

As Introduced

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S. B. No. 251

Senator Schiavoni

Cosponsors: Senators Tavares, Thomas, Yuko

A BILL

To amend sections 2907.01, 2907.31, 2981.02, and 2981.04 and to enact sections 9.74, 2307.66, 2917.211, 3345.49, 4113.90, 4113.91, 4113.92, 4113.93, and 4113.94 of the Revised Code to prohibit the nonconsensual dissemination of private sexual images, to require that certain property involved in the offense be criminally forfeited, and to create certain legal rights and employment protections of a victim of the offense.

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

Section 1. That sections 2907.01, 2907.31, 2981.02, and 2981.04 be amended and sections 9.74, 2307.66, 2917.211, 3345.49, 4113.90, 4113.91, 4113.92, 4113.93, and 4113.94 of the Revised Code be enacted to read as follows:

Sec. 9.74. (A) As used in this section:

(1) "License" means a license, certificate, registration, permit, card, or other authority issued or conferred by a licensing authority of which the licensee has or claims the

privilege to engage in the profession, occupation, or activity, 19
or to have control of and operate certain specific equipment, 20
machinery, or premises, over which the licensing authority has 21
jurisdiction. 22

(2) "Licensing authority" means a public office that 23
issues a license to a person or entity. 24

(3) "Political subdivision" means a county, township, 25
municipal corporation, or any other body corporate and politic 26
that is responsible for government activities in a geographic 27
area smaller than that of the state. 28

(4) "Public office" means any state agency, public 29
institution, political subdivision, other organized body, 30
office, agency, institution, or entity established by the laws 31
of this state for the exercise of any function of government. 32
"Public office" does not include the nonprofit corporation 33
formed under section 187.01 of the Revised Code. 34

(5) "Victim" has the same meaning as in section 2930.01 of 35
the Revised Code. 36

(B) No licensing authority shall knowingly take any of the 37
following actions against a person who is applying for or holds 38
a license solely on the basis that the person is a victim of a 39
violation of section 2917.211 of the Revised Code: 40

(1) Refuse to issue a license to an applicant; 41

(2) Limit, suspend, or revoke a license; 42

(3) Refuse to renew a license. 43

Sec. 2307.66. (A) A victim of a violation of section 44
2917.211 of the Revised Code has and may commence a civil cause 45
of action against the offender for any of the following, in 46

addition to reasonable attorney's fees and the costs of bringing 47
the action: 48

(1) An injunction or a temporary restraining order 49
prohibiting further dissemination of the image that is the 50
subject of the violation; 51

(2) Compensatory and punitive damages for harm resulting 52
from the violation. 53

(B) The victim shall be presumed to have suffered harm as 54
a result of the nonconsensual dissemination of private sexual 55
images. 56

(C) The cause of action created by this section is in 57
addition to any other cause of action available under statutory 58
or common law. 59

(D) As used in this section, "victim" has the same meaning 60
as in section 2930.01 of the Revised Code. 61

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 62
2917.211 of the Revised Code: 63

(A) "Sexual conduct" means vaginal intercourse between a 64
male and female; anal intercourse, fellatio, and cunnilingus 65
between persons regardless of sex; and, without privilege to do 66
so, the insertion, however slight, of any part of the body or 67
any instrument, apparatus, or other object into the vaginal or 68
anal opening of another. Penetration, however slight, is 69
sufficient to complete vaginal or anal intercourse. 70

(B) "Sexual contact" means any touching of an erogenous 71
zone of another, including without limitation the thigh, 72
genitals, buttock, pubic region, or, if the person is a female, 73
a breast, for the purpose of sexually arousing or gratifying 74

either person.	75
(C) "Sexual activity" means sexual conduct or sexual contact, or both.	76 77
(D) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.	78 79 80
(E) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:	81 82 83 84
(1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.	85 86
(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.	87 88 89
(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.	90 91 92
(F) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:	93 94 95 96 97
(1) Its dominant appeal is to prurient interest;	98
(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;	99 100 101 102

(3) Its dominant tendency is to arouse lust by displaying 103
or depicting bestiality or extreme or bizarre violence, cruelty, 104
or brutality; 105

(4) Its dominant tendency is to appeal to scatological 106
interest by displaying or depicting human bodily functions of 107
elimination in a way that inspires disgust or revulsion in 108
persons with ordinary sensibilities, without serving any genuine 109
scientific, educational, sociological, moral, or artistic 110
purpose; 111

(5) It contains a series of displays or descriptions of 112
sexual activity, masturbation, sexual excitement, nudity, 113
bestiality, extreme or bizarre violence, cruelty, or brutality, 114
or human bodily functions of elimination, the cumulative effect 115
of which is a dominant tendency to appeal to prurient or 116
scatological interest, when the appeal to such an interest is 117
primarily for its own sake or for commercial exploitation, 118
rather than primarily for a genuine scientific, educational, 119
sociological, moral, or artistic purpose. 120

(G) "Sexual excitement" means the condition of human male 121
or female genitals when in a state of sexual stimulation or 122
arousal. 123

(H) "Nudity" means the showing, representation, or 124
depiction of human male or female genitals, pubic area, or 125
buttocks with less than a full, opaque covering, or of a female 126
breast with less than a full, opaque covering of any portion 127
thereof below the top of the nipple, or of covered male genitals 128
in a discernibly turgid state. 129

(I) "Juvenile" means an unmarried person under the age of 130
eighteen. 131

(J) "Material" means any book, magazine, newspaper,	132
pamphlet, poster, print, picture, figure, image, description,	133
motion picture film, phonographic record, or tape, or other	134
tangible thing capable of arousing interest through sight,	135
sound, or touch and includes an image or text appearing on a	136
computer monitor, television screen, liquid crystal display, or	137
similar display device or an image or text recorded on a	138
computer hard disk, computer floppy disk, compact disk, magnetic	139
tape, or similar data storage device.	140
(K) "Performance" means any motion picture, preview,	141
trailer, play, show, skit, dance, or other exhibition performed	142
before an audience.	143
(L) "Spouse" means a person married to an offender at the	144
time of an alleged offense, except that such person shall not be	145
considered the spouse when any of the following apply:	146
(1) When the parties have entered into a written	147
separation agreement authorized by section 3103.06 of the	148
Revised Code;	149
(2) During the pendency of an action between the parties	150
for annulment, divorce, dissolution of marriage, or legal	151
separation;	152
(3) In the case of an action for legal separation, after	153
the effective date of the judgment for legal separation.	154
(M) "Minor" means a person under the age of eighteen.	155
(N) "Mental health client or patient" has the same meaning	156
as in section 2305.51 of the Revised Code.	157
(O) "Mental health professional" has the same meaning as	158
in section 2305.115 of the Revised Code.	159

(P) "Sado-masochistic abuse" means flagellation or torture 160
by or upon a person or the condition of being fettered, bound, 161
or otherwise physically restrained. 162

Sec. 2907.31. (A) No person, with knowledge of its 163
character or content, shall recklessly do any of the following: 164

(1) Directly sell, deliver, furnish, disseminate, provide, 165
exhibit, rent, or present to a juvenile, a group of juveniles, a 166
law enforcement officer posing as a juvenile, or a group of law 167
enforcement officers posing as juveniles any material or 168
performance that is obscene or harmful to juveniles; 169

(2) Directly offer or agree to sell, deliver, furnish, 170
disseminate, provide, exhibit, rent, or present to a juvenile, a 171
group of juveniles, a law enforcement officer posing as a 172
juvenile, or a group of law enforcement officers posing as 173
juveniles any material or performance that is obscene or harmful 174
to juveniles; 175

(3) While in the physical proximity of the juvenile or law 176
enforcement officer posing as a juvenile, allow any juvenile or 177
law enforcement officer posing as a juvenile to review or peruse 178
any material or view any live performance that is harmful to 179
juveniles. 180

(B) The following are affirmative defenses to a charge 181
under this section that involves material or a performance that 182
is harmful to juveniles but not obscene: 183

(1) The defendant is the parent, guardian, or spouse of 184
the juvenile involved. 185

(2) The juvenile involved, at the time of the conduct in 186
question, was accompanied by the juvenile's parent or guardian 187
who, with knowledge of its character, consented to the material 188

or performance being furnished or presented to the juvenile.	189
(3) The juvenile exhibited to the defendant or to the	190
defendant's agent or employee a draft card, driver's license,	191
birth record, marriage license, or other official or apparently	192
official document purporting to show that the juvenile was	193
eighteen years of age or over or married, and the person to whom	194
that document was exhibited did not otherwise have reasonable	195
cause to believe that the juvenile was under the age of eighteen	196
and unmarried.	197
(C) (1) It is an affirmative defense to a charge under this	198
section, involving material or a performance that is obscene or	199
harmful to juveniles, that the material or performance was	200
furnished or presented for a bona fide medical, scientific,	201
educational, governmental, judicial, or other proper purpose, by	202
a physician, psychologist, sociologist, scientist, teacher,	203
librarian, clergyman <u>member of the clergy</u> , prosecutor, judge, or	204
other proper person.	205
(2) Except as provided in division (B) (3) of this section,	206
mistake of age is not a defense to a charge under this section.	207
(D) (1) A person directly sells, delivers, furnishes,	208
disseminates, provides, exhibits, rents, or presents or directly	209
offers or agrees to sell, deliver, furnish, disseminate,	210
provide, exhibit, rent, or present material or a performance to	211
a juvenile, a group of juveniles, a law enforcement officer	212
posing as a juvenile, or a group of law enforcement officers	213
posing as juveniles in violation of this section by means of an	214
electronic method of remotely transmitting information if the	215
person knows or has reason to believe that the person receiving	216
the information is a juvenile or the group of persons receiving	217
the information are juveniles.	218

(2) A person remotely transmitting information by means of 219
a method of mass distribution does not directly sell, deliver, 220
furnish, disseminate, provide, exhibit, rent, or present or 221
directly offer or agree to sell, deliver, furnish, disseminate, 222
provide, exhibit, rent, or present the material or performance 223
in question to a juvenile, a group of juveniles, a law 224
enforcement officer posing as a juvenile, or a group of law 225
enforcement officers posing as juveniles in violation of this 226
section if either of the following applies: 227

(a) The person has inadequate information to know or have 228
reason to believe that a particular recipient of the information 229
or offer is a juvenile. 230

(b) The method of mass distribution does not provide the 231
person the ability to prevent a particular recipient from 232
receiving the information. 233

(E) If any provision of this section, or the application 234
of any provision of this section to any person or circumstance, 235
is held invalid, the invalidity does not affect other provisions 236
or applications of this section or related sections that can be 237
given effect without the invalid provision or application. To 238
this end, the provisions are severable. 239

(F) (1) Whoever violates this section is guilty of 240
disseminating matter harmful to juveniles. If the material or 241
performance involved is harmful to juveniles, except as 242
otherwise provided in this division or division (F) (2) of this 243
section, a violation of this section is a misdemeanor of the 244
first degree. If the material or performance involved is 245
obscene, except as otherwise provided in this division or 246
division (F) (2) of this section, a violation of this section is 247
a felony of the fifth degree. If the material or performance 248

involved is obscene and the juvenile to whom it is sold, 249
delivered, furnished, disseminated, provided, exhibited, rented, 250
or presented, the juvenile to whom the offer is made or who is 251
the subject of the agreement, or the juvenile who is allowed to 252
review, peruse, or view it is under thirteen years of age, 253
except as otherwise provided in division (F)(2) of this section, 254
a violation of this section is a felony of the fourth degree. 255

(2) Notwithstanding division (F)(1) of this section, if a 256
person violates this section by privately transmitting to a 257
juvenile an image of the person in a state of nudity or engaged 258
in a sexual act, the person is not more than five years older 259
than the juvenile, and the person subsequently becomes a victim 260
of a violation of section 2917.211 of the Revised Code in 261
connection to the image, a violation of this section is a 262
misdemeanor of the third degree. 263

Sec. 2917.211. (A) As used in this section: 264

(1) "Disseminate" means to post, distribute, or publish on 265
a computer device, computer network, web site, or other 266
electronic device or medium of communication. 267

(2) "Image" means a photograph, film, videotape, digital 268
recording, or other depiction or portrayal of a person. 269

(3) "Interactive computer service" has the meaning defined 270
in the "Telecommunications Act of 1996," 47 U.S.C. 230, as 271
amended. 272

(4) "Internet provider" means a provider of internet 273
service, including all of the following: 274

(a) Broadband service, however defined or classified by 275
the federal communications commission; 276

<u>(b) Information service, as defined in the</u>	277
<u>"Telecommunications Act of 1996," 47 U.S.C. 153, as amended;</u>	278
<u>(c) Internet protocol-enabled services, as defined in</u>	279
<u>section 4927.01 of the Revised Code.</u>	280
<u>(5) "Mobile service" and "telecommunications carrier" have</u>	281
<u>the meanings defined in 47 U.S.C. 153, as amended.</u>	282
<u>(6) "Cable service provider" has the same meaning as in</u>	283
<u>section 1332.01 of the Revised Code.</u>	284
<u>(7) "Direct-to-home satellite service" has the meaning</u>	285
<u>defined in 47 U.S.C. 303, as amended.</u>	286
<u>(8) "Video service provider" has the same meaning as in</u>	287
<u>section 1332.21 of the Revised Code.</u>	288
<u>(9) "Sexual act" means any of the following:</u>	289
<u>(a) Sexual activity;</u>	290
<u>(b) Masturbation;</u>	291
<u>(c) An act involving a bodily substance that is performed</u>	292
<u>for the purpose of sexual arousal or gratification;</u>	293
<u>(d) Sado-masochistic abuse.</u>	294
<u>(B) No person shall knowingly disseminate an image of</u>	295
<u>another person if all of the following apply:</u>	296
<u>(1) The person in the image is eighteen years of age or</u>	297
<u>older.</u>	298
<u>(2) The person in the image can be identified from the</u>	299
<u>image itself or from information displayed in connection with</u>	300
<u>the image and the offender supplied the identifying information.</u>	301
<u>(3) The person in the image is in a state of nudity or is</u>	302

<u>engaged in a sexual act.</u>	303
<u>(4) The image is disseminated without consent from the person in the image.</u>	304 305
<u>(5) The image is disseminated with intent to harm the person in the image.</u>	306 307
<u>(C) This section does not prohibit the dissemination of an image if any of the following apply:</u>	308 309
<u>(1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.</u>	310 311
<u>(2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.</u>	312 313
<u>(3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.</u>	314 315 316 317
<u>(4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.</u>	318 319 320 321
<u>(5) The image is disseminated for another lawful public purpose.</u>	322 323
<u>(6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.</u>	324 325 326 327
<u>(7) The image is disseminated for the purpose of medical treatment or examination.</u>	328 329

<u>(D) The following entities are not liable for a violation</u>	330
<u>of this section solely as a result of an image or other</u>	331
<u>information provided by another person:</u>	332
<u>(1) A provider of interactive computer service;</u>	333
<u>(2) A mobile service;</u>	334
<u>(3) A telecommunications carrier;</u>	335
<u>(4) An internet provider;</u>	336
<u>(5) A cable service provider;</u>	337
<u>(6) A direct-to-home satellite service;</u>	338
<u>(7) A video service provider.</u>	339
<u>(E) Any conduct that is a violation of this section and</u>	340
<u>any other section of the Revised Code may be prosecuted under</u>	341
<u>this section, the other section, or both sections.</u>	342
<u>(F) (1) (a) Except as otherwise provided in division (F) (1)</u>	343
<u>(b), (c), or (d) of this section, whoever violates this section</u>	344
<u>is guilty of nonconsensual dissemination of private sexual</u>	345
<u>images, a misdemeanor of the third degree.</u>	346
<u>(b) If the offender previously has been convicted of or</u>	347
<u>pleaded guilty to a violation of this section, nonconsensual</u>	348
<u>dissemination of private sexual images is a misdemeanor of the</u>	349
<u>second degree.</u>	350
<u>(c) If the offender previously has been convicted of or</u>	351
<u>pleaded guilty to two or more violations of this section,</u>	352
<u>nonconsensual dissemination of private sexual images is a</u>	353
<u>misdemeanor of the first degree.</u>	354
<u>(d) If the offender is under eighteen years of age and the</u>	355
<u>person in the image is not more than five years older than the</u>	356

offender, the offender shall not be prosecuted under this 357
section. 358

(2) In addition to any other penalty or disposition 359
authorized or required by law, the court shall order any person 360
who is convicted of a violation of this section or who is 361
adjudicated delinquent by reason of a violation of this section 362
to criminally forfeit all of the following property to the state 363
under Chapter 2981. of the Revised Code: 364

(a) Any profits or proceeds and any property the person 365
has acquired or maintained in violation of this section that the 366
sentencing court determines to have been acquired or maintained 367
as a result of the violation; 368

(b) Any interest in, securities of, claim against, or 369
property or contractual right of any kind affording a source of 370
influence over any enterprise that the person has established, 371
operated, controlled, or conducted in violation of this section 372
that the sentencing court determines to have been acquired or 373
maintained as a result of the violation. 374

(G) A victim of a violation of this section may commence a 375
civil cause of action against the offender, as described in 376
section 2307.66 of the Revised Code. 377

Sec. 2981.02. (A) (1) The following property is subject to 378
forfeiture to the state or a political subdivision under either 379
the criminal or delinquency process in section 2981.04 of the 380
Revised Code or the civil process in section 2981.05 of the 381
Revised Code: 382

~~(1)~~ (a) Contraband involved in an offense; 383

~~(2)~~ (b) Proceeds derived from or acquired through the 384
commission of an offense; 385

(3) <u>(c)</u> An instrumentality that is used in or intended to	386
be used in the commission or facilitation of any of the	387
following offenses when the use or intended use, consistent with	388
division (B) of this section, is sufficient to warrant	389
forfeiture under this chapter:	390
(a) <u>(i)</u> A felony;	391
(b) <u>(ii)</u> A misdemeanor, when forfeiture is specifically	392
authorized by a section of the Revised Code or by a municipal	393
ordinance that creates the offense or sets forth its penalties;	394
(c) <u>(iii)</u> An attempt to commit, complicity in committing,	395
or a conspiracy to commit an offense of the type described in	396
divisions (A) (3) (a) and (b) of this section.	397
(B) <u>(2)</u> In determining whether an alleged instrumentality	398
was used in or was intended to be used in the commission or	399
facilitation of an offense or an attempt, complicity, or	400
conspiracy to commit an offense in a manner sufficient to	401
warrant its forfeiture, the trier of fact shall consider the	402
following factors the trier of fact determines are relevant:	403
(1) <u>(a)</u> Whether the offense could not have been committed	404
or attempted but for the presence of the instrumentality;	405
(2) <u>(b)</u> Whether the primary purpose in using the	406
instrumentality was to commit or attempt to commit the offense;	407
(3) <u>(c)</u> The extent to which the instrumentality furthered	408
the commission of, or attempt to commit, the offense.	409
<u>(B) The property described in division (F) (2) of section</u>	410
<u>2917.211 of the Revised Code is subject to forfeiture under the</u>	411
<u>criminal or delinquency process in section 2981.04 of the</u>	412
<u>Revised Code.</u>	413

(C) This chapter does not apply to or limit forfeitures 414
under Title XLV of the Revised Code, including forfeitures 415
relating to section 2903.06 or 2903.08 of the Revised Code. 416

Sec. 2981.04. (A) (1) Property described in division (A) or 417
(B) of section 2981.02 of the Revised Code may be forfeited 418
under this section only if the defendant is convicted of, or 419
enters intervention in lieu of conviction for, an offense or the 420
juvenile is adjudicated a delinquent child for committing an act 421
that would be an offense if committed by an adult and the 422
complaint, indictment, or information charging the offense or 423
municipal violation, or the complaint charging the delinquent 424
act, contains a specification of the type described in section 425
2941.1417 of the Revised Code that sets forth all of the 426
following to the extent it is reasonably known at the time of 427
the filing: 428

(a) The nature and extent of the alleged offender's or 429
delinquent child's interest in the property; 430

(b) A description of the property; 431

(c) If the property is alleged to be an instrumentality, 432
the alleged use or intended use of the property in the 433
commission or facilitation of the offense. 434

(2) If any property is not reasonably foreseen to be 435
subject to forfeiture at the time of filing the indictment, 436
information, or complaint, the trier of fact still may return a 437
verdict of forfeiture concerning that property in the hearing 438
described in division (B) of this section if the prosecutor, 439
upon discovering the property to be subject to forfeiture, gave 440
prompt notice of this fact to the alleged offender or delinquent 441
child under Criminal Rule 7(E) or Juvenile Rule 10(B). 442

(B) If a person pleads guilty to or is convicted of, or 443
enters intervention in lieu of conviction for, an offense or is 444
adjudicated a delinquent child for committing a delinquent act 445
and the complaint, indictment, or information charging the 446
offense or act contains a specification covering property 447
subject to forfeiture under section 2981.02 of the Revised Code, 448
the trier of fact shall determine whether the person's property 449
shall be forfeited. If the state or political subdivision proves 450
by clear and convincing evidence that the property is in whole 451
or part subject to forfeiture under section 2981.02 of the 452
Revised Code, after a proportionality review under section 453
2981.09 of the Revised Code when relevant, the trier of fact 454
shall return a verdict of forfeiture that specifically describes 455
the extent of the property subject to forfeiture. If the trier 456
of fact is a jury, on the offender's or delinquent child's 457
motion, the court shall make the determination of whether the 458
property shall be forfeited. 459

(C) If the court enters a verdict of forfeiture under this 460
section, the court imposing sentence or disposition, in addition 461
to any other sentence authorized by section 2951.041 or Chapter 462
2929. of the Revised Code or any disposition authorized by 463
Chapter 2152. of the Revised Code, shall order that the offender 464
or delinquent child forfeit to the state or political 465
subdivision the offender's or delinquent child's interest in the 466
property. The property vests with the state or political 467
subdivision subject to the claims of third parties. The court 468
may issue any additional order to affect the forfeiture, 469
including, but not limited to, an order under section 2981.06 of 470
the Revised Code. 471

(D) After the entry of a forfeiture order under this 472
section, the prosecutor shall attempt to identify any person 473

with an interest in the property subject to forfeiture by 474
searching appropriate public records and making reasonably 475
diligent inquiries. The prosecutor shall give notice of the 476
forfeiture that remains subject to the claims of third parties 477
and proposed disposal of the forfeited property to any person 478
known to have an interest in the property. The prosecutor also 479
shall publish notice of the forfeiture that remains subject to 480
the claims of third parties and proposed disposal of the 481
forfeited property once each week for two consecutive weeks in a 482
newspaper of general circulation in the county in which the 483
property was seized. 484

(E) (1) Any person, other than the offender or delinquent 485
child whose conviction or plea of guilty or delinquency 486
adjudication is the basis of the forfeiture order, who asserts a 487
legal interest in the property that is the subject of the order 488
may petition the court that issued the order for a hearing under 489
division (E) (3) of this section to adjudicate the validity of 490
the person's alleged interest in the property. All of the 491
following apply to the petition: 492

(a) It shall be filed within thirty days after the final 493
publication of notice or the person's receipt of notice under 494
division (D) of this section. 495

(b) It shall be signed by the petitioner under the 496
penalties for falsification specified in section 2921.13 of the 497
Revised Code. 498

(c) It shall describe the nature and extent of the 499
petitioner's interest in the property, the time and 500
circumstances of the petitioner's acquisition of that interest, 501
any additional facts supporting the petitioner's claim, and the 502
relief sought. 503

(d) It shall state that one of the following conditions 504
applies to the petitioner: 505

(i) The petitioner has a legal interest in the property 506
that is subject to the forfeiture order that renders the order 507
completely or partially invalid because the legal interest in 508
the property was vested in the petitioner, rather than the 509
offender or delinquent child whose conviction or plea of guilty 510
or delinquency adjudication is the basis of the order, or was 511
superior to any interest of that offender or delinquent child, 512
at the time of the commission of the offense or delinquent act 513
that is the basis of the order. 514

(ii) The petitioner is a bona fide purchaser for value of 515
the interest in the property that is subject to the forfeiture 516
order and was, at the time of the purchase, reasonably without 517
cause to believe that it was subject to forfeiture. 518

(2) (a) In lieu of filing a petition as described in 519
division (E) (1) of this section, a person, other than the 520
offender or delinquent child whose conviction or plea of guilty 521
or delinquency adjudication is the basis of the forfeiture 522
order, may file an affidavit as described in this division to 523
establish the validity of the alleged right, title, or interest 524
in the property that is the subject of the forfeiture order if 525
the person is a secured party or other lienholder of record that 526
asserts a legal interest in the property, including, but not 527
limited to, a mortgage, security interest, or other type of 528
lien. The affidavit shall contain averments that the secured 529
party or other lienholder acquired its alleged right, title, or 530
interest in the property in the regular course of its business, 531
for a specified valuable consideration, without actual knowledge 532
of any facts pertaining to the offense that was the basis of the 533

forfeiture order, in good faith, and without the intent to 534
prevent or otherwise impede the state or political subdivision 535
from seizing or obtaining a forfeiture of the property. The 536
person shall file the affidavit within thirty days after the 537
earlier of the final publication of notice or the receipt of 538
notice under division (D) of this section. 539

(b) Except as otherwise provided in this section, the 540
affidavit shall constitute prima-facie evidence of the validity 541
of the affiant's alleged interest in the property. 542

(c) Unless the prosecutor files a motion challenging the 543
affidavit within ten days after its filing and unless the 544
prosecutor establishes by clear and convincing evidence at the 545
hearing held under division (E) (3) of this section that the 546
affiant does not possess the alleged interest in the property or 547
that the affiant had actual knowledge of facts pertaining to the 548
offense or delinquent act that was the basis of the forfeiture 549
order, the affidavit shall constitute conclusive evidence of the 550
validity of the affiant's interest in the property. 551

(d) Any subsequent purchaser or other transferee of 552
property pursuant to forfeiture under this section shall take 553
the property subject to the continued validity of the interest 554
of the affiant. 555

(3) Upon receipt of a petition or affidavit filed under 556
division (E) (1) or (2) of this section, the court shall hold a 557
hearing to determine the validity of the petitioner's interest 558
in the property that is the subject of the forfeiture order or, 559
if the affidavit was challenged, to determine the validity of 560
the affiant's interest in the property. To the extent 561
practicable and consistent with the interests of justice, the 562
court shall hold the hearing within thirty days after the filing 563

of the petition or within thirty days after the prosecutor files 564
the motion challenging the affidavit. The court may consolidate 565
the hearing with a hearing on any other petition or affidavit 566
that is filed by a person other than the offender or delinquent 567
child whose conviction or plea of guilty or delinquency 568
adjudication is the basis of the forfeiture order and that 569
relates to the property that is the subject of the forfeiture 570
order. 571

At the hearing, the petitioner or affiant may testify, 572
present evidence and witnesses on the petitioner's or affiant's 573
behalf, and cross-examine witnesses for the state or political 574
subdivision. In regards to a petition, the state or political 575
subdivision may present evidence and witnesses in rebuttal and 576
in defense of its claim to the property and may cross-examine 577
witnesses for the petitioner. In regards to an affidavit, the 578
prosecutor may present evidence and witnesses and cross-examine 579
witnesses for the affiant. 580

In addition to the evidence and testimony presented at the 581
hearing, the court also shall consider the relevant portions of 582
the record in the criminal or delinquent child case that 583
resulted in the forfeiture order. 584

(F) (1) If the hearing involves a petition, the court shall 585
amend its forfeiture order if it determines at the hearing held 586
pursuant to division (E) (3) of this section that the petitioner 587
has established by a preponderance of the evidence that ~~that~~ the 588
applicable condition alleged by the petitioner under division 589
(E) (1) (d) of this section applies to the petitioner. 590

(2) The court also shall amend its forfeiture order to 591
reflect any interest of a secured party or other lienholder of 592
record in the property subject to forfeiture who prevails at a 593

hearing on the petition or affidavit filed pursuant to division 594
(E) (1) or (2) of this section. 595

(G) If the court disposes of all petitions or affidavits 596
timely filed under this section in favor of the state or 597
political subdivision, the state or political subdivision shall 598
have clear title to the property that is the subject of a 599
forfeiture order issued under this section, but only to the 600
extent that other parties' lawful interests in the property are 601
not infringed. To the extent that the state or political 602
subdivision has clear title to the property, the state or 603
political subdivision may warrant good title to any subsequent 604
purchaser or other transferee. 605

Sec. 3345.49. (A) No student who is enrolled in an 606
institution of higher education in Ohio and is the victim of a 607
violation of section 2917.211 of the Revised Code shall lose any 608
form of financial assistance provided by that institution for 609
educational expenses, including grants, scholarships, and 610
fellowships, for the sole reason of being the victim of such a 611
violation. Additionally, no institution of higher education 612
shall take any disciplinary action, including the imposition of 613
academic penalties, against that student for the sole reason of 614
being such a victim. 615

(B) If a person who is the victim of a violation of 616
section 2917.211 of the Revised Code applies to an institution 617
of higher education in Ohio, that person's status as such a 618
victim shall not affect the person's eligibility for any form of 619
financial assistance provided by the institution for educational 620
expenses, including grants, scholarships, and fellowships. 621

(C) As used in this section, "victim" has the same meaning 622
as in section 2930.01 of the Revised Code. 623

<u>Sec. 4113.90. As used in this section and sections 4113.91</u>	624
<u>to 4113.94 of the Revised Code:</u>	625
<u>(A) "Employee" has the same meaning as in section 4113.51</u>	626
<u>of the Revised Code.</u>	627
<u>(B) "Employer" means any of the following:</u>	628
<u>(1) The state and any agency or instrumentality of the</u>	629
<u>state;</u>	630
<u>(2) A political subdivision of the state and any agency or</u>	631
<u>instrumentality of the political subdivision;</u>	632
<u>(3) Any individual, partnership, association, corporation,</u>	633
<u>or business trust.</u>	634
<u>(C) "Political subdivision" means a county, township,</u>	635
<u>municipal corporation, or any other body corporate and politic</u>	636
<u>that is responsible for government activities in a geographic</u>	637
<u>area smaller than that of the state.</u>	638
<u>(D) "Reasonable accommodation" includes a changed work</u>	639
<u>telephone number, transfer to a different department or location</u>	640
<u>of the employer, modified employment schedules, assistance with</u>	641
<u>documenting any harassment occurring at the workplace or in</u>	642
<u>work-related settings, and time off work.</u>	643
<u>(E) "Undue hardship" means any requirement that would</u>	644
<u>require an employer to take an action with significant</u>	645
<u>difficulty or expense when considered in light of factors,</u>	646
<u>including all of the following:</u>	647
<u>(1) The nature and cost of the accommodation;</u>	648
<u>(2) The overall financial resources of the employer;</u>	649
<u>(3) The overall size of the employer's business with</u>	650

respect to the number of employees; 651

(4) The number, type, and location of the employer's facilities; 652
653

(5) The effect on the employer's expenses and resources or the impact otherwise of the accommodation on the employer's operation. 654
655
656

(F) "Victim" has the same meaning as in section 2930.01 of the Revised Code. 657
658

Sec. 4113.91. No employer shall knowingly do any of the following: 659
660

(A) Discharge, fail to hire, or otherwise discriminate or retaliate against an individual or employee of the employer because the individual or employee is a victim or is perceived to be a victim of a violation of section 2917.211 of the Revised Code; 661
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(B) Take an adverse employment action against an employee because the employee made a request for a reasonable accommodation based on the employee's status as a victim or perceived victim of a violation of section 2917.211 of the Revised Code, regardless of whether the employer granted the request for the accommodation; 666
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(C) Discharge or otherwise discriminate or retaliate against an employee who uses unpaid leave in accordance with section 4113.93 of the Revised Code. 672
673
674

Sec. 4113.92. (A) An employer shall make a reasonable accommodation for an employee who is a victim or is perceived to be a victim of a violation of section 2917.211 of the Revised Code, unless the employer demonstrates that the accommodation 675
676
677
678

would impose an undue hardship on the operation of the 679
employer's business. 680

(B) Before making a reasonable accommodation under this 681
section, an employer may require an employee who requests a 682
reasonable accommodation to provide documentation of the 683
violation or perceived violation of section 2917.211 of the 684
Revised Code. The employee may satisfy the documentation 685
requirement by providing the employer with any of the following: 686

(1) A copy of a police report or documentation of a court 687
proceeding concerning the violation; 688

(2) A written statement verifying the violation signed by 689
the employee's attorney, a victim services organization, or a 690
trained victim advocate; 691

(3) A written statement verifying the violation signed by 692
a member of the clergy from whom the employee has sought 693
assistance in connection with the violation; 694

(4) Any other evidence that corroborates the violation. 695

(C) No employer shall knowingly violate division (A) of 696
this section. An employer who fails or refuses to make a 697
reasonable accommodation under this section has the burden of 698
proving that the accommodation would impose an undue hardship on 699
the operation of the employer's business. 700

(D) Except as provided in division (E) of this section, no 701
employer shall knowingly fail to hold as confidential any 702
information that the employer receives from an individual or 703
employee under sections 4113.90 to 4113.94 of the Revised Code. 704
If the employer is a public office, the information is not a 705
public record for purposes of section 149.43 of the Revised 706
Code. 707

(E) Division (D) of this section does not apply if either 708
of the following is the case: 709

(1) The individual or employee gives written consent to 710
allow the employer to share the information. 711

(2) The employer is otherwise required by the Revised Code 712
or federal law to share the information. 713

Sec. 4113.93. (A) An employer shall grant an employee of 714
the employer not less than five days per year of unpaid leave 715
related to incidents in which the employee is a victim or is 716
perceived to be a victim of a violation of section 2917.211 of 717
the Revised Code. To be eligible for this leave, an employee 718
shall satisfy both of the following requirements: 719

(1) Be employed by the employer for not less than twenty 720
weeks in the calendar year in which the leave is requested; 721

(2) Be employed by the employer for more than twenty-five 722
hours per week for not less than one hundred eighty days 723
immediately preceding the period of leave. 724

(B) An employee who is a victim or is perceived to be a 725
victim of a violation of section 2917.211 of the Revised Code 726
may take the unpaid leave described in division (A) of this 727
section to do any of the following: 728

(1) Seek nonemergency medical attention related to the 729
violation for the employee or employee's dependent, including 730
services from a victim services organization, psychological 731
treatment, and counseling; 732

(2) Meet with law enforcement officers regarding the 733
violation; 734

(3) Seek legal assistance or other assistance from a 735

counselor, social worker, trained victim advocate, health care 736
provider, or other professional who assists persons in dealing 737
with such a violation for the employee or the employee's 738
dependent; 739

(4) Attend a civil or criminal court proceeding related to 740
the violation. 741

(C) The leave provided under this section is in addition 742
to any other paid or unpaid leave an employer grants an 743
employee. 744

(D) No employer shall knowingly fail to grant the leave 745
provided under this section. 746

Sec. 4113.94. (A) An individual or employee of an employer 747
who believes that an employer violated section 4113.91, 4113.92, 748
or 4113.93 of the Revised Code may commence a civil action 749
against the employer in a court of competent jurisdiction. 750

(B) A court that finds that an employer violated section 751
4113.91, 4113.92, or 4113.93 of the Revised Code may award the 752
individual or employee compensatory and punitive damages, 753
reasonable attorney's fees, and costs of bringing the civil 754
action. The court also may reinstate an employee who was 755
discharged in violation of section 4113.91 of the Revised Code. 756

Section 2. That existing sections 2907.01, 2907.31, 757
2981.02, and 2981.04 of the Revised Code are hereby repealed. 758