and 689
family services shall prepare a memorandum of understanding that 690
is signed by all of the following: 691

- (1) The director of the county department of job and family services; 692
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- (2) If the county department has entered into an interagency agreement or contract with a local agency private or government entity pursuant to section 5101.622-5101.652 of the Revised Code, the director of the local agency entity; 694
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- (3) The county peace officer; 698
- (4) All The chief municipal peace officers officer of the largest municipality within the county; 699
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- (5) Other law enforcement officers handling adult abuse, neglect, and exploitation cases in the county; 701
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- (6) The prosecuting attorney of the county; 703
- (7) The coroner of the county. 704
- (B) The memorandum of understanding shall set forth the procedures to be followed by the persons listed in division (A) of this section in the execution of their respective responsibilities related to cases of adult abuse, neglect, and exploitation. The memorandum of understanding shall establish all of the following: 705
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- (1) An interdisciplinary team to coordinate efforts related to the prevention, reporting, and treatment of abuse, neglect, and exploitation of adults; 711
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- (2) The roles and responsibilities for handling cases that have been referred by the county department to another agency pursuant to section 5101.611-5101.64 of the Revised Code; 714
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- (3) The roles and responsibilities for filing criminal charges against persons alleged to have abused, neglected, or 717
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exploited adults. 719

Failure to follow the procedure set forth in the 720
memorandum of understanding is not grounds for, and shall not 721
result in, the dismissal of any charge or complaint arising from 722
a report of abuse, neglect, or exploitation or the suppression 723
of any evidence obtained as a result of a report of abuse, 724
neglect, or exploitation and does not give any rights or grounds 725
for appeal or post-conviction relief to any person. 726

(C) The memorandum of understanding may, in addition, be 727
signed by any of the following persons who are also members of 728
the interdisciplinary team described in division (B) (1) of this 729
section: 730

(1) A representative of the area agency on aging, as 731
defined in section 173.14 of the Revised Code; 732

(2) ~~The~~ A representative of the regional long-term care 733
ombudsman program; 734

(3) A representative of the board of alcohol, drug 735
addiction, and mental health services; 736

(4) A representative of the board of health of a city or 737
general health district; 738

(5) A representative of the county board of developmental 739
disabilities; 740

(6) A representative of a victim assistance program; 741

(7) A representative of a local housing authority; 742

(8) Any other person whose participation furthers the 743
goals of the memorandum of understanding. 744

Sec. 5101.63. (A) (1) Any individual listed in division (A) 745

(2) of this section having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services.

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

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

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

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

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

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

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

(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;

(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;

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| (i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code; | 773 774 775 |
| (j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code; | 776 777 |
| (k) An employee of an outpatient health facility; | 778 |
| (l) An employee of a hospital, as defined in section 3727.01 of the Revised Code; | 779 780 |
| (m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code; | 781 782 |
| (n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code; | 783 784 |
| (o) An employee of a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; | 785 786 787 788 |
| (p) An employee of a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; | 789 790 791 792 |
| (q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code; | 793 794 |
| (r) An agent of a county humane society organized under section 1717.05 of the Revised Code; | 795 796 |
| (s) An individual who is a firefighter for a lawfully constituted fire department; | 797 798 |
| (t) An individual who is an ambulance driver for an | 799 |

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| emergency medical service organization, as defined in section | 800 |
| 4765.01 of the Revised Code; | 801 |
| (u) A first responder, emergency medical technician-basic, | 802 |
| emergency medical technician-intermediate, or paramedic, as | 803 |
| those terms are defined in section 4765.01 of the Revised Code; | 804 |
| (v) An official employed by a local building department to | 805 |
| conduct inspections of houses and other residential buildings; | 806 |
| (w) A peace officer; | 807 |
| (x) A coroner; | 808 |
| (y) A member of the clergy; | 809 |
| (z) An individual who holds a certificate issued under | 810 |
| Chapter 4701. of the Revised Code as a certified public | 811 |
| accountant or is registered under that chapter as a public | 812 |
| accountant; | 813 |
| (aa) An individual licensed under Chapter 4735. of the | 814 |
| Revised Code as a real estate broker or real estate salesperson; | 815 |
| (bb) An individual appointed and commissioned under | 816 |
| section 147.01 of the Revised Code as a notary public; | 817 |
| (cc) An employee of a bank, savings bank, savings and loan | 818 |
| association, or credit union organized under the laws of this | 819 |
| state, another state, or the United States; | 820 |
| (dd) An A dealer, investment adviser, as defined in | 821 |
| section 1707.01 sales person, or investment advisor | 822 |
| <u>representative licensed under Chapter 1707.</u> of the Revised Code; | 823 |
| (ee) A financial planner accredited by a national | 824 |
| accreditation agency; | 825 |
| (ff) Any other individual who is a senior service | 826 |

provider, other than a representative of the office of the state 827
long-term care ombudsman program as defined in section 173.14 of 828
the Revised Code. 829

(B) Any person having reasonable cause to believe that an 830
adult has suffered abuse, neglect, or exploitation may report, 831
or cause a report to be made of such belief to the county 832
department of job and family services. 833

This division applies to a representative of the office of 834
the state long-term care ombudsman program only to the extent 835
permitted by federal law. 836

(C) The reports made under this section shall be made 837
orally or in writing except that oral reports shall be followed 838
by a written report if a written report is requested by the 839
department. Written reports shall include: 840

(1) The name, address, and approximate age of the adult 841
who is the subject of the report; 842

(2) The name and address of the individual responsible for 843
the adult's care, if any individual is, and if the individual is 844
known; 845

(3) The nature and extent of the alleged abuse, neglect, 846
or exploitation of the adult; 847

(4) The basis of the reporter's belief that the adult has 848
been abused, neglected, or exploited. 849

(D) Any person with reasonable cause to believe that an 850
adult is suffering abuse, neglect, or exploitation who makes a 851
report pursuant to this section or who testifies in any 852
administrative or judicial proceeding arising from such a 853
report, or any employee of the state or any of its subdivisions 854

who is discharging responsibilities under section 5101.65 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

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

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

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

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

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

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

Sec. 5101.652. The county department of job and family 884
services may enter into an agreement or contract with ~~another~~ 885
~~person~~ any private or government entity to perform the following 886
duties: 887

(A) In accordance with division (G) of section 5101.63 of 888
the Revised Code, receive reports made under that section; 889

(B) Perform the county department's duties under section 890
5101.65 of the Revised Code; 891

(C) Petition the court pursuant to section 5101.68 or 892
5101.70 of the Revised Code for an order authorizing the 893
provision of protective services. 894

Sec. 5101.74. (A) There is hereby created the elder abuse 895
commission. The commission shall consist of the following 896
members: 897

(1) The following members, appointed by the attorney 898
general: 899

(a) One representative of the AARP; 900

(b) One representative of the buckeye state sheriffs' 901
association; 902

(c) One representative of the county commissioners' 903
association of Ohio; 904

(d) One representative of the Ohio association of area 905
agencies on aging; 906

(e) One representative of the board of nursing; 907

(f) One representative of the Ohio coalition for adult 908
protective services; 909

(g) One person who represents the interests of elder abuse 910

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| victims; | 911 |
| (h) One person who represents the interests of elderly persons; | 912 913 |
| (i) One representative of the Ohio domestic violence network; | 914 915 |
| (j) One representative of the Ohio prosecuting attorneys association; | 916 917 |
| (k) One representative of the Ohio victim witness association; | 918 919 |
| (l) One representative of the Ohio association of chiefs of police; | 920 921 |
| (m) One representative of the Ohio association of probate judges; | 922 923 |
| (n) One representative of the Ohio job and family services directors' association; | 924 925 |
| (o) One representative of the Ohio bankers league; | 926 |
| (p) One representative of the Ohio credit union league; | 927 |
| (q) Two representatives of national organizations that focus on elder abuse or sexual violence; | 928 929 |
| <u>(r) One representative of the state medical board;</u> | 930 |
| <u>(s) One representative of the community bankers association of Ohio;</u> | 931 932 |
| <u>(t) One representative of an organization representing the interests of senior centers;</u> | 933 934 |
| <u>(u) One representative of an organization representing the policy interests of seniors;</u> | 935 936 |

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| <u>(v) One representative of a research-based academia</u> | 937 |
| <u>representing elder abuse research.</u> | 938 |
| (2) The following ex officio members: | 939 |
| (a) The attorney general or the attorney general's designee; | 940 941 |
| (b) The chief justice of the supreme court of Ohio or the chief justice's designee; | 942 943 |
| (c) The governor or the governor's designee; | 944 |
| (d) The director of aging or the director's designee; | 945 |
| (e) The director of job and family services or the director's designee; | 946 947 |
| (f) The director of health or the director's designee; | 948 |
| (g) The director of mental health and addiction services or the director's designee; | 949 950 |
| (h) The director of developmental disabilities or the director's designee; | 951 952 |
| (i) The superintendent of insurance or the superintendent's designee; | 953 954 |
| (j) The director of public safety or the director's designee; | 955 956 |
| (k) The state long-term care ombudsman or the ombudsman's designee; | 957 958 |
| (l) One member of the house of representatives, appointed by the speaker of the house of representatives; | 959 960 |
| (m) One member of the senate, appointed by the president of the senate; | 961 962 |

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| <u>(n) The director of commerce, or the director's designee.</u> | 963 |
| (B) Members who are appointed shall serve at the pleasure of the appointing authority. Vacancies shall be filled in the same manner as original appointments. | 964 965 966 |
| (C) All members of the commission shall serve as voting members. The attorney general shall select from among the appointed members a chairperson. The commission shall meet at the call of the chairperson, but not less than four times per year. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the attorney general. The commission may establish its own quorum requirements and procedures regarding the conduct of meetings and other affairs. | 967 968 969 970 971 972 973 974 975 |
| (D) Members shall serve without compensation, but may be reimbursed for mileage and other actual and necessary expenses incurred in the performance of their official duties. | 976 977 978 |
| (E) Sections 101.82 to 101.87 of the Revised Code do not apply to the elder abuse commission. | 979 980 |
| Section 2. That existing sections 2913.02, 2913.21, 2913.31, 2913.43, 2913.49, 5101.60, 5101.621, 5101.63, 5101.652, and 5101.74 of the Revised Code are hereby repealed. | 981 982 983 |