

# AN ACT

To amend sections 7.10, 7.16, 125.182, 703.31, 703.32, 703.33, 2981.04, 2981.05, and 2981.11 and to enact section 703.331 of the Revised Code to modify the law regarding village dissolution, and to modify official public notice requirements.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 7.10, 7.16, 125.182, 703.31, 703.32, 703.33, 2981.04, 2981.05, and 2981.11 be amended and section 703.331 of the Revised Code be enacted to read as follows:

Sec. 7.10. For the publication of advertisements, notices, and proclamations, except those relating to proposed amendments to the Ohio Constitution, required to be published by a public officer of the state, a benevolent or other public institution, a trustee, assignee, executor, or administrator, or by or in any court of record, except when the rate is otherwise fixed by law, publishers of newspapers may charge and receive for such advertisements, notices, and proclamations rates charged on annual contracts by them for a like amount of space to other advertisers who advertise in its general display advertising columns.

For the publication of advertisements, notices, or proclamations required to be published by a public officer of a county, municipal corporation, township, school, or other political subdivision, publishers of newspapers shall establish a government rate. The government rate shall not exceed the lowest classified advertising rate and lowest insert rate paid by other advertisers.

Legal advertising appearing in print, except that relating to proposed amendments to the Ohio Constitution, shall be set up in a compact form, without unnecessary spaces, blanks, or headlines, and printed in not smaller than six-point type. The type used must be of such proportions that the body of the capital letter M is no wider than it is high and all other letters and characters are in proportion.

Except as provided in section 2701.09 of the Revised Code, all legal advertisements, notices, and proclamations shall be printed in a newspaper of general circulation ~~and shall be~~ or posted by the publisher of the newspaper on the newspaper's internet web site, if the newspaper has one. A publisher of a newspaper shall ~~not charge~~ establish a government rate, which shall not exceed the lowest classified advertising rate and lowest insert rate paid by other advertisers, for posting legal advertisements, notices, and proclamations that are required by law to be published in a newspaper of general ~~circulation~~ circulation's digital edition on the newspaper's internet web site.

Whenever a notice or advertisement is required by a section of the Revised Code or an administrative rule to be published in a newspaper of general circulation, or posted by the publisher of the newspaper in the newspaper's digital edition on the newspaper's internet web site, the notice or

advertisement also shall be posted on the official public notice web site, established under section 125.182 of the Revised Code, by the publisher of the newspaper.

Sec. 7.16. (A) As used in this section:

(1) "State agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government, including state institutions of higher education, as defined in section 3345.011 of the Revised Code.

(2) "Political subdivision" has the meaning defined in section 2744.01 of the Revised Code.

(B) If a section of the Revised Code or an administrative rule requires a state agency or a political subdivision to publish a notice or advertisement two or more times in a newspaper of general circulation and the section or administrative rule refers to this section, the first publication of the notice or advertisement shall be made in its entirety in a newspaper of general circulation and may be made in a preprinted insert in the newspaper, but the second publication otherwise required by that section or administrative rule may be made in abbreviated form in a newspaper of general circulation in the state or in the political subdivision, as designated in that section or administrative rule, and on the newspaper's internet web site, if the newspaper has one. The state agency or political subdivision may eliminate any further newspaper publications required by that section or administrative rule, provided that the second, abbreviated notice or advertisement meets all of the following requirements:

(1) It is published in the newspaper of general circulation in which the first publication of the notice or advertisement was made.

(2) It is posted by the publisher of the newspaper on the official public notice web site established under section 125.182 of the Revised Code. ~~The publisher shall post the required notice or advertisement on the web site at no additional cost.~~

(3) It includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice or advertisement, and includes a statement that the notice or advertisement is posted in its entirety on the official public notice web site. The notice or advertisement also may be posted on the state agency's or political subdivision's internet web site.

(4) It includes the internet address of the official public notice web site and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice or advertisement.

(C) A notice or advertisement published under this section on an internet web site shall be published in its entirety in accordance with the section of the Revised Code or the administrative rule that requires the publication.

(D) If the official public notice web site established under section 125.182 of the Revised Code is not operational, the state agency or political subdivision shall not publish a notice or advertisement under this section, but instead shall comply with the publication requirements of the section of the Revised Code or the administrative rule that refers to this section.

Sec. 125.182. (A) An Ohio trade association that represents the majority of newspapers of

general circulation as defined in section 7.12 of the Revised Code shall operate and maintain the official public notice web site.

Not later than one hundred eighty days after September 15, 2014, in all cases in which a notice or advertisement is required by a section of the Revised Code or an administrative rule to be published in a newspaper of general circulation, or in a daily law journal as required by section 2701.09 of the Revised Code, the notice or advertisement also shall be posted on the official public notice web site by the publisher of the newspaper or journal.

The operator of the official public notice web site shall:

(1) Use a domain name for the web site that will be easily recognizable and remembered by and understandable to users of the web site;

(2) Maintain the web site on the internet so that it is fully accessible to and searchable by members of the public at all times, other than during maintenance or acts of God outside the operator's control;

(3) Not charge a fee to a person that accesses the web site to view notices or advertisements or to perform searches of the web site, provided that the operator may charge a fee for enhanced search and customized content delivery features;

~~(4) Not charge a fee to a state agency or political subdivision for publishing a notice or advertisement on the web site, including when the notice or advertisement is not otherwise published in a newspaper or journal;~~

~~(5) Ensure that notices and advertisements displayed on the web site conform to the requirements that would apply to the notices and advertisements if they were being published in a newspaper, as directed in section 7.16 of the Revised Code or in the relevant provision of the statute or rule that requires the notice, as applicable;~~

~~(6)(5) Ensure that notices and advertisements continue to be displayed on the web site for not less than the length of time required by the relevant provision of the statute or rule that requires the notice or advertisement;~~

~~(7)(6) Maintain an archive of notices and advertisements that no longer are displayed on the web site;~~

~~(8)(7) Enable notices and advertisements, both those currently displayed and those archived, to be accessed by key word, by party name, by case number, by county, and by other useful identifiers;~~

~~(9)(8) Maintain adequate systemic security and backup features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseeable difficulties;~~

~~(10)(9) Provide access to the web site to the publisher of any Ohio newspaper or daily law journal that qualifies under the Revised Code to publish notices and advertisements, for the posting of notices and advertisements at no cost, or for a reasonable, uniform fee for the service; and~~

~~(11)(10) Provide, if requested, a regularly scheduled feed or similar data transfer to the~~

department of administrative services of notices and advertisements posted on the web site, provided that the operator of the web site shall not be required to provide the feed or transfer more often than once every business day.

(B) An error in a notice or advertisement posted on the official public notice web site, or a temporary web site outage or service interruption preventing the posting or display of a notice or advertisement on that web site, does not constitute a defect in making legal publication of the notice or advertisement, and publication requirements shall be considered met if the notice or advertisement published in the newspaper or daily law journal is correct.

(C) The official public notice web site shall not contain any political publications or political advertising described in division (A)(1)(a), (b), or (c) of section 3517.20 of the Revised Code.

(D) The publisher of a newspaper of general circulation or of a daily law journal that maintains a web site shall include on its web site a link to the official public notice web site.

Sec. 703.31. As used in sections 703.31 to 703.39 of the Revised Code:

"Date the dissolution is effective" means the date the election result is certified under section 703.33 or 703.331 of the Revised Code or the date the attorney general files a certified copy of a court's order of dissolution with the secretary of state, auditor of state, and county recorder, as applicable, under section 118.31 or 703.34 of the Revised Code.

"Period when a dissolution is in question" means the period beginning on the date a petition under section 703.33 of the Revised Code is presented, the date an unsatisfactory finding under section 703.331 of the Revised Code is provided to a village, or the date a legal action is filed by the attorney general under section 118.31 or 703.34 of the Revised Code and ending the date the result of the election under section 703.33 or 703.331 of the Revised Code is certified or the decision of the court of common pleas under section 118.31 or 703.34 of the Revised Code is declared.

"Transition period" means the period beginning on the date the dissolution is effective and ending on the date the transition supervisory board determines all outstanding debts, obligations, and liabilities of the dissolved village have been resolved, all real and personal property of the dissolved village has been transferred or otherwise disposed of, and all utility property and utility services have been transferred.

"Utility services" means electric, water, sewer, and other similar utilities.

Sec. 703.32. The process for dissolving a village, whether the dissolution is determined under section 118.31, 703.33, 703.331, or 703.34 of the Revised Code, shall be conducted in accordance with sections 703.31 to 703.39 of the Revised Code.

Sec. 703.33. (A) Villages may voluntarily dissolve upon the petition to the legislative authority of the village, or, in the alternative, to the board of elections of the county in which the largest portion of the population of the village resides as provided in division (B)(1) of this section, of at least thirty per cent of the electors thereof, to be determined by the number voting at the last regular municipal election, and by an affirmative vote of a majority of the electors at the next general election held in an even-numbered year occurring after the period ending ninety days after

the filing of the petition with the legislative authority. If the result of the election is in favor of the surrender, the village clerk or, in the alternative, the board of elections shall certify the result to the secretary of state, the auditor of state, and the county recorder, who shall record it in their respective offices.

(B)(1) If the legislative authority of a village fails to act upon the petition within thirty days after receipt of the petition, the electors may present the petition to the board of elections to determine the validity and sufficiency of the signatures. The petition shall be governed by the rules of section 3501.38 of the Revised Code. The petition shall be filed with the board of elections of the county in which the largest portion of the population of the village resides. A petition filed under this division is only valid if filed during an even-numbered year on or after the first day of July, and at least ninety days before the next general election. If the petition is sufficient, the board of elections shall submit the question "Shall the village of \_\_\_\_\_ surrender its corporate powers?" for the approval or rejection of the electors of the village at the next general election held in an even-numbered year occurring after the period ending ninety days after the filing of the petition with the board. If the result of the election is in favor of the surrender, the board of elections shall certify the results to the secretary of state, the auditor of state, and the county recorder, who shall record it in their respective offices. ~~The corporate powers of the village shall cease upon the recording of the certified election results in the county recorder's office.~~

(2) In addition to filing the petition with the board of elections as provided in division (B)(1) of this section, a copy of the petition shall be filed with the board of township trustees of each township affected by the surrender.

Sec. 703.331. (A) Not later than the last day of the year that is immediately after the year the results of a federal decennial census are released, the county auditor, county treasurer, and one member of the board of county commissioners selected by the board of county commissioners, jointly shall evaluate each village located within the county to determine if, over the approximate ten year period beginning the day the results of the preceding federal decennial census were released and ending the day the most recent federal decennial census results were released, both of the following are true:

(1) The village itself provided, the village contracted with a private nongovernmental entity to provide, or the village contracted with a regional council of governments as defined in section 167.01 of the Revised Code that includes three or more political subdivisions at least two of which are municipal corporations to provide, at least five of the following services:

- (a) Police protection;
- (b) Fire-fighting services;
- (c) Garbage collection;
- (d) Water service;
- (e) Sewer service;
- (f) Emergency medical services;

(g) Road maintenance;

(h) Park services or other recreation services;

(i) Human services;

(j) A public library established and operated solely by the village.

(2) At each election at which an elected village position was voted upon, at least one candidate appeared on the ballot for each elected village position.

If a village is located in more than one county, the village shall be evaluated only by the county officials of the county wherein the largest portion of the population of the village resides.

(B) Before beginning the evaluation, the county officials shall request, in writing, information from each village to assist the officials in making their determination. The request shall indicate the applicable evaluation period. Each village shall submit the information, in the manner requested by the county officials, not later than thirty days after receiving the request. The village shall include information about the services provided over the evaluation period, the manner by which such services were provided, a copy of the final appropriation budget or budgets applicable to the evaluation period, information on candidates on the ballot for village elected offices during the evaluation period, any documentation regarding the matters in division (A) of this section during the evaluation period, and any other information specifically requested by the county officials. After receiving the information, if necessary, the county officials may request additional information, which the village shall provide not later than ten days after receiving the request. The county officials shall base their finding on the information provided from the village.

(C) The county officials shall notify the legislative authority of the village of the county officials' finding not later than the last day of the year that is immediately after the year the results of a federal decennial census are released.

(D) If the county officials find a village failed to provide services or field candidates as specified in division (A) of this section, the county officials shall file the finding with the board of elections of the county in which the largest portion of the population of the village resides. The board of elections shall submit the question "Shall the village of \_\_\_\_\_ surrender its corporate powers?" for the approval or rejection of the electors of the village at the next general election, in any year, occurring after the period ending ninety days after the filing of the finding with the board. If the result of the election is in favor of the surrender, the board of elections shall certify the results to the secretary of state, the auditor of state, and the county recorder, who shall record it in their respective offices.

(E) The procedure in this section is in addition to the procedure under section 703.33 of the Revised Code for the dissolution of a village.

Sec. 2981.04. (A)(1) Property described in division (A) or (B) of section 2981.02 of the Revised Code may be forfeited under this section only if the defendant is convicted of, or enters intervention in lieu of conviction for, an offense or the juvenile is adjudicated a delinquent child for committing an act that would be an offense if committed by an adult and the complaint, indictment,

or information charging the offense or municipal violation, or the complaint charging the delinquent act, contains a specification of the type described in section 2941.1417 of the Revised Code that sets forth all of the following to the extent it is reasonably known at the time of the filing:

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

(b) A description of the property;

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

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

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

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

(D) After the entry of a forfeiture order under this section, the prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. The prosecutor shall give notice of the forfeiture that remains subject to the claims of third parties and proposed disposal of the forfeited property to any person known to have an interest in the property. The prosecutor also shall publish notice of the forfeiture that remains subject to the claims of third parties and proposed disposal of the forfeited property once each week for two consecutive weeks ~~in~~, using at least one of the

following methods:

(1) In the print or digital edition of a newspaper of general circulation in the county in which the property was seized;

(2) On the official public notice web site established under section 125.182 of the Revised Code;

(3) On the web site and social media account of the county.

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

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

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

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

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

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

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

(2)(a) In lieu of filing a petition as described in division (E)(1) of this section, a person, other than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the forfeiture order, may file an affidavit as described in this division to establish the validity of the alleged right, title, or interest in the property that is the subject of the forfeiture order if the person is a secured party or other lienholder of record that asserts a legal interest in the property, including, but not limited to, a mortgage, security interest, or other type of lien. The affidavit shall contain averments that the secured party or other lienholder acquired its alleged right, title, or interest in the property in the regular course of its business, for a specified valuable consideration, without actual knowledge of any facts pertaining to the offense that was the basis of the forfeiture order, in good faith, and without the intent to prevent or otherwise impede the state or

political subdivision from seizing or obtaining a forfeiture of the property. The person shall file the affidavit within thirty days after the earlier of the final publication of notice or the receipt of notice under division (D) of this section.

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

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

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

(3) Upon receipt of a petition or affidavit filed under division (E)(1) or (2) of this section, the court shall hold a hearing to determine the validity of the petitioner's interest in the property that is the subject of the forfeiture order or, if the affidavit was challenged, to determine the validity of the affiant's interest in the property. To the extent practicable and consistent with the interests of justice, the court shall hold the hearing within thirty days after the filing of the petition or within thirty days after the prosecutor files the motion challenging the affidavit. The court may consolidate the hearing with a hearing on any other petition or affidavit that is filed by a person other than the offender or delinquent child whose conviction or plea of guilty or delinquency adjudication is the basis of the forfeiture order and that relates to the property that is the subject of the forfeiture order.

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

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

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

(2) The court also shall amend its forfeiture order to reflect any interest of a secured party or other lienholder of record in the property subject to forfeiture who prevails at a hearing on the petition or affidavit filed pursuant to division (E)(1) or (2) of this section.

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

Sec. 2981.05. (A) After the seizure of property described in division (A) of section 2981.02 of the Revised Code and not sooner than three months after the property owner is deceased as described in division (A)(1)(a) of this section, not sooner than three months after the property owner has not claimed, or asserted any interest in, the property as described in division (A)(2) of this section, or not sooner than one year after division (A)(1)(b)(i) or (ii) of this section applies, the prosecutor of the political subdivision in which the property is located may commence a civil forfeiture action under this section by filing in the court of common pleas of the county in which the property is located a complaint requesting an order that forfeits the property to the state or a political subdivision. A complaint for civil forfeiture may only be filed under this division if the property was seized with probable cause that it was involved in the commission of a felony or a gambling offense or was directly or indirectly obtained through the commission of a felony or a gambling offense and either of the following applies:

(1) The property owner is unavailable to the court for one of the following reasons:

(a) The property owner is deceased.

(b) An indictment for a felony or a charge for a gambling offense has been filed against the property owner, a warrant was issued for the arrest of the property owner, and either of the following applies:

(i) The property owner is outside the state and unable to be extradited or brought back to the state for prosecution for the felony or gambling offense.

(ii) Reasonable efforts have been made by law enforcement authorities to locate and arrest the property owner, but the property owner has not been located.

(2) The property owner has not claimed the property subject to forfeiture or asserted any interest in the property at any time during or after its seizure, verbally or in writing, and all claims brought under division (A)(4) of section 2981.03 of the Revised Code have been denied.

(B)(1) The filing of a complaint for civil forfeiture under division (A) of this section shall be consistent with division (F) of section 2981.03 of the Revised Code. The complaint shall state all of the following:

(a) The facts that support the state's or political subdivision's allegations in the complaint;

(b) The alleged felony or gambling offense that subjects the property to forfeiture under division (A) of section 2981.02 of the Revised Code.

(2) If the property owner is unavailable to the court because the property owner is deceased as provided in division (A)(1)(a) of this section, the complaint shall include a certified copy of the

death certificate of the property owner.

(C) Simultaneously with or after the filing of a complaint, indictment, or information charging an offense or a complaint charging a delinquent act, the prosecutor may commence a civil forfeiture action by filing in the court in which the applicable complaint, indictment, or information is filed a complaint requesting an order that forfeits to the state or political subdivision any property that is involved in the offense or delinquent act and is subject to forfeiture under section 2981.02 of the Revised Code. The civil forfeiture action filed under this division shall be stayed during the pendency of the applicable criminal or delinquency proceedings. That civil forfeiture action shall proceed after the defendant is convicted of, or enters intervention in lieu of conviction for, the offense involved or the juvenile is adjudicated a delinquent child for the delinquent act involved.

(D)(1) Subject to division (D)(7) of this section, the state may file a civil forfeiture action, in the form of a civil action, against any person who is alleged to have received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were allegedly derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code. The complaint shall be filed in the court of common pleas of the county in which the proceeds were alleged to have been received, retained, possessed, or disposed of by the person. The complaint shall specify all of the following:

(a) That the person against whom the complaint is filed is alleged to have received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were allegedly derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code;

(b) That the state has the right to recover the proceeds described in division (D)(1)(a) of this section;

(c) The actual amount of the proceeds described in division (D)(1)(a) of this section.

(2) Subject to division (D)(7) of this section, a civil action filed under division (D)(1) of this section shall be stayed if a criminal complaint, indictment, or information is filed against the person who is alleged to have received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code.

(3) In a civil action filed under division (D)(1) of this section, the state has the burden to prove by clear and convincing evidence all of the following:

(a) That the person received, retained, possessed, or disposed of the proceeds involved;

(b) That the person knew or had reasonable cause to believe that the proceeds were derived from the alleged commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code;

(c) Subject to division (D)(7) of this section, the actual amount of the proceeds received,

retained, possessed, or disposed of by the person that exceeds fifteen thousand dollars.

(4) Any statements made in a civil action under division (D)(1) of this section are inadmissible as evidence in a criminal action brought against the person involved for a violation of section 2927.21 of the Revised Code, except for purposes of impeachment.

(5) Subject to division (D)(7) of this section, a civil action under division (D)(1) of this section shall be commenced within two years after the latest date on which a person allegedly received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were allegedly derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code.

(6) The court shall complete the trial of the civil action under division (D)(1) of this section within one year after the action is commenced unless the parties to the action mutually agree to extend the one-year period or the extension of that period is for good cause shown.

(7) The amount of fifteen thousand dollars specified in divisions (D)(1), (2), (3)(c), and (5) of this section shall be increased on the first day of the following January, starting on January 1, 2018, by the rate of inflation for the twelve-month period ending in September of the prior year according to the consumer price index or its successor index.

(E) For purposes of this section, there is a rebuttable presumption that the person in possession of the property at the time of its seizure is considered to be the owner of the property unless legal title to the property states otherwise.

(F) Prior to the commencement of a civil forfeiture action under this section, the prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. At the time of filing the complaint, the prosecutor shall give notice of the commencement of the civil action, together with a copy of the complaint, to each person who is reasonably known to have any interest in the property, by certified mail, return receipt requested, or by personal service. The prosecutor shall cause a similar notice to be published, once each week for the two consecutive weeks immediately after the filing of the complaint ~~in~~, using at least one of the following methods:

(1) In the print or digital edition of a newspaper of general circulation in the county in which the property is located;

(2) On the official public notice web site established under section 125.182 of the Revised Code;

(3) On the web site and social media account of the county.

The published notice shall contain the date and location of the seizure of the property and an itemized list of the property seized that is sought to be forfeited in the complaint.

(G) A person with an interest in the property subject to forfeiture may petition the court to release the property pursuant to division (D) of section 2981.03 of the Revised Code. The court shall consider the petition as provided in that section. If a timely petition for pretrial hardship release is

not filed, or if a petition is filed but not granted, the person may file a claim for the release of the property under the Rules of Civil Procedure. The court shall dispose of any petitions timely filed under this division.

(H) The court shall issue a civil forfeiture order if it determines that the prosecutor has proved by clear and convincing evidence that the property is subject to forfeiture under section 2981.02 of the Revised Code, and, after a proportionality review under section 2981.09 of the Revised Code when relevant, the trier of fact specifically describes the extent of the property to be forfeited. A civil forfeiture order shall state that all interest in the property in question of the property owner who committed the felony or gambling offense if division (A) of this section applies, of the adult or juvenile who committed the act if division (C) of this section applies, or of the person who is alleged to have received, retained, possessed, or disposed of proceeds if division (D) of this section applies that is the basis of the order is forfeited to the state or political subdivision and shall make due provision for the interest in that property of any other person, when appropriate under this section. The court may issue any additional order to affect the forfeiture, including, but not limited to, one or more orders under section 2981.06 of the Revised Code.

(I) If the court disposes of all petitions timely filed under this section in favor of the state or political subdivision, the state or political subdivision shall have clear title to the property that is the subject of a forfeiture order under this section, but only to the extent that other parties' lawful interests in the property are not infringed. To the extent that the state or political subdivision has clear title to the property, the state or political subdivision may warrant good title to any subsequent purchaser or other transferee.

(J) As used in this section:

(1) "Gambling offense" has the same meaning as in section 2915.01 of the Revised Code;

(2) "Offense subject to forfeiture proceedings" has the same meaning as in section 2927.21 of the Revised Code.

Sec. 2981.11. (A)(1) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of a law enforcement agency shall be kept safely by the agency, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to sections 2981.12 and 2981.13 of the Revised Code.

(2) This chapter does not apply to the custody and disposal of any of the following:

(a) Vehicles subject to forfeiture under Title XLV of the Revised Code, except as provided in division (A)(6) of section 2981.12 of the Revised Code;

(b) Abandoned junk motor vehicles or other property of negligible value;

(c) Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;

(d) Animals taken, and devices used in unlawfully taking animals, under section 1531.20 of

the Revised Code;

(e) Controlled substances sold by a peace officer in the performance of the officer's official duties under section 3719.141 of the Revised Code;

(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code;

(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program.

(B)(1) Each law enforcement agency that has custody of any property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following:

(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;

(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:

(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.

(ii) An itemized list of the specific expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

(c) Complies with section 2981.13 of the Revised Code if the agency has a law enforcement trust fund or similar fund created under that section.

(2) The records kept under the internal control policy shall be open to public inspection during the agency's regular business hours. The policy adopted under this section is a public record open for inspection under section 149.43 of the Revised Code.

(C) A law enforcement agency with custody of property to be disposed of under section 2981.12 or 2981.13 of the Revised Code shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise using at least one of the following methods:

(1) In the print or digital edition of ~~in~~ a newspaper of general circulation in the county ~~and to~~

;

(2) On the official public notice web site established under section 125.182 of the Revised Code;

(3) On the web site and social media account of the county.

The notices shall briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(D) As used in sections 2981.11 to 2981.13 of the Revised Code:

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code.

(2) "Law enforcement agency" includes correctional institutions.

(3) "Township law enforcement agency" means an organized police department of a township, a township police district, a joint police district, or the office of a township constable.

SECTION 2. That existing sections 7.10, 7.16, 125.182, 703.31, 703.32, 703.33, 2981.04, 2981.05, and 2981.11 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor:*

Sub. H. B. No. 331

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_