

As Introduced

136th General Assembly

Regular Session

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H. B. No. 507

Representatives Newman, John

**Cosponsors: Representatives Schmidt, Deeter, Johnson, White, A., Daniels,
Ritter, Pizzulli, Hall, T., Williams, Gross, Creech, Plummer**

To amend sections 2907.01 and 2923.31 and to enact	1
section 2907.251 of the Revised Code to prohibit	2
a person from receiving proceeds of	3
prostitution.	4

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

Section 1. That sections 2907.01 and 2923.31 be amended	5
and section 2907.251 of the Revised Code be enacted to read as	6
follows:	7

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and	8
2917.211 of the Revised Code:	9

(A) "Sexual conduct" means vaginal intercourse between a	10
male and female; anal intercourse, fellatio, and cunnilingus	11
between persons regardless of sex; and, without privilege to do	12
so, the insertion, however slight, of any part of the body or	13
any instrument, apparatus, or other object into the vaginal or	14
anal opening of another. Penetration, however slight, is	15
sufficient to complete vaginal or anal intercourse.	16

(B) "Sexual contact" means any touching of an erogenous	17
zone of another, including without limitation the thigh,	18

genitals, buttock, pubic region, or, if the person is a female, 19
a breast, for the purpose of sexually arousing or gratifying 20
either person. 21

(C) "Sexual activity" means sexual conduct or sexual 22
contact, or both. 23

(D) "Prostitute" means a male or female who ~~promiscuously~~ 24
engages in sexual activity for hire, regardless of whether the 25
hire is paid to the prostitute or to another. 26

(E) "Harmful to juveniles" means that quality of any 27
material or performance describing or representing nudity, 28
sexual conduct, sexual excitement, or sado-masochistic abuse in 29
any form to which all of the following apply: 30

(1) The material or performance, when considered as a 31
whole, appeals to the prurient interest of juveniles in sex. 32

(2) The material or performance is patently offensive to 33
prevailing standards in the adult community as a whole with 34
respect to what is suitable for juveniles. 35

(3) The material or performance, when considered as a 36
whole, lacks serious literary, artistic, political, and 37
scientific value for juveniles. 38

(F) When considered as a whole, and judged with reference 39
to ordinary adults or, if it is designed for sexual deviates or 40
other specially susceptible group, judged with reference to that 41
group, any material or performance is "obscene" if any of the 42
following apply: 43

(1) Its dominant appeal is to prurient interest; 44

(2) Its dominant tendency is to arouse lust by displaying 45
or depicting sexual activity, masturbation, sexual excitement, 46

or nudity in a way that tends to represent human beings as mere 47
objects of sexual appetite; 48

(3) Its dominant tendency is to arouse lust by displaying 49
or depicting bestiality or extreme or bizarre violence, cruelty, 50
or brutality; 51

(4) Its dominant tendency is to appeal to scatological 52
interest by displaying or depicting human bodily functions of 53
elimination in a way that inspires disgust or revulsion in 54
persons with ordinary sensibilities, without serving any genuine 55
scientific, educational, sociological, moral, or artistic 56
purpose; 57

(5) It contains a series of displays or descriptions of 58
sexual activity, masturbation, sexual excitement, nudity, 59
bestiality, extreme or bizarre violence, cruelty, or brutality, 60
or human bodily functions of elimination, the cumulative effect 61
of which is a dominant tendency to appeal to prurient or 62
scatological interest, when the appeal to such an interest is 63
primarily for its own sake or for commercial exploitation, 64
rather than primarily for a genuine scientific, educational, 65
sociological, moral, or artistic purpose. 66

(G) "Sexual excitement" means the condition of human male 67
or female genitals when in a state of sexual stimulation or 68
arousal. 69

(H) "Nudity" means the showing, representation, or 70
depiction of human male or female genitals, pubic area, or 71
buttocks with less than a full, opaque covering, or of a female 72
breast with less than a full, opaque covering of any portion 73
thereof below the top of the nipple, or of covered male genitals 74
in a discernibly turgid state. 75

(I) "Juvenile" means an unmarried person under the age of	76
eighteen.	77
(J) "Material" means any book, magazine, newspaper,	78
pamphlet, poster, print, picture, figure, image, description,	79
motion picture film, phonographic record, or tape, or other	80
tangible thing capable of arousing interest through sight,	81
sound, or touch and includes an image or text appearing on a	82
computer monitor, television screen, liquid crystal display, or	83
similar display device or an image or text recorded on a	84
computer hard disk, computer floppy disk, compact disk, magnetic	85
tape, or similar data storage device.	86
(K) "Performance" means any motion picture, preview,	87
trailer, play, show, skit, dance, or other exhibition performed	88
before an audience.	89
(L) "Spouse" means a person married to an offender at the	90
time of an alleged offense, except that such person shall not be	91
considered the spouse when any of the following apply:	92
(1) When the parties have entered into a written	93
separation agreement authorized by section 3103.06 of the	94
Revised Code;	95
(2) During the pendency of an action between the parties	96
for annulment, divorce, dissolution of marriage, or legal	97
separation;	98
(3) In the case of an action for legal separation, after	99
the effective date of the judgment for legal separation.	100
(M) "Minor" means a person under the age of eighteen.	101
(N) "Mental health client or patient" has the same meaning	102
as in section 2305.51 of the Revised Code.	103

(O) "Mental health professional" has the same meaning as 104
in section 2305.115 of the Revised Code. 105

(P) "Sado-masochistic abuse" means flagellation or torture 106
by or upon a person or the condition of being fettered, bound, 107
or otherwise physically restrained. 108

(Q) "Place where a person has a reasonable expectation of 109
privacy" means a place where a reasonable person would believe 110
that the person could fully disrobe in private. 111

(R) "Private area" means the genitals, pubic area, 112
buttocks, or female breast below the top of the areola, where 113
nude or covered by an undergarment. 114

(S) "Licensed medical professional" means any of the 115
following medical professionals: 116

(1) A physician assistant licensed under Chapter 4730. of 117
the Revised Code; 118

(2) A physician authorized under Chapter 4731. of the 119
Revised Code to practice medicine and surgery, osteopathic 120
medicine and surgery, or podiatric medicine and surgery; 121

(3) A massage therapist licensed under Chapter 4731. of 122
the Revised Code. 123

Sec. 2907.251. (A) As used in this section, "sexual 124
activity for hire" has the same meaning as in section 2907.24 of 125
the Revised Code. 126

(B) No person shall receive or acquire money or any other 127
thing of value knowing that the money or other thing of value 128
was earned from sexual activity for hire or as a result of a 129
violation of section 2905.32 of the Revised Code. 130

(C) This section does not apply to a prostitute who 131
receives or acquires money or any other thing of value from the 132
prostitute's own engagement in sexual activity for hire. 133

(D) (1) Whoever violates this section is guilty of 134
receiving proceeds of prostitution. Except as provided in 135
division (D) (2) of this section, receiving proceeds of 136
prostitution is a felony of the third degree. 137

(2) If a person violates this section by knowingly 138
receiving or acquiring money or any other thing of value from a 139
prostitute under division (B) of this section and the prostitute 140
is under eighteen years of age, receiving proceeds of 141
prostitution is a felony of the second degree. 142

(E) A prosecution for a violation of this section does not 143
preclude a prosecution of a violation of any other section of 144
the Revised Code. One or more acts, a series of acts, or a 145
course of behavior that can be prosecuted under this section or 146
any other section of the Revised Code may be prosecuted under 147
this section, the other section of the Revised Code, or both 148
sections. However, if an offender is convicted of or pleads 149
guilty to a violation of this section and also is convicted of 150
or pleads guilty to a violation of section 2907.21, 2907.22, 151
2907.25, or 2907.32 or division (B) of section 2907.23 of the 152
Revised Code based on the same conduct involving the same victim 153
that was the basis of the violation of this section, the two 154
offenses are allied offenses of similar import under section 155
2941.25 of the Revised Code. 156

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 157
the Revised Code: 158

(A) "Beneficial interest" means any of the following: 159

(1) The interest of a person as a beneficiary under a 160
trust in which the trustee holds title to personal or real 161
property; 162

(2) The interest of a person as a beneficiary under any 163
other trust arrangement under which any other person holds title 164
to personal or real property for the benefit of such person; 165

(3) The interest of a person under any other form of 166
express fiduciary arrangement under which any other person holds 167
title to personal or real property for the benefit of such 168
person. 169

"Beneficial interest" does not include the interest of a 170
stockholder in a corporation or the interest of a partner in 171
either a general or limited partnership. 172

(B) "Costs of investigation and prosecution" and "costs of 173
investigation and litigation" mean all of the costs incurred by 174
the state or a county or municipal corporation under sections 175
2923.31 to 2923.36 of the Revised Code in the prosecution and 176
investigation of any criminal action or in the litigation and 177
investigation of any civil action, and includes, but is not 178
limited to, the costs of resources and personnel. 179

(C) "Enterprise" includes any individual, sole 180
proprietorship, partnership, limited partnership, corporation, 181
trust, union, government agency, or other legal entity, or any 182
organization, association, or group of persons associated in 183
fact although not a legal entity. "Enterprise" includes illicit 184
as well as licit enterprises. 185

(D) "Innocent person" includes any bona fide purchaser of 186
property that is allegedly involved in a violation of section 187
2923.32 of the Revised Code, including any person who 188

establishes a valid claim to or interest in the property in 189
accordance with division (E) of section 2981.04 of the Revised 190
Code, and any victim of an alleged violation of that section or 191
of any underlying offense involved in an alleged violation of 192
that section. 193

(E) "Pattern of corrupt activity" means two or more 194
incidents of corrupt activity, whether or not there has been a 195
prior conviction, that are related to the affairs of the same 196
enterprise, are not isolated, and are not so closely related to 197
each other and connected in time and place that they constitute 198
a single event. 199

At least one of the incidents forming the pattern shall 200
occur on or after January 1, 1986. Unless any incident was an 201
aggravated murder or murder, the last of the incidents forming 202
the pattern shall occur within six years after the commission of 203
any prior incident forming the pattern, excluding any period of 204
imprisonment served by any person engaging in the corrupt 205
activity. 206

For the purposes of the criminal penalties that may be 207
imposed pursuant to section 2923.32 of the Revised Code, at 208
least one of the incidents forming the pattern shall constitute 209
a felony under the laws of this state in existence at the time 210
it was committed or, if committed in violation of the laws of 211
the United States or of any other state, shall constitute a 212
felony under the law of the United States or the other state and 213
would be a criminal offense under the law of this state if 214
committed in this state. 215

(F) "Pecuniary value" means money, a negotiable 216
instrument, a commercial interest, or anything of value, as 217
defined in section 1.03 of the Revised Code, or any other 218

property or service that has a value in excess of one hundred 219
dollars. 220

(G) "Person" means any person, as defined in section 1.59 221
of the Revised Code, and any governmental officer, employee, or 222
entity. 223

(H) "Personal property" means any personal property, any 224
interest in personal property, or any right, including, but not 225
limited to, bank accounts, debts, corporate stocks, patents, or 226
copyrights. Personal property and any beneficial interest in 227
personal property are deemed to be located where the trustee of 228
the property, the personal property, or the instrument 229
evidencing the right is located. 230

(I) "Corrupt activity" means engaging in, attempting to 231
engage in, conspiring to engage in, or soliciting, coercing, or 232
intimidating another person to engage in any of the following: 233

(1) Conduct defined as "racketeering activity" under the 234
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 235
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 236

(2) Conduct constituting any of the following: 237

(a) A violation of section 1315.55, 1322.07, 2903.01, 238
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 239
2905.11, 2905.22, 2905.32 as specified in division (I)(2)(g) of 240
this section, 2907.251, 2907.321, 2907.322, 2907.323, 2909.02, 241
2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 242
2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 243
2913.05, 2913.06, 2913.30, 2921.02, 2921.03, 2921.04, 2921.11, 244
2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 245
2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; 246
division (A)(1) or (2) of section 1707.042; division (B), (C) 247

(4), (D), (E), or (F) of section 1707.44; division (A) (1) or (2) 248
of section 2923.20; division (E) or (G) of section 3772.99; 249
division (J) (1) of section 4712.02; section 4719.02, 4719.05, or 250
4719.06; division (C), (D), or (E) of section 4719.07; section 251
4719.08; or division (A) of section 4719.09 of the Revised Code. 252

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 253
3769.19 of the Revised Code as it existed prior to July 1, 1996, 254
any violation of section 2915.02 of the Revised Code that occurs 255
on or after July 1, 1996, and that, had it occurred prior to 256
that date, would have been a violation of section 3769.11 of the 257
Revised Code as it existed prior to that date, or any violation 258
of section 2915.05 of the Revised Code that occurs on or after 259
July 1, 1996, and that, had it occurred prior to that date, 260
would have been a violation of section 3769.15, 3769.16, or 261
3769.19 of the Revised Code as it existed prior to that date. 262

(c) Any violation of section 2907.21, 2907.22, 2907.31, 263
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 264
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 265
of the Revised Code, any violation of section 2925.11 of the 266
Revised Code that is a felony of the first, second, third, or 267
fourth degree and that occurs on or after July 1, 1996, any 268
violation of section 2915.02 of the Revised Code that occurred 269
prior to July 1, 1996, any violation of section 2915.02 of the 270
Revised Code that occurs on or after July 1, 1996, and that, had 271
it occurred prior to that date, would not have been a violation 272
of section 3769.11 of the Revised Code as it existed prior to 273
that date, any violation of section 2915.06 of the Revised Code 274
as it existed prior to July 1, 1996, or any violation of 275
division (B) of section 2915.05 of the Revised Code as it exists 276
on and after July 1, 1996, when the proceeds of the violation, 277
the payments made in the violation, the amount of a claim for 278

payment or for any other benefit that is false or deceptive and 279
that is involved in the violation, or the value of the 280
contraband or other property illegally possessed, sold, or 281
purchased in the violation exceeds one thousand dollars, or any 282
combination of violations described in division (I) (2) (c) of 283
this section when the total proceeds of the combination of 284
violations, payments made in the combination of violations, 285
amount of the claims for payment or for other benefits that is 286
false or deceptive and that is involved in the combination of 287
violations, or value of the contraband or other property 288
illegally possessed, sold, or purchased in the combination of 289
violations exceeds one thousand dollars; 290

(d) Any violation of section 5743.112 of the Revised Code 291
when the amount of unpaid tax exceeds one hundred dollars; 292

(e) Any violation or combination of violations of section 293
2907.32 of the Revised Code involving any material or 294
performance containing a display of bestiality or of sexual 295
conduct, as defined in section 2907.01 of the Revised Code, that 296
is explicit and depicted with clearly visible penetration of the 297
genitals or clearly visible penetration by the penis of any 298
orifice when the total proceeds of the violation or combination 299
of violations, the payments made in the violation or combination 300
of violations, or the value of the contraband or other property 301
illegally possessed, sold, or purchased in the violation or 302
combination of violations exceeds one thousand dollars; 303

(f) Any combination of violations described in division 304
(I) (2) (c) of this section and violations of section 2907.32 of 305
the Revised Code involving any material or performance 306
containing a display of bestiality or of sexual conduct, as 307
defined in section 2907.01 of the Revised Code, that is explicit 308

and depicted with clearly visible penetration of the genitals or 309
clearly visible penetration by the penis of any orifice when the 310
total proceeds of the combination of violations, payments made 311
in the combination of violations, amount of the claims for 312
payment or for other benefits that is false or deceptive and 313
that is involved in the combination of violations, or value of 314
the contraband or other property illegally possessed, sold, or 315
purchased in the combination of violations exceeds one thousand 316
dollars; 317

(g) Any violation of section 2905.32 of the Revised Code 318
to the extent the violation is not based solely on the same 319
conduct that constitutes corrupt activity pursuant to division 320
(I) (2) (c) of this section due to the conduct being in violation 321
of section 2907.21 of the Revised Code. 322

(3) Conduct constituting a violation of any law of any 323
state other than this state that is substantially similar to the 324
conduct described in division (I) (2) of this section, provided 325
the defendant was convicted of the conduct in a criminal 326
proceeding in the other state; 327

(4) Animal or ecological terrorism; 328

(5) (a) Conduct constituting any of the following: 329

(i) Organized retail theft; 330

(ii) Conduct that constitutes one or more violations of 331
any law of any state other than this state, that is 332
substantially similar to organized retail theft, and that if 333
committed in this state would be organized retail theft, if the 334
defendant was convicted of or pleaded guilty to the conduct in a 335
criminal proceeding in the other state. 336

(b) By enacting division (I) (5) (a) of this section, it is 337

the intent of the general assembly to add organized retail theft 338
and the conduct described in division (I) (5) (a) (ii) of this 339
section as conduct constituting corrupt activity. The enactment 340
of division (I) (5) (a) of this section and the addition by 341
division (I) (5) (a) of this section of organized retail theft and 342
the conduct described in division (I) (5) (a) (ii) of this section 343
as conduct constituting corrupt activity does not limit or 344
preclude, and shall not be construed as limiting or precluding, 345
any prosecution for a violation of section 2923.32 of the 346
Revised Code that is based on one or more violations of section 347
2913.02 or 2913.51 of the Revised Code, one or more similar 348
offenses under the laws of this state or any other state, or any 349
combination of any of those violations or similar offenses, even 350
though the conduct constituting the basis for those violations 351
or offenses could be construed as also constituting organized 352
retail theft or conduct of the type described in division (I) (5) 353
(a) (ii) of this section. 354

(J) "Real property" means any real property or any 355
interest in real property, including, but not limited to, any 356
lease of, or mortgage upon, real property. Real property and any 357
beneficial interest in it is deemed to be located where the real 358
property is located. 359

(K) "Trustee" means any of the following: 360

(1) Any person acting as trustee under a trust in which 361
the trustee holds title to personal or real property; 362

(2) Any person who holds title to personal or real 363
property for which any other person has a beneficial interest; 364

(3) Any successor trustee. 365

"Trustee" does not include an assignee or trustee for an 366

insolvent debtor or an executor, administrator, administrator 367
with the will annexed, testamentary trustee, guardian, or 368
committee, appointed by, under the control of, or accountable to 369
a court. 370

(L) "Unlawful debt" means any money or other thing of 371
value constituting principal or interest of a debt that is 372
legally unenforceable in this state in whole or in part because 373
the debt was incurred or contracted in violation of any federal 374
or state law relating to the business of gambling activity or 375
relating to the business of lending money at an usurious rate 376
unless the creditor proves, by a preponderance of the evidence, 377
that the usurious rate was not intentionally set and that it 378
resulted from a good faith error by the creditor, 379
notwithstanding the maintenance of procedures that were adopted 380
by the creditor to avoid an error of that nature. 381

(M) "Animal activity" means any activity that involves the 382
use of animals or animal parts, including, but not limited to, 383
hunting, fishing, trapping, traveling, camping, the production, 384
preparation, or processing of food or food products, clothing or 385
garment manufacturing, medical research, other research, 386
entertainment, recreation, agriculture, biotechnology, or 387
service activity that involves the use of animals or animal 388
parts. 389

(N) "Animal facility" means a vehicle, building, 390
structure, nature preserve, or other premises in which an animal 391
is lawfully kept, handled, housed, exhibited, bred, or offered 392
for sale, including, but not limited to, a zoo, rodeo, circus, 393
amusement park, hunting preserve, or premises in which a horse 394
or dog event is held. 395

(O) "Animal or ecological terrorism" means the commission 396

of any felony that involves causing or creating a substantial 397
risk of physical harm to any property of another, the use of a 398
deadly weapon or dangerous ordnance, or purposely, knowingly, or 399
recklessly causing serious physical harm to property and that 400
involves an intent to obstruct, impede, or deter any person from 401
participating in a lawful animal activity, from mining, 402
forestry, harvesting, gathering, or processing natural 403
resources, or from being lawfully present in or on an animal 404
facility or research facility. 405

(P) "Research facility" means a place, laboratory, 406
institution, medical care facility, government facility, or 407
public or private educational institution in which a scientific 408
test, experiment, or investigation involving the use of animals 409
or other living organisms is lawfully carried out, conducted, or 410
attempted. 411

(Q) "Organized retail theft" means the theft of retail 412
property with a retail value of one thousand dollars or more 413
from one or more retail establishments with the intent to sell, 414
deliver, or transfer that property to a retail property fence. 415

(R) "Retail property" means any tangible personal property 416
displayed, held, stored, or offered for sale in or by a retail 417
establishment. 418

(S) "Retail property fence" means a person who possesses, 419
procures, receives, or conceals retail property that was 420
represented to the person as being stolen or that the person 421
knows or believes to be stolen. 422

(T) "Retail value" means the full retail value of the 423
retail property. In determining whether the retail value of 424
retail property equals or exceeds one thousand dollars, the 425

value of all retail property stolen from the retail 426
establishment or retail establishments by the same person or 427
persons within any one-hundred-eighty-day period shall be 428
aggregated. 429

Section 2. That existing sections 2907.01 and 2923.31 of 430
the Revised Code are hereby repealed. 431

Section 3. Section 2923.31 of the Revised Code is 432
presented in this act as a composite of the section as amended 433
by both H.B. 199 and H.B. 405 of the 132nd General Assembly. The 434
General Assembly, applying the principle stated in division (B) 435
of section 1.52 of the Revised Code that amendments are to be 436
harmonized if reasonably capable of simultaneous operation, 437
finds that the composite is the resulting version of the section 438
in effect prior to the effective date of the section as 439
presented in this act. 440